REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

PILIPINAS KYOHRITSU, INC.,
Respondent.

CTA EB No. 2334
(CTA Case No. 9557)

Present:

DEL ROSARIO, *PJ,*
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, and
CUI-DAVID, *JJ.*

Promulgated:
MAY 13 2022
3:59 p.m.

x---x

RESOLUTION

DEL ROSARIO, PJ.:

For resolution is petitioner Commissioner of Internal Revenue's (CIR) "**Motion for Partial Reconsideration Re: Decision dated 20 January 2022**" filed on February 16, 2022, without respondent's comment thereon despite the period granted as per Records Verification dated April 5, 2022.

In said Motion for Partial Reconsideration, the CIR prays that the Court reverse and set aside the Decision promulgated on January 20, 2022, and render another one denying respondent Pilipinas Kyohritsu, Inc.'s (PKI) claim for refund. The dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, in light of the foregoing, petitioner Commissioner of Internal Revenue's *Petition for Review* posted on September 22, 2020 is hereby **DENIED** for lack of merit. The assailed Decision dated January 28, 2020 and assailed Resolution

dated August 3, 2020 of the Court in Division in CTA Case No. 9557 are hereby **AFFIRMED**.

SO ORDERED."

In support of his Motion for Reconsideration, the CIR contends *inter alia* that:

1. PKI's claim should have been denied since the amount of ₱12,274,510.00 representing alleged unutilized or unapplied creditable input taxes allegedly allocable and directly attributable to PKI's Value-Added Tax zero-rated sales for the period October 2014 to December 2014, was not properly documented;

2. PKI failed to comply with the invoicing and accounting requirements laid down in Sections 113, 114, and 236 of the National Internal Revenue Code of 1997, as amended, and as implemented by Revenue Regulation No. 16-2005;

3. PKI's administrative claim for refund is *pro-forma* as it failed to submit all supporting and relevant documents as required under Revenue Memorandum Order No. 53-98 and other existing rules and regulations;

4. The taxes paid and collected by the Bureau of Internal Revenue are presumed to have been made in accordance with law, rules, and regulations, and the burden to prove otherwise is upon PKI;

5. PKI's failure to comply with a condition precedent prior to the institution of its Petition for Review before the Court in Division makes it dismissible for absence of jurisdiction on the part of the Court;

6. Claims for refund should be construed in *strictissimi juris* against the claimant; and,

7. Taxes are the lifeblood of the nation through which the government agencies continue to operate and with which the state affects its functions for the welfare of its constituents.

After careful evaluation of the CIR's arguments, the Court resolves to deny his Motion for Partial Reconsideration.

A motion for reconsideration shall point out specifically the findings or conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings and conclusions.[1] It is thus incumbent upon the movant to convince the Court that certain findings and conclusions in the assailed decision are not supported by evidence or are contrary to law.

The Court finds that the CIR's arguments raised in his Motion are mere reiteration of the arguments pleaded in his "Motion for Partial Reconsideration (Re: Decision dated 28 January 2020)"[2] filed before the Court in Division on February 13, 2020, and in his "Petition for Review"[3] filed before the Court *En Banc* on September 22, 2020, all of which were duly considered in the assailed Decision, particularly on pages 8 to 14 thereof. Accordingly, it would be a useless superfluity for the Court to reiterate its pronouncements in the assailed Decision in addressing the same issues.

The teachings of *Social Justice Society (SJS) Officers, et al. v. Lim,*[4] which cited *Ortigas and Co. Ltd. Partnership v. Judge Velasco,*[5] is instructive:

> **"The grounds relied on being mere reiterations of the issues already passed upon by the Court, there is no need to 'cut and paste' pertinent portions of the Decision or re-write the *ponencia* in accordance with the outline of the instant motion**.
>
> As succinctly put by then Chief Justice Andres R. Narvasa in *Ortigas and Co. Ltd. Partnership v. Judge Velasco* on the effect and disposition of a motion for reconsideration:
>
>> 'The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; xxx. **It suffices for the**

[1] Section 2, Rule 37 of the Rules of Court.
[2] *CTA Division Docket*, Vol. II, pp. 811-823.
[3] *CTA En Banc Docket*, pp. 6-20.
[4] G.R. Nos. 187836 & 187916, March 10, 2015.
[5] G.R. Nos. 109645 & 112564, March 4, 1996.

> **Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.**'" (*Boldfacing supplied*)

All told, the Court finds no cogent reason to reverse or modify the assailed Decision.

WHEREFORE, premises considered, the CIR's "**Motion for Partial Reconsideration Re: Decision dated 20 January 2022**" is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice