REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

DELTA AIR LINES, INC., Petitioner,	CTA EB No. 1113 (CTA Case No. 8360)
-versus-	Present: DEL ROSARIO, *PJ*; CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS and RINGPIS-LIBAN, JJ.
HON. SEC. CESAR V. PURISIMA (in his capacity as Incumbent Secretary of the Department of Finance) and HON. COM. KIM S. JACINTO-HENARES (in her capacity as Incumbent Commissioner of Internal Revenue, Respondents.	Promulgated: FEB 03 2016 10:40a.m.

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RESOLUTION

FABON-VICTORINO, J.:

Unconvinced with the ruling of the Court *En Banc*, petitioner seeks reconsideration[1] of the Decision promulgated on September 10, 2015,[2] to which respondent Secretary of Finance filed his Comment on December 21, 2015. The dispositive portion of the assailed Decision reads:

> **WHEREFORE**, the Petition for Review filed by petitioner Delta Air Lines, Inc. on January 22, 2014 is hereby **DENIED**.

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[1] Petitioner's Motion for Reconsideration (Re: Decision dated 10 September 2015) filed on October 7, 2015, docket, pp. 310-329.
[2] Docket, pp. 272-297.

> Accordingly, the interpretation in BIR Ruling No. 99-2011 dated April 6, 2011, as affirmed by the DOF Letter dated September 8, 2011 insofar as they interpret Section 108(B)(4) of the Tax Code, as amended, is **VALID**. Consequently, the sale of services rendered by VAT-registered suppliers for the accommodation/lodging of pilots and cabin crew members of petitioner during flight layovers in the Philippines is subject to twelve percent (12%) VAT.
>
> **SO ORDERED.**

In impugning the *En Banc*'s ruling, petitioner raised the following arguments:

> A. Accommodation/lodging of pilots and cabin crew members of Petitioner during flight layovers in the Philippines are subject to VAT zero-rating.
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> 1. To be entitled to VAT zero-rating, Section 108(B)(4) of the Tax Code only requires that (a) services is performed or rendered in the Philippines by a VAT-registered service provider, and (b) the service is rendered to persons engaged in international shipping or international air transport operations.
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> 2. Assuming, for the sake of argument, that services to be entitled to VAT zero-rating should be "directly connected with or directly attributable to the transport of goods or passengers from the Philippines to a foreign port", accommodation/lodging of pilots and crew members during flight layovers in the Philippines are indispensable to the international

air transport operations of Petitioner.

B. The doctrine that interpretations of administrative agencies in charge of enforcing a law are entitled to great weight and consideration by the court is not applicable in this case.

C. Revenue Memorandum Circular No. 46-2008 issued by Respondent Commissioner is invalid.

In rejecting petitioner's stance, respondent Secretary of Finance (SOF) argues as follows:

I.

The CTA has no jurisdiction over the subject matter of CTA Case No. 8360.

II.

BIR Ruling No. 099-2011, which respondent SOF affirmed in the Letter dated September 8, 2011, is consistent with the legislative intent behind Section 108(B)(4) of the Tax Code, as amended by Republic Act No. 9337.

A review of the record of the case and meticulous evaluation of the arguments proffered by petitioner in its Motion for Reconsideration reveal that all the arguments raised have already been thoroughly addressed and passed upon by the Court *En Banc* in the assailed Decision of September 10, 2015. In fact, petitioner merely reiterated and restated its arguments in its Petition for Review[3] and Memorandum[4]. In other words, petitioner failed to raise any new or substantial issues or arguments to warrant the reversal or even modification of the assailed Decision. To discuss them anew is to waste the time and dwindling resources of the Court.

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[3] Docket, pp. 46-86.
[4] Docket, pp. 215-263.

WHEREFORE, petitioner's Motion for Reconsideration (Re: Decision dated 10 September 2015) is hereby **DENIED**, for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

(I maintain my dissenting opinion)
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

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

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

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