REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	C.T.A. EB No. 1085 (C.T.A. Case No. 8084)
- versus -	Present: DEL ROSARIO, *PJ* CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS, and RINGPIS-LIBAN, *JJ.*
PHILIPPINE BANK OF COMMUNICATIONS, Respondent.	Promulgated: JUL 24 2015 2:11 p.m.

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RESOLUTION

Fabon-Victorino, J.:

Before the Court *En Banc* is the *Motion for Reconsideration*[1] filed by petitioner Commissioner of Internal Revenue on April 21, 2015, impugning the Decision promulgated on March 23, 2015, the dispositive portion of which reads:

> "**WHEREFORE**, the *Petition for Review* filed by petitioner Commissioner of Internal Revenue on December 5, 2013 is hereby **DENIED**, for lack of merit. Accordingly, the assailed Decision and Resolution dated August 12, 2013 and November 7, 2013, respectively, are **AFFIRMED** *in toto*.
>
> **SO ORDERED.**"

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[1] *En Banc* docket, pp. 120-128.

In the assailed Decision, the Court *En Banc* sustained the ruling of the Court in Division granting, albeit partially, respondent's claim for refund of excess unutilized creditable withholding tax for calendar year 2007.

Petitioner claims that the Court committed serious error in holding that:

1. The failure to fill up the entry in the "Creditable Tax Withheld" column in Schedule 1 of the Annual ITR is not fatal to a claim for refund as neither law nor jurisprudence requires it; and

2. The proof of actual remittance to the BIR of the income taxes withheld and testimonial evidence of the payors are not required neither by law or jurisprudence.

By way of *Comment*[2], respondent Philippine Bank of Communications counters that the Court correctly ruled that the failure to fill up the entry in the Creditable Tax Withheld column in Schedule 1 of the Annual Income Tax Return (ITR) is not fatal to a claim for refund as no law or jurisprudence mandates it. In the same way, there is no rule or regulation that requires respondent to present before the Court proof of remittance to the BIR in order to be entitled to a refund.

Evidently, petitioner's *Motion for Reconsideration* fails to raise any new or substantial arguments to warrant the reversal of the assailed Decision of March 23, 2015. Petitioner merely reiterates if not rephrase the arguments in her previously filed pleadings with the Court in Division and subsequently with the Court *En Banc* on appeal.

WHEREFORE, the *Motion for Reconsideration* filed by petitioner Commissioner of Internal Revenue is hereby **DENIED**, for lack of merit.

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[2] *En Banc* docket, pp. 132-147.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

(On Leave)
ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

(On Leave)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice

(On Leave)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice