REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CE CASECNAN WATER AND ENERGY COMPANY, INC., *Petitioner,*	**CTA Case No. 8620**
	Members:
- versus -	**Del Rosario, Chairperson** **Uy,** and **Mindaro-Grulla, *JJ.***
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: DEC 18 2014 ; 3:45pm.

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RESOLUTION

DEL ROSARIO, *PJ*:

This resolves the Motion for Partial Reconsideration (Re: Decision Promulgated on September 16, 2014) filed by respondent Commissioner of Internal Revenue on October 7, 2014 with petitioner CE Casecnan Water and Energy Company, Inc.'s Comment filed on November 5, 2014.

Respondent assails the Decision promulgated by the Court on September 16, 2014,[1] the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent **COMMISSIONER OF INTERNAL REVENUE** is **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner **CE CASECNAN WATER AND ENERGY COMPANY, INC.** in the reduced amount of **₱17,593,284.22**, representing petitioner's unutilized excess input VAT attributable to its zero-rated sales of generated power to NIA for the four quarters of the year 2011.
>
> **SO ORDERED.** "

[1] CTA Docket, pp. 848-868.

Respondent mainly argues that petitioner's judicial claim for refund for the year 2011 should have been denied by the Court since petitioner failed to submit complete documents in support of its administrative claim for refund pursuant to Section 112 (C) of the 1997 National Internal Revenue Code, as amended. Allegedly, such failure amounts to non-exhaustion of administrative remedies which renders the judicial claim for refund dismissible on the ground of premature filing.

For its part, petitioner reiterates that it substantiated its claim for refund through the submission of sufficient supporting documents and posits that it has the sole discretion to determine which documents to submit in support of its claim for refund, citing the case of *Commissioner of Internal Revenue vs. Mindanao I Geothermal Partnership*[2] as basis.

The Court notes that respondent's Motion for Reconsideration is a mere rehash of the arguments raised and thoroughly threshed out in the assailed Decision. For respondent's failure to raise any new or substantial ground to justify the reconsideration sought, the subject motion must perforce be denied.

To recall, in the assailed Decision, the Court found that when petitioner filed its administrative claim on November 16, 2012, petitioner simultaneously submitted various documents in support thereof and informed the respondent that its books of accounts and accounting records are already available for audit and verification of the BIR. Thus, the 120-day period started and continued to run from the date when petitioner filed its administrative claim as it was on the same date that petitioner submitted its supporting documents to substantiate its claim. Contrary to respondent's argument, petitioner's judicial claim was not prematurely filed as the same was filed within 30 days from the expiration of the 120-day period, as shown below:

Year 2011	**Date of Filing of Administrative Claim**	**End of 120-days within which to decide the claim**	**End of 30 days from the expiration of the 120 days**	**Date of Filing of Judicial Claim**
1st Quarter	November 16, 2012	March 16, 2013	April 15, 2013	March 21, 2013
2nd Quarter				
3rd Quarter				
4th Quarter				

The Court then proceeded to scrutinize the evidence submitted by petitioner and found that petitioner has sufficiently proven its entitlement to a refund or issuance of a TCC in the amount of

[2] CTA EB Case No. 953 & 050 (CTA Case No. 7801), May 12, 2014.

₱17,593,284.22, representing its unutilized input VAT incurred for the four quarters of the year 2011 attributable to its zero-rated sales for the same period.

All told, the Court finds no cogent reason that justifies a modification or reversal of the assailed Decision.

WHEREFORE, premises considered, respondent's Motion for Partial Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

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