REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

OCE HOLDING B.V.,
Respondent.

CTA EB No. 1644
(CTA Case No. 8930)

Present:
DEL ROSARIO, *P.J.*,
CASTAÑEDA JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:

AUG 09 2019
2:25 p.m.

x- x

RESOLUTION

This resolves Petitioner's **Motion for Reconsideration** filed on February 13, 2019, with Respondent's **Comment** posted on April 16, 2019, which the Court received on April 29, 2019.

In his Motion, Petitioner asks that the Court *en banc* reconsider its Decision dated January 23, 2019 on the ground that respondent failed to prove with certainty that it is entitled to the refund of Capital Gains Tax in the amount of ₱14,586,827.10; and that claims for refund are construed *strictissimi juris* against the taxpayer and liberally in favor of the government.

Petitioner argues that it does not follow that the amount of ₱14,586,827.10 would be refunded merely on the basis of a Certification stating that the gains from sale or transfer of shares of stock of Canon Business Process Philippines, Inc. between Respondent and Océ Business Services, Inc. are not subject to Capital Gains Tax (CGT) pursuant to the RP-Netherlands Tax Treaty. This is because, according to Petitioner, the CIR Certification does not specifically state the amount of CGT which Respondent is not subject to and the CIR Certification states that the name of the seller is

Océ N.V. and not Océ Holding B.V. which is the Respondent in this case. Moreover, tax refunds are in the nature of tax exemptions and must be construed strictly against the claiming entity.

In its Comment, Respondent argues that it does not matter that the CIR Certification does not state, in precise numerical terms, the amount of CGT precisely because Respondent is exempt from paying the amount. The CIR certification makes specific references to the Tax Treaty Relief Application (TTRA) that was filed by Respondent, the Deed of Transfer it submitted and even the subject shares involved. These were appended to the CIR Certification as integral parts thereof. Furthermore, the CIR Certification was not the only evidence presented by Respondent to support its entitlement to the refund. Respondent submitted other evidence to support its claim for refund and the CIR Certification only operated as confirmation that the evidence it presented were sufficient basis for tax exemption.

As regards the argument that the CIR Certification states that the name of the seller is Océ N.V. and not Océ Holding B.V., Respondent states they they are one and the same entity and that Océ N.V. is merely its former corporate name. This was proven by the evidence it presented, to wit: a) Deed of Conversion and Amendment of the Articles of Incorporation of Océ N.V. dated July 1, 2013[1], b) the English Translation of the Deed of Conversion and Amendment[2]; and c) the testimony of Atty. Cynthia L. dela Paz as contained in her Judicial Affidavit dated May 13, 2015[3] where she confirmed that Océ Holding B.V. and Océ N.V. are one and the same entity. As pointed out in the Decision, Petitioner has a judicial admission in paragraph 5 of his Petition that Océ Holding B.V. was formerly named as Océ N.V.

After considering the arguments of both parties, it is apparent to this Court that, indeed, the arguments raised by Petitioner in his Motion for Reconsideration are not new. They have been previously discussed and considered in the Decision dated November 28, 2016 of the Second Division and the Resolution dated April 19, 2017 of the Special Second Division in CTA Case No. 8930. More importantly, they have also been exhaustively studied and considered by this Court prior to rendering our Decision dated January 23, 2019.

In *La Bugal B'Laan Tribal Association, Inc. v. Ramos*[4], the Supreme Court, noting that the arguments and positions raised in the Motion for Reconsideration therein were already raised and discussed extensively, held

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[1] Exhibit "P-1".
[2] Exhibit "P-1-a".
[3] Exhibit "P-15".
[4] G.R. No. 127882, February 1, 2005.

that a further discussion of the same issues would not serve any useful purpose.

> "A close perusal of the above issues and the discussions thereof shows that they are a mere rehash of arguments and positions already raised and discussed extensively in the 246-page Resolution of December 1, 2004 penned by Justice Artemio V. Panganiban; as well as in the 125-page Dissenting Opinion of Justice Antonio T. Carpio, the 100-page Dissenting Opinion of Justice Conchita Carpio-Morales, the 29-page Separate Opinion of Justice Dante O. Tinga, and the 10-page Concurring Opinion of Justice Minita V. Chico-Nazario.
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> **Further discussion of these issues would not serve any useful purpose, as it would merely repeat the same justifications and reasons** already taken up in the foregoing Opinions, which tackled precisely those matters and even more; **any further elucidations, disquisitions and disputations would merely reiterate the same points already passed upon.**" *(Emphasis supplied)*

Considering that no new matters have been raised, Petitioner's "Motion for Reconsideration" is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA JR.
Associate Justice

ERLINDA P. UY
Associate Justice

(On Leave)
ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

(took no part)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice