REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus*-

ZENITH FOODS CORPORATION,
Respondent.

CTA *EB* NO. 2409
(CTA Case No. 9165)

Present:

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

Promulgated:
NOV 10 2022 3:20pm

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RESOLUTION

MANAHAN, J.:

This resolves petitioner's **Motion for Reconsideration (Re: Decision promulgated 23 June 2022)** filed on July 8, 2022 which prays for the reversal and setting aside of this Court's Decision dated June 23, 2022 and the rendition of a new judgment denying the claim for refund.

Petitioner argues that a motion for reconsideration is not pro forma just because it reiterated the arguments already passed upon by the court but it may raise the same arguments to convince that the court's ruling was erroneous.

Petitioner avers that this Court erred in ruling that it has the jurisdiction over the instant case and that the assessment issued was void.

Petitioner also argues that this Court erred in ruling that the Formal Letter of Demand (FLD)/Final Assessment Notice (FAN) issued was void and that respondent is entitled to a Refund of the amount paid.

On the other hand, respondent, in its **Comment (Re: Motion for Reconsideration dated July 4, 2022)** filed on August 15, 2022, counter-argues that this Court had acquired jurisdiction over its petition as decided by the Court in Division and that deficiency withholding taxes are internal revenue taxes subject to prescription under Section 203 of the 1997 National Internal Revenue Code (NIRC), as amended.

Respondent further argues that considering petitioner's tax assessments were void, it is entitled to the refund of its prior payment of taxes on said void assessments.

The issues raised by petitioner in the instant motion are the same as those raised in her Petition for Review which were exhaustively discussed and passed upon already in the Assailed Decision, hence, the arguments are mere reiterations or rehash.

There is no quarrel over petitioner's claim that a motion for reconsideration may raise the same arguments and should not be considered *pro forma*. In the same vein, we reiterate the Court in Division's ruling that the payment of the deficiency tax assessments by respondent does not constitute admission of such tax liabilities but a temporary measure to avert the dis-accreditation of respondent as an importer by the Bureau of Internal Revenue. Precisely the reason for the filing of the administrative protest was to dispute the validity of these tax assessments. Thus, this Court has jurisdiction to hear the instant case.

As regards petitioner's postulation on the validity of the FLD/FAN, no novel arguments were raised.

In *Social Justice Society (SJS) Officers, et al. v. Alfredo S. Lim, in his capacity as Mayor of the City of Manila,*[1] the Supreme Court ruled:

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[1] G.R. Nos. 187836 & 187916, March 10, 2015.

The grounds relied on being mere reiterations of the issues already passed upon by the Court, there is no need to "cut and paste" pertinent portions of the Decision or re-write the *ponencia* in accordance with the outline of the instant motion.

As succinctly put by then Chief Justice Andres R. Narvasa in *Ortigas and Co. Ltd. Partnership v. Judge Velasco* on the effect and disposition of a motion for reconsideration:

> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.

In fine, there being no new issues or arguments raised in the instant motion, this Court finds no compelling reason to disturb or overturn the Assailed Decision.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration (Re: Decision promulgated 23 June 2022)* is hereby **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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