REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

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PROCTER & GAMBLE ASIA PTE. LTD., Petitioner,	**CTA Case Nos. 7581 & 7639**
	Members:
- versus -	**CASTAÑEDA,** *Chairperson, and* **UY,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	***Promulgated:*** JUN 10 2020 3:33 pm

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RESOLUTION

UY, *J.*:

For resolution is petitioner's **"MOTION FOR RECONSIDERATION (RE: DECISION DATED NOVEMBER 29, 2019)"** filed on December 19, 2019, with respondent's **"MANIFESTATION AND MOTION"** filed on February 3, 2020, seeking the reconsideration and setting aside of this Court's Decision dated November 29, 2019, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for insufficiency of evidence.
>
> **SO ORDERED**."

In the instant *Motion*, petitioner argues that there is evidence on record which proves that the services subject to zero (0%) percent rate were performed in the Philippines. According to petitioner, in the Independent Certified Public Accountant's (ICPA) Report offered and admitted as evidence before the Court shows that petitioner's sale of services were performed in the Philippines. Thus, petitioner was able to establish that petitioner's sales of services to its affiliates abroad are subject to VAT rate of zero (0%) percent under Section 108 (B)(2) of the National Internal Revenue Code of 1997.

On the other hand, respondent in its *Manifestation and Motion* adopts the factual findings and legal conclusions made by the Court in its Decision dated November 29, 2019 denying petitioner's claim for tax credit/refund. Moreover, respondent alleges that petitioner's *Motion for Reconsideration* is a *pro forma* motion. That the arguments raised therein are mere repetitions and reiterations of the arguments already passed and ruled by the Court.

THE COURT'S RULING

The instant *Motion for Reconsideration* lacks merit.

In its motion, petitioner invokes the findings of the court-commissioned ICPA that its sale of services were performed in the Philippines.

Petitioner is reminded that this Court is not bound by the findings of the ICPA as provided under Section 3 of Rule 13 of the Revised Rules of the Court of Tax Appeals (RRCTA), as amended, to wit:

> Sec. 3. *Findings of independent CPA*. - "xxx. The findings and conclusions of the ICPA may be challenged by the parties and shall not be conclusive upon the Court, which may, in whole or in part, adopt such findings and conclusion subject to verification."

Based on the foregoing, the Court may rely on, but is not bound by the ICPA's findings, because the same are subject to verification by the Court, as to its accuracy, veracity and merit. In the end, the Court may either adopt or reject the ICPA Report, wholly or partly.

In this case, We maintain Our findings that there is no evidence on record that will fully convince this Court that the services rendered by petitioner to its client-affiliates abroad were performed in the Philippines. We reiterate that in petitioner's *Formal Offer of Evidence* filed on July 3, 2009, petitioner did not offer any specific evidence to establish that the subject services were performed in the Philippines.

The settled rule is that tax refunds, like tax exemptions, are construed strictly against the taxpayer and liberally in favor of the taxing authority. In the event, petitioner has not met its burden of proof in establishing the factual basis for its claim for refund.[1]

Finding no compelling reason to reconsider, modify or reverse Our Decision, We shall no longer belabor in this Resolution, to repeat the disquisitions made therein.

WHEREFORE, in light of the foregoing, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

I CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

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[1] *Far East Bank and Trust Company vs. Court of Appeals, Court of Tax Appeals and Commissioner of Internal Revenue,* G.R. No. 129130, December 9, 2005.