REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	CTA EB No. 1303 (CTA CASE No. 8436)
-versus-	*Present*: DEL ROSARIO, P.J., CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, and MANAHAN, *JJ.*
CHEVRON HOLDINGS, INC., *Respondent.*	Promulgated: JAN 10 2017 3:55 p.m.

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RESOLUTION

MINDARO-GRULLA, J.:

Before the Court *En Banc* is a Motion for Reconsideration[1] filed by the Commissioner of Internal Revenue (CIR) seeking to set aside this Court's Decision promulgated on May 17, 2016,[2] the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **DENIED**. Accordingly, the Decision dated October 22, 2014 is hereby **AFFIRMED**.
>
> **SO ORDERED.**"

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[1] Filed on June 15, 2016.
[2] *En Banc* Docket, pp. 134-141.

In her motion, CIR reiterates that Chevron Holdings, Inc. (Chevron) failed to comply with the invoicing and accounting requirements laid down in Sections 113, 114 and 236 of the National Internal Revenue Code (NIRC) of 1997 and Revenue Regulations No. 16-2005; and that Chevron was not able to prove that it has strictly complied with the submission of all supporting documents provided under Revenue Memorandum Order (RMO) No. 53-98 and other existing rules and regulations.

In its Comment,[3] Chevron insists that CIR's Motion for Reconsideration is *pro forma* and that it presented sufficient evidence to prove its entitlement to refund of its excess unutilized input value-added tax (VAT) for calendar year 2010.

The motion is bereft of merit.

All the arguments presented by CIR readily reveal that they deal with the very same issue, which has been thoroughly passed upon by the Court in Division and clearly discussed in the assailed Decision.

The Court is guided by the rulings in the Supreme Court case of *Coquilla v. Commission on Elections*,[4] to wit:

> "The mere reiteration in a motion for reconsideration of the issues raised by the parties and passed upon by the court does not make a motion *pro forma*; otherwise, the movants remedy would not be a reconsideration of the decision but a new trial or some other remedy. But, as we have held in another case:
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>> Among the ends to which a motion for reconsideration is addressed, <u>one is precisely to convince the court that its ruling is erroneous and improper, contrary to the law or the evidence</u>; xxx" (Underlining Supplied.)

[3] Filed on September 14, 2016.
[4] 434 Phil. 861 (2002), cited in the case of *Philippine National Bank vs. Pineda,* G.R. No. 149236, February 14, 2007.

Upon review of the Motion for Reconsideration, there is no provision of law contrary to such findings or conclusions of the Court in Division.

The alleged non-compliance with the NIRC by Chevron is premised on the incomplete documents submitted by it to the CIR because of non-observance of RMO 53-98, thus, the 120-day period given to the government allegedly never commenced, thereby showing failure on the part of Chevron to exhaust administrative remedies.

Again, this Court has already stressed that the submission of complete documents cannot be at the mercy of the CIR. It is the Supreme Court[5] itself which ruled that a taxpayer's failure to adequately submit the requirements listed under RMO No. 53-98 is not fatal to its claim for tax credit or refund of excess unutilized VAT. The said RMO is for the internal revenue officers and employees to guide them as to what documents they may require taxpayers to present upon audit of their tax liabilities.[6] It was not intended for the submission of documents to support a claim for tax credit or refund of excess unutilized VAT.

The alleged non-compliance with Revenue Memorandum Order (RMO) no. 40-94, which requires that applications for refund shall only be considered as duly received only on the day of the submission of the last document specified in the checklist of requirements found on the said RMO, and that the said application shall be acted upon only upon confirmation that no similar claim was filed before other agencies, has already been explained in the alleged Decision.

As stated by the Supreme Court,[7] the BIR can only inform the taxpayer to submit additional documents; it cannot dictate what type of supporting documents should be

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[5] *Pilipinas Total Gas Inc., vs. Commissioner of Internal Revenue*, G.R. No. 207112 dated December 8, 2015.
[6] *Ibid.*
[7] *Commissioner of Internal Revenue v. First Express Pawnshop Company, Inc.*, G.R. No. 172045-46, June 16, 2009, cited in the case of *Commissioner of Internal Revenue v. Coral Bay Nickel Corporation*, CTA EB No. 1133 (CTA Case No. 8252), January 7, 2015

submitted. Moreover, in the case of *Team Sual v. Commissioner of Internal Revenue*,[8] this Court ruled that should the taxpayer decide to submit only certain documents, or should the taxpayer fail or opt not to submit any document at all in support of its application for refund or tax credit certificate under Section 112 of the NIRC, it is reasonable and logical to conclude that the 120-day period should be reckoned from the filing of the application.

Even assuming arguendo that Chevron failed to comply with the invoicing requirements laid down in Sections 113, 114 and 236 of the NIRC, such is negated by the findings of the Division in its Decision, when it ruled that input taxes on purchases of capital goods, goods and services were duly substantiated by valid VAT invoices or official receipts,[9] thus:

> "In support of its reported input VAT of ₱67,393,501.98, petitioner presented various invoices, official receipts, Import Entry and Internal Revenue Declarations (IEIRDs), BIR Form No. 1600 and other documents which were all examined by the ICPA.
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> The Supplemental ICPA Report dated November 26, 2012, summarized the total amount of input VAT for the four quarters of CY 2010 supported by valid documents, the total amount of input VAT supported by documents with noted exceptions, and the total amount of input VAT not claimed by petitioner and thus, not subjected to review. xxx
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> xxx xxx xxx
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> On account of the aforesaid disallowances, the Court finds that only the amount of ₱60,613,396.97 is duly substantiated, out of the total allowable input VAT per Quarterly VAT Returns in the amount of ₱67,393,501.98, detailed as follows:
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> xxx xxx xxx" (Underlining Supplied.)

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[8] CTA EB Nos. 649 and 651, March 21, 2012.
[9] Decision CTA Case No. 8436, p. 33 and 36 thereof; *Docket*, p. 49, 52.

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

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
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

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

(no part)
CATHERINE T. MANAHAN
Associate Justice