REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

ZUELLIG PHARMA CORPORATION,
Respondent.

CTA EB NO. 2765
(CTA Case No. 9030)

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ZUELLIG PHARMA CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2777
(CTA Case No. 9030)

Present:

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

Promulgated:
AUG 14 2025 4:06 pm

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RESOLUTION

***BACORRO-VILLENA, J.*:**

For the Court *En Banc*'s resolution are:

1. Commissioner of Internal Revenue's (**CIR**'s) "Motion for Reconsideration [**MR**] (Re: Decision promulgated 25 November 2024)"[1] filed on 11 December 2024, with Zuellig Pharma Corporation's (**ZPC**'s) "Comment (Re: [MR] dated December 2, 2024)"[2] (**Comment**) filed on 27 January 2025; and

2. ZPC's "[MR] (Re: Decision promulgated on November 25, 2024)"[3] filed on 16 December 2024, with CIR's "Opposition (Re: [MR] of the Decision dated 25 November 2024)"[4] (**Opposition**) filed on 24 January 2025.

Both MRs assail the Court *En Banc*'s Decision[5] promulgated on 25 November 2024 (**assailed Decision**). The dispositive portion thereof reads:

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> **WHEREFORE**, with the foregoing considered, the consolidated Petitions for Review filed by the Commissioner of Internal Revenue on 15 June 2023 and Zuellig Pharma Corporation on 21 July 2023, respectively, are **DENIED** for lack of merit.
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> Accordingly, the assailed Decision dated 02 March 2023 and the assailed Resolution dated 26 May 2023, respectively, of the Court's Special Third Division in CTA Case No. 9030, entitled *Zuellig Pharma Corporation v. Commissioner of Internal Revenue*, are hereby **AFFIRMED**.
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> **SO ORDERED.**
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> ...

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1 *Rollo* (CTA EB Case No. 2765), p. 121-131.
2 Id., pp. 164-170.
3 Id., pp. 135-148.
4 Id., pp. 152-160.
5 Id., pp. 83-120.

CTA EB No. 2765

The CIR prefaces his or her arguments that the present MR should not be considered *pro forma* just because it reiterates arguments earlier passed upon and rejected by the Court, stating that a movant may raise the same arguments precisely to convince the Court that its earlier ruling was erroneous.

As to the assailed Decision, the CIR argues anew that ZPC failed to sufficiently prove its entitlement to a refund or issuance of a tax credit certificate (**TCC**) for its excess and unutilized creditable withholding taxes (**CWTs**) for the calendar year (**CY**) ended 31 December 2012 (albeit at a reduced amount).

The CIR stresses that ZPC failed to provide supporting documents showing that the income, from which the CWTs are being claimed, was properly declared in ZPC's Annual Income Tax Return (**AITR**). He or she highlights that ZPC had not demonstrated any direct link between the CWTs and the income as reflected in the AITR. For the CIR, this constitutes a violation of one of the vital requirements that entitle a taxpayer to a refund of CWT.

Moreover, the CIR further asserts that ZPC failed to substantiate its administrative claim for refund because the latter failed to submit (at the administrative level) the complete requirements in accordance with Revenue Memorandum Order (**RMO**) No. 53-98[6] and Revenue Regulations (**RR**) No. 2-2006.[7] For the CIR, ZPC's failure to submit the pertinent documents to the Bureau of Internal Revenue (**BIR**) at the administrative level renders its claim *pro forma*, as if it had not filed any claim at all. To sum up the foregoing, the CIR claims that ZPC's noncompliance rendered its Petition for Review dismissible.

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6 Checklist of Documents to be Submitted by a Taxpayer upon Audit of his Tax Liabilities as well as of the Mandatory Reporting Requirements to be Prepared by a Revenue Officer, all of which Comprise a Complete Tax Docket.

7 Mandatory Attachments of the Summary Alphalist of Withholding Agents of Income Payments Subjected to Tax Withheld at Source (SAWT) to Tax Returns with Claimed Tax Credits due to Creditable Tax Withheld At Source and of the Monthly Alphalist of Payees (MAP) Whose Income Received Have Been Subjected to Withholding Tax to the Withholding Tax Remittance Return Filed by the Withholding Agent/Payor of Income Payments.

The CIR adds that ZPC's failure likewise deprives his or her office the opportunity to fully exercise its functions and study the taxpayer's claim.

Finally, the CIR places emphasis on the burden upon a taxpayer-claimant to present convincing evidence to substantiate a refund claim, given that a tax refund is in the nature of a tax exemption which must be construed *strictissimi juris* against the taxpayer.

ZPC, on the other hand, points out that the CIR's MR reiterates arguments already raised in his or her Petition for Review before the Court *En Banc* and MR dated 22 March 2023[8] filed before the Special Third Division.

Nevertheless, in opposition to the CIR's MR, ZPC stated that: (1) it had presented sufficient evidence to prove its compliance with the requirements for a CWT refund; (2) the law does not mandate full compliance with the prescribed checklist of requirements under RMO No. 53-98 and RR No. 2-2006; and, (3) non-submission of the complete documents under the said issuance at the administrative level is not fatal to a claim for refund at the judicial level.

<u>CTA EB No. 2777</u>

Meanwhile, in ZPC's MR, it argues that it is entitled to a refund or TCC for the full amount of its claim as it was able to fully substantiate the same. ZPC highlights that it reported the income upon which taxes were withheld as part of its revenues declared in its AITR, Audited Financial Statements (**AFS**), and books of accounts.

ZPC likewise insists that, for purposes of proving a CWT refund claim, it is enough that the details in CWT Certificates (BIR Form No. 2307s) are complete in the relevant details which would aid the courts in the evaluation of the claim; namely, the payor's name, the income payment, the amount of tax withheld, and the nature of the tax paid. It pointed out that the CWT Certificates in question were issued by its

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8 Division Docket, Volume IV, pp. 1928-1938.

customers and it had no control nor participation over their preparation, thus the defects should not be attributed to it.

ZPC further contends that once the claimant has established a *prima facie* right to the refund by complying with the minimum statutory requirements, the burden should then be shifted to the CIR to disprove such claim.

As to the income upon which the CWTs claimed were based, ZPC argues that the standard of proof in tax refund claims is merely preponderance of evidence. Citing *Tullett Prebon (Philippines), Inc. v. Commissioner of Internal Revenue*[9], ZPC contends that there is no prescribed evidence to prove that the income payment has been declared as part of the gross income and that the merits of its claim should not rise and fall on the strength of a singular piece of evidence, when no specific proof is required by law or by the rules.

In line with the foregoing, ZPC concludes that the documents examined by the Court-commissioned Independent Certified Public Accountant (**ICPA**) should be given greater weight. ZPC makes reference to the ICPA's conclusion that its total revenue declared in its AITR can be directly attributed to its system-generated trial balance and AFS for the same period.

Finally, ZPC asserts that claims for refund of erroneously paid taxes are civil in nature. As such, ZPC, as claimant, though bearing a heavy burden to show entitlement, only needs to prove preponderance of evidence in order to recover its excess CWTs.

In his or her Opposition, the CIR echoes the Court's findings, stating that the Special Third Division aptly disallowed the portion of ZPC's claim that was not supported by the duly issued CWT Certificates. He or she declares that it was incumbent upon ZPC to prove its entitlement to the full amount of the refund it sought, but it failed to discharge the said burden.

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[9] G.R. No. 257219, 15 July 2024.

We resolve.

At the onset, the Court *En Banc* must stress that both the CIR's and ZPC's arguments and discussions in their respective MRs are mere rehashes of those already raised and considered by the Court *En Banc* in deciding the case at bar.

Briefly recapitulating, the Court *En Banc* had already verified and validated the Special Third Division's findings on ZPC's partial entitlement to its refund claim, finding sufficient evidence in support thereof. Likewise, We have rendered an exhaustive discussion in the assailed Decision as to how non-submission of the documents enumerated in the prescribed checklist of requirements under RMO No. 53-98 and RR No. 2-2006 would not *ipso facto* result in the denial of a refund claim.

Finally, contrary to the CIR's position, the Court *En Banc* had already examined ZPC's supporting documents sufficiently to arrive at its conclusion in the assailed Decision that ZPC, had at least partially proven that its income payments with corresponding CWTs were included in its gross income, as declared in its AITR.

Incidentally, in the same discussion (against ZPC's contention that the Court-commissioned ICPA's conclusion in the ICPA Report) that the total revenue in ZPC's AITR can be directly attributed to petitioner's system-generated trial balance and AFS, the Court *En Banc* in its review of the same Report (vis-à-vis ZPC's other supporting documents on record) found otherwise.

In *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[10], the Supreme Court explained, to wit:

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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.

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[10] G.R. No. 109645 (Resolution). 04 March 1996.

> 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.*[11] 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 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

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[11] G.R. No. 159938, 22 January 2007; Citation omitted and emphasis supplied.

perspective in such a way that would warrant a re-examination of the case. Unfortunately, in the instant case, both parties had failed to do so.

WHEREFORE, in view of the foregoing, the Commissioner of Internal Revenue's "Motion for Reconsideration (Re: Decision promulgated 25 November 2024)", filed on 11 December 2024, and Zuellig Pharma Corporation's "Motion for Reconsideration (Re: Decision promulgated on November 25, 2024)", filed on 16 December 2024, are both **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

x - x

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

LANEE S. CUI-DAVID
Associate Justice

Corazon G. Ferrer-Flores
CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice