REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 1493** (CTA Case No. 8819)
	Present: ***Del Rosario, P.J., Castañeda, Jr., Bautista, Uy, Casanova, Fabon-Victorino, Mindaro-Grulla, Ringpis-Liban,*** *and* ***Manahan, JJ.***
-versus-	
PHILEX MINING CORPORATION, *Respondent.*	Promulgated: AUG 24 2017 3:39 p.m.

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RESOLUTION

BAUTISTA, J.:

For resolution is petitioner's Motion for Reconsideration (on the Decision of the Honorable Court dated 1 June 2017) ("Motion for Reconsideration") filed on June 23, 2017; with respondent's Comment/Opposition filed on July 18, 2017.

On June 1, 2017, the Court *En Banc* promulgated a Decision[1], the dispositive portion thereof reads as follows:

> **WHEREFORE**, the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the Decision promulgated on May 20, 2016 and the Resolution

[1] *Rollo, CTA EB No. 1493, Decision,* pp. 63-80, with Presiding Justice Roman G. Del Rosario's Concurring Opinion.

promulgated on July 7, 2016 both rendered by the Court in Division are hereby **AFFIRMED.**

SO ORDERED.[2]

In its Decision, the Court *En Banc* declared that the Court in Division properly received, evaluated and appreciated the evidence submitted before it; correctly declared that respondent's judicial claim for refund was timely filed; was correct in considering as valid all the final invoices bearing dates later than the dates of sale of respondent's products; properly held that the submission of the subsidiary sales journal and the subsidiary purchase journal is not a requirement in the present claim; and did not err in finding that respondent presented sufficient evidence in support of its claim, albeit partial, leading to a refund in the reduced amount.

In petitioner's Motion for Reconsideration, he claims that the Second Division of the Court of Tax Appeals ("Court in Division") erred in not considering respondent's failure to prove that it submitted with the one stop shop the complete documents in support of its administrative claim for refund, making the evidence insufficient to justify the Decision; in not declaring respondent's judicial claim for refund prematurely filed; in considering as valid all the final invoices bearing dates later than the dates of sale of respondent's products; in not denying the claim for refund for failure of respondent to submit the subsidiary sales journal and subsidiary purchase journal; and in not strictly construing against respondent claimant the determination of the sufficiency of the evidence submitted in support of the claim for refund.

Respondent, in its Comment/Opposition, counters that all the five (5) grounds mentioned by petitioner in his Motion for Reconsideration are the exact same grounds invoked in his Petition for Review. Since all the grounds were thoroughly discussed and passed upon in the assailed Decision of the Court *En Banc* and no new matters or issues were raised, respondent avers that there is no reason to reconsider or set aside the assailed Decision.

After a careful study of the grounds raised by petitioner, the Court *En Banc* finds no merit in his Motion for Reconsideration since he failed to raise any new argument that would warrant a

[2] Emphases retained.

reconsideration of the assailed Decision, considering that the arguments therein are mere reiterations of the assignment of errors[3] in petitioner's Petition for Review. Reproduced hereunder are the assignment of errors, as appearing in the June 1, 2017 Decision:

The Assigned Errors

> THE COURT IN DIVISION ERRED IN NOT CONSIDERING RESPONDENT'S FAILURE TO PROVE THAT IT SUBMITTED WITH THE ONE STOP SHOP THE COMPLETE DOCUMENTS IN SUPPORT OF ITS ADMINISTRATIVE CLAIM FOR REFUND, HENCE, THE EVIDENCE IS INSUFFICIENT TO JUSTIFY THE DECISION;
>
> THE COURT IN DIVISION ERRED IN NOT DECLARING RESPONDENT'S JUDICIAL CLAIM FOR REFUND AS PREMATURELY FILED;
>
> THE COURT IN DIVISION ERRED WHEN IT CONSIDERED AS VALID ALL THE FINAL INVOICES BEARING DATES LATER THAN THE DATES OF SALE OF RESPONDENT'S PRODUCTS;
>
> THE COURT IN DIVISION ERRED IN NOT DENYING THE CLAIM FOR REFUND FOR FAILURE OF RESPONDENT TO SUBMIT ITS SUBSIDIARY SALES JOURNAL AND ITS SUBSIDIARY PURCHASE JOURNAL; AND
>
> THE COURT IN DIVISION ERRED WHEN IT DID NOT STRICTLY CONSTRUE AGAINST RESPONDENT IN THE DETERMINATION OF THE SUFFICIENCY OF EVIDENCE SUBMITTED IN SUPPORT OF ITS CLAIM.

WHEREFORE, petitioner's Motion for Reconsideration (on the Decision of the Honorable Court dated 1 June 2017) is hereby **DENIED** for lack of merit.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

[3] *Rollo, Petition For Review, Grounds,* pp. 7-8.

WE CONCUR:

ROMAN G. DEL ROSARIO I reiterate my Concurring Opinion
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

(On Official Business)
CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

(On Official Business)
CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice