REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

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COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 2689** (CTA Case No. 10251)
	Present:
-versus-	**DEL ROSARIO,** *P.J.*, **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES**, *and* **ANGELES**, *JJ.*
PREMIER CENTRAL, INC., *Respondent.*	Promulgated: MAY 03 2024 3:36 p.m.

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RESOLUTION

CUI-DAVID, J.:

For resolution is petitioner's *Motion for Reconsideration (Re: Decision dated 04 December 2023)* [*sic*] filed *via* registered mail on December 28, 2023, with respondent's *Comment (To: Motion for Reconsideration dated 22 December 2023)* filed on January 29, 2024.

Petitioner prays for the reversal and setting aside of the Decision dated December 1, 2023 *(assailed Decision)* with the following dispositive portion:

> **WHEREFORE,** premises considered, the *Petition for Review* filed by the Commissioner of Internal Revenue is **DENIED** for lack of merit. Accordingly, the Decision dated May

> 16, 2022, and the Resolution dated August 18, 2022, of the Court's First Division in CTA Case No. 10251 are **AFFIRMED**.
>
> **SO ORDERED.**

Petitioner maintains that the requirements for the refund of excess creditable withholding tax (CWT) must still be followed despite the finding that the said CWT was erroneously paid. Petitioner further argues that respondent is not exempt from the payment of withholding tax under Section 74 of The Tourism Act of 2009. Respondent, being the withholding agent in the sale of Hilaga property, is not the proper party to claim a refund of CWT. Also, there is no evidence that TIEZA has not claimed the CWT related to the sale of Hilaga property.

Respondent counters that it has sufficiently proven its refund claim. Respondent's purchase of the Hilaga property from TIEZA, a government agency exempt from corporate income tax, pursuant to Section 74 of The Tourism Act of 2009, is not subject to the payment of CWT. Respondent alleges that it is the proper party to claim for refund of the CWT it paid to the BIR on the sale of the Hilaga property because it was the one that paid the CWT despite the sale of the Hilaga property not being subject to withholding tax.

The instant *Motion for Reconsideration* (*Motion*) must be denied.

At the outset, the Court finds no new and compelling averment in petitioner's *Motion*. The arguments raised are a mere rehash of its previous arguments and were sufficiently addressed and passed upon by the Court in the assailed Decision.

Anent petitioner's argument that respondent, as the withholding agent, is not the proper party to file a claim for refund of the CWT, We find it fit to quote the relevant part of the assailed Decision, *viz.*:

> It has already been settled by jurisprudence that a withholding agent, such as respondent, may file a claim for a refund of the erroneously withheld taxes on behalf of the statutory taxpayer.[1]

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[1] *Commissioner of Internal Revenue v. Bahay Bonds 2 Special Purpose Trust*, G.R. No. 240515 (Notice), February 4, 2019.

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> In *Commissioner of Internal Revenue v. Smart Communication, Inc.*[2] (*Smart*), the Supreme Court emphasized that the person entitled to claim a tax refund is the taxpayer. However, in case the taxpayer does not file a claim for refund, **the withholding agent may file the claim**[.]
>
> ... ...
>
> The Supreme Court clarified in the *Smart* case that a withholding agent may file a claim for a refund on behalf of the taxpayer, even if they are unrelated parties. Applying the *Smart* case, respondent may file a claim for a refund on behalf of TIEZA as it has interest over the CWT it remitted, which TIEZA is exempt from paying. [*Emphasis supplied*]

Accordingly, the Court finds no cogent reason to modify, much more, to reverse the *assailed Decision* and deem it unnecessary to discuss petitioner's other arguments.

WHEREFORE, petitioner's *Motion for Reconsideration (Re: Decision dated 04 December 2023)* [*sic*] is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[2] G.R. Nos. 179045-46, August 25, 2010.

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CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice