REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PROCTER & GAMBLE INTERNATIONAL OPERATIONS SA-ROHQ,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA *EB* NO. 2638
(CTA Case Nos. 9485 & 9526)

Present:

DEL ROSARIO, *P.J.*,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
MAR 14 2024 3:45pm

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RESOLUTION

CUI-DAVID, J.:

Before the Court *En Banc* is petitioner's ***Motion for Reconsideration (Re: Decision dated August 14, 2023)*** filed on August 31, 2023, with respondent's ***Opposition (Re: Motion for Reconsideration of the Decision dated 14 August 2023)*** filed on October 18, 2023.

Petitioner seeks reconsideration of the Decision of the Court *En Banc* promulgated on August 14, 2023, with the following dispositive portion:

> **WHEREFORE**, premises considered, the instant *Petition for Review* is **DENIED** for lack of merit. Accordingly, the *Decision* dated January 3, 2022, and the *Resolution* dated May 11, 2022, of the Court's Third Division in CTA Case Nos. 9485 & 9526 are **AFFIRMED**.

SO ORDERED.

Petitioner argues that it was able to prove the essential requisites for a sale or supply of services to be subject to the Value Added Tax (**VAT**) rate of zero percent. According to petitioner, the sworn statements from authorized representatives, the business registration documents, the service agreements, and the printed screenshots from the United States Securities and Exchange Commission (**US SEC**) Website it presented proved that the corporations are non-resident foreign corporations (**NRFC**) not doing business in the Philippines. Petitioner argues that the Court failed to consider the other documents presented by petitioner.

Petitioner likewise reiterates its arguments that the discrepancy in some of the corporate names was due to the use of standard abbreviations.

Anent the character of service which petitioner has rendered, petitioner points out that the Court failed to consider petitioner's Certificate of Registration and License of Petitioner issued by the Securities and Exchange Commission (**SEC**).

Further, petitioner argues that the Court failed to consider that it is a regional operating headquarters (**ROHQ**), which is allowed to derive income in the Philippines by performing qualifying services. Thus, petitioner suggests that the subject services are actually performed within the Philippines.

Finally, petitioner argues that, in light of its newly discovered evidence and in the interest of substantial justice, the Court in Division should have granted its *Motion to Reopen* incorporated in its *Motion for Reconsideration.*

On the other hand, respondent argues that petitioner was not able to prove, by preponderance of evidence, that the entities to whom it rendered services are NRFC doing business outside the Philippines.

As it was in his *Comment*, respondent closes his Opposition by stating that the claimant has the burden of proof to establish the factual basis of its claim for a tax credit or refund and that tax refunds, like tax exemptions, are strictly construed against the claimant.

The instant motion is unmeritorious.

An examination of the *Motion* shows that petitioner's contentions were mere reiterations and amplifications of its previous arguments which have been thoroughly considered, resolved, and passed upon by this Court in the assailed Decision.

It is well-settled that a motion for reconsideration containing a mere reiteration or rehash of grounds and arguments that have already been considered, weighed, passed upon, and resolved by the court before the *Decision* sought to be reconsidered is rendered does not need a new judicial determination.[1] Therefore, there is no necessity to discuss and rule again on these grounds since this would be a useless formality of ritual invariably involving merely a reiteration of the reasons for rejecting the arguments advanced by the movant already set forth in the judgment.[2]

In *Shangri-La International Hotel Management v. Developers Group of Companies, Inc.*,[3] the Supreme Court pronounced that it is incumbent upon the movant to convince the Court that certain findings or conclusions are contrary to law, to wit:

> "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 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.
>
> 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."

[1] *People v. Agacer*, G.R. No. 177751 (Resolution), January 7, 2013 citing *People v. Larrañaga*, G.R. Nos. 138874-75, July 21, 2005; *Madeleine Mendoza-Ong v. Hon. Sandiganbayan, et al.*, G.R. Nos. 146368-69 (Resolution), October 18, 2004.
[2] *People v. Agacer*, G.R. No. 177751 (Resolution), January 7, 2013 citing *People v. Larrañaga*, G.R. Nos. 138874-75, July 21, 2005 and *Ortigas Land Co. Ltd. Partnership v. Judge Velasco*, G.R. No. 109645 (Resolution), March 4, 1996.
[3] G.R. No. 159938 (Resolution), January 22, 2007, 541 SCRA 138-143.

Accordingly, We affirm our Decision that petitioner failed to establish that it had valid zero-rated or effectively zero-rated sales for failure to establish that the recipients of petitioner's services were NRFCs engaged in business conducted outside the Philippines as required under Section 108(B)(2) of the National Internal Revenue Code (**NIRC**) of 1997, as amended.

We likewise affirm our stand that the "supplemental evidence" sought to be presented by petitioner did not fall within the purview of "newly discovered evidence," as defined by the Rules of Court. Hence, We see no cogent reason to revisit our affirmation of the Court in Division's denial of petitioner's *Motion to Reopen.*

Finally, We reiterate the time-honored principle that tax refunds are construed strictly against the taxpayer, and liberally in favor of the State. Hence, the law upon which the claim of refund is made, and the documents presented to prove such entitlement to the refund are construed *strictissimi juris* against the taxpayer and are *strictissimi* scrutinized.[4]

Accordingly, it is incumbent upon the claimant to establish the factual basis of his or her claim for tax credit or refund. This petitioner failed to do.

WHEREFORE, premises considered, the instant *Motion for Reconsideration (Re: Decision dated August 14, 2023)* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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[4] *Tanduay Distillers, Inc. v. Commissioner of Internal Revenue*, G.R. No. 256740 (Notice), February 13, 2023.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ON LEAVE
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice