REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

MANULIFE DATA SERVICES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NOS. 8305, 8322, 8348 & 8408

Members:

DEL ROSARIO, *Chairperson,*
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

OCT 14 2016 3:38 p.m.

x - x

RESOLUTION

UY, *J.*:

This resolves respondent's **Motion for Reconsideration (of the Decision dated July 01, 2016)**, filed on July 20, 2016, with petitioner's **Opposition (Re. Motion for Reconsideration dated 20 July 2016)**, filed on August 2, 2016.

Respondent seeks reconsideration of the Court's Decision[1] dated July 1, 2016 (assailed Decision), the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing, the consolidated Petitions for Review are hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND** or **TO ISSUE A TCC** in favor of

[1] Docket, Vol. V, pp. 2293-2331.

petitioner in the amount of **SIX MILLION THREE HUNDRED FIFTY-SEVEN THOUSAND FIVE HUNDRED FOUR PESOS AND THIRTY-NINE CENTAVOS (₱6,357,504.39)**, representing its unutilized excess input VAT attributable to its zero-rated receipts for the four (4) quarters of CY 2009.

SO ORDERED."[2]

Respondent's sole ground for reconsideration is anchored on the alleged failure on the part of petitioner to comply with the invoicing requirements imposed by law. According to respondent, the assailed Decision did not show that the sales invoices and/or official receipts fully complied with the substantiation requirements imposed by Sections 110 and 113 of the National Internal Revenue Code (NIRC) of 1997, as amended, and as implemented by Section 4.110-8 of Revenue Regulations No. 16-2005, as amended, particularly on stating the required information in VAT invoice or official receipt.

Respondent, citing the case of *Nesic Philippines, Inc. vs. Commissioner of Internal Revenue*[3], contends that compliance with Sections 110(A)(1) and 113 in relation to Section 237 of the NIRC of 1997, as amended, is mandatory as the word "shall" is used in the provisions. He avers that there is a need to verify that the VAT invoices or official receipts supporting the claim for refund included not only the name of the taxpayer but also its Tax Identification Number (TIN), registered address and business style, if any.

On the other hand, petitioner opposes respondent's motion for lack of merit and for being *pro forma*. It contends that Section 2, Rule 37 of the Rules of Court states that a motion for reconsideration must specify those conclusions and findings by the Court which are not supported by evidence, "making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions." Petitioner, likewise cites Section 6, Rule 15 of the Revised Rules of the Court of Tax Appeals, as amended, which provides that a motion for reconsideration "shall be in writing stating its grounds..." otherwise, it "shall be deemed *pro forma*, which shall not toll the reglementary period for appeal."

---

[2] Docket, Vol. V, pp. 2330-2331.
[3] CTA EB Case No. 524, May 6, 2010.

Petitioner argues that a motion for reconsideration must point to pieces of evidence and state why these are insufficient to support the Court's ruling. It points out that, other than general statements, respondent's motion for reconsideration did not individually specify why each item of evidence for the allowance was insufficient.

THE COURT'S RULING

Respondent's Motion for Reconsideration lacks merit.

We shall first address the issue on whether or not respondent's motion is a *pro forma* motion.

A motion for reconsideration is *pro forma* when:[4]

1) it was a second motion for reconsideration;
2) it did not comply with the rule that the motion must specify the findings and conclusions alleged to be contrary to law or not supported by the evidence;
3) it failed to substantiate the alleged errors;
4) it merely alleged that the decision in question was contrary to law; and
5) the adverse party was not given notice thereof.

A perusal of respondent's Motion for Reconsideration reveals that his sole argument involves petitioner's alleged non-compliance with the invoicing requirements set forth under the law and regulations. Respondent argues that the Court erred when it granted the claim for refund considering that petitioner failed to comply with the invoicing requirements imposed by law. Upon re-examination of respondent's previous pleading, the argument contained in the instant motion is a mere rehash and reiteration of the previous averments in his Memorandum.[5] Notwithstanding the foregoing, under established jurisprudence, the mere fact that a motion for reconsideration reiterates issues already passed upon by the court does not, by itself, make it a *pro forma* motion.[6]

[4] *Philippine National Bank vs. Paneda,* G.R. No. 149236, February 14, 2007, 515 SCRA 639, citing *Coquilla vs. Commission on Elections,* G.R. No. 151914, July 31, 2002, 385 SCRA 607.

[5] Docket, Vol. V, pp. 2281-2285.

[6] *Republic vs. International Communications Corporation (ICC),* G.R. No. 141667, July 17, 2006, 495 SCRA 192.

Furthermore, in the case of *Republic vs. International Communications Corporation (ICC),*[7] the Supreme Court held that "where there is no apparent intent to employ dilatory tactics, courts should be slow in declaring outright a motion for reconsideration as *pro forma*. The doctrine relating to *pro forma* motions has a direct bearing upon the movant's valuable right to appeal. Hence, if petitioner's motion for reconsideration was indeed *pro forma*, it would still be in the interest of justice to review the Amended Decision *a quo* on the merits, rather than to abort the appeal due to a technicality xxx". In this case, We see no apparent intent to employ dilatory tactics. Thus, We are not inclined to declare the instant Motion as *pro forma*.

Moreover, the rule against *pro forma* motions should not be very strictly applied in tax cases before this Court, for the reason that the Rules of Court is only suppletory in character before said Court.[8]

Thus, this brings us to the issue on petitioner's compliance with the invoicing requirements.

Contrary to respondent's assertion, the assailed Decision established that the input taxes on domestic purchases were supported by documents such as VAT official receipts and VAT invoices which complied with the substantiation requirements. Specifically, the Court, in addition to the findings of the Independent Certified Public Accountant, made an independent examination of the supporting documents of petitioner, and have classified which among its invoices or official receipts did not comply with the substantiation requirements of the law, and accordingly, disallowed the same.

Correspondingly, respondent's general statement that this Court's Decision failed to establish compliance with the invoicing and substantiation requirements deserves scant consideration. It behooves upon respondent to specifically pinpoint which of petitioner's invoices or official receipts failed to comply with the substantiation requirements under Sections 110 and 113 of the NIRC of 1997, as amended, and as implemented by Section 4.110-8 of Revenue Regulations No. 16-2005, as amended. In this connection, it must be emphasized that the function of a motion for reconsideration is to point out to the court the error that it may have

---

[7] G.R. No. 141667, July 17, 2006.
[8] *Collector of Internal Revenue vs. Court of Tax Appeals, et al.*, G.R. No. L-14902, October 31, 1960.

committed and to give it a chance to correct itself.[9] Since respondent did not do so in the instant Motion, it must perforce fail.

Consequently, "once the requirements laid down by the NIRC have been met, a claimant should be considered successful in discharging its burden of proving its right to refund. Thereafter, the burden of going forward with the evidence, as distinct from the general burden of proof, shifts to the opposing party, that is, the CIR".[10] The Court reiterates that "the government must keep in mind that it has no right to keep the money not belonging to it, thereby enriching itself at the expense of the law-abiding citizen or entities who have complied with the requirements of the law in order to forward the claim for refund".[11]

Considering the foregoing, and in view of the fact that respondent did not raise any new argument that would merit reconsideration of the assailed Decision, the Court finds no cogent reason to reverse or modify the assailed Decision promulgated on July 1, 2016.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration (of the Decision dated July 01, 2016)** is **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

---

[9] *Lopez Dela Rosa Development Corporation, et al. vs. Court of Appeals, et al.*, G.R. No. 148470, April 29, 2005.
[10] *Winebrenner & Iñigo Insurance Brokers, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 206526, January 28, 2015.
[11] *Ibid.*