REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

BETHLEHEM HOLDINGS, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10284

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:
FEB 27 2024 2:10 pm

x- -x

RESOLUTION

CUI-DAVID, J.:

This resolves respondent's *Motion for Reconsideration (of Decision dated 26 September 2023)* filed through registered mail on October 19, 2023, and received by the Court on October 25, 2023, with petitioner's *Comment/Opposition (Re: CIR's Motion for Reconsideration dated October 18, 2023)* filed on November 24, 2023.

Respondent seeks reconsideration of the Court's *Decision* promulgated on September 26, 2023, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the instant *Petition for Review* is **GRANTED**. Accordingly, the Commissioner of Internal Revenue is **ORDERED TO REFUND** in favor of Bethlehem Holdings, Inc. the amount of **EIGHT MILLION FOUR HUNDRED EIGHTY-EIGHT THOUSAND ONE HUNDRED FORTY-EIGHT PESOS ₱8,488,148.00**, representing its excess and unutilized Creditable Withholding Taxes for calendar year 2017.
>
> **SO ORDERED.**

Respondent anchors his *Motion for Reconsideration (Motion)* on the sole ground that:

> RESPECTFULLY, THE HONORABLE COURT ERRED IN RULING THAT PETITIONER IS ENTITLED TO A REFUND OF ITS EXCESS AND UNUTILIZED CREDITABLE WITHHOLDING TAXES FOR CALENDAR YEAR 2017.

Respondent claims that petitioner prematurely filed its *Petition for Review* before the Court without giving the BIR the opportunity to act on its administrative claim for refund. According to respondent, this violates the doctrine of exhaustion of administrative remedies, which mandates that whenever an available administrative remedy is provided by law, no judicial recourse can be made until all such remedies have been availed of and exhausted.

Further, respondent maintains that petitioner did not file any evidence to prove its allegations that it has excess creditable withholding taxes (CWTs) for taxable year 2017 or even accumulated CWTs for such year that is earmarked for refund. For respondent, mere allegation is not evidence or equivalent to proof.

In rejecting respondent's bid for reconsideration, petitioner pointed out that respondent's arguments in his *Motion* are a mere rehash of the arguments raised in his *Answer*, which the Court had already discussed and passed upon in the *Decision* sought to be reconsidered.

Nevertheless, petitioner emphasizes that the issue of exhaustion of administrative remedies in relation to cases of refunds under Sections 204 and 229 of the National Internal Revenue Code (NIRC) of 1997, as amended, has already been settled in the case of *CIR v. Univation Motor Philippines, Inc.*,[1] where the Supreme Court ruled that the law only requires that an administrative claim be priorly filed. In other words, as long as the administrative and judicial claims were filed within the two-year prescriptive period, administrative remedies were exhausted.

Anent the other argument interposed by respondent, the same is baseless considering the finding of the Court that

[1] G.R. No. 231581, April 10, 2019.

petitioner has duly established the fact of withholding of the amount of ₱8,488,147.60.

Respondent's *Motion* deserves scant consideration.

The Court finds that respondent's *Motion* does not raise a new issue or argument. Respondent merely reiterates his argument that the *Petition for Review* was prematurely filed, which was already considered and rejected in the *Decision* sought to be reconsidered. Record also reveals that petitioner has sufficiently proven its entitlement to a refund of ₱8,488,148.00, representing its excess and unutilized CWTs for the calendar year 2017. Consequently, there is no compelling reason for the Court to modify much more to reverse its assailed *Decision* dated September 26, 2023.

WHEREFORE, premises considered, respondent's *Motion for Reconsideration* (of Decision dated 26 September 2023) is DENIED for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice