REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2579** (CTA Case No. 9763)
- versus -	Present: **DEL ROSARIO,** *P.J.,* **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID,** *and* **FERRER-FLORES,** *JJ.*
PHILIPPINE MINING SERVICE CORPORATION, Respondent.	Promulgated: SEP 18 2023 4:20 pm

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RESOLUTION

RINGPIS-LIBAN, *J.*:

This resolves Petitioner's "Motion for Reconsideration (Re: Decision promulgated 14 March 2023)"[1] ("Motion for Reconsideration") filed on April 03, 2023, with Respondent's "Comment/Opposition (to Petitioner's Motion for Reconsideration dated 31 March 2023)"[2] ("Comment/Opposition") filed on July 12, 2023.

Petitioner's Motion for Reconsideration prays for the reversal and setting aside of the Decision promulgated on March 14, 2023, and that a new judgment be rendered denying the entire claim for refund.

The dispositive portion of the Decision promulgated by this Court on March 14, 2023 reads:

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1 Rollo, pp. 84-100.
2 *Id.,* pp. 104-113.

> "**WHEREFORE**, premises considered, the instant Petition for Review is **DENIED** for lack of merit. The Decision dated October 29, 2021 and the Resolution dated February 22, 2022 of the Second Division in the case docketed as CTA Case No. 9763 are **AFFIRMED**.
>
> **SO ORDERED.**"[3]

In his Motion for Reconsideration, Petitioner contends that since he rendered a Decision in the administrative level, the Court's jurisdiction becomes strictly appellate in nature. Furthermore, Petitioner was correct in disallowing the amount of Php19,802,406.57.

Likewise, Petitioner argues that further review and evaluation of Respondent's claim for refund disclosed the following additional deductions:

1) Additional deferred input VAT of Php985,053.33 on the acquired capital goods in the amounts exceeding Php1,000,000 in a calendar month pursuant to Section 4.110-3 of Revenue Regulations ("RR") No. 16-2005;

2) Ripened portion of deferred input VAT not reflected per fourth quarter VAT return amounting to Php105,458.00;

3) Disallowance in the amount of Php28,140.00 relative to purchases from big-ticket supplier without corresponding proof of payment pursuant to item V of Revenue Memorandum Circular No. 29-2009;

4) Additional output VAT in the aggregate amount of Php399,301.28 was assessed on the following items – interest, related party transaction and retirement asset; and

5) Output VAT of Php10,925.85 was assessed on the six (6) miscellaneous VAT invoices that were found missing in the series of sales invoices per Respondent's records and could no longer be accounted.

Moreover, Petitioner avers that the law requires that only "creditable input taxes" that are "directly attributable" may be refunded.

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[3] *Id.*, Decision dated March 14, 2023, p. 76.

Lastly, Petitioner posits that a tax refund is in the nature of a tax exemption which must be construed *strictissimi juris* against the taxpayer.

On the other hand, Respondent in its Comment/Opposition maintains that Petitioner's Motion for Reconsideration lacks any factual or legal basis to reverse the tax refund amounting to Php19,802,406.57 that the court *a quo* and this Court correctly awarded in favor of Respondent.

Respondent asserts as well that Petitioner's Motion for Reconsideration should be treated as a mere scrap of paper with recycled arguments that the Court has repeatedly dismissed on the merits.

In closing, Respondent submits that taxpayers are not confined to evidence submitted at the administrative level and may present additional evidence before the Court of Tax Appeals, which is not precluded from considering said additional evidence.

We resolve to deny Petitioner's Motion for Reconsideration for lack of merit.

The arguments raised by Petitioner in his motion are mere recapitulation of the arguments he has raised in his Petition for Review filed with this Court. In addition, these issues have been amply considered, weighed and resolved in the Decision promulgated on March 14, 2023. Thus, We shall not belabor, in this Resolution, to repeat the disquisitions made therein.

In sum, the Court *En Banc* finds no cogent reason to overturn the October 29, 2021 Decision and February 22, 2022 Resolution of the Second Division.

WHEREFORE, premises considered, Petitioner's "Motion for Reconsideration (Re: Decision promulgated 14 March 2023)" is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Catherine T. Manahan

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

CORAZON G. FERRER-FLORES
Associate Justice