REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

MTI ADVANCED TEST DEVELOPMENT CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 2620
(CTA Case No. 9679)

Present:

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

Promulgated:
JAN 0 8 2024 4:10 pm

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RESOLUTION

DEL ROSARIO, PJ.:

For resolution is petitioner's "**Motion for Reconsideration (of the Decision dated August 14, 2023)**" filed on August 31, 2023, with respondent's "**Comment/Opposition [To Petitioner's Motion for Reconsideration (of the Decision dated August 14, 2023)]**" filed *via* registered mail on October 27, 2023.

In the said Motion, petitioner prays that the Court reconsider and set aside its Decision dated August 14, 2023, and render a new one ordering respondent to refund or issue a tax credit certificate in its favor in the amount of ₱3,344,544.96 for the period of April 1 to June 15, 2015, and ₱2,647,138.78 for the period of October 1 to December 31, 2015, or in the total amount of ₱5,991,683.74.

The dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, in light of the foregoing, the Petition for Review filed by petitioner MTI Advanced Test Development Corporation is **DENIED**, for lack of merit. The assailed Decision dated September 29, 2021 and the assailed Resolution dated April 20, 2022 promulgated by the CTA Third Division are hereby **AFFIRMED**.
>
> **SO ORDERED.**"

In support thereof, petitioner asserts that its sales and technical support, and accounting and consultancy services to Microchip Technology Incorporated (MTech), and its master research and development services to Microchip Technology Ireland Limited (MTIL) were rendered in the Philippines; thus, qualified for zero-rated sales. Petitioner also contends that the claimed input taxes have not been applied against output taxes during and in the succeeding quarters.

Respondent, on the other hand, concurs with the assailed Decision when the Court ruled that the related services agreement in relation to the master research and development services to MTIL, and the sales and technical support and accounting and consultancy services to MTech do not bear any indication that the said services were to be rendered by petitioner in the Philippines. Respondent points out that the arguments presented by petitioner in the present Motion are mere rehash of what have been said and reiterated in its previous pleadings *i.e. Motion for Reconsideration (of the Decision dated September 29, 2021) filed before the Court in Division and Petition for Review dated June 3, 2022 filed before the Court En Banc*, all of which have been considered and found without merit in the assailed Decision of the Court *En Banc*. Respondent argues that actions for tax refund or credit, as in the present case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption are *strictissimi* scrutinized and must be duly proven.

THE COURT'S RULING

After careful evaluation of the parties' respective arguments, the Court resolves to deny petitioner's "Motion for Reconsideration".

CM

A motion for reconsideration shall point out specifically the findings or conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings and conclusions.[1] It is thus incumbent upon the movant to convince the Court that certain findings and conclusions in the assailed Decision are not supported by evidence or are contrary to law.

The Court notes that no new substantial arguments have been adduced to warrant the reconsideration sought. Petitioner merely raised matters which the Court has thoroughly passed upon in the assailed Decision. Accordingly, the Court finds no cogent reason to reverse or modify the assailed Decision.

WHEREFORE, in light of the foregoing, petitioner's "**Motion for Reconsideration (of the Decision dated August 14, 2023)**" is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

[1] Section 2, Rule 37 of the Rules of Court.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice