REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SPECIAL THIRD DIVISION

GLOBAL BUSINESS POWER CORPORATION, Petitioner,	**CTA CASE NO. 10500** *Present:*
vs.	**RINGPIS-LIBAN**, *Chairperson*, **MODESTO-SAN PEDRO**, and **FERRER-FLORES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUL 19 2024 8:58 a.m.

x - x

RESOLUTION

***FERRER-FLORES, J.*:**

Before this Court is respondent's **Motion for Reconsideration (Re: Decision 29 February 2024)** *(Motion for Reconsideration)* filed on March 21, 2024, with petitioner's **Opposition [To Respondent's Motion for Reconsideration dated March 18, 2024]** filed on April 26, 2024.

On February 29, 2024, the Court promulgated the assailed Decision partially granting petitioner's claim for refund of excess and unutilized creditable withholding taxes (CWTs) for taxable year (TY) 2018, the dispositive portion of which reads as follows:

> **WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED** to refund to petitioner, or to issue a tax credit certificate in its favor in, the amount of **₱10,521,601.39**, representing petitioner's excess and unutilized CWTs for taxable year 2018.
>
> **SO ORDERED.**

In his *Motion for Reconsideration*, respondent argues that the Court erred in granting petitioner's claim for refund. Respondent asserts that petitioner miserably failed to exhaust administrative remedies before elevating the case to this Court. He also insists that petitioner is not entitled to the claim for refund of CWTs since its failure to submit relevant supporting documents on the administrative level makes the administrative claim for tax refund *pro forma*. Lastly, respondent maintains that, taxes being the lifeblood of the government, claims for tax refunds are construed *strictissimi juris* against the taxpayer claimant.

On the other hand, in its *Opposition*, petitioner points out that the arguments raised by respondent in the present *Motion for Reconsideration* are mere reiterations of his previous arguments, which have already been extensively resolved by the Court in the assailed Decision. As such, petitioner contends that respondent's *Motion for Reconsideration* should be denied outright for lack of merit. In any case, petitioner submits the Court has already confirmed its entitlement to the refund of the excess and unutilized CWTs.

After due consideration, the Court finds respondent's *Motion for Reconsideration* bereft of merit.

As correctly pointed out by petitioner, a simple glance at the arguments raised by respondent in the present *Motion for Reconsideration* readily reveals that they are reiterations of the same arguments raised in his *Answer*[1] and *Memorandum*[2] filed on October 25, 2021 and on February 17, 2023, respectively, which have already been thoroughly considered and resolved by the Court in the Decision he assails.

At the risk of sounding repetitive, the Court reiterates the Supreme Court's declaration in *Commissioner of Internal Revenue vs. Goodyear Philippines, Inc.,*[3] as cited in the assailed Decision, that a tax claimant is allowed to file its judicial claim even without waiting for the resolution of its administrative claim in order to prevent the prescription of its claim. The ruling of the Supreme Court in *CBK Power Company Limited v. Commissioner of Internal Revenue, et seq.*[4] is likewise instructive on the matter, to wit:

> With respect to the remittance filed on March 10, 2003, the Court agrees with the ratiocination of the CTA *En Banc* in debunking the alleged failure to exhaust administrative remedies. **<u>Had CBK Power awaited the action of the Commissioner on its claim for refund prior to taking court</u>**

[1] Docket, pp. 274 to 288.
[2] Docket, pp. 438 to 458.
[3] G.R. No. 216130, August 3, 2016.
[4] G.R. Nos. 193383-84, January 14, 2015.

action knowing fully well that the prescriptive period was about to end, it would have lost not only its right to seek judicial recourse but its right to recover the final withholding taxes it erroneously paid to the government thereby suffering irreparable damage.

Also, while it may be argued that, for the remittance filed on June 10, 2003 that was to prescribe on June 10, 2005, CBK Power could have waited for, at the most, three (3) months from the filing of the administrative claim on March 4, 2005 until the last day of the two-year prescriptive period ending June 10, 2005, that is, if only to give the BIR at the administrative level an opportunity to act on said claim, the Court cannot, on that basis alone, deny a legitimate claim that was, for all intents and purposes, timely filed in accordance with Section 229 of the NIRC. **There was no violation of Section 229 since the law, as worded, only requires that an administrative claim be priorly filed**.

In the foregoing instances, attention must be drawn to the Court's ruling in *P.J. Kiener Co., Ltd. v. David* (Kiener), wherein it was held that in no wise does the law, *i.e.*, Section 306 of the old Tax Code (now, Section 229 of the NIRC), imply that the Collector of Internal Revenue first act upon the taxpayer's claim, and that the taxpayer shall not go to court before he is notified of the Collector's action. In Kiener, the Court went on to say that the claim with the Collector of Internal Revenue was intended primarily as a notice of warning that unless the tax or penalty alleged to have been collected erroneously or illegally is refunded, court action will follow, *viz.*:

> The controversy centers on the construction of the aforementioned section of the Tax Code which reads:
>
> xxx
>
> To this end, and bearing in mind that the Legislature is presumed to have understood the language it used and to have acted with full idea of what it wanted to accomplish, it is fair and reasonable to say without doing violence to the context or either of the two provisions, that by the first is meant simply that the Collector of Internal Revenue shall be given an opportunity to consider his mistake, if mistake has been committed, before he is sued, but not, as the appellant contends that pending consideration of the claim, the period of two years provided in the last clause shall be deemed interrupted. **Nowhere and in no wise does the law imply that the Collector of Internal Revenue must act upon the claim, or that the taxpayer shall not go to court before he is notified of the Collector's action.** x x x. **We understand the filing of the claim with the Collector of Internal Revenue to be intended primarily as a notice of warning that unless the tax or penalty alleged to have been collected erroneously or illegally is refunded, court action will follow**. *(Emphasis and underscoring supplied)*

Moreover, respondent also argues that, had petitioner submitted all relevant supporting documents to substantiate its claim for tax credit, he would have had the opportunity to determine the veracity of its claim and could have refunded or issued a tax credit certificate for the claimed amount. Again, it has long been settled by the Supreme Court that the Bureau of Internal Revenue (BIR) can only inform the taxpayer to submit additional documents but cannot dictate what type of supporting documents should be submitted, otherwise, a taxpayer will be at the mercy of the BIR, which may require the production of documents that a taxpayer cannot submit.[5]

Lastly, inasmuch as the grounds presently raised in the *Motion for Reconsideration* have been sufficiently considered, if not squarely addressed, in the assailed Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. While, by its very nature, a motion for reconsideration may tend to dwell on issues already resolved in the decision, 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.[6]

In view of the foregoing disquisitions and there being no new matter or substantial issue raised in respondent's *Motion for Reconsideration*, the Court finds no compelling reason to reverse or modify the Decision promulgated on February 29, 2024.

WHEREFORE, premises considered, respondent's *Motion for Reconsideration (Re: Decision 29 February 2024)* is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

---

[5] *Commissioner of Internal Revenue vs. CE Casecnan Water and Energy Co., Inc.*, G.R. No. 212727, February 1, 2023.

[6] *Shangri-La International Hotel Management Ltd., et al. vs. Developers Group of Companies, Inc.*, G.R. No. 159938, January 22, 2007.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice