REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SPECIAL SECOND DIVISION

SL HARBOR BULK TERMINAL CORPORATION, Petitioner,	CTA CASE NO. **10440**
	Members:
- versus -	**BACORRO-VILLENA,** *Acting Chairperson,* *and* **CUI-DAVID,** ***JJ.***
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: ~~AUG 0 2 2024~~ 2:10 pm

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is petitioner SL Harbor Bulk Terminal Corporation's (**petitioner**'s) "Motion for Reconsideration (Re: Decision dated 10 January 2024)"[1] (**MR**) filed on 12 February 2024 *via* LBC, *sans* respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) comment.[2]

The MR seeks the reversal of this Court's Decision dated 10 January 2024[3] (**assailed Decision**), denying petitioner's Petition for Review[4] filed on 04 January 2021. The dispositive portion of the assailed Decision reads, thus:

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[1] Division Docket, Volume VII, pp. 3273-3286.
[2] See Records Verification dated 17 April 2024.
[3] Id., pp. 3246-3272.
[4] Id., Volume I, pp. 6-40.

> ...
>
> **WHEREFORE,** the foregoing premises considered, the Petition for Review filed by petitioner SL Harbor Bulk Terminal Corporation on 04 January 2021 is hereby **DENIED** for lack of merit.
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> **SO ORDERED.**
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> ...

In its MR, petitioner submits that it already sufficiently established that the sale of petroleum products to tax-exempt entities were sourced from 2018 and 2019 importations on which excise taxes were paid. Petitioner asserts that the Court failed to consider the totality of evidence it submitted in support of its tax credit claim. It disagrees with the requirement of further supporting documentation (to clearly establish the link between the imported petroleum products and the petroleum products sold to tax-exempt entities), citing Section 34[5] of Revenue Regulations (**RR**) No. 13-77[6]. According to petitioner, the Court erred as the Official Registry Book (**ORB**) and General Ledger (**GL**) for the period of the instant claim (as recommended in the assailed Decision) are not among those listed under Section 34 of RR No. 13-77.

Petitioner also maintains that it was able to sufficiently establish that it is entitled to the tax credit it prayed for in its Petition for Review. For this purpose, petitioner reiterates its factual and legal basis for its claim of tax credits arising from importations of petroleum products subsequently sold to tax-exempt entities.

As discussed above, respondent was unable to timely file a comment or opposition against petitioner's MR.

We resolve.

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5 SEC. 34. Tax credits/refunds for tax exempt agencies. — In cases where tax-exempt agencies purchased petroleum products in which specific tax due thereon was included or where specific tax had been erroneously or illegally collected, the same may file a claim for tax refund or tax credit with the Commissioner of Internal Revenue, submitting the following:

a) Original copy of the certificate of tax-exemption;
b) Copies of sales invoices;
c) Photostatic copies of official receipts evidencing payment of specific tax.

The claim for refund or tax credit should be filed within two (2) years from date of payment of the tax.

6 Petroleum Products Regulations dated 10 October 1977.

Petitioner erroneously relied on Section 34 of RR No. 13-77 for the quantum of evidence necessary to prove its entitlement. The said RR provision indeed lists the requirements for **filing a claim** for tax refund or tax credit (that arose from the importation of petroleum products subsequently sold to tax-exempt entities).

However, actually **establishing a claimant's entitlement** is a separate matter that warrants further support. Neither the Bureau of Internal Revenue (**BIR**) nor this Court is precluded from seeking further evidence to verify the claim presented before it, as distinguished from the requirements for initially filing the claim.

Notably, actions for tax refund or credit, as in the instant case, are in the nature of a claim for exemption. Being so, the law is not only construed in *strictissimi juris* against the taxpayer but also the pieces of evidence presented to entitle it to an exemption. These pieces of evidence are *strictissimi* scrutinized and must be duly proven.[7] The burden of proof is on the taxpayer to show that it has strictly complied with the conditions for the grant of the tax refund or credit.[8]

To clarify, the ORB or GL for 2019, **<u>or other equivalent document that demonstrates the movement of its inventory for the year 2019</u>** was deemed necessary as the records showed that petitioner also purchased locally-manufactured petroleum products that could have comingled with its imported petroleum products. The ORB for 2018[9] likewise includes line items for local inter-company or inter-branch transfers that necessitate further examination, and consequently, further supporting documentation.

In sum, petitioner fell short in meeting the requirements set forth in *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue*[10]. Particularly, it was unable to prove that it is the statutory taxpayer. Recapitulating our disquisitions above with reference to the assailed Decision, while petitioner proved that it sold and delivered petroleum products to tax-exempt entities and that it imported petroleum products in 2019, it failed to clearly establish, through

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7 *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 159490, 18 February 2008.

8 *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222428, 19 February 2018.

9 Exhibit "P-36", ICPA USB.

10 G.R. No. 211303, 15 June 2021; Emphasis and italics in the original text and supplied.

preponderant evidence, **the desired nexus between the imported petroleum products and the petroleum products sold to tax-exempt entities.**

As to the remainder of petitioner's arguments, these consist of those already raised, considered by this Court, and laid out exhaustively in the assailed Decision. Thus, We no longer find it worthwhile to make further exposition and rehash our own discussions concerning the legal and factual basis of petitioner's claim. As the Supreme Court held in *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[11]:

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> 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 final order; or the arguments in the motion are too unsubstantial to require consideration, etc.
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Furthermore, the Supreme Court in *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[12] ruled:

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> The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and

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11 G.R. No. 109645, 04 March 1996.

12 G.R. No. 159938, 22 January 2007; Citation omitted and emphasis supplied.

> that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
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> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. **As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought.**
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> ...

It is clear from the above principles that it is the movant's duty to convincingly show grounds for a reconsideration of an assailed judgment or order, or at the least give its previous arguments a fresh perspective in such a way that would warrant a re-examination of the case. Unfortunately, in the instant case, petitioner had failed to do so.

WHEREFORE, the foregoing premises considered, petitioner's "Motion for Reconsideration (Re: Decision dated 10 January 2024)" filed on 12 February 2024 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice