REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

****

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 1396** (CTA Case No. 8741)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** and **MANAHAN,** *JJ.*
SARA LEE KIWI HOLDINGS, LLC., Respondent.	***Promulgated:***
	JUN 05 2017 3:25 p.m.

x - x

RESOLUTION

UY, *J.*:

For resolution is petitioner's **"MOTION FOR RECONSIDERATION"**[1] filed on March 9, 2017, with respondent's **"COMMENT (RE: MOTION FOR RECONSIDERATION DATED MARCH 9, 2017)"** filed on April 7, 2017, praying for reconsideration of the Court *En Banc*'s Decision dated February 13, 2017. The said Decision denied the instant Petition for Review for lack of merit and affirmed the assailed Decision dated September 4, 2015 and Resolution dated November 25, 2015, both rendered by the Court in Division in CTA Case No. 8741.

In support of the instant *Motion for Reconsideration*, petitioner maintains that respondent is not entitled to a refund of allegedly

[1] Docket, pp. 82 to 86.

erroneously paid donor's tax in the sale of the shares of stock in Sara Lee Household Care (Philippines), Inc. (SLHCPI) and raises the following arguments, to wit:

1. The illustration under Section 7(c.2.2)(i) of Revenue Regulations No. 6-2008 is an indispensable part thereof. In fact, it clarifies the phrase "nearest to the date of sale" and limits the use of an existing audited financial statement in the determination of the book value of shares of stock.

2. Not only does the subject illustration limit the use of an existing audited financial statement, it further limits the use of the book value existing at the time of the sale of the shares of stock.

3. The use of the said illustration is logical as it averts the use of a manipulated book value in an audited financial statement prepared after the sale of shares of stock.

4. The book value of the shares of stock of SLHCPI should be determined based on its financial statements for fiscal year 2010 since its audited financial statements for fiscal year 2011 is yet non-existent as of the date of sale.

In its *Comment*, respondent counters that:

1. The arguments raised in the *Motion for Reconsideration* are mere rehash of what has been said in the previous pleadings, all of which have been considered and passed upon by the Court.

2. Petitioner's reliance in the illustration in Revenue Regulation No. 6-2008 is misplaced, because the facts as illustrated are not obtaining in this case.

THE COURT *EN BANC'S* RULING

Petitioner's *Motion for Reconsideration* lacks merit.

After a careful examination and consideration of 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 by the Court *En Banc* 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.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice