REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

CARMEN COPPER CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2629
(CTA Case No. 9659)

Present:
Del Rosario, *P.J.,*
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo,
Cui-David,
Ferrer-Flores, *and*
Angeles, *JJ.*

Promulgated:
MAR 06 2024 2:15 PM

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RESOLUTION

RINGPIS-LIBAN, *J*.:

For resolution is the petitioner's "Motion for Reconsideration"[1] received by the Court on August 24, 2023, without respondent's comment thereon despite notice of the Court's Minute Resolution ordering respondent to file comment thereon within five (5) days from notice.

Petitioner seeks reconsideration of this Court's Decision, the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, the Petition for Review is **DENIED** for lack of merit. The assailed Decision dated September 10, 2020 and the assailed Resolution dated April 20, 2022 are **AFFIRMED**.

[1] Rollo, CTA EB NO. 2629, pp. 138-156.

SO ORDERED."

Petitioner claims that the Court *En Banc* erred in affirming the Court in Division's Decision and Resolution. The Court *En Banc's* reiterations of the Decision of the Court in Division must be reconsidered because the Decision was not founded on the provisions of the Tax Code and due process requirements of the Constitution. The Court in Division was mistaken in the application of the invoicing requirements to petitioner's zero-rated sales. The Court in Division's manner of comparing the amount in the sales invoices *vis-à-vis* the amount in the bank remittances is correct only if the taxpayer's customers pay the amount in the invoice exactly as billed. It has no application in this case, where the transactions were founded even before sales occur and adjustments were made even after shipments of goods and that the customer does not remit the funds in the same amount as billed in the sales invoice. The Court in Division erroneously disallowed all purchases of input taxes on domestic purchases. Lastly, the Court in Division went beyond its jurisdiction when it ruled on issues not disputed by the parties.

After consideration, the Court *En Banc* resolves to deny the "Motion for Reconsideration." The Court *En Banc* reviewed the grounds relied upon by petitioner in support of its Motion for Reconsideration but finds no cogent reason to grant the same. The Court *En Banc* notes that petitioner basically rehashed its arguments which were sufficiently passed upon and discussed by the Court in Division in its Decision and Resolution, and in the assailed *En Banc* Decision.

In the assailed *En Banc* Decision, the Court ruled that petitioner Carmen Copper Corporation is not entitled to its claim for refund because upon evaluation, the amount of Php48,780,741.60 that was granted by the Bureau of Internal Revenue for issuance of Tax Credit Certificate was beyond the amount found by the Court as petitioner's valid excess input value-added tax attributable to its zero-rated sales for the subject period of claim.

A claim for tax refund or credit, like a claim for tax exemption, is construed strictly against the taxpayer.[2] The burden of proof to establish the right to refund lies with the taxpayer-claimant who must prove compliance with the statutory requirements of the Tax Code and existing jurisprudence.

It must be stressed that among the ends to which a motion for reconsideration is addressed, one is precisely to convince the Court that its ruling is erroneous and improper, contrary to law or the evidence.[3] If the movant failed to do so, the motion for reconsideration must necessarily fail.

[2] *Commissioner of Internal Revenue vs. Mirant Pagbilao Corporation (Now Team Energy Corporation*, G.R. No. 180434, January 20, 2016.
[3] *Teodulo M. Coquilla vs. The Hon. Commission on Elections and Mr. Neil M. Alvarez*, G.R. No. 151914, July 31, 2002.

WHEREFORE, premises considered, the "Motion for Reconsideration" is **DENIED for lack of merit.**

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding 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

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice