REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
****

ORICA PHILIPPINES INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2367
(CTA Case No. 9647)

Present:

DEL ROSARIO, P.J.,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, and
CUI-DAVID, JJ.

Promulgated:
MAY 24 2022 3:10 pm

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RESOLUTION

UY, J.:

For resolution is respondent's ***MOTION FOR RECONSIDERATION (Re: Decision promulgated 3 February 2022)***[1] filed on February 21, 2022, without petitioner's comment despite due notice[2], seeking the reconsideration of this Court's Decision[3] dated February 3, 2022, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is hereby **PARTIALLY GRANTED**. The Court in Division's

[1] EB Docket, pp. 101 to 108.
[2] *Records Verification* dated April 5, 2022, EB Docket, p. 120.
[3] EB Docket, pp. 72 to 95.

Decision and Resolution promulgated on June 4, 2020 and October 13, 2020, respectively, are hereby **REVERESED AND SET ASIDE.** The case is **REMANDED** to the Court in Division for the determination of the amount of refund due to petitioner, if any.

SO ORDERED."

In his *Motion*, the CIR argues that a verification with the Accounts Monitoring Division of the BIR showed that petitioner has outstanding liabilities and that the issuance of tax credit certificate cannot be given due course until the said delinquency assessments have been resolved and paid.

Respondent likewise claims that petitioner is not entitled to its claim for refund/tax credit for its non-compliance with Revenue Memorandum Order (RMO) No. 53-98, Annex B-1, specifically, the non-submission of Certification from BOC stating that petitioner did not file any similar claim covering the same period and non-submission of importation documents.

THE COURT'S RULING

We deny the instant *Motion for Reconsideration*.

After careful examination and consideration of the instant *Motion*, it is noted that the arguments raised therein are mere reiteration of matters which have already been considered, weighed and resolved in the assailed Decision.

As regards respondent's contention that petitioner's claim for refund or tax credit should not be given due course in view of its outstanding liabilities in the aggregate amount of ₱20,559,923.18, the same deserves scant consideration. It bears noting that a document showing that petitioner has no outstanding liabilities is not one of the documents required to be submitted for purposes of refund claim. Nevertheless, a perusal of the records show that petitioner was able prove that the said tax liabilities have already been settled, with the issuance by the BIR of the *Certificate of Availment (Compromise*

Settlement) No. CAC201700003367 dated April 12, 2018.[4] Verily, there is no merit in respondent's contention that petitioner still has outstanding liabilities.

Likewise, We find no credence in respondent's assertion that petitioner's claim for refund should be denied for its failure to comply with RMO No. 53-98, particularly, the non-submission of Certification from BOC stating that petitioner did not file any similar claim covering the same period and non-submission of importation documents. It bears emphasis that there is nothing in RMO No. 53-98 that requires the submission of the complete documents enumerated therein for a grant of a refund or credit of input VAT. Indeed, a taxpayer's failure with the requirements listed under RMO No. 53-98 is not fatal to its claim for tax credit or refund of excess unutilized excess VAT. [5]

In sum, the Court finds no compelling reason to reconsider, modify or reverse the assailed Decision.

WHEREFORE, in light of the foregoing considerations, the instant *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

[4] Exhibit "P-37", Division Docket – Vol I, p. 228

[5] *Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 207112, December 8, 2015.

I join the separate concurring opinion of J. Villena

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

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

(I join the Separate Concurring Opinion of Justice Villena)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice