REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus –

PILIPINAS KYOHRITSU INC.,
Respondent.

CTA EB NO. 2382
(CTA Case No. 9706)

x - x

PILIPINAS KYOHRITSU INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2395
(CTA Case No. 9706)

Present:
DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ.*

Promulgated:
JUN 21 2022

x- -x

RESOLUTION

RINGPIS-LIBAN, ***J.*:**

For resolution is the "Motion for Reconsideration (Re: Decision promulgated 22 February 2022)"[1] ("Motion for Reconsideration") filed by the

[1] Rollo, pp. 138-150.

Commissioner of Internal Revenue ("CIR") on March 07, 2022, without comment thereon.[2]

The CIR's Motion for Reconsideration prays for the reversal and setting aside of the Decision[3] promulgated on February 22, 2022 ("Assailed Decision"), and the rendering of a new one denying the entire claim for refund.

The dispositive portion of the Assailed Decision reads:

> "**WHEREFORE**, premises considered, the Court **DENIES** the instant Petitions for Review for lack of merit. The Decision dated June 30, 2020 and Resolution dated November 20, 2020 of the Second Division in CTA Case No. 9706 are **AFFIRMED**.
>
> **SO ORDERED.**"[4]

In his Motion for Reconsideration, the CIR prays for the complete denial of Pilipinas Kyohritsu Inc.'s claim for refund, primarily arguing that the law requires that only "creditable input taxes" that are "directly attributable" may be refunded. He asserts that the Court erred in ruling that the Pilipinas Kyohritsu Inc. is entitled to a refund since there was no attributability established between the input tax on purchases vis-à-vis the zero-rated sales of Pilipinas Kyohritsu Inc. The CIR continues that the law provides that for input taxes on purchase of goods be creditable, they must be a factor in the chain of production. After determining which input taxes are "creditable", the law further requires a second evaluation to determine which of the creditable input taxes are directly attributable to the finished product whose sale is zero-rated. Thus, insisting that a claim for refund is in the nature of a tax exemption which must be construed *strictissimi juris* against a taxpayer, the CIR contends that Pilipinas Kyohritsu Inc. fell short of proving the veracity of its claim for refund.

We resolve to deny the motion for lack of merit.

The arguments raised by the CIR in his motion are mere recapitulation of the arguments he has raised in his Petition for Review filed with this Court in E.B. No. 2382. Moreover, these issues have been amply considered, weighed and resolved in the Assailed Decision. Thus, to discuss anew the explanation of the Court on these matters is superfluity.

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2 *Id.,* Records Verification Report dated May 05, 2022 stating that Pilipinas Kyohritsu Inc. failed to file its comment on the Commissioner of Internal Revenue's "Motion for Reconsideration (Re: Decision promulgated 22 February 2022)". p. 174.

3 *Id.,* pp. 124-137.

4 *Id.,* Decision dated February 22, 2022, p. 135.

In sum, the Court *En Banc* finds no cogent reason to warrant a reconsideration of the Assailed Decision.

WHEREFORE, premises considered, the Commissioner of Internal Revenue's "Motion for Reconsideration (Re: Decision promulgated 22 February 2022)" is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
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

LANEE S. CUI-DAVID
Associate Justice