REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

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COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2635** (CTA Case No. 9974)
	Members: **DEL ROSARIO,** *P.J.* **RINGPIS-LIBAN,** **MANAHAN,** **BACORRO-VILLENA,** **MODESTO-SAN PEDRO,** **REYES-FAJARDO,** **CUI-DAVID,** **FERRER-FLORES,** *and* **ANGELES,** *JJ.*
- versus -	
ORICA PHILIPPINES, INC., Respondent.	Promulgated: SEP 12 2024 4:'05p.m

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RESOLUTION

FERRER-FLORES, J.:

Before this Court for resolution is petitioner's **Motion for Reconsideration (Re: Decision promulgated 12 February 2024)** filed on March 5, 2024, sans respondent's comment as per Records Verification dated May 9, 2024.

In his motion, petitioner seeks the reversal of this Court's *Decision* dated February 12, 2024 (assailed Decision), which affirmed the Decision dated July 16, 2021 and Resolution dated May 24, 2022 rendered by the Court First Division in CTA Case No. 9974, granting the refund of unutilized excess input value-added tax (VAT) attributable to respondent's zero-rated sales in the amount of ₱4,015,125.16 for the third quarter of fiscal year (FY) 2016 or from April 1, 2016 to June 30, 2016.

Petitioner reiterates his argument that the input tax must be directly attributable to zero-rated sales to be refundable or creditable. Petitioner cited the cases of *Commissioner of Internal Revenue vs. Coral Bay Nickel Corporation* and *Coral Bay Nickel Corporation vs. Commissioner of Internal Revenue*[1] *(Coral Bay case)* in asserting that in order for input taxes to be refunded, the same must be directly attributable to respondent's zero-rated sales. Petitioner also maintains that the petition should have been dismissed for failure of respondent to substantiate its claim for refund.

We deny petitioner's *Motion for Reconsideration*.

This Court had already extensively discussed the said arguments in the assailed *Decision* and we found them without merit.

We would like to emphasize that the factual milieu of the *Coral Bay case* is different from the facts of the instant case. Foremost, Coral Bay is a Philippine Economic Zone Authority (PEZA)-registered entity located at the Rio Tuba Export Processing Zone while respondent herein is not.

In the Amended Decision[2] of the *Coral Bay case*, the reason for the denial of the claim for input VAT was based on its inability to show that the input taxes incurred were attributable to its zero-rated sales. In the said decision, the input taxes were derived from the purchases of goods and services which were used to construct laborers' row houses and dormitories, foreman's duplex and airport runway, and were consumed outside of the Rio Tuba Export Processing Zone. The Court found that the said input taxes were not at all related to Coral Bay's export sale of nickel, cobalt, and mixed sulfide; hence, it denied the claim for refund.[3]

In contrast, the input taxes of herein respondent were derived from purchases of capital goods, domestic and importation of goods other than capital goods, domestic purchases of services, and services rendered by non-residents. The input taxes were attributable to respondent's vatable and zero-rated sales. However, since the input taxes cannot directly and entirely be attributable to any of the sales, the same were proportionately allocated between the vatable and zero-rated sales on the basis of volume of sales. Consequently, only the validly supported input taxes attributable to validly

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1 CTA EB Nos 1735 and 1737 (CTA Case No. 8905), July 18, 2019.
2 CTA EB Nos 1735 and 1737 (CTA Case No. 8905), January 9, 2020.
3 With Supreme Court First Division Entry of Judgment, March 15, 2022.

supported zero-rated sales were refunded. This is consistent with Section 112(A) of the National Internal Revenue Code of 1997, as amended, to quote:

> **SEC. 112. Refunds or Tax Credits of Input Tax.—**
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> (A) Zero-rated or Effectively Zero-rated Sales. — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: Provided, however, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (B) and Section 108(B)(1) and (2), 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): Provided, further, **That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales.** (Boldfacing supplied)

Moreover, it is unnecessary to re-discuss the rest of the arguments raised by petitioner for being mere reiterations of the issues already exhaustively passed upon by this Court in its assailed Decision in view of the pronouncement of the Supreme Court in the case of *Social Justice Society (SJS) Officers, et al. vs. Alfredo S. Lim, in his capacity as Mayor of the City of Manila*,[4] wherein it was ruled:

> 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.
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> 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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>> 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

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4 G.R. Nos. 187836 and 187916, March 10, 2015.

> 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.

In sum, there being no new issues or arguments raised in the instant motion, this Court finds no compelling reason to disturb or overturn the assailed *Decision* or rediscuss our ruling thereon.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration (Re: Decision promulgated 12 February 2024)** is hereby **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

With due respect, I maintain my Dissenting Opinion
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(On Official Business)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice