REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

NPC ALLIANCE CORPORATION, represented by Renato B. Magadia, Vice-Chairman of the Board, *Petitioner,*	**CTA EB NO. 2649** (CTA Case No. 7742)
	Present:
-versus-	**DEL ROSARIO,** *P.J.,* **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF CUSTOMS, *Respondent.*	Promulgated: OCT 02 2024 4:08pm

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RESOLUTION

ANGELES, *J.*:

For resolution is petitioner's Motion for Reconsideration filed on May 10, 2024, praying the reconsideration of this Court's *Decision dated April 18, 2024,* the dispositive portion of which reads as follows:

> **WHEREFORE**, the instant Petition for Review is **DENIED** for lack of merit. The Decision and Resolution dated October 20, 2021 and June 6, 2022, respectively, in CTA Case No. 7742 are **AFFIRMED.**

In support of its Motion, petitioner claims that the Court En Banc should reconsider and set aside its Decision based on the following grounds:

1. The Court En Banc committed palpable and patent error in ruling that the Court in Division had no

jurisdiction over the case due to petitioner's failure to establish the timeliness of its appeal;

2. The Court En Banc erred in ruling there was no denial of due process in the proceedings before the District Collector; and

3. The Court En Banc erred in ruling that fraud was established in petitioner's importations and that petitioner committed violations of the Tariff and Customs Code of the Philippines.[1]

Respondent did not file his comment on petitioner's Motion For Reconsideration.

Petitioner's Motion for Reconsideration lacks merit.

The arguments posited by petitioner in its Motion are reiterations of those made in its Petition for Review dated July 14, 2022.[2] Similar to the arguments raised in its Petition for Review, petitioner posits in its Motion for Reconsideration that it sufficiently alleged and proved its date of receipt of the respondent's Decision. It reiterates its argument that it was denied due process when it was not given the opportunity to cross-examine the witnesses in the proceedings before the District Collector. It again asserts that the evidence on record do not show that fraud attended its importations.

The same arguments have been exhaustively passed upon, duly considered, and resolved by the Court in the assailed Decision. Considering that the grounds relied upon by petitioner are reiterations of the same issues already resolved, the Court need not individually and specifically resolve the Motion in the same way it resolves issues raised and submitted for decision. In *Social Justice Society Officers v. Lim*[3], the Supreme Court, quoting *Ortigas and Co. Ltd. Partnership v. Judge Velasco*[4], ruled on the effect and disposition of a motion for reconsideration, as follows:

> 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

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[1] EB Docket, Vol. II, p. 874.
[2] EB Docket, Vol. I, pp. 81–119.
[3] *Social Justice Society Officers v. Lim*, G.R. Nos. 187836 & 187916, March 10, 2015.
[4] *Ortigas and Co. Ltd. Partnership v. Judge Velasco*, G.R. No. 109645, August 15, 1997.

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> 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; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the 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.

Petitioner insists that it successfully proved the timeliness of its appeal. During trial, petitioner failed to support its allegation regarding the date of its receipt of the Decision issued by the Bureau of Customs. Thus, the CTA Division could not determine the timeliness of the filing of appeal. It was only on appeal before the Court En Banc that petitioner attached a photocopy of the Notice of Decision/Order to its Petition for Review.

The said Notice of Decision/Order was not formally offered before the CTA In Division acting as a trial court. Evidence may be admitted provided the following requirements are present: (1) the same must have been duly identified by testimony duly recorded; and (2) the same must have been incorporated in the records of the case. There have been instances when the Court relaxed the foregoing rule and allowed evidence not formally offered to be admitted and considered by the trial court. Extreme caution, however, is exercised in applying the exception to the rule.[5] Being an exception, the same may only be applied when there is strict compliance with the requisites mentioned above. Otherwise, the general rule in Section 34 of Rule 132

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[5] *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014, citing *Vda. De Oñate v. Court of Appeals*, 320 Phil. 344 (1955); cited in *Commissioner of Internal Revenue v. Jerry Ocier*, G.R. No. 192023, November 21, 2018.

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of the Rules of Court should still prevail.[6] Hence, the Court maintains that petitioner failed to prove the timeliness of its appeal.

Assuming that the appeal was timely filed, the Petition for Review is nonetheless devoid of merit based on the substantial grounds ruled upon by the Court En Banc.

Petitioner's contention that it was denied due process is not well-taken. Petitioner continues to insist that it should have been given the opportunity to cross-examine the witness, Mr. De Guzman, who prepared the post clearance evaluation report. As previously discussed by the Court En Banc and the Court in Division, the essence of due process is simply an opportunity to be heard or, as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of.[7] "To be heard" does not only mean verbal arguments in court. One may be heard also through pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process.[8]

Petitioner was afforded the opportunity to be heard when it was able to argue its case through the letters, claims, motions, reply it raised before the District Collector, Port of Subic. Petitioner cannot claim that it was denied due process.

Petitioner likewise insists that the Court En Banc erred when it ruled that fraud was not established. The Court is not convinced.

Petitioner raises the same arguments to argue that fraud was not established, to wit: (i) that it did not undervalue its first importation, (ii) that it did not misrepresent its second shipment to be an inward shipment from abroad, and (iii) that the evidence on record show that the shipments were used for exhibition purposes only.

The Court En Banc has discussed this at length in the Decision dated April 18, 2024. Considering that petitioner's argument on this point had already been exhaustively discussed, this Court finds that there is no need to belabor or reiterate the discussions on the matter. Thus, we find no merit in the instant Motion for Reconsideration as the same did not raise new, cogent, or substantial

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[6] *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014, citing *Vda. De Oñate v. Court of Appeals*, 320 Phil. 344 (1955); cited in *Commissioner of Internal Revenue v. Jerry Ocier*, G.R. No. 192023, November 21, 2018.
[7] *Montoya v. Varilla*, G.R. No. 180146, December 18, 2008.
[8] *Mutuc v. Court of Appeals*, G.R. No. 48108, September 26, 1990.

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ground to warrant reconsideration of this Court's Decision dated April 18, 2024.

WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

HENRY S. ANGELES
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Ma. Belen M. Ringpis-Liban
MA. BELEN M. RINGPIS-LIBAN
Associate 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

I reiterate my Separate Opinion in the Decision.
CORAZON G. FERRER-FLORES
Associate Justice