REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

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EDC BURGOS WIND POWER CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA *EB* NO. 2548
(CTA Case No. 9446)

Present:

DEL ROSARIO, *P.J.*,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
OCT 01 2024 1:33pm

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RESOLUTION

CUI-DAVID, J.:

For this Court's resolution is respondent's ***Motion for Reconsideration (Re: Amended Decision promulgated 31 January 2024)*** filed on February 15, 2024, with petitioner's ***Comment (Re: Motion for Reconsideration dated February 12, 2024)*** filed on March 18, 2024.

Respondent seeks reconsideration of the Court's *Amended Decision* promulgated on January 31, 2024, with the following dispositive portion:

> **WHEREFORE**, premises considered, petitioner's *Motion for Reconsideration (Re: Decision dated June 2, 2023)* is **GRANTED**.

Accordingly, the dispositive portion of the Court's Decision dated June 2, 2023 in CTA *EB* No. 2548 is **AMENDED** as follows:

> **WHEREFORE**, premises considered, the Petition for Review is **GRANTED**. The Decision dated March 12, 2021 and the Resolution dated October 28, 2021 of the Court in Division are **VACATED** and **SET ASIDE.**
>
> Accordingly, let this case be **REMANDED** to the Court's Third Division for determination of the refund due to petitioner, if any.
>
> **SO ORDERED**.

SO ORDERED.

In his *Motion for Reconsideration*, respondent substantially quotes the *Dissenting Opinion* of Associate Justice Catherine T. Manahan, which discussed the requirement of securing a Certificate of Endorsement (**COE**) and Certificate of Compliance (**COC**) with the Department of Energy (**DOE**) in order to avail of value-added tax (**VAT**) zero-rating.

Respondent also cites the oft-repeated principle that claims for refund are regarded as in derogation of sovereign authority and are to be strictly construed against the claimant and liberally in favor of the taxing authority.

On the other hand, petitioner reiterates the arguments in its *Petition for Review* and prior *Motion for Reconsideration* and maintains that the instant claim for refund or issuance of a tax credit certificate is anchored on Section 15 (g) of Republic Act ("**RA**") No. 9513 or the Renewable Energy Act of 2008 ("**RE Law**") and its implementing regulations and on Section 108 (B) (7) of the National Internal Revenue Code ("**NIRC**") of 1997, as amended, and that there is nothing in the said provisions that a COC issued by the Energy Regulatory Commission ("**ERC**") is necessary for its sales to be considered as zero-rated for VAT purposes.

Petitioner cites the decisions of this Court in *Energy Development Corporation v. Commissioner of Internal Revenue*[1] and *North Luzon Renewable Energy v. Commissioner of Internal*

[1] CTA Case No. 7792, November 19, 2012.

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Revenue[2] in support of its position. Petitioner also suggests that the Supreme Court has taken a similar position in *Commissioner of Internal Revenue v. Team Energy Corporation.*[3] Thus, according to petitioner, only its Certificate of Registration with the DOE and the Board of Investments (BOI) are required to be presented and offered in order for petitioner to avail of the zero-rating incentives under the RE Law.

This Court finds the instant *Motion for Reconsideration* without merit.

At the onset, the Court notes that the grounds raised in respondent's *Motion for Reconsideration* have been thoroughly considered, resolved, and passed upon in the assailed Decision.

It is well-settled that a motion for reconsideration containing a mere reiteration or rehash of grounds and arguments that have already been considered, weighed, passed upon, and resolved by the court before the *Decision* sought to be reconsidered is rendered does not need a new judicial determination.[4] Therefore, there is no necessity to discuss and rule again on these grounds since this would be a useless formality of ritual invariably involving merely a reiteration of the reasons for rejecting the arguments advanced by the movant already set forth in the judgment.[5]

In *Shangri-La International Hotel Management v. Developers Group of Companies, Inc.*,[6] the Supreme Court ruled that it is incumbent upon the movant to convince the Court that certain findings or conclusions are contrary to law, to wit:

> "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 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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[2] CTA *EB* No. 2574, June 1, 2023.
[3] G.R. No. 230412, March 27, 2019.
[4] *People v. Agacer*, G.R. No. 177751 (Resolution), January 7, 2013 citing *People v. Larrañaga*, G.R. Nos. 138874-75, July 21, 2005; *Madeleine Mendoza-Ong v. Hon. Sandiganbayan, et al.*, G.R. Nos. 146368-69 (Resolution), October 18, 2004.
[5] *People v. Agacer*, G.R. No. 177751 (Resolution), January 7, 2013 citing *People v. Larrañaga*, G.R. Nos. 138874-75, July 21, 2005 and *Ortigas Land Co. Ltd. Partnership v. Judge Velasco*, G.R. No. 109645 (Resolution), March 4, 1996.
[6] G.R. No. 159938 (Resolution), January 22, 2007.

> 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."

As in the *Shangri-la* case, the instant *Motion* does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought.

Accordingly, the Court maintains its ruling in the *Amended Decision* that petitioner is not required to present a COE to prove that it is engaged in zero-rated sales and that it must only present its DOE and BOI Registration certificates to be entitled to zero-rating under Revenue Regulations (**RR**) No. 7-2022 in relation to the RE Law. Further, the Court affirms its ruling that the COC is not required as petitioner's claim for refund is based on RE Law and not RA No. 9136, otherwise known as the EPIRA Law.

Given the foregoing, the Court finds no compelling reason to reverse or modify the *Amended Decision* promulgated on January 31, 2024.

WHEREFORE, premises considered, respondent's *Motion for Reconsideration (Re: Amended Decision promulgated January 31, 2024)* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(With due respect, I maintain my Dissenting Opinion)
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

ON LEAVE
CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice