REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

****

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 1892** (CTA Case No. 9335)
	Present:
- versus -	**DEL ROSARIO,** P.J., **CASTAÑEDA, JR.,** **UY,** **RINGPIS-LIBAN,** **MANAHAN,** **BACORRO-VILLENA,** and **MODESTO-SAN PEDRO,** JJ.
UNIVATION MOTOR PHILIPPINES, INC. (FORMERLY NISSAN MOTOR PHILIPPINES, INC.), Respondent.	***Promulgated:*** SEP 01 2020 2:10pm

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RESOLUTION

UY, J.:

For resolution is petitioner's **"MOTION FOR RECONSIDERATION (Re: Decision promulgated 3 February 2020)"**[1] filed on February 18, 2020, with respondent's **"COMMENT (Re: Motion for Reconsideration dated February 17, 2020)"**[2] filed on July 2, 2020. In the said Motion, petitioner prays for the reconsideration and setting aside of the Court's Decision dated February 3, 2020, the dispositive portion of which reads:

> "**WHEREFORE,** in light of the foregoing considerations, the instant *Petition for Review* is hereby **DENIED** for lack of merit. The Decision dated April 3,

[1] Docket, pp. 100 to 106.

[2] Docket, pp. 111 to 129.

2018 and the Resolution dated July 4, 2018, rendered by the Second Division of this Court, respectively, in CTA Case No. 9335, are hereby **AFFIRMED.**

SO ORDERED."

In support of his Motion, petitioner argues that:

1. The Court erred in ruling that respondent is entitled to the refund of unutilized excess CWT for taxable year 2013, despite no evidence of actual remittance to the BIR;

2. A motion for reconsideration is not *pro forma* just because it reiterated the arguments earlier passed upon and rejected by the court; and

3. A tax refund is in the nature of a tax exemption which must be construed *strictissimi juris* against the taxpayer.

In its Comment, respondent counters that:

1. Petitioner's lack of *bona fide* effort to present additional matters or to reiterate his arguments in a different light makes his motion a *pro forma* motion;

2. Respondent, being the income earner and payee of the CWTs is not mandated by law to remit the taxes withheld, the duty of which falls to the withholding agents. Thus, respondent only needs to prove the fact of withholding and not the actual remittance to the BIR of taxes withheld. The presentation of the Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by withholding agents constitutes sufficient proof of the fact of withholding;

3. The rule that "claims for refund of overpaid taxes are construed *strictissimi juris* against the taxpayer" does not apply to claims for refund of overpaid or erroneously paid taxes.

THE COURT *EN BANC'S* RULING

Petitioner's Motion lacks merit.

After a careful examination and consideration of the petitioner's Motion for Reconsideration, it is noted that the arguments raised in the said Motion are mere reiterations of matters which have already been considered, weighed and resolved in the assailed Decision. Thus, We shall not belabor, in this Resolution, to repeat the disquisitions made therein.

WHEREFORE, in light of the foregoing considerations, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA G. MODESTO-SAN PEDRO
Associate Justice