Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 1863** (CTA Case Nos. 8871, 8937, 8999 and 9042)
-versus-	Present: DEL ROSARIO, *P.J.*, CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, and MODESTO-SAN PEDRO, *JJ.*
MAIBARARA GEOTHERMAL, INC., Respondent.	Promulgated: NOV 20 2019 4:02 p.m.

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RESOLUTION

MINDARO-GRULLA, J.:

This resolves the petitioner's "Motion for Reconsideration Re: Decision dated 4 October 2019" assailing the Court *En Banc's* October 4, 2019 Decision, the dispositive portion of which states:

> *"**WHEREFORE**, the Petition for Review is **DENIED**, for lack of merit. Accordingly, the Amended Decision dated December 27, 2017, rendered by the Third Division of this Court in CTA Case Nos. 8871, 8937, 8999 and 9042, and its Resolution dated May 3, 2018 are **AFFIRMED**. No pronouncement as to costs.*
>
> ***SO ORDERED.**"*

In assailing this Court's Decision, petitioner submits that the respondent is not entitled to the claim for refund for failure to properly substantiate its claim.

We resolve to deny petitioner's "Motion for Reconsideration Re: Decision dated 4 October 2019".

Other than the bare allegation that respondent did substantiate the claim for refund, petitioner neither specified nor identified, and elaborated on the claim for refund which is alleged to have not been substantiated. Contrary, We reiterate that the Court in Division did not err when it ruled as follows"

> *"xxx, [W]hat is left to be determined at this point is whether petitioner sufficiently substantiated its allegation that the claimed input VAT indeed pertains to importations and to purchases of local supply of goods, properties and services not needed for the development, construction and installation of plant facilities or to the whole process of exploring and developing renewable energy sources up to its conversion into power, which are not zero-rated, but rather subject to regular VAT rate; and thus can be refunded.*
>
> *Petitioner's quarterly VAT returns for the four quarters of CY 2012 reflected input VAT on importation of goods other than capital goods in the aggregate amount of ₱7,053,203.65, xxx:*
>
> *xxx.*
>
> *Out of the declared amount of ₱7,053,203.65, petitioner was able to substantiate only the amount of ₱6,959,106.62 with Bureau of Customs (BOC) Import Entry & Internal Revenue Declarations (IEIRDs) and Statements of Settlement of Duties and Taxes, xxx:*
>
> *xxx.*
>
> *As to the alleged local purchases not directly related to RE development and conversion in the amount of ₱1,034,058.09, petitioner submitted official receipts (ORs) in support thereof. Upon scrutiny of the ORs presented, only the amount of ₱327,104.31, out of the claimed amount of ₱1,034,058.09, was properly substantiated with ORs and was found to be unrelated to its RE development and conversion. Furthermore, the Court noted exceptions amounting to ₱706,953.78. While a perusal of the ORs relating to these exceptions shows that the same pertains to management fees, there is nothing in the records which would help the Court to determine if they are directly*

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related or unrelated to petitioner's RE development and conversion activities, thus, should not be refunded. xxx:

Since petitioner had no other types of sales, except zero-rated sales, for the first quarter of CY 2014, the valid input VAT of ₱7,286,210.93 is entirely attributable to the valid zero-rated receipts for the same quarter in the amount of ₱39,032,500.00 arising from the sale of electricity to Trans-Asia Oil and Energy Development Corporation.

Furthermore, although petitioner carried over the claimed input VAT of ₱9,165,912.74, which includes the refundable amount of ₱7,286,210.93, to the succeeding quarters, the same was not applied against any output VAT in the said quarters and remained unutilized until it was deducted as "VAT Refund/TCC claimed" in its Amended Third Quarterly VAT Return for CY 2014 and First Quarterly VAT Return for CY 2015, in the respective amounts of ₱1,865,128.35 and ₱7,300,784.39 .

*In view thereof, the Court finds that petitioner is entitled to the refund of the amount of **₱7,286,210.93**, representing its unutilized input VAT on importation of goods (other than capital goods) and local purchases not needed for RE development and conversion which petitioner incurred in the four quarters of CY 2012, and attributable to its zero-rated sales for the first quarter of CY 2014."*[1]

After a careful examination of petitioner's motion for reconsideration, the Court finds that the argument raised in said motion had already been sufficiently passed upon and fully discussed not only by the Third Division's Amended Decision dated December 27, 2017 and Resolution dated May 3, 2018 but also by this Court *En Banc's* Decision dated October 4, 2019.

In sum, We find that no substantial argument was raised to merit reconsideration of our Decision promulgated on October 4, 2019.

WHEREFORE, the "Motion for Reconsideration Re: Decision dated October 4, 2019" is **DENIED** for lack of merit.

[1] Amended Decision dated December 27, 2017, CTA Case Nos. 8871, 8937, 8999 and 9042, Division Docket, Vol. 6, pp. 2868-2881.

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SO ORDERED.

CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ON LEAVE
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice