REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* No. 2707** (CTA Case No. 9569)
	Present:
-versus-	**DEL ROSARIO,** *P.J.,* **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
SM INVESTMENTS CORPORATION, *Respondent.*	Promulgated: JUL 30 2024 4:20 pm

x- -x

R E S O L U T I O N

MANAHAN, *J.*:

This resolves petitioner's *Motion for Partial Reconsideration [re: Decision dated 16 January 2024]*[1] ("*Motion*") filed on February 5, 2024, with respondent's *Comment* filed on March 18, 2024.[2]

In the *Decision* dated January 16, 2024 ("assailed *Decision*"),[3] the Court *En Banc* denied the *Petition for Review* filed by the Commissioner of Internal Revenue ("CIR") on November 2, 2022.[4] The assailed *Decision* affirmed the Court in Division's *Amended Decision* dated March 11, 2022[5] and *Resolution* dated September 27, 2022,[6] which partially granted

[1] Docket, pp. 77-85.
[2] Docket, pp. 90-94.
[3] Docket, pp. 60-70.
[4] Docket, pp. 6-13.
[5] Docket, pp. 28-38 [Per J. Erlinda P. Uy, Third Division].
[6] Docket, pp. 41-44.

respondent SM Investments Corporation's claim for refund, *viz*:

> **WHEREFORE**, in light of the foregoing consideration, the instant *Petition for Review* is **PARTIALLY GRANTED.** Accordingly, respondent is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner the amount of ₱296,152,179.59, representing petitioner's excess and unutilized Creditable Withholding Tax for calendar year ended December 31, 2014.
>
> **SO ORDERED**.

In the present *Motion*, petitioner seeks that the Court *En Banc* reconsider the above ruling and render another one denying respondent's entire claim for refund. The *Motion* is hinged on the sole argument that respondent failed to comply with the documentary requirements set forth under Revenue Memorandum Order (RMO) No. 53-98 and Revenue Regulations (RR) No. 2-2006. Without the documents enumerated therein, the link between the income payment and the creditable withholding taxes (CWTs) claimed as refund cannot be established.

In its *Comment*, respondent submits that RMO No. 53-98 and RR No. 2-2006 are inapplicable to its case. The former is directed at revenue officers rather than taxpayers, while the latter is not related to the requirements for a valid claim of excess CWTs. Moreover, petitioner's failure to identify the specific documentary requirements that respondent allegedly failed to comply which renders the *Motion* pro forma.

We agree with respondent.

At the outset, petitioner's arguments have already been exhaustively discussed, passed upon, and rejected by the Court. Again, RMO No. 53-98 and RR No. 2-2006 do not provide that non-submission of the documents enumerated therein *ipso facto* results in the outright denial of the taxpayer's refund claim. Since petitioner did not present any new or different argument to convince us otherwise, we find no more need to belabor the point.

A motion for reconsideration is deemed pro forma when it does not specify the findings or conclusions in the assailed judgment which are unsupported by evidence or are contrary to law.[7] Rule 37, Section 2 of the Rules of Court expressly instructs:

> **Section 2.** *Contents of motion for new trial or reconsideration and notice thereof.* — The motion shall be made in writing stating the ground or grounds therefor, a written notice of which shall be served by the movant on the adverse party.
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> ...
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> 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 or conclusions.
>
> A *pro forma* motion for new trial or reconsideration shall not toll the reglementary period of appeal.

In *Luzon Stevedoring Co., Inc. v. Court of Industrial Relations*,[8] the Supreme Court further explained that it is not enough that a motion for reconsideration states what part of the decision is contrary to evidence or law; it should also point out why it is so. The purpose of a motion for reconsideration is precisely to convince the court that its main decision is erroneous, although the movant may dwell upon the points already raised and passed upon, there must be a *bona fide* effort to explain where and why the court should be regarded as having erred.

Here, as respondent observed, petitioner made no reference to the evidence tending to prove non-compliance with RMO No. 53-98 and RR No. 2-2006. The alleged unsubmitted documents were not even identified. Thus, even assuming that there is merit in petitioner's contention, there is no way for the Court to determine whether respondent indeed failed to submit the documents required for its refund claim.

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[7] *Marikina Valley Development Corporation v. Hon. Napoleon R. Flojo*, G.R. No. 110801, December 8, 1995 [J. Feliciano, *En Banc*].
[8] G.R. No. L-16682, July 26, 1963 [Per J. Regala, *En Banc*].

ACCORDINGLY, petitioner's *Motion for Partial Reconsideration [re: Decision dated 16 January 2024]* filed on February 5, 2024 is **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
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

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice