REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

RIO TUBA NICKEL MINING CORP.,
Petitioner,

- versus –

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2180
(CTA Case No. 9127)

x - x

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

RIO TUBA NICKEL MINING CORP.,
Respondent.

CTA EB NO. 2182
(CTA Case No. 9127)

Present:
DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ.*

Promulgated:
MAR 21 2022 4:20pm

x- -x

RESOLUTION

RINGPIS-LIBAN, *J.*:

This resolves Commissioner of Internal Revenue's "Motion for Reconsideration (Re: Decision promulgated 10 June 2021)"[1] ("Motion for Reconsideration") filed on June 29, 2021, without Rio Tuba Nickel Mining Corp.'s comment thereon[2].

Commissioner of Internal Revenue's Motion for Reconsideration prays for the reversal and setting aside of the Decision[3] promulgated on June 10, 2021 ("Assailed Decision"), and for the issuance of a new one denying the entire claim for refund.

The dispositive portion of the Assailed Decision reads:

> "**WHEREFORE**, premises considered, the Court **DENIES** the instant Petitions for lack of merit. The Amended Decision dated August 08, 2019 and Resolution dated October 29, 2019 of the Second Division in CTA Case No. 9127 are **AFFIRMED**.
>
> **SO ORDERED.**"[4]

In his Motion for Reconsideration, the Commissioner of Internal Revenue ("CIR") prays for the complete denial of Rio Tuba Nickel Mining Corp.'s claim for refund, primarily arguing that the law requires that only "creditable input taxes" that are "directly attributable" may be refunded. He asserts that the Court erred in ruling that the Rio Tuba Nickel Mining Corp.is entitled to a refund since there was no attributability established between the input tax on purchases vis-à-vis the zero-rated sales of Rio Tuba Nickel Mining Corp. The CIR continues that the law provides that for input taxes on purchase of goods be creditable, they must be a factor in the chain of production. After determining which input taxes are "creditable", the law further requires a second evaluation to determine which of the creditable input taxes are directly attributable to the finished product whose sale is zero-rated. Thus, insisting that a claim for refund is in the nature of a tax exemption which must be construed *strictissimi juris* against a taxpayer, respondent contends that petitioner fell short of proving the veracity of its claim for refund.

We resolve to deny the motion for lack of merit.

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1 Rollo, pp. 137-146.

2 Records Verification Report dated December 16, 2021 stating that Rio Tuba Nickel Mining Corp. failed to file a comment on the Commissioner of Internal Revenue's Motion for Reconsideration.

3 *Id.,* pp. 120-136.

4 *Id.,* Decision dated June 10, 2021, pp. 135.

It appears that the arguments raised by the CIR in his motion are mere recapitulation of the arguments he has raised in his Petition for Review filed with this Court. Moreover, this issue has been amply considered, weighed and resolved in the Assailed Decision. Thus, to discuss anew the explanation of the Court on these matters is superfluity.

In sum, the Court *En Banc* finds no cogent reason to warrant a reconsideration of the Assailed Decision.

WHEREFORE, premises considered, the Commissioner of Internal Revenue's "Motion for Reconsideration (Re: Decision promulgated 10 June 2021)" is **DENIED** for lack of merit.

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice