REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

EGIS ROAD OPERATION PHILIPPINES, INC., Petitioner,	CTA CASE NO. 8843
	Members:
-versus-	BAUTISTA, *Chairperson*; FABON-VICTORINO, and RINGPIS LIBAN, JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: NOV 20 2017 11:24 a.m.

x- -x

RESOLUTION

***Fabon-Victorino, J.*:**

On April 26, 2017, the Court rendered a Decision, disposing the case as follows:

> **WHEREFORE**, the instant Petition for Review is hereby **GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is hereby **DIRECTED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favour of petitioner Egis Road Operation Philippines, Inc., the amount of TWELVE MILLION PESOS (₱12,000,000.00), representing erroneously paid final withholding tax on dividends.
>
> **SO ORDERED.**[1]

Unconvinced, respondent filed the instant motion,[2] insisting that the provisions of Revenue Memorandum Order (RMO) No. 72-2010 are mandatory and must strictly be

---

[1] Docket, p. 623.
[2] Ibid. at pp. 625-628.

enforced. He faults petitioner particularly in: 1) its failure to file the subject Tax Treaty Relief Application (TTRA) within the prescribed period; and 2) the TTRA was not filed prior to its declaration of dividends in favor of ERO S.A. All these indubitably point out that petitioner did not adhere on the standards set forth in RMO No. 72-2010. For that reason, the disallowance of petitioner's entire claim for refund is in order.

On the other hand, petitioner counters that respondent cannot deny the subject claim merely for not being filed within the period and manner prescribed under RMO No. 72-2010. In weighing RMO No. 72-2010 vis-à-vis RP-France Tax Treaty, the scales should tilt in favor of the latter for States are duty-bound to comply with their respective treaty obligations under the principle of *pacta sunt servanda*. Since petitioner has duly proved all the requisites for its entitlement on the 10% preferential rate on dividends under the RP-France Tax Treaty, the refund in the amount of P12,000,000.00 pertaining to erroneously collected final tax should be sustained.

Taking a second hard look over the allegations in instant motion reveals that petitioner virtually reproduced in *verbatim* his argumentations in his previously filed pleadings, all of which were exhaustively addressed and passed upon by the Court in the assailed Decision of April 26, 2017, particularly in pages 9 to 17 thereof. There being no compelling reason for the Court to modify, much more reverse its ruling on the Decision dated April 26, 2017, petitioner's prayer for reconsideration must be denied.

WHEREFORE, petitioner's Motion for Reconsideration dated May 19, 2017 is **DENIED**, for lack of merit. The assailed Decision dated April 26, 2017 is **AFFIRMED**.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

LOVELL R. BAUTISTA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice