REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus-

CARMEN COPPER CORPORATION,
Respondent.

CTA EB No. 2735
(CTA Case No. 10201)

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CARMEN COPPER CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 2743
(CTA Case No. 10201)

Present:

DEL ROSARIO, *P.J.,*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:

AUG 04 2025 2:15pm

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RESOLUTION

REYES-FAJARDO, ***J.*:**

For the Court's resolution are the following:

1. Commissioner of Internal Revenue (CIR)'s *Motion for Reconsideration (Re: Decision promulgated 26 November 2024)*,[1] filed on December 11, 2024, with Carmen Copper Corporation (Carmen Copper)'s *Comment (To Petitioner's Motion for Reconsideration in CTA EB No. 2735)*[2] filed on January 30, 2025; and,

2. Carmen Copper Corporation (Carmen Copper)'s *Motion for Reconsideration* filed *via* LBC on December 16, 2024, and received by the Court on December 18, 2024[3] with CIR's *Opposition (Re: Motion for Reconsideration of the Decision dated 26 November 2024)*[4] filed on January 23, 2025.

These *Motions* seek reconsideration of the Court's Decision[5] ("assailed Decision"), promulgated on November 26, 2024, the dispositive portion of which reads:

> **WHEREFORE,** the Petition for Review filed by the Commissioner of Internal Revenue in CTA EB No. 2735, and the Petition for Review filed by Carmen Copper Corporation in CTA EB No. 2743 are **DENIED** for lack of merit. Accordingly, the Decision dated July 15, 2022 and the Resolution dated January 31, 2023 in CTA Case No. 10201 are **AFFIRMED**.
>
> **SO ORDERED.**

The assailed Decision sustained the Court in Division's finding, partially granting Carmen Copper's claim for unutilized input value-added tax (VAT) refund, which is attributable to its zero-rated sales for the 2nd quarter of Taxable Year (TY) 2017, ending on December 31, 2017 to the extent of ₱6,474,060.17.

The Court held that in determining Carmen Copper's entitlement to a refund claim, it may consider all evidence presented

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1 *Rollo*, (CTA EB No. 2735), pp. 167 to 184.
2 *Id.* at 222 to 226.
3 *Id.* at 187 to 205.
4 *Id.* at 209 to 220.
5 *Id.* at 102 to 160.

by Carmen Copper to support its prayer for refund, regardless of whether such evidence was submitted at administrative level. It ruled that Section 112(A) of the National Internal Revenue Code of 1997 (NIRC), as amended, does not require direct attribution of the input taxes subject of the refund claim for them to be refundable, as pronounced in the case of *Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Cargill Philippines, Inc.*[6]

To address the arguments raised by Carmen Copper, the Court explained the following:

1. The export sale made by Carmen Copper to MRI Trading MG in the amount of ₱398,294,291.54 (or US$8,218,602.79) on July 4, 2017, does not qualify for zero-rating because the provisional invoice is dated July 4, 2017, which falls outside the period of claim.

2. Carmen Copper's direct export sales, amounting to ₱1,004,743.37 (or US$20,176.65) do not qualify as zero-rated due to the absence of proof of foreign currency inward remittance, as required by Section 106 (A)(2)(a)(1) and Section 112 (A) of the NIRC, as amended.

3. Sales made by local suppliers to Carmen Copper are automatically subject to 0% VAT. Since these transactions are accorded 0% VAT, any taxes erroneously charged by local suppliers cannot be refunded by Carmen Copper from the government.

4. In the absence of the Single Administrative Document (SAD) or the Import Entry and Internal Revenue Declaration (IEIRD), the input VAT from importations amounting to ₱202,509.60, must be disallowed. This is because the amount is supported only by the Statement of Settlement of Duties and Taxes (SSDT) and the VAT Payment Certification issued by the Bureau of Customs, and not by the required documents.

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6 G.R. Nos. 255470-71, January 30, 2023.

5. Carmen Copper was afforded due process in its claim for an input VAT refund.

6. The disallowance of Carmen Copper's zero-rated sales does not render the sale subject to 12% VAT, nor make the sale VAT-exempt.

7. The Court in Division may rule on a matter not raised by the parties, pursuant to Section 1, Rule 14 of the Revised Rules of the Court of Tax Appeals.

In his Motion, the CIR insists that the Court's jurisdiction is strictly appellate in nature; consequently, the Court in Division erred in considering Carmen Copper's evidence that was presented for the first time at the judicial level. The CIR also emphasizes that Carmen Copper failed to establish direct attribution between input tax on purchases and its zero-rated sales for the relevant quarter

By way of comment, Carmen Copper notes that the grounds relied upon by the CIR in its motion for reconsideration are merely a rehash of the arguments presented in its petition for review, all of which were sufficiently addressed in the assailed Decision.

In its motion, Carmen Copper reasserts the following arguments:

> The Tax Code only talks about sales, a juridical event, not the date of the invoice, a matter of documentation.[7]
>
> Proof of foreign currency inward remittance is not required under Section 106, Tax Code, as amended.[8]
>
> Not all purchases of BOI-registered enterprises are entitled to automatic VAT zero-rating.[9]
>
> "Other equivalent document" may include only SSDT or VAT payment certification.[10]

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7 *Rollo,* (CTA EB No. 2735), p.187.
8 *Id.* at 191.
9 *Id.* at 198.
10 *Id.* at 199.

> The denial letter of the CIR on Carmen Copper's claim for refund does not comply with due process.[11]
>
> The disallowance of zero-rated sales and the consequent denial of the related input taxes effectively make it akin to subjecting the transaction to a 12% VAT.[12]

In his opposition, the CIR maintains that Carmen Copper failed to establish its entitlement to a refund.

After thoroughly evaluating the parties' respective *Motions*, the Court notes that the arguments have already been considered and were found wanting in the assailed Decision of the Court *En Banc* and the Court in Division. Thus, the Court *En Banc* finds no basis to reconsider, modify or reverse the Decision.

There is no need to reiterate pertinent portions of the Decision or re-write the *ponencia* in accordance with the outline of the instant motions.[13] The pronouncement in *Social Justice Society (SJS) Officers, et al. v. Alfredo S. Lim*[14] on the effect and disposition of a motion for reconsideration is particularly instructive:

> 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 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

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11 *Id.* at 200.

12 *Id.*

13 See *Social Justice Society (SJS) Officers, et al. v. Lim*, G.R. Nos. 187836 & 187916, March 10, 2015.

14 *Id.*

final order; or the arguments in the motion are too unsubstantial to require consideration, etc.

WHEREFORE, Commissioner of Internal Revenue's *Motion for Reconsideration (Re: Decision promulgated 26 November 2024)*, filed on December 11, 2024, and Carmen Copper's *Motion for Reconsideration* filed *via* LBC on December 16, 2024, and received by the Court on December 18, 2024, are both **DENIED** for lack of merit.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

We Concur:

(I reiterate my Concurring and Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

(I reiterate my Separate Opinion)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(I Join J. Villena's Separate Opinion)
LANEE S. CUI-DAVID
Associate Justice

ON LEAVE
CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice