REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

GULF AIR COMPANY PHILIPPINE BRANCH, Petitioner,	**CTA CASE NO. 9334**
-versus-	Members: **DEL ROSARIO**, *P.J.*, Chairperson and **MANAHAN**, *J.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JAN 29 2021 4:29 pm

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RESOLUTION

DEL ROSARIO, P.J.:

Before the Court is respondent's **Motion for Reconsideration (Re: Decision promulgated on 10 July 2020)** filed on July 29, 2020, with petitioner's **Comment/Opposition (To Respondent's Motion for Reconsideration)** posted on December 2, 2020, seeking the reversal of the assailed Decision dated July 10, 2020 which granted petitioner's refund claim in the total amount of ₱41,547,783.00 representing erroneously paid income taxes for taxable years (TYs) 2013 and 2014.

The dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, the Petition for Review dated April 15, 2016, filed by petitioner Gulf Air Company Philippine Branch is **GRANTED**. Consequently, respondent is **DIRECTED** to **REFUND** in favor of petitioner, the amounts of **₱19,164,519.00** and **₱22,383,264.00 (or a total amount of ₱41,547,783.00)**, representing erroneously paid income taxes for TYs 2013 and 2014.
>
> **SO ORDERED**."[1]

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[1] Docket, Vol. II, p. 1055.

Respondent submits that the Court erred in ruling that petitioner is entitled to the refund of alleged erroneously paid income taxes for TYs 2013 and 2014.

Respondent contends that what petitioner's parent company and Philippine Airlines, Inc. (PAL) entered into was a Code Share and Block Space Agreement. Under the said Agreement, petitioner, as the operating carrier, operates the flights while PAL, as the marketing carrier, is only given the right to sell tickets for certain Gulf Air flights. As such, PAL is not operating in Bahrain, the Home Country of petitioner. Hence, petitioner cannot claim an exemption from payment of income tax under Section 28(A)(3) of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act (R.A.) No. 10378.

Moreover, respondent insists that petitioner failed to show that Philippine Carriers are actually enjoying the income tax exemption in the Home Country of petitioner as required under Revenue Regulations No. 15-2013.

Lastly, respondent emphasizes that a tax refund is in the nature of a tax exemption which must be construed *strictissimi juris* against the taxpayer. Hence, the taxpayer must present convincing evidence to substantiate a claim for refund.

Petitioner, on the other hand, counters that the Court correctly decided the case in its favor because it fully satisfied the requisites for a claim for refund and the bases of respondent's motion has no leg to stand on. Also, respondent merely rehashed his arguments and did not bother to address the findings and pronouncements of the Court in the assailed Decision.

Petitioner asserts that respondent failed to refute the findings of the Court that proof of actual enjoyment by Philippine Carriers of income tax exemption in the Home Country of an international carrier is not required under Section 28(A)(3)(a) of the NIRC of 1997, as amended by R.A. No. 10378. Moreover, its administrative and judicial claims for refund were filed within the two (2) – year period provided in Sections 204(C) and 229 of the NIRC of 1997, as amended.

Petitioner also reiterates that the Income Tax Law of Bahrain does not impose income tax on the income of airlines derived from the transport of passengers and their excess baggage. Moreover, a confirmatory ruling from the International Tax Affairs Division of the Bureau of Internal Revenue is not a condition precedent for an international carrier to avail of the income tax exemption under Section

28(A)(3) of the NIRC of 1997, as amended by R.A. No. 10378. Hence, petitioner erroneously paid income taxes for TYs 2013 and 2014.

RULING OF THE COURT

Respondent's Motion for Reconsideration deserves scant consideration.

It is apparent that no new issues or arguments are raised in the Motion for Reconsideration as respondent merely rehashed his previous arguments, which have been considered and found without merit in the assailed Decision dated July 10, 2020. Hence, there is no compelling reason for the Court to modify, much more, to reverse its assailed Decision granting petitioner's refund claim.

WHEREFORE, premises considered, respondent's Motion for Reconsideration (Re: Decision promulgated on 10 July 2020) filed on July 29, 2020 is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

I CONCUR:

CATHERINE T. MANAHAN
Associate Justice