**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

*EN BANC*

**COCA-COLA BOTTLERS PHILIPPINES, INC.**
Petitioner,

-versus-

**COMMISSIONER OF INTERNAL REVENUE,**
Respondent.

**CTA EB NO. 1178**
(CTA CASE NO. 8218)

**Present:**

Del Rosario, *P.J.*,
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Cotangco-Manalastas, and
Ringpis-Liban, *JJ.*

**Promulgated:**

DEC 04 2015

4:10 p.m.

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# RESOLUTION

**CASTAÑEDA, JR., *J.*:**

For this Court's resolution is petitioner's Motion for Reconsideration, filed on June 30, 2015, which seeks the reconsideration and setting aside of this Court's May 19, 2015 Decision.

The Decision reads in pertinent part:

> "The findings of the Court in Division in denying petitioner's refund claim or tax credit representing undeclared input VAT for the quarter ended December 31, 2008, is **AFFIRMED**.

**WHEREFORE**, premises considered, the Petition for Review is hereby **DISMISSED.**

**SO ORDERED.**"

We note that petitioner reiterates essentially the same issues in its Petition for Review the merits of which we already passed upon at length in our May 19, 2015 Decision. Specifically, petitioner argues *again* that:

1. Section 229 of the National Internal Revenue Code of 1997 (1997 NIRC) applies to its claim for refund; and,

2. The subject matter of the claim is the "inadvertent omission / under-declaration" of the input Value-added Tax (VAT) of PhP111,177,395.70.

Petitioner, as a final point, advocates for "substantial justice, equity and fair play to prevail over technicalities and legalism."

It bears stressing that tax refunds, just like tax exemptions must not rest on vague, uncertain or indefinite inference but should be granted only by a clear and unequivocal provision of law on the basis of language too plain to be mistaken, as taxes are the lifeblood of the government.[1] The Court cannot simply ignore or abandon what petitioner couches as "technicalities and legalism" which are firmly anchored on substantive law. Section 110(A) in connection with Section 113 of the 1997 NIRC is clear and negates its position that it is entitled to a refund of its alleged *output* VAT. Sections 112 and 229 of the same law cannot, by mere force of petitioner's reiteration, be made applicable to support its cause.[2]

Petitioner's reliance on *BPI-Family Savings Bank v. Court of Appeals, et al.*[3] is misplaced. In *BPI*, the Supreme Court allowed the refund of excess creditable withholding taxes paid in 1989 because the appellate courts did not consider the evidence presented by BPI in proving that it suffered a net loss in 1990 and, thus, incurred no tax liability to which its withholding tax credits could be applied. The facts obtaining in this case clearly differ from those in *BPI*. The subject of petitioner's refund claim is its *input* VAT[4] which, as we have concluded, is sanctioned neither by Section 112 nor by Section 229 of the 1997 NIRC.[5]

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[1] *Chevron Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 210836, September 1, 2015.
[2] *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, Resolution on the Motion for Reconsideration, CTA EB No. 1100 (CTA Case No. 7951), August 5, 2015.
[3] G.R. No. 122480, April 12, 2000.
[4] Decision, May 19, 2015, Rollo, pp. 156-161.
[5] Decision, May 19, 2015, Rollo, pp. 161-166.

In the absence of gross error[6] or any abuse or improvident exercise of authority[7] on the part of the Court in Division, there is no cogent reason to reconsider our May 19, 2015 Decision and to set aside the findings and conclusions of the Court in Division.

**WHEREFORE**, in view of the foregoing, petitioner's Motion for Reconsideration, is hereby **DENIED** for lack of merit.

**SO ORDERED.**

Juanito C. Castañeda, Jr.
**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

**WE CONCUR:**

*(I maintain my separate concurring opinion.)*
**ROMAN G. DEL ROSARIO**
Presiding Justice

**LOVELL R. BAUTISTA**
Associate Justice

**ERLINDA P. UY**
Associate Justice

**CAESAR A. CASANOVA**
Associate Justice

**ESPERANZA R. FABON- VICTORINO**
Associate Justice

Cielito N. Mindaro-Grulla
**CIELITO N. MINDARO-GRULLA**
Associate Justice

**AMELIA R. COTANGCO-MANALASTAS**
Associate Justice

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

[6] *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*, G.R. No. 185371, December 8, 2010.
[7] *Commissioner of Internal Revenue v. Hambrecht & Quist Philippines, Inc.*, G.R. No. 169225, November 17, 2010.