REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

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COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 1501** (CTA Case Nos. 8563, 8594 & 8674)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** and **MANAHAN,** *JJ.*
ABB INC., Respondent.	***Promulgated:***
	AUG 22 2018 2:09 p.m.

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RESOLUTION

UY, *J.*:

For this Court's resolution is petitioner's "**MOTION FOR RECONSIDERATION (Re: Decision Promulgated on March 13, 2018)"** filed on April 10, 2018, with respondent's **"COMMENT *(To Petitioner's Motion for Reconsideration with CTA En Banc)*"** filed on June 1, 2018, praying for the reconsideration of this Court's Decision dated March 13, 2018, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the *Petition for Review* is **DENIED** for lack of merit.
>
> **SO ORDERED.**"

In its *Motion for Reconsideration*, petitioner maintains that respondent failed to submit complete documents to support its application for refund. According to petitioner, a taxpayer must prove compliance with the prescribed checklist of requirements pursuant to Revenue Memorandum Order (RMO) No. 53-98, otherwise the administrative claim thereof being merely *pro-forma*. The failure of respondent to submit complete documents deprived petitioner of the opportunity and time to study respondent's claim for refund and fully exercise its function. Moreover, petitioner also asserts that respondent is not entitled to claim for refund in the amount of ₱21,530,960.05 as respondent had failed to discharge the burden that it is indeed VAT-exempt. Hence, respondent's claim for refund must fail.

On the other hand, respondent counter-argues that petitioner's motion for reconsideration is *pro-forma* considering that it is a mere rehash of the petitioner's arguments in its *Petition for Review*. Allegedly, petitioner failed to comply with the setting and notice rule in Sections 4 and 5 of Rule 15 of the Rules of Court. Further, respondent claims that it had submitted sufficient proof to establish its entitlement to a refund at the administrative level and its right to a refund of the erroneously paid tax. The services rendered by respondent under the offshore portion of the contract between respondent and National Grid Corporation of the Philippines (NGCP) are allegedly not subject to VAT as held in the case of *Commissioner of Internal Revenue vs. Marubeni Corporation*[1]. The presentation of the original notarized contract between respondent and the NGCP is the best evidence to prove its contents thereof in accordance with Section 3, Rule 130 of the Revised Rules of Civil Procedure and in all respect sufficient to prove the existence of the Contract between the parties. Thus, respondent is allegedly entitled to a refund of erroneously paid value-added tax pursuant to the principle of *solutio indebiti* found under Article 2154 of the New Civil Code.

THE COURT *EN BANC'S* RULING

Petitioner's *Motion for Reconsideration* lacks merit.

A careful perusal of petitioner's *Motion for Reconsideration* shows that the arguments raised therein are a mere reiteration of matters which have already been thoroughly considered, weighed and resolved in the assailed Decision.

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[1] G.R. No. 137377, December 18, 2011.

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Finding no compelling reason to reconsider, modify or reverse Our Decision, We shall no longer belabor in this Resolution, to repeat the disquisitions made therein.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

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

CATHERINE T. MANAHAN
Associate Justice