REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

AIR LIQUIDE PHILIPPINES, INC., *Petitioner,*	**CTA *EB* NO. 1844** *(CTA Case No. 8017)*
-versus-	
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	

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COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 1897** *(CTA Case No. 8017)*
	Present: **DEL ROSARIO, P.J., CASTAÑEDA, JR., UY,**
-versus-	**RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
AIR LIQUIDE PHILIPPINES, INC., *Respondent.*	Promulgated: MAR 1 5 2021 4:20 pm

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RESOLUTION

MODESTO-SAN PEDRO, J.:

Before this Court *En Banc* are Air Liquide Philippines, Inc.'s ("ALPI") Motion for Reconsideration (Re: *Decision* dated 26 February 2020) ("ALPI's Motion for Reconsideration"), filed on 26 June 2020,[1] without opposition from the Commissioner of Internal Revenue ("CIR");[2] and the CIR's Motions for Partial Reconsideration, filed on 16 March 2020[3] and through registered

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[1] Records, pp. 206-213.
[2] *Id.*, p. 234.
[3] *Id.*, pp. 197-205.

mail on 29 June 2020,[4] respectively (cumulatively, "CIR's Motion for Reconsideration"), with ALPI's Comment/Opposition (Re: BIR's Motion for Partial Reconsideration dated 29 June 2020), filed on 25 September 2020[5] ("ALPI's Comment").

In ALPI's Motion for Reconsideration,[6] it alleges that:

1. The Decision, dated 26 February 2020, should be reconsidered in light of the ruling in ***Coral Bay Nickel Corporation v. Commissioner of Internal Revenue***.[7] In said case, an ecozone-located enterprise was deemed already VAT-exempt even before it obtained its PEZA registration. This is consistent with the cross-border doctrine and the destination principle. An ecozone is considered a foreign territory by fiction of law. Hence, it follows that sales of entities located within an ecozone should be considered export sales and thus are VAT zero-rated;

2. Furthermore, a disputable presumption exists in ALPI's favor. In the Court in Division's Amended Decision, dated 6 April 2018, the Court in Division acknowledged that "the names, addresses, and PEZA/SBMA Registration numbers of petitioner's clients were indicated in the supporting sales invoices." There would be no PEZA/SBMA Registration numbers if ALPI's clients were not still registered with said agencies at the time the claim for refund was filed. No evidence was shown that ALPI's clients did not continue to be registered with PEZA until 2010. The disputable presumption therefore stands. Technical rules must not be applied at the expense of substantial justice; and

3. Following the same reasoning in ***Coral Bay Nickel Corporation v. Commissioner of Internal Revenue***, all sales of goods, properties and services made by a VAT-registered supplier (*i.e.*, ALPI) from the customs territory to an ecozone-located enterprise shall be subject to VAT at zero percent (0%) rate, even in the absence of a certificate of PEZA-registration, and should have been included in the computation of the proper amount of refund.

In the CIR's Motion for Reconsideration,[8] the he argues that:

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[4] *Id.*, pp. 214-223.
[5] *Id.*, pp. 227-233.
[6] *Id.*, pp. 207-210.
[7] G.R. No. 190506, 13 June 2016.
[8] Records, pp.197-202 and 215-219, respectively.

1. The Honorable Court erred in ruling that the amount of Php3,873,051.46 is attributable to respondent's zero-rated sales; and

2. The Honorable Court erred in concluding that TST, Inc. and Temic Semiconductor Test, Inc. are one and the same entity.

In ALPI's Comment,[9] it counter-argues that:

1. The CIR's arguments are a mere rehash of what he had already raised before the Court in Division. Hence, this has already been threshed out and ruled upon by the same;

2. The law does not require a "direct connection" or a one-to-one correspondence between the domestic purchases and the zero-rated sales. It even allows a proportionate allocation if the "input tax due or paid cannot be directly and entirely attributed" to the individual taxable, exempt, or zero-rated sales;

3. As to the second argument, this has already been debunked by this Court when it found that TST, Inc. and Temic Semiconductor Test, Inc. are one and the same entity. This finding should not be disturbed unless there is a finding of unfairness and arbitrariness.

We deny both Motions for Reconsideration. The arguments raised therein are identical to those raised by ALPI and the CIR in their respective Petitions for Review filed before this Court *En Banc*. Consequently, these have already been sufficiently passed upon, discussed, and judiciously resolved in the Decision, dated 26 February 2020. These Motions for Reconsideration disclose no cogent reason to disturb the findings and conclusions which this Court made in said Decision. Thus, nothing is left for this Court to do but to deny both.

WHEREFORE, the Motions for Reconsideration filed by both ALPI and the CIR are hereby **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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[9] Records, pp.197-202 and 215-219, respectively.

WE CONCUR:

(On leave)
ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

ON LEAVE
JEAN MARIE A. BACORRO-VILLENA
Associate Justice