REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA EB NO. 2593** (CTA Case Nos. 9751, 9813 & 9848)
-versus-	**Present:** **Del Rosario,** *P.J.,* **Ringpis-Liban, Manahan, Bacorro-Villena, Modesto-San Pedro, Reyes-Fajardo, Cui-David, Ferrer-Flores,** *and* **Angeles,** *JJ.*
PETRON CORPORATION, *Respondent.*	**Promulgated:** OCT 04 2023 3:35 pm

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RESOLUTION

RINGPIS-LIBAN, J.:

For resolution is petitioner's "Motion for Reconsideration (Re: Decision promulgated 6 June 2023)[1] filed on June 15, 2023.

In the instant motion, petitioner avers that the Court in Division erred in ruling that respondent's importation of alkylate is not subject to excise tax under Section 148(e) of the National Internal Revenue Code (NIRC) of 1997, as amended; that respondent's importation of alkylate is subject to excise tax; that excise tax shall apply, *inter alia*, to naphtha, regular gasoline and other similar products of distillation, as soon as they come into existence; that in resolving whether respondent's alkylate importations are subject to excise tax, it is crucial to determine whether alkylate is considered a product of distillation similar to that of naphtha and regular gasoline; that while alkylate is not directly produced through the process of distillation, one of its raw materials, *i.e.* isobutane, is a product of distillation; that Section 148 (e) of the NIRC of 1997, as amended, does not qualify whether the items subject to excise tax is a primary or secondary

[1] Rollo, CTA EB NO. 2593, pp. 1357-1367.

product of distillation; and that the absence of any qualification in the statutory provision inevitably leads to the conclusion that as long as the process of distillation is employed, whether directly or indirectly, the resulting product thereon may fall within the ambit of "*other similar products of distillation*" that is subject to excise tax. Hence, petitioner prays that the Decision promulgated on June 6, 2023 be reversed and set aside and a new one be rendered denying the entire claim for refund.

On July 3, 2023, respondent filed its "Opposition (Re: *Motion for Reconsideration* dated 8 June 2023)," stating that petitioner's motion should be denied outright for being pro forma; that petitioner's sole argument is a mere rehash of the argument already passed upon and rejected by the Court; and that the Court in Division correctly ruled that alkylate is not a product of distillation and is not similar to naphtha or regular gasoline.

After consideration of the motion submitted, the Court *En Banc* resolves to deny the "Motion for Reconsideration (Re: Decision promulgated 6 June 2023)."

The Court *En Banc* notes that petitioner's motion merely reiterates or amplifies the arguments previously raised in the Petition for Review which were already considered and extensively discussed upon by the Court *En Banc* in the assailed Decision. Moreover, petitioner was not able to convince the Court *En Banc* that its ruling is erroneous, improper, contrary to law or evidence. Having failed to do so, petitioner's motion for reconsideration must fail.

In the case of *Shangri-La International Hotel Management Ltd., et al. vs. Developers Group of Companies, Inc.,*[2] the Supreme Court denied respondent's motion for reconsideration for being a mere reiteration of their previous arguments, and for failure to raise matters substantially plausible or compellingly persuasive to warrant the reversal of the assailed Decision, thus:

> "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

[2] G.R. No. 159938, January 22, 2007.

> 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."

In view of the foregoing, the Court *En Banc* will no longer belabor to repeat its discussions in the assailed Decision since it would only result to mere superfluity.

WHEREFORE, premises considered, the petitioner's "Motion for Reconsideration (Re: Decision promulgated 6 June 2023)" is **DENIED for lack of merit.**

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

(Inhibited)
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

CORAZON G. FERRER-FLORES
Associate Justice

(On Leave)
HENRY S. ANGELES
Associate Justice