19-000458-0059

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10169

EUROFRAGRANCE PHILIPPINES, INC.,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. SHERYLL P. CACAYURAN
ATTY. APRILYN T. POBAR
Bureau of Internal Revenue - Revenue Region No. 8B
2/F, Legal Division, BIR Regional Office Bldg.
313 Sen. Gil Puyat Avenue, Makati City

ANGARA ABELLO CONCEPCION REGALA & CRUZ
22nd Floor, ACCRALAW Tower
Second Avenue corner 30th Street
Cresent Park West, Bonifacio Global City
1635 Taguig, Metro Manila

GREETINGS:

You are hereby notified by these presents that on **March 19, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **March 20, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

EUROFRAGANCE PHILIPPINES, INC., *Petitioner,*	**CTA Case No. 10169**
	Members:
- versus -	**DEL ROSARIO,** *PJ, Chairperson,* **MANAHAN,** and **REYES-FAJARDO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: MAR 19 2024 9:30AM

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RESOLUTION

REYES-FAJARDO, *J.*:

For the Court's resolution is the Commissioner of Internal Revenue (CIR)'s *Motion for Partial Reconsideration (of the Decision dated 29 September 2023),* [1] taking into consideration Eurofragance Philippines, Inc. (Eurofragance)'s *Comment/Opposition (To the Motion for Partial Reconsideration dated 19 October 2023).*[2]

On September 29, 2023, the Court promulgated a Decision[3] (the "Assailed Decision") partially granting Eurofragance's Petition for Review. The dispositive portion reads:[4]

> "**WHEREFORE,** the Petition for Review filed on September 23, 2019, by Eurofragance Philippines, Inc., is **PARTIALLY GRANTED**. The deficiency VAT assessment issued by respondent against petitioner covering the period January 1, 2017 to June 30, 2017 is **UPHELD IN PART**. Accordingly, petitioner is **ORDERED**

1 Motion for Partial Reconsideration, Docket, Vol. III, pp. 1378 - 1387.
2 Comment/Opposition, Docket, Vol. III, pp. 1391 - 1401.
3 Decision, Docket, Vol. III, pp. 1343 - 1369.
4 *Id.* at p. 1368.

TO PAY respondent, the aggregate amount of **TWO HUNDRED NINETY-FIVE THOUSAND THREE HUNDRED SIXTY-EIGHT PESOS AND FIFTY-FOUR CENTAVOS (₱295,368.54),** inclusive of the 25% surcharge and deficiency interest imposed under Sections 248(A)(3) and 249(B) of the NIRC of 1997, as amended by Republic Act (RA) No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN), and as implemented by RR No. 21-2018, computed as follows:

Basic Deficiency Value-Added Tax Due	₱191,270.32
25% Surcharge	47,817.58
20% Deficiency Interest (July 25, 2017 to Dec. 31, 2017)	
[₱191,270.32 x 20% x 159/365 Days]	16,664.10
12% Deficiency Interest (January 1, 2018 to Sept. 22, 2019)	
[₱191,270.32 x 12% x 630/365 Days]	39,616.54
Total Amount Due as of September 22, 2019	**₱295,368.54**

In addition, petitioner is **ORDERED TO PAY** delinquency interest at the rate of twelve percent (12%) per annum on the total unpaid amount of ₱295,368.54, as determined above, or equivalent to ₱97.11 per day, computed from September 23, 2019 until full payment thereof, pursuant to Section 249(C) of the NIRC of 1997, as amended by RA No. 10963, also known as TRAIN, as implemented by RR No. 21-2018.

SO ORDERED."

In the *Motion for Partial Reconsideration,* the CIR disagrees with the Court's conclusion that the Bureau of Internal Revenue (BIR) is wrong in disallowing ₱2,525,107.63 worth of input taxes and that only ₱191,270.32 worth of input taxes was correctly disallowed.

The CIR argues that: *first,* Eurofragance failed to comply with the substantiation and invoicing requirements under Sections 110(A) and 113(A) of the National Internal Revenue Code (NIRC) of 1997, as amended, and under Section 4.110-8 of Revenue Regulations No. 16-05;[5] *second,* most of Eurofragance's submitted official receipts and invoices showed that the countersignatures were different from the signatures of the original issuer;[6] and *third,* assuming *arguendo* that the Notarized Certifications from suppliers can be given credit, the same should have been presented by Eurofragance to the BIR at the

5 Motion for Partial Reconsideration, Docket, Vol. III, p. 1382.
6 *Id.*

administrative level under the doctrine of exhaustion of administrative remedies.[7]

In its *Comment/Opposition*, Eurofragance points out that the CIR's *Motion for Partial Reconsideration* as a mere reiteration of the argument raised in the latter's *Answer* and *Memorandum* which has already been passed upon by the Court. Further, that the Court correctly ruled that the BIR was wrong in disallowing ₱2,525,107.63 worth of input taxes.

We resolve.

At the onset, the Court notes the *Compliance*[8] dated October 19, 2023, filed by Eurofragance on even date with attached Payment Form (BIR No. 0605) and corresponding eFPS payment confirmation[9] to which no comment was filed by the CIR.

The Court finds no compelling reason to reverse or modify the assailed Decision dated September 29, 2023.

The argument raised by the CIR, particularly on the substantiation of input value-added tax, has already been passed upon and discussed at length by the Court. Any further discussion on this issue will only be unnecessarily repetitive and would not serve any useful purpose.

In this regard, the pronouncement in *Social Justice Society (SJS) Officers, et al. v. Lim*,[10] is instructive:

> The grounds relied on being mere reiterations of the issues already passed upon by the Court, there is no need to "cut and paste" pertinent portions of the Decision or re-write the *ponencia* in accordance with the outline of the instant motion.
>
> As succinctly put by then Chief Justice Andres R. Narvasa in *Ortigas and Co. Ltd. Partnership v. Judge Velasco* on the effect and disposition of a motion for reconsideration:

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7 Motion for Partial Reconsideration, Docket, Vol. III, p. 1384.
8 Compliance, Docket, Vol. III, pp. 1370 - 1374.
9 Docket, Vol. III, pp. 1375 - 1376.
10 G.R Nos. 187836 & 187916, March 10,2015.

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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. 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.

Similarly, the CIR's invocation of the doctrine of exhaustion of administrative remedies in assailing the Court's admission of the notarized certifications by Eurofragance's suppliers which, according to the CIR, should have been presented by Eurofragance before the BIR at the administrative level, must fail.

Section 8 of Republic Act No. 1125, as amended by Republic Act No. 9282, categorically provides that the Court of Tax Appeals (CTA) shall be a **court of record** and as such it is required to conduct a formal trial (*trial de novo*) where the parties must present their evidence accordingly, if they desire the Court to take such evidence into consideration.[11] As evidence is considered and evaluated again, the scope of the CTA's review covers factual findings.[12]

Thus, in *Commissioner of Internal Revenue v. Philippine National Bank*,[13] the Supreme Court emphasized the principle of *trial de novo* in cases filed before the CTA, to wit:

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11 *Commissioner of Internal Revenue v. Manila Mining Corp.*, G.R. No. 153204, August 31, 2005.

12 *Philippine Airlines, Inc. vs. Commissioner of Internal Revenue*, G.R. Nos. 206079-80 and 206309, January 17, 2018.

13 G.R. No. 180290, September 29, 2014.

> More importantly, the Court of Tax Appeals is not precluded from accepting respondent's evidence assuming these were not presented at the administrative level. **Cases filed in the Court of Tax Appeals are litigated de novo.**

WHEREFORE, in light of the foregoing considerations, the CIR's *Motion for Partial Reconsideration (of the Decision dated 29 September 2023)* is **DENIED** for lack of merit.

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice