REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

GULF AIR COMPANY PHILIPPINE BRANCH,
Respondent.

CTA EB NO. 2439
(CTA Case No. 9334)

Present:
DEL ROSARIO, *P.J.,*
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ.*

Promulgated:
JUL 19 2022 1:35pm

x- x

RESOLUTION

RINGPIS-LIBAN, *J.*:

This resolves Petitioner's "Motion for Reconsideration (Re: Decision promulgated 12 April 2022)"[1] ("Motion for Reconsideration") filed on April 21, 2022, without Respondent's comment thereon.[2]

Petitioner's Motion for Reconsideration prays for the reversal and setting aside of the Decision promulgated on April 12, 2022, and that a new judgment be rendered denying the entire claim for refund.

The dispositive portion of the Assailed Decision[3] promulgated by this Court on April 12, 2022 reads:

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1 Rollo, pp. 104-110.

2 *Id.,* Records Verification Report dated June 09, 2022 stating that Respondent failed to file its comment on Petitioner's "Motion for Reconsideration (Re: Decision promulgated 12 April 2022)", p. 121.

3 *Id.,* pp. 86-103.

> "**WHEREFORE**, premises considered, the instant Petition for Review is **DENIED**. The Decision dated July 10, 2020 and the Resolution dated January 29, 2021 of the First Division in the case docketed as CTA Case No. 9334 are **AFFIRMED**.
>
> **SO ORDERED.**"[4]

In his Motion for Reconsideration, Petitioner contends that the Court in Division erred in ruling that there was overpayment of income tax on the Gross Philippine Billings (GPB) when Respondent paid one and one-half percent (1.5%) special tax rate under Article 8 of the Philippines-Bahrain Tax Treaty, instead of not paying any income tax as a result of the tax exemption under Republic Act ("RA") No. 10378.

According to Petitioner, Philippine Airlines, Inc. ("PAL") is not operating in the home country of Respondent. The parent company of Respondent and PAL merely entered into a Code Share and Block Space Agreement. Hence, Respondent cannot claim an exemption from payment of income tax under Section 28(A)(3) of the National Internal Revenue Code (NIRC) of 1997, as amended by RA No. 10378.

Likewise, Petitioner argues that Respondent failed to show that Philippine carriers are actually enjoying the income tax exemption in the home country of Respondent. Revenue Regulation No. 15-2013 is explicit that reciprocity requires that Philippine carriers operating in the Home Country of an international carrier are actually enjoying the income tax exemption.

We resolve to deny Petitioner's Motion for Reconsideration for lack of merit.

The arguments raised by the CIR in his motion are mere recapitulation of the arguments he has raised in his Petition for Review filed with this Court. Moreover, these issues have been amply considered, weighed and resolved in the Assailed Decision. Thus, to discuss anew the explanation of the Court on these matters is superfluity.

In sum, the Court *En Banc* finds no cogent reason to overturn the Assailed Decision.

WHEREFORE, premises considered, Petitioner's "Motion for Reconsideration (Re: Decision promulgated 12 April 2022)" is **DENIED** for lack of merit.

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[4] *Id.*, Decision dated April 12, 2022, p. 102.

SO ORDERED.

Ma. Belen M. Ringpis-Liban
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

(On Leave)
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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