REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PHILIPPINE ASSOCIATED SMELTING AND REFINING CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2172
(CTA CASE NO. 7565)

Present:

Del Rosario, *P.J.,*
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro, *and*
Reyes-Fajardo, *JJ.*

Promulgated:

NOV 09 2021
10:21 a.m.

x---x

RESOLUTION

RINGPIS-LIBAN, *J.*:

For resolution is the petitioner's "Motion for Reconsideration"[1] filed on February 17, 2021, with respondent's "Comment (on petitioner's Motion for Reconsideration)[2] filed on March 24, 2021.

In the instant motion, petitioner avers that the Court *En Banc* erred in ruling that there is sufficient evidence to show that excise taxes were passed on and charged by Petron to petitioner as part of the fuel price; that the Court *En Banc* failed to rule that Petron actually paid the excise taxes subject of the refund to the Bureau of Internal Revenue; and that the Court *En Banc* failed to rule that the principle of *strictissimi juris* is not applicable to the present case

[1] Rollo, CTA EB NO. 2172, pp. 866-893.
[2] Ibid., pp. 955-967.

because registered entities such as petitioner, located in ecozones have been granted tax exemptions by clear legislative intent in the EPZA Law, PEZA Law, and PEZA IRR.

On the other hand, respondent states that the Court *En Banc* is correct in affirming the Second Division's ruling that petitioner failed to present sufficient evidence to substantiate its claim for refund; that petitioner's failure to present the Sales Agreement with Petron cannot be attributed to accident as contemplated by law; that petitioner did not present sufficient evidence to prove that Petron has actually paid the excise taxes subject of the refund; and that petitioner's claim for refund shall fail considering that the evidence submitted by petitioner to substantiate its claim for refund is wholly insufficient.

After consideration, the Court *En Banc* resolves to deny the "Motion for Reconsideration." The Court *En Banc* reviewed the grounds relied upon by petitioner in support of its motion but finds no cogent reason to grant the same. The issues raised and the arguments presented in the instant motion are the same issues and arguments it presented in its motion for reconsideration before the Court in Division and in the present Petition for Review which have already been passed upon, discussed and judiciously resolved in the assailed Decision dated January 27, 2021. Accordingly, the Court *En Banc* finds it needless to reiterate the discussions made in the assailed Decision.

It must be stressed that among the ends to which a motion for reconsideration is addressed, one is precisely to convince the Court that its ruling is erroneous and improper, contrary to law or to evidence.[3] If the movant failed to do so, the motion for reconsideration must necessarily fail.

WHEREFORE, premises considered, the petitioner's **"Motion for Reconsideration"** is **DENIED for lack of merit.**

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[3] *Teodulo M. Caquilla vs. The Hon. Commission on Elections and Mr. Neil M. Alvarez*, G.R. No. 151914, July 31, 2002.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice