REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

TAGANITO MINING CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1039
(CTA CASE NO. 7884)

Present:

DEL ROSARIO, *PJ,*
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
COTANGCO-MANALASTAS, *and*
RINGPIS-LIBAN, *JJ.*

Promulgated:

DEC 22 2014

x- 2:35 p.m. -x

RESOLUTION

DEL ROSARIO, PJ.:

This resolves petitioner's **"MOTION FOR RECONSIDERATION"** filed on July 8, 2014, without respondent's comment despite due notice[1].

In the subject Motion for Reconsideration, petitioner prays that the Court *En Banc* reconsider its Decision promulgated on June 10, 2014, the dispositive portion of which reads:

> **WHEREFORE**, in light of the foregoing, the *Petition for Review* is hereby **DENIED** for lack of merit. Accordingly, the Decision dated November 13, 2012 and the Resolution dated June 5, 2013 rendered by the then First Division of this Court and this Court's Special First Division in

[1] Records Verification dated October 2, 2014, *Rollo*, p. 146.

CTA Case No. 7884 entitled *Taganito Mining Corporation vs. Commissioner of Internal Revenue* which denied Taganito Mining Corporation's claim for refund or issuance of a tax credit certificate representing the un-refunded portion of excess input VAT on its importation of capital goods from January 1, 2007 to December 31, 2007 in the total amount of **SEVEN MILLION FIVE HUNDRED SEVENTY-TWO THOUSAND FIVE HUNDRED FIFTY AND 29/100 (Php7,572,550.29)** are hereby **AFFIRMED**.

SO ORDERED.

Petitioner maintains that Section 110 of RA 8424, as amended by RA 9337 should be considered in its entirety. Petitioner also argues that Sections 4.110-3 and 4.110-4 of Revenue Regulation No. 16-05, as amended, do not apply to input tax credits on 100% zero-rated transactions.

Petitioner also argues that the reversion of un-refunded input to petitioner's unutilized accumulated input taxes is a justiciable issue that must necessarily be resolved in order to avoid dispensing piecemeal justice through a proper and complete adjudication of petitioner's rights and the adverse interest of the parties.

Petitioner's arguments are a mere rehash of what have been stated and reiterated in its Petition for Review and Memorandum, which have been considered and passed upon by the Court in Division and the Court *En Banc* in their assailed Decisions.

Anent the amortization of input VAT paid on capital goods, it is worth reiterating that there is no distinction between the input VAT creditable against output VAT, and input VAT subject of a claim for refund or application for issuance of a tax credit.

With regard to petitioner's insistence that the Court *En Banc* should rule on the reversion of petitioner's un-refunded input to its accumulated input taxes, the Court *En Banc* finds the same bereft of merit. "An actual case or controversy involves a conflict of legal rights or an assertion of opposite legal claims which is susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute."[2] Since there is no conflict of legal rights or an assertion of opposite claims with

[2] Chamber of Real Estate and Builders' Association, Inc. vs. The Hon. Executive Secretary Alberto Romulo, the Hon. Acting Secretary of Finance Juanita D. Amatong, and the Hon. Commissioner Of Internal Revenue Guillermo Parayno, Jr., G.R. No. 160756, March 9, 2010 citing *Didipio Earth-Savers' Multi-Purpose Association, Incorporated (DESAMA) v. Gozun*, G.R. No. 157882, March 30 2006, citing *Board of Optometry v. Hon. Colet*, 328 Phil. 1187, 1206 (1996).

regard to this issue, as stated in the Court *En Banc*'s Decision, there is no **actual** controversy to be resolved.

WHEREFORE, premises considered, petitioner Taganito Mining Corporation's **"MOTION FOR RECONSIDERATION"** filed on July 8, 2014 is hereby **DENIED**, for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

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

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice