REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2757** (CTA Case No. 9558)
	Present:
- versus -	**DEL ROSARIO,** ***P.J.,*** **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** ***JJ.***
AZ CONTRACTING SYSTEM SERVICE, INC., Respondent.	Promulgated: APR 29 2025 3:58 p.m.

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court *En Banc*'s resolution is petitioner Commissioner of Internal Revenue's (**petitioner**'s/**CIR**'s) "Motion for Reconsideration (Re: Decision promulgated on 30 August 2024)"[1] (**MR**) filed *via* registered mail on 23 September 2024[2], with respondent AZ Contracting System Service, Inc.'s (**respondent**'s) "Comment/Opposition (To the Motion for Reconsideration dated September 20, 2024)"[3] (**Comment/Opposition**) filed on 08 November 2024.

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1 *Rollo*, pp. 108-120.
2 Received by the Court on 30 September 2024.
3 *Rollo*, pp. 134-140.

The MR seeks the reversal of the Court *En Banc*'s Decision dated 30 August 2024[4] (**assailed Decision**), denying petitioner's Petition for Review[5] filed on 16 June 2023. The dispositive portion of the assailed Decision reads, thus:

> ...
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> **WHEREFORE**, with the foregoing considered, the instant Petition for Review filed by petitioner Commissioner of Internal Revenue on 16 June 2023 is **DENIED** for lack of merit. Accordingly, the assailed Decision dated 30 June 2020 and assailed Resolution dated 11 May 2023, of the Third Division in CTA Case No. 9558, entitled *AZ Contracting System Service, Inc. v. Commissioner of Internal Revenue,* are hereby **AFFIRMED**.
>
> **SO ORDERED.**
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> ...

Prior to setting out its arguments, petitioner alleges that an MR is not considered pro forma just because its previous defenses have been reiterated. Hence, recycling previous similar contentions, petitioner claims that respondent is not entitled to the claim for refund of creditable withholding taxes (**CWTs**) due to failure to meet the statutory and regulatory requirements governing tax refunds.

In the MR, petitioner argues that respondent did not provide enough supporting documents to show that income from which CWT being claimed was declared in the Annual Income Tax Return (**AITR**). Under this premise, petitioner further contends that there is no direct linkage between the CWT and the income as reflected in the AITR.

Petitioner contends further that claims for refund should be construed in *strictissimmi juris* against the claimant. Thus, respondent is required to submit the documents as enumerated in Revenue Memorandum Order (**RMO**) No. 53-98[6] to ascertain and investigate the entitlement of the taxpayer for the refund it is claiming.

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4 Id., pp. 72-102.
5 Id., pp. 7-16.
6 Checklist of Documents to be Submitted by a Taxpayer upon Audit of his Tax Liabilities as well as of the Mandatory Reporting Requirements to be prepared by Revenue Officer, all of which comprise a Complete Tax Docket.

Additionally, petitioner posits that respondent should have presented evidence to prove actual remittance of the alleged taxes to the Bureau of Internal Revenue (**BIR**).

Lastly, petitioner asserts that taxes paid to and collected by the BIR are presumed to have been made in accordance with law, rules and regulations and the burden to prove otherwise is upon respondent.

In its Comment/Opposition, respondent points out that the Independent Certified Public Accountant (**ICPA**) commissioned in this case has thoroughly reviewed and reconciled its gross sales subject to withholding tax with its sales *per* ledger and has confirmed that the income declared aligns with the amounts from which the CWT was withheld. Thus, it was able to duly prove that the CWT being claimed was declared in the AITR.

In response to petitioner's arguments, respondent counters that RMO No. 53-98[7] does not mandate the submission of all the listed documents as a condition for a taxpayer's refund or credit claim to be granted. It further contends that, the said issuance primarily serves as a guide for BIR employees to ensure equity and consistency in the audit process rather as a strict standard for completeness. Respondent further contends that proof of remittance is not a prerequisite for claiming refund of unutilized tax credits.

Finally, respondent highlights that its claim is anchored on Section 76[8] of the National Internal Revenue Code (NIRC) of 1997, as amended. According to it, it was rightfully granted a refund claim based

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[7] Id.

[8] SEC. 76. *Final Adjustment Return.* — Every corporation liable to tax under Section 27 shall file a final adjustment return covering the total taxable income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable income of that year, the corporation shall either:

(A) Pay the balance of tax still due; or
(B) Carry-over the excess credit; or
(C) Be credited or refunded with the excess amount paid, as the case may be.

In case the corporation is entitled to a tax credit or refund of the excess estimated quarterly income taxes paid, the excess amount shown on its final adjustment return may be carried over and credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable years. Once the option to carry-over and apply the excess quarterly income tax against income tax due for the taxable quarters of the succeeding taxable years has been made, such option shall be considered irrevocable for that taxable period and no application for cash refund or issuance of a tax credit certificate shall be allowed therefor.

on excess withholding resulting from compliance with BIR rules and regulations.

We resolve.

At the outset, the Court *En Banc* must stress that petitioner's arguments are a mere rehash of those already raised and considered by the Court's Third Division and the Court *En Banc* in deciding the case at bar. Petitioner himself or herself has even admitted in the present MR that his or her arguments therein are reiterated and already resolved. Nonetheless, petitioner declares that even so, the MR is not necessarily *pro forma*.

In *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[9], the Supreme Court explained, to wit:

> ...
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> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.
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> ...

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9 G.R. No. 109645 (Resolution), 04 March 1996.

Furthermore, the Supreme Court in *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[10] ruled:

> ...
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> The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
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> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. **As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought.**
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> ...

It is clear from the above principles that it is the movant's duty to convincingly show grounds for a reconsideration of an assailed judgment or order, or at the least give its previous arguments a fresh perspective in such a way that would warrant a re-examination of the case. Unfortunately, in the instant case, petitioner had failed to do so.

WHEREFORE, the foregoing premises considered, petitioner's "Motion for Reconsideration (Re: Decision promulgated on 30 August 2024)" filed on 23 September 2024 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[10] G.R. No. 159938, 22 January 2007; Citation omitted and emphasis supplied.

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WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice