REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- *versus* -

TOLEDO POWER COMPANY,
Respondent.

CTA EB NO. 1990
(CTA Case Nos. 7233 & 7294)

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TOLEDO POWER COMPANY,
Petitioner,

- *versus* –

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2000
(CTA Case Nos. 7233 & 7294)

Present:

DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:

JAN 12 2021 4:17 p.m.

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R E S O L U T I O N

MANAHAN, *J.*:

This resolves the *Motion for Reconsideration (Re: Decision promulgated on 23 July 2020)* posted by the Commissioner of Internal Revenue (CIR), and received by this Court on September 9, 2020. The CIR assails the Decision dated July 23, 2020, which disposed of the case, as follows:

> **WHEREFORE**, the Petitions for Review are **DENIED** for lack of merit. The Amended Decision dated July 13, 2018

and Resolution dated December 19, 2018 are hereby **AFFIRMED**.

SO ORDERED.[1]

In his *Motion*, the CIR argues that the law requires that only "creditable input taxes" that are "directly attributable" may be refunded. Relying on the European VAT system, the CIR argues that only the VAT paid for supplies in the business is creditable as input tax of a VAT-registered person, and, thus, purchases must in turn relate to the supplies (goods/services). The CIR argues that input tax, to be creditable, must come from purchases of goods that form part of the finished product of the taxpayer or it must be directly used in the chain of production. Further, there must be a showing of the direct attributability of the purchases or input tax to the finished product whose sale is zero-rated.

On October 12, 2020, Toledo Power Company (TPC) filed its *Comment (Re: CIR's Motion for Reconsideration dated August 25, 2020)* stating that the CIR's *Motion* should be denied outright for having failed to raise any new or substantial ground for reconsideration. TPC states that nowhere in the provision can be read that the input tax needs to be directly attributable or a factor in the chain of production to the zero-rated sale in order for it to be creditable or refundable. The phrase "directly attributable" refers to a situation where input VAT cannot be directly attributed to any transaction, however, even in such case, the same provision allows as tax credit an allocable portion of a taxpayer's input tax that is not directly and entirely attributable to the zero-rated sales.

The *Motion* is denied.

The law merely states that the creditable input VAT should be attributable to the zero-rated or effectively zero-rated sales. The use of the phrase "directly attributable" relates to a situation where the creditable input VAT cannot be directly attributed to any transaction, but does not qualify the preceding sentences of Section 112(A) of the NIRC of 1997, as amended, in such a way as to make the refundable input VAT only those which are directly attributable to zero-rated or effectively zero-rated sales. Input taxes that bear a direct or

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[1] *Rollo*, Decision dated July 23, 2020, p. 141.

indirect connection with a taxpayer's zero-rated sales satisfies the requirement of the law.

The Court in Division made detailed findings on the validated zero-rated sales and input VAT. Notably, the CIR does not make any specific argument or point to specific items of input VAT which should have been denied. Absent the foregoing, the Court *En Banc* finds no reason to reverse the conclusions made by the Court in Division as to the amount granted for refund.

In *Madeleine Mendoza-Ong v. Hon. Sandiganbayan and People of the Philippines*,[2] the Supreme Court ruled that courts need not tackle those rehashed or reiterated arguments because it will be useless to reiterate itself. The Supreme Court stated:

> Concerning the first ground abovecited, the Court notes **that the motion contains merely a reiteration or rehash of arguments already submitted to the Court and found to be without merit**. Petitioner fails to raise any new and substantial arguments, and no cogent reason exists to warrant a reconsideration of the Court's Resolution. **It would be a useless ritual for the Court to reiterate itself**. (*Emphases supplied)*

WHEREFORE, the *Motion for Reconsideration (Re: Decision promulgated on 23 July 2020)* is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

[2] G.R. Nos. 146368-69, October 18, 2004.

Juanito C. Castañeda, Jr.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice