REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 1491** (CTA Case Nos. 7771 & 7814)
	Present:
-versus-	**DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** *and* **MANAHAN,** *JJ.*
CBK POWER COMPANY LIMITED, *Respondent.*	Promulgated: AUG 17 2017 1:47 p.m.

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RESOLUTION

MANAHAN, J.:

For resolution is petitioner Commissioner of Internal Revenue (CIR)'s Motion for Reconsideration[1] filed on June 2, 2017. Petitioner prays for reconsideration of this Court's Decision (Assailed Decision),[2] dated May 5, 2017, dismissing his petition for review for lack of merit.

On July 20, 2017, respondent filed its Comment On/ Opposition[3] to Petitioner's Motion for Reconsideration dated June 1, 2017 (Re: Decision dated May 5, 2017).

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[1] *Rollo*, CTA EB No. 1491, pp. 122-130.
[2] *Rollo*, pp. 112-121.
[3] *Rollo*, pp. 134-142.

The Court *En Banc* disposed of the case in the Assailed Decision, as follows:

> WHEREFORE, the instant Petition for Review is hereby DISMISSED for lack of merit.
>
> SO ORDERED.[4]

In effect, the dismissal affirmed the Court in Division's Amended Decision dated May 6, 2016, which stated:

> WHEREFORE, premises considered, the instant Petition for Review is PARTIALLY GRANTED. Accordingly, respondent [now petitioner] Commissioner of Internal Revenue is ORDERED TO ISSUE A TAX CREDIT CERTIFICATE in favor of petitioner [now respondent] CBK Power Company Limited in the amount of ₱31,479,619.94 representing petitioner's unutilized input VAT attributable to zero-rated sales for the period January 1, 2006 to December 31, 2006.
>
> SO ORDERED.[5]

In his motion for reconsideration, petitioner CIR raises the following grounds: that the Court erred in ruling that respondent's alleged input tax attributable to its zero-rated sales for the period January 1, 2006 to December 31, 2006 were not carried-over to the succeeding periods; and, that the Court erred in ruling that respondent's input tax in the amount of Php31,479,619.94 is attributable to its zero-rated sales.

Petitioner CIR argues that respondent failed to overcome the burden of proof that the subject input VAT being claimed remained unutilized or have not been applied against any output tax for the current and the succeeding quarters of the following taxable year 2007. Further, petitioner CIR argues against the Court's finding that the substantiated input VAT of Php31,479,619.64 is entirely attributable to respondent's zero-rated sales.

On the other hand, respondent states that the arguments raised by petitioner in the present Motion for Reconsideration

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[4] *Rollo*, p. 120.
[5] *Rollo*, p. 48.

are the same arguments which have been previously articulated and duly considered in the Assailed Decision by the Court *En Banc* and in the Amended Decision and Resolution by the Court in Division. Further, respondent states that it was able to present its supporting documents and evidence to prove its entitlement to the claimed refund.

After a careful examination of the records and evaluation of the arguments presented by petitioner and respondent, the Court *En Banc* finds no reason to reverse or modify its Decision dated May 5, 2017. The arguments stated in the motion for reconsideration have already been thoroughly discussed and passed upon by the Court *En Banc* and the Court's Special Third Division.

WHEREFORE, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
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