REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Third Division

MTI ADVANCED TEST DEVELOPMENT CORPORATION, *Petitioner,*	**CTA CASE NO. 9690**
	Members: **RINGPIS-LIBAN,** *Chairperson, and* **MODESTO-SAN PEDRO,** *JJ.*
-versus-	
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: DEC 21 2023 10:05 a.m.

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RESOLUTION

MODESTO-SAN PEDRO, J.:

Before the Court is respondent's Motion for Reconsideration filed on 6 April 2022 to which a Comment/Opposition was interposed by petitioner on 10 May 2022.

In its Motion, respondent simply continues to insist that Microchip Technology Incorporated and Microchip Technology Ireland Limited, to which petitioner supplied services, are entities doing business in the Philippines, thereby barring petitioner from qualifying for VAT zero-rating.

This argument was already raised in its previously filed Motion for Partial Reconsideration on 23 March 2021. Except for a few minor additions, its present Motion is a mere reproduction of said previously filed Motion for Partial Reconsideration.

In its Comment/Opposition, petitioner points out that the arguments raised by respondent were already considered and passed upon by the Court in its questioned Decision.

Petitioner is correct. It must be stressed that in both the original Decision, dated 23 February 2021 and the Amended Decision sought to be reconsidered, the Court already ruled on this argument directly.

In the original Decision, the Court opined thus –

"*Third*, to be considered as a non-resident foreign corporation doing business outside the Philippines, each entity must be supported at the very least by both Securities and Exchange Commission Certification of Non-Registration of Company and proof of incorporation or registration in a foreign country (e.g., Certificate of Incorporation, Memorandum of Association, and Articles of Association).

As found by the ICPA, petitioners customers for the 2nd and 4th quarters of FY ended 31 March 2016 are non-residents as evidenced by the Intragroup Services Agreement, SEC Certificate of Non-Registration for Non-Resident Customers and Articles of Incorporation/Association, Certificate of Incorporation and Memorandum of Association of Customers Issued in Their Respective Countries.

However, a perusal of the records reveals that only Microchip Technology Incorporated has both the SEC Certificate of Non-Registration and proof of incorporation/ registration in a foreign country. We summarize the proofs as follows:

Customer	**SEC Certificate of Non-Registration**	**Intragroup Services Agreement/ Articles of Incorporation/Association/ Certificate of Incorporation/ Memorandum of Association of Customers Issued in Their Respective Countries**
Microchip Technology Incorporated	Exhibit "ICPA-P11-1"	Exhibits "ICPA-P11-2" to "ICPA-P11-11"
Microchip Technology Ireland	none	Exhibits "ICPA-P11-14" to "ICPA-P11-29"
Microchip Technology Ireland Limited	Exhibit "ICPA-P11-11	Exhibits "ICPA-P11-13"

Considering that there were no sales to Microchip Technology Ireland Limited only the sales to Microchip Technology Incorporated shall be considered for purposes of VAT zero-rating. Accordingly, only petitioner's sale of services to Microchip Technology Incorporated for the 2nd and 4th quarters of FY ended 31 March 2016 in the total amount of USD622,097.42, with peso equivalent of ₱28,934,256.89, shall qualify for VAT zero-rating pursuant to ***Section 108 (B) (2) of the Tax Code***, as amended."[1]

So, too, was it addressed in the Amended Decision, as follows –

[1] See Decision, p. 10; Records, p. 489.

"In its Motion for Partial Reconsideration, respondent avers that **"Microchip Technology Incorporated"** is an entity doing business in the Philippines and thus, sales to this customer do not qualify for VAT zero-rating.

This issue has been considered and passed upon by this Court in the Assailed Decision. The Intragroup Services Agreement, Articles of Incorporation/Association, Certificate of Incorporation, and Memorandum of Association of Customers Issued in Their Respective Countries are *prima facie* evidence that the clients are not doing business Philippines which have not been contradicted by respondent's evidence."[2]

In the oft-cited case of ***Harry L. Roque, Jr., et al. v. Commission on Elections, represented by Hon. Chairman Jose Melo, et al.,***[3] the Supreme Court *En Banc* ruled that whenever the issues raised in the Motion for Reconsideration have already been addressed and passed upon in the Decision, and the Motion for Reconsideration fails to raise matters which are substantially plausible or compellingly persuasive, enough to lead the Court to rule in favor of the desired course of action, then the Motion for Reconsideration must be denied by the Court, to wit:

"Petitioners' above contention, as well as the arguments, citations, and premises holding it together, is a rehash of their previous position articulated in their memorandum in support of their petition. They have been considered, squarely addressed, and found to be without merit in the Decision subject hereof. The Court is not inclined to embark on another extended discussion of the same issue again...

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While a motion for reconsideration may tend to dwell on issues already resolved in the decision sought to be reconsidered—and this should not be an obstacle for a reconsideration—the hard reality is that petitioners have failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.

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WHEREFORE, the instant separate motions for reconsideration of the main and intervening petitioners are DENIED."

This was earlier expressed in ***Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.:***[4]

"The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues

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2 See Amended Decision, pp. 5-6.
3 G.R. No. 188456, Resolution, 10 February 2010.
4 G.R. No. 159938, Resolution, 22 January 2007.

> already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
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> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought."

Given that respondent's arguments have already been passed upon, discussed, threshed out, and judiciously resolved by this Court in both the original Decision and the assailed Amended Decision, the Motion discloses no cogent reason to disturb our earlier findings and conclusions. Accordingly, nothing is left for this Court to do but to deny the Motion.

WHEREFORE, respondent's Motion for Reconsideration is hereby **DENIED**. The Amended 24 February 2022, is hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

I CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice