REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CASAS + ARCHITECTS, INC., Petitioner,	**CTA CASE NO. 10058**
	Members:
- versus -	**DEL ROSARIO**, *P.J.*, Chairperson, **MANAHAN**, and **REYES-FAJARDO**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAR 15 2022 1:55 pm

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AMENDED DECISION

DEL ROSARIO, P.J.:

Before the Court are the following:

1. Respondent's "**Motion for Partial Reconsideration**" filed on August 13, 2021, with petitioner's "**Comment/Opposition (re: Respondent's Motion for Partial Reconsideration dated August 13, 2021)**" filed through registered mail on October 18, 2021 and through email on October 19, 2021; and,

2. Petitioner's "**Motion for Partial Reconsideration (of Decision dated July 9, 2021)**" filed through registered mail on October 18, 2021 and through email on October 19, 2021, with respondent's "**Comment/Opposition (re: Petitioner's Motion for Partial Reconsideration)**" filed on January 6, 2022.

The Motions for Partial Reconsideration assail the Decision dated July 9, 2021 partially granting petitioner's refund claim for taxable year 2016. The dispositive portion thereof reads:

> "**WHEREFORE**, in light of the foregoing discussion, the Petition for Review filed on April 5, 2019 is **PARTIALLY GRANTED**. The Commissioner of Internal Revenue is **ORDERED** to refund or issue a tax credit certificate in favor of Casas + Architects, Inc. the reduced amount of **₱7,814,729.04** representing its excess and unutilized creditable withholding taxes for taxable year 2016.
>
> **SO ORDERED**."[1]

Respondent prays that the Court reconsider and set aside the assailed Decision and dismiss the Petition for Review. Respondent reiterates that: *(i)* petitioner's refund claim was filed out of time; *(ii)* proof of actual remittance of alleged withheld taxes to the Bureau of Internal Revenue (BIR) is necessary; and, *(iii)* a tax refund is strictly construed and the burden is on the taxpayer to prove its entitlement to the refund.

Petitioner, on the other hand, argues that the Court correctly ruled that both its administrative and judicial claims were seasonably filed and proof of actual remittance to the BIR of the withheld taxes is not a precondition for claiming refund of unutilized tax credits.

In its separate Motion for Partial Reconsideration, petitioner prays that the Court delete the phrase "or issue a tax credit certificate" in the dispositive portion of the Decision since it opted for a tax refund only. Petitioner asserts that respondent should not have been given an option to issue a tax credit certificate, citing Section 76 of the National Internal Revenue Code of 1997 (NIRC), as amended, and *Systra Philippines, Inc. vs. Commissioner of Internal Revenue*.[2]

Respondent manifested that he is adopting the arguments in his Motion for Partial Reconsideration as his comment to petitioner's Motion for Partial Reconsideration.

RULING OF THE COURT

Respondent's Motion for Partial Reconsideration is bereft of merit while petitioner's Motion for Partial Reconsideration is imbued with merit.

Respondent's Motion for Partial Reconsideration merely reiterates his previous arguments which the Court has adequately and squarely addressed in the assailed Decision. While a motion for

[1] Docket, p. 401.
[2] G.R. No. 176290, September 21, 2007.

reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and should not be an obstacle for a reconsideration,[3] respondent has failed to raise any new, substantial or compelling ground or reason to justify the reconsideration sought.

Anent petitioner's motion, Section 76 of the NIRC, as amended, provides the alternative options available to a taxpayer whenever it overpays its income tax for the taxable year, namely: (*i*) to **carry over** and apply the overpayment as tax credit against the estimated quarterly income tax liabilities of the succeeding taxable years (also known as automatic tax credit) until fully utilized (meaning, there is no prescriptive period); and (*ii*) to apply for a **cash refund** or issuance of a **tax credit certificate** within the prescribed period.[4]

A perusal of petitioner's Petition for Review[5] and Memorandum[6] shows that petitioner prayed that it be refunded its excess and unutilized creditable withholding taxes for taxable year 2016, consistent with the option it indicated in its Annual Income Tax Return for 2016.[7] Evidently, petitioner's choice to be refunded in cash of the excess and unutilized creditable withholding taxes determined by the Court is consistent with Section 76 of the NIRC, as amended.

WHEREFORE, premises considered, the Court hereby resolves to:

1. **DENY** respondent's "**Motion for Partial Reconsideration**" for lack of merit; and,

2. **GRANT** petitioner's "**Motion for Partial Reconsideration (of Decision dated July 9, 2021)**". Accordingly, the dispositive portion of the Decision dated July 9, 2021 is amended to read:

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[3] *Shangri-La International Hotel Management, Ltd., et al. vs. Developers Group of Companies, Inc.*, G.R. No. 159938, January 22, 2007.
[4] University Physicians Services Inc. – Management, Inc. vs. Commissioner of Internal Revenue, G.R. No. 205955, March 7, 2018.
[5] Docket, p. 24.
[6] *Id.* at 370.
[7] *Id.* at 266.

"**WHEREFORE**, in light of the foregoing discussion, the Petition for Review filed on April 5, 2019 is **PARTIALLY GRANTED**. The Commissioner of Internal Revenue is **ORDERED** to refund in favor of Casas + Architects, Inc. the reduced amount of **₱7,814,729.04** representing its excess and unutilized creditable withholding taxes for taxable year 2016.

SO ORDERED."

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

CATHERINE T. MANAHAN	**(No part)** **MARIAN IVY F. REYES-FAJARDO**
Associate Justice	Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice