REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 2552** (CTA Case Nos. 9207, 9277 & 9416)
-versus-	
OCEANAGOLD (PHILIPPINES), INC., *Respondent.*	

x===============================x

OCEANAGOLD (PHILIPPINES), INC., *Petitioner,*	**CTA *EB* NO. 2571** (CTA Case Nos. 9207, 9277 & 9416)
	Members:
-versus-	**DEL ROSARIO**, *P.J.*, **RINGPIS-LIBAN**, **MANAHAN**, **BACORRO-VILLENA**, **MODESTO-SAN PEDRO**, **REYES-FAJARDO**, **CUI-DAVID**, **FERRER-FLORES**, *and* **ANGELES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: FEB 01 2024 1:05 pm

x- -x

RESOLUTION

CUI-DAVID, J.:

For the resolution of the Court *En Banc* are the following:

1. The Commissioner of Internal Revenue's ("**CIR**") ***Motion for Reconsideration (of the Decision dated***

May 12, 2023), [1] filed on June 5, 2023, with Oceanagold (Philippines), Inc.'s ("**Oceanagold**") ***Comment (to the CIR's Motion for Reconsideration dated May 30, 2023)***,[2] filed on July 18, 2023.

2. Oceanagold's ***Motion for Reconsideration (Re: Decision promulgated 12 May 2023)***,[3] received by the Court on June 5, 2023, without the CIR's comment based on *Records Verification* dated August 2, 2023.[4]

Both parties seek the reconsideration of the Court *En Banc*'s *Decision* promulgated on May 12, 2023,[5] the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the *Petition for Review* of the Commissioner of Internal Revenue under CTA *EB* No. 2552 and the *Petition for Review* of Oceanagold (Philippines), Inc. under CTA *EB* Nos. 2571 are **DENIED** for lack of merit.
>
> Accordingly, the *Amended Decision* dated February 3, 2021, and the *Resolution* dated October 21, 2021, of the Court's Third Division in CTA Case No. 9207, 9277, and 9416 are **AFFIRMED**.
>
> **SO ORDERED.**

The assailed *Decision*, denying Oceanagold's and the CIR's *Petitions for Review,* was received by Oceanagold on May 22, 2023, and by the CIR on May 23, 2023. Thus, Oceanagold and the CIR had until June 6, 2023, and June 7, 2023, respectively, to file their *Motions for Reconsideration* against the *Decision.* Accordingly, on June 5, 2023, Oceanagold and the CIR timely filed their *Motions for Reconsideration.*

We now proceed to discuss the arguments.

Oceanagold's Motion for Reconsideration

Reiterating its arguments from its *Petition for Review,* Oceanagold contends that its export sale and actual shipment of minerals within the 1st Quarter of taxable year ("**TY**") 2014

hm

---

[1] *En Banc (EB)* Docket, CTA *EB* No. 2552, pp. 151-161.
[2] *Id.*, pp. 189-202.
[3] *Id.*, pp. 164-185.
[4] *Id.*, unpaged.
[5] *Id.*, pp. 80-135.

amounting to ₱4,681,519,998.33 are duly supported and are within the period of the claim. It claims that the bill of lading alone sufficiently establishes the actual date of sale and the shipment of the export goods. Citing *Philex Mining Corporation v. CIR*, among other cases, Oceanagold maintains that the shipment date indicated in the bill of lading shall be considered the date of the sale transaction. Oceanagold further argues that it is not required to present its provisional invoices.

Oceanagold likewise assails the disallowance of its input tax amounting to ₱14,875,604.42 due to its suppliers' failure to stamp the phrase "*valid until October 31, 2013 only*" on the face of the Value-Added Tax ("**VAT**") invoices or official receipts as required under Revenue Memorandum Circular ("**RMC**") No. 52-2013. It argues that such is not required under Section 113 of the NIRC of 1997, as amended, and Section 4.113-1 of Revenue Regulations ("**RR**") No. 16-2005, as amended, which, in turn, makes RMC No. 52-2013 void.

The CIR's Motion for Reconsideration

As he has argued in his *Petition for Review*, the CIR argues anew that no attributability was established between the input VAT of Oceanagold vis-à-vis the latter's zero-rated sale. The CIR posits that the law requires only "*creditable input taxes*" that are "*directly attributable*" to be refunded. Stating that the Philippine VAT system was adopted from Europe, the CIR forwards the argument that not all input tax from purchases by a business is creditable as input tax; only those "related" to the supplies made can be claimed.

The CIR further posits that for input tax to be creditable, the input tax must come from purchases of goods that form part of the finished product of the taxpayer, or it must be directly used in the chain of production.

Again, the CIR states the oft-cited rule that tax refunds are strictly construed against the claimant-taxpayer, and Oceanagold failed to prove that it is entitled to the refund sought.

In its *Comment*, Oceanagold observes that the CIR's arguments are "the exact same arguments" it raised in its *Petition for Review*. Thus, Oceanagold suggests that the Court dismiss the CIR's *Motion* outright.

Similar to its Comment against the CIR's *Petition for Review*, Oceanagold counterargues that the CIR's argument that input tax should be directly attributable before they may be considered creditable runs counter to the explicit provision and intendment of Section 112(A), in relation to Section 110, of the National Internal Revenue Code ("**NIRC**") of 1997, as amended, for there is nothing in the said provisions which requires direct attributability. It restates Section 110(A)(3), which allows a tax credit of an allocable portion of a taxpayer's input tax that is not directly and entirely attributable to the zero-rated sales.

The Court's Ruling

The instant *Motions for Reconsideration* are unmeritorious.

An examination of Oceanagold and the CIR's *Motions* shows that the arguments raised are mere reiterations of the arguments that have been thoroughly considered, resolved, and passed upon by this Court in the assailed *Decision*.

It is well-settled that a motion for reconsideration containing a mere reiteration or rehash of grounds and arguments that have already been considered, weighed, passed upon, and resolved by the court before the *Decision* sought to be reconsidered is rendered, does not need a new judicial determination.[6] Therefore, there is no necessity to discuss and rule again on these grounds since this would be a useless formality of ritual invariably involving merely a reiteration of the reasons for rejecting the arguments advanced by the movant already set forth in the judgment.[7]

---

[6] *People v. Agacer*, G.R. No. 177751, 7 January 2013 citing *People v. Larrañaga*, G.R. Nos. 138874-75, 21 July 2005; *Madeleine Mendoza-Ong v. Hon. Sandiganbayan, et al.*, G.R. Nos. 146368-69, October 18, 2004.
[7] *People v. Agacer*, G.R. No. 177751, 7 January 2013 citing *People v. Larrañaga*, G.R. Nos. 138874-75, July 21, 2005 and *Ortigas Land Co. Ltd. Partnership v. Judge Velasco*, G.R. No. 109645, March 4, 1996.

In *Shangri-La International Hotel Management v. Developers Group of Companies, Inc.*,[8] the Supreme Court declared that it is incumbent upon the movant to convince the Court that specific findings or conclusions are contrary to law, to wit:

> "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 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."

Both parties failed to convince the Court to reconsider its *Decision*. Accordingly, the Court affirms and sees no need to revisit its discourse on the following matters: *first*, that input taxes need not be directly attributable to zero-rated sales to be refundable and creditable and may only be allocable; *second*, that Oceanagold was unable to prove that its export sales for the first quarter of TY 2014 are within the period of claim for its failure to present provisional invoices that its witness has admitted that it issues upon shipment of the mineral products, which, in turn, makes the presentation of the bills of lading insufficient; *third*, that RMC No. 52-2013 is valid and applicable as there is no conflict between the provisions of RMC No. 52-2013 on one hand, and Section 113 of the National Internal Revenue Code of 1997, as amended, and Section 4.113-1(B) of RR No. 16-2005.

Accordingly, this Court sees no compelling reason to reverse or modify the assailed *Decision*.

---

[8] *Shangri-la International Hotel Management, Ltd. vs. Developers Group of Companies, Inc.*, G.R. No. 159938 (Resolution), January 22, 2007, 541 SCRA 138-143.

WHEREFORE, premises considered, the Commissioner of Internal Revenue's *Motion for Reconsideration (of the Decision dated May 12, 2023)* and Oceanagold (Philippines), Inc.'s *Motion for Reconsideration (Re: Decision promulgated 12 May 2023)* are **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

(With due respect, I reiterate my Concurring and Dissenting Opinion)
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

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice