REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
****

VISAYAS GEOTHERMAL POWER COMPANY, Petitioner,	**CTA EB No. 1343** (CTA Case Nos. 6790 & 6838)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** and **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	***Promulgated:*** MAY 09 2017 3:45

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RESOLUTION

UY, *J*.:

For resolution is petitioner's **"MOTION FOR RECONSIDERATION (Re: Decision dated November 21, 2016)"** filed on December 19, 2016, with respondent's **"OPPOSITION (Re: Motion for Reconsideration)"** filed on February 23, 2017, praying that the Court set aside the Court's Decision dated November 21, 2016; and render a new decision ordering respondent to refund to the petitioner the amount of Php15,502,045.82 representing its excess and unutilized input taxes for the 4th quarter of CY 2001 to the 4th quarter of CY 2002. The dispositive portion thereof reads:

> "**WHEREFORE,** in light of the foregoing considerations, the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the Amended Decision dated March 25, 2015 and Resolution dated July 24, 2015 of the Court in Division in CTA Case Nos. 6790

& 6838, are hereby **AFFIRMED.**

SO ORDERED."

In support of its *Motion*, petitioner raises the following arguments, to wit:

1. The Supreme Court's doctrinal pronouncement regarding prescription does not warrant any modification of the Court in Division's previous factual determination of the refundable amount in its Original Decision.

2. The re-examination of the proper refundable amount is not warranted in view of the conclusive factual findings of the Court in Division in the Original Decision.

3. The Court in Division's Original Decision regarding the proper refundable amount, which was upheld by the Court in its 2007 Decision, should have been respected as an established point of law.

In his *Opposition*, respondent counters that:

1. It is clear that CTA Case No. 6838 was remanded to this Court for the proper determination of the refundable amount. This being so, the Court is not bound to uphold the refundable amount in the original Decision.

2. It is incumbent upon petitioner to prove that it is entitled to the refund sought. It is a well-settled principle in taxation that claims for refund are construed strictly against the claimant as they partake the nature of an exemption from tax.

THE COURT *EN BANC'S* RULING

Petitioner's *Motion* lacks merit.

After a careful examination and consideration of the petitioner's *Motion for Reconsideration*, it is noted that the arguments raised in therein are mere reiterations of matters which have already been thoroughly considered, weighed and resolved in the assailed Decision. Thus, We shall not belabor, in this Resolution, to repeat or reiterate the disquisitions and the rulings made therein.

WHEREFORE, in light of the foregoing, petitioner's *Motion for Reconsideration* is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

(I maintain my Dissenting Opinion dated November 21, 2016)
ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice