



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames

*Please take notice that the Court, Third Division, issued a Resolution dated **January 11, 2023**, which reads as follows:*

“G.R. No. 223469 (Commissioner of Internal Revenue, *Petitioner*, v. Sony Ericsson Mobile Communications International AB, *Respondent*). – Before the Court is a Motion for Reconsideration¹ filed by petitioner Commissioner of Internal Revenue (CIR) assailing the Resolution² dated July 4, 2018 of the Court that upheld the Decision³ dated October 28, 2015 and the Resolution⁴ dated March 15, 2016 of the Court of Tax Appeals (CTA) *En Banc* in CTA EB No. 1171. The CTA *En Banc* affirmed *in toto* the Decision⁵ dated February 27, 2014 and the Resolution⁶ dated April 30, 2014 of the CTA Second Division (CTA Division) in CTA Case No. 8398 which granted respondent Sony Ericsson Mobile Communications International AB (Sony PH)’s judicial claim for tax refund of its unutilized input value added tax (VAT) attributable to its zero-rated sales to the extent of ₱4,120,277.45.

The Court denies the motion for failure to raise any substantial argument to warrant the Court’s reconsideration of the assailed Resolution. The grounds cited to support the present motion are the same arguments already passed upon by the Court, the CTA *En Banc*, and the CTA Division. To stress, petitioner’s repeated request is for the Court to re-examine and re-evaluate the evidence presented before the CTA. Certainly, to do so is outside the scope of the Court’s review in a Rule 45 petition.

The issue of whether the documents submitted by Sony PH sufficiently supported its claim is clearly factual. It is a cardinal principle that the Court is not a trier of facts and will not disturb the factual findings of the courts *a quo* as a general rule. Consequently, the Court

¹ *Rollo*, pp. 363-378.

² *Id.* at 362.

³ *Id.* at 53-60. Penned by Associate Justice Esperanza R. Fabon-Victorino as concurred in by Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Cielito N. Mindaro-Grulla, and Ma. Belen M. Ringpis-Liban.

⁴ *Id.* at 62-64.

⁵ *Id.* at 72-85. penned by Associate Justice Amelia R. Cotangco-Manalastas as concurred in by Associate Justices Juanito C. Castañeda, Jr. and Caesar A. Casanova.

⁶ *Id.* at 87-90.

shall not set aside the findings of fact of the CTA when they are supported by substantial evidence and when there is no showing of gross error or abuse on its part.⁷

Here the Court finds that the CTA exhaustively reviewed the evidence submitted by both parties. The CTA considered the receipts and other documents submitted by the parties as well as the report of the Independent Certified Public Accountant in ruling that Sony PH was able to prove its entitlement to a refund or tax certificate in the amount of ₱4,120,277.45. In particular, the CTA held that there was no evidence supporting petitioner's claim that Sony PH submitted VAT returns that do not fall within the period concerned. As it does not appear that the CTA was remiss in its duty in evaluating the evidence presented by the parties, the Court has no reason to re-examine the CTA's factual findings.

Finally, the Court finds that Sony PH cannot be made to suffer for its non-submission of the documents required by petitioner because it was petitioner who did not timely act on Sony PH's application for refund or issuance of a tax credit certificate. Moreover, the Court has already ruled that Revenue Memorandum Order No. 53-98 only applies to audit of tax liabilities and not to claims for refund of input tax.⁸

Considering the foregoing, the motion for reconsideration filed by petitioner has no merit. There is no reason to reverse the Court's Resolution dated July 4, 2018.

WHEREFORE, the Motion for Reconsideration is **DENIED** with **FINALITY**.

The Court shall not entertain further pleadings or motions in the case. Let entry of judgment be issued.

SO ORDERED."

By authority of the Court:

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

Gen
8/6/23

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⁷ *Commissioner of Internal Revenue v. Chevron Holdings, Inc.*, G.R. No. 233301, February 17, 2020 and *Commissioner of Internal Revenue v. Team Sual Corp.*, 739 Phil. 215 (2014).

⁸ See *Commissioner of Internal Revenue v. Chevron Holdings, Inc.*, supra and *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*, G.R. No. 234445, July 15, 2020.

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