REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,

Petitioner,

-versus-

PHILEX MINING CORPORATION,

Respondents.

CTA EB No. 1097
(CTA Case No. 8517)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
COTANGCO-MANALASTAS, *and*
RINGPIS-LIBAN, *JJ.*

Promulgated:

JUL 03 2015
1:25 p.m.

x--x

RESOLUTION

RINGPIS-LIBAN, *J.*:

For resolution is petitioner's Motion for Reconsideration[1] filed on March 16, 2015. Petitioner seeks reconsideration of this Court's Decision[2], promulgated on February 17, 2015, the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the above-captioned Petition for Review is hereby **DENIED** for lack of merit. The Decision of the CTA Second Division in CTA Case No. 8517 dated October 9, 2013 and the Resolution dated November 26, 2013, are hereby **AFFIRMED IN TOTO.**
>
> **SO ORDERED."**

[1] *Rollo*, pp. 81-85.
[2] *Rollo*, pp. 71-80.

In a Resolution dated April 7, 2015, the Court ordered respondent to file its Comment/Opposition within ten (10) days from receipt.

On May 7, 2015, respondent filed its Comment, stating that petitioner's arguments are a mere rehash of arguments she already raised before the Second Division and the Court En Banc, and moving that the Motion for Reconsideration be denied for lack of merit.

Petitioner's Motion for Reconsideration, on the other hand, is based on the sole ground that this Court erred in ruling that respondent was able to substantiate its claim for refund or tax credit certificate for its alleged unutilized input taxes for the 1st quarter of taxable year 2010.

In support of this, petitioner argues that 1) a taxpayer must prove not only his entitlement to a refund but also his compliance with procedural due process; 2) respondent failed to prove that the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP); 3) respondent failed to comply with the invoicing requirements provided by Section 4.108-1 of Revenue Regulations No. 5-97 if the invoice or official receipt is not imprinted with the word "zero-rated"; 4) respondent failed to establish its right to claim a tax credit certificate; 5) respondent failed to prove that the taxes were erroneously or illegally paid; and, lastly, 6) claims for refund are construed strictly against the taxpayer as they partake the nature of tax exemptions.

The arguments raised by petitioner in its Motion for Reconsideration are not new. They have been previously discussed and considered in the Decision of the Second Division of this Court, promulgated on October 9, 2013, and in its Resolution promulgated on November 26, 2013. More importantly, they have also been exhaustively studied and considered by this Court prior to rendering our Decision dated February 17, 2015. Since petitioner failed to cite specific instances or evidence on the record to support its allegations, the Decision does not merit reconsideration by this Court.

WHEREFORE, considering all of the foregoing premises, petitioner's Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

Ma. Belen M. Ringpis-Liban

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

(On Wellness Leave)
CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice