



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated March 13, 2023 which reads as follows:*

“G.R. No. 241337 (*Commissioner of Internal Revenue vs. Deutsche Knowledge Services Pte. Ltd.*<sup>1</sup>); and G.R. Nos. 241344-45 (*Deutsche Knowledge Services Pte. Ltd.*<sup>2</sup> vs. *Commissioner of Internal Revenue*) – Before the Court are two consolidated Petitions for Review on *Certiorari*<sup>3</sup> under Rule 45, Rules of Court, seeking to reverse and set aside the Decision<sup>4</sup> dated 22 March 2018 and the Resolution<sup>5</sup> dated 8 August 2018 of the Court of Tax Appeals (CTA) *En Banc* in CTA EB Nos. 1549 and 1552, which dismissed the separate Petitions for Review filed by the Commissioner of Internal Revenue (CIR) and by Deutsche Knowledge Services Pte. Ltd. (DKS) of the Amended Decision<sup>6</sup> dated 26 October 2016 of the CTA in Division.

DKS is the Philippine branch of a multinational company organized and existing under and by virtue of the laws of Singapore, with registered office address at One Raffles Quay, Number 17-10 South Tower, Singapore. It is licensed to do business as a Regional Operating Headquarters (ROHQ) in

<sup>1</sup> Also referred to as “Deutsche Knowledge Services, Pte. Ltd.” in some parts of the *rollos*.

<sup>2</sup> Also referred to as “Deutsche Knowledge Services, Pte. Ltd.” in some parts of the *rollos*.

<sup>3</sup> *Rollo* (G.R. No. 241337), pp. 15-38; *rollo* (G.R. Nos. 241344-45), pp. 14-38.

<sup>4</sup> *Rollo* (G.R. No. 241337), pp. 45-58; penned by Associate Justice Catherine T. Manahan, and concurred in by Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino, and Cielito N. Mindaro-Grulla. Presiding Justice Roman G. Del Rosario penned a Concurring and Dissenting Opinion (*id.* at 59-63), and Associate Justice Ma. Belen M. Ringpis-Liban, a Dissenting Opinion (*id.* at 64-68).

<sup>5</sup> *Id.* at 70-76; penned by Associate Justice Catherine T. Manahan, with the concurrence of Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino, and Cielito N. Mindaro-Grulla. Presiding Justice Roman G. Del Rosario penned a Concurring and Dissenting Opinion (*id.* at 59-63), and Associate Justice Ma. Belen M. Ringpis-Liban, a Dissenting Opinion (*id.* at 64-68).

<sup>6</sup> *Id.* at 229-248; penned by Associate Justice Cielito N. Mindaro-Grulla and concurred in by Presiding Justice Roman G. Del Rosario; Associate Justice Erlinda P. Uy (on leave).

the Philippines pursuant to Executive Order No. 226<sup>7</sup>, as amended by Republic Act No. 8756<sup>8</sup>.

On 25 April 2005, DKS was registered as a ROHQ with the Securities and Exchange Commission (SEC). As a ROHQ, DKS is engaged in general administration and planning, business planning and coordination, sourcing/procurement of raw materials and components, corporate finance advisory services, marketing control and sales promotion, training and personnel management, logistic services, research and development services, product development, technical support and maintenance, data processing, and communication and business development.<sup>9</sup>

On 22 April 2009, DKS filed its quarterly Value-Added Tax (VAT) Return (BIR Form No. 2550-Q) with the Bureau of Internal Revenue (BIR) for the first quarter of the calendar year (CY) 2009.<sup>10</sup>

On 28 October 2010, DKS filed its Application for Tax Credits/Refunds (BIR Form No. 1914) and administrative claim for refund or issuance of tax credit certificate for its alleged unutilized input VAT attributable to its zero-rated sale of services to its foreign-based clients for the first quarter of CY 2009 in the total amount of PhP 58,385,248.41.<sup>11</sup>

Subsequently, due to the alleged inaction of the CIR on DKS' administrative claim for refund, DKS filed a Petition for Review before the CTA on 25 March 2011, docketed as CTA Case No. 8243. The CIR filed its Answer<sup>12</sup> dated 29 April 2011.<sup>13</sup>

On 4 January 2016, the CTA First Division rendered a Decision,<sup>14</sup> the dispositive portion of which reads:

**WHEREFORE**, premises considered, the present Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND OR TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **₱2,178,213.10** representing the latter's unutilized input VAT attributable to its zero-rated sales for the first quarter of 2009.

<sup>7</sup> Entitled "THE OMNIBUS INVESTMENTS CODE OF 1987." Approved on 16 July 1987.

<sup>8</sup> Entitled "AN ACT PROVIDING FOR THE TERMS, CONDITIONS AND LICENSING REQUIREMENTS OF REGIONAL OR AREA HEADQUARTERS, REGIONAL OPERATING HEADQUARTERS, AND REGIONAL WAREHOUSES OF MULTINATIONAL COMPANIES, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF EXECUTIVE ORDER NO. 226, OTHERWISE KNOWN AS THE OMNIBUS INVESTMENTS CODE OF 1987." Approved on 23 November 1999.

<sup>9</sup> *Rollo* (G.R. No. 241337), p. 17.

<sup>10</sup> *Id.* at 18.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 136-137.

<sup>13</sup> *Id.* at 48.

<sup>14</sup> *Id.* at 146-189; penned by Associate Justice Cielito N. Mindaro-Grulla and concurred in by Presiding Justice Roman G. Del Rosario and Associate Justice Erlinda P. Uy.

**SO ORDERED.**<sup>15</sup>

Both the CIR and DKS filed a Motion for Partial Reconsideration, with the DKS likewise moving “to re-open trial.”<sup>16</sup>

On 26 October 2016, the CTA First Division rendered an Amended Decision,<sup>17</sup> the dispositive portion of which states:

**WHEREFORE**, premises considered, petitioner’s **Motion for Partial Reconsideration (Re: Decision dated January 4, 2016)** is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED** to **REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner the adjusted amount of **₱5,581,215.62** representing the latter’s unutilized input VAT attributable to its zero-rated receipts for the first quarter of 2009.

On the other hand, petitioner’s **Motion to Re-Open Trial** and respondent’s **Motion for Partial Reconsideration** are **DENIED** for lack of merit.

**SO ORDERED.**<sup>18</sup>

The aforesaid Amended Decision prompted the CIR to file a Petition for Review dated 25 November 2016 before the CTA *En Banc*, docketed as CTA EB No. 1549. Likewise, DKS filed a Petition for Review dated 25 November 2016 before the CTA *En Banc*, docketed as CTA EB No. 1552.<sup>19</sup>

On 22 March 2018, the CTA *En Banc* rendered the assailed Decision<sup>20</sup> on the respective petitions of the CIR and DKS, the dispositive portion of which states:

**WHEREFORE**, the consolidated Petitions for Review filed by Deutsche Knowledge Services, Pte. Ltd. and the Commissioner of Internal Revenue are hereby **DISMISSED**.

**SO ORDERED.**<sup>21</sup>

The CTA *En Banc* noted that both parties directly filed their petitions for review with the CTA *En Banc* to challenge the Amended Decision dated 26 October 2016, without filing their respective motions for reconsideration or new trial. The CTA *En Banc* declared that for it to take cognizance of an appeal via a petition for review, a motion for reconsideration or new trial

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<sup>15</sup> Id. at 188.

<sup>16</sup> Id. at 49.

<sup>17</sup> Id. at 229-248; penned by Associate Justice Cielito N. Mindaro-Grulla, with the concurrence of Presiding Justice Roman G. Del Rosario and Associate Justice Erlinda P. Uy.

<sup>18</sup> Id. at 247-248.

<sup>19</sup> Id. at 23.

<sup>20</sup> Id. at 45-58.

<sup>21</sup> Id. at 57.

must first be filed with the CTA Division that issued the questioned amended decision.<sup>22</sup>

With this, both parties filed their respective Motions for Reconsideration.<sup>23</sup> However, both motions were denied by the CTA *En Banc* in a Resolution<sup>24</sup> dated 8 August 2018, the dispositive portion of which reads:

**WHEREFORE**, premises considered, petitioner Deutsche's Motion for Reconsideration filed on April 17, 2018 and petitioner CIR's Motion for Reconsideration filed April 17, 2018 are hereby **DENIED** for lack of merit. Accordingly, the assailed decision promulgated on March 22, 2018 is **AFFIRMED** and **UPHELD**.

**SO ORDERED.**<sup>25</sup>

Hence, the present Petition for Review on *Certiorari*<sup>26</sup> filed by the CIR on 28 September 2018 (G.R. No. 241337) and Petition for Review on *Certiorari*<sup>27</sup> filed by DKS on 1 October 2018 (G.R. Nos. 241344-45).

Essentially, both petitions seek the reversal of the Decision dated 22 March 2018 and Resolution dated 8 August 2018 of the CTA *En Banc*. Likewise, both petitions ask that a decision be rendered by this Court ordering the CTA *En Banc* to give due course to the CIR's Petition for Review docketed as CTA EB No. 1549 and to DKS' Petition for Review docketed as CTA EB No. 1552.<sup>28</sup>

On the same note, the respective comments of the CIR and DKS pray for the reversal of the assailed CTA *En Banc* Decision and Resolution, and that the CTA *En Banc* be ordered to give due course to their respective petitions.<sup>29</sup>

The CIR and DKS contend that the ruling in *Asiatrust Development Bank, Inc. v. Commissioner of Internal Revenue*<sup>30</sup> is not applicable in the present case. Moreover, the filing of a motion for reconsideration of the CTA First Division's Amended Decision dated 26 October 2016 would be tantamount to the filing of a second motion for reconsideration which is a prohibited pleading.

The instant Petitions lack merit.

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<sup>22</sup> Id. at 57.

<sup>23</sup> Id. at 24.

<sup>24</sup> Id. at 70-76.

<sup>25</sup> Id. at 75.

<sup>26</sup> Id. at 15-34.

<sup>27</sup> *Rollo* (G.R. Nos. 241344-45), pp. 14-36.

<sup>28</sup> *Rollo* (G.R. No. 241337), pp. 15-38; *rollo* (G.R. Nos. 241344-45), pp. 14-38.

<sup>29</sup> *Rollo* (G.R. No. 241337), pp. 346-363; *rollo* (G.R. Nos. 241344-45), pp. 92-105.

<sup>30</sup> 809 Phil. 152 (2017).

Rule 8, Section 1, Revised Rules of the Court of Tax Appeals (RRCTA), provides:

**RULE 8**  
*Procedure in Civil Cases*

SECTION 1. *Review of Cases in the Court en banc.* — In cases falling under the exclusive appellate jurisdiction of the Court *en banc*, the petition for review of a decision or resolution of the Court in Division must be preceded by the filing of a timely motion for reconsideration or new trial with the Division.

In the present case, the CTA First Division promulgated a Decision in CTA Case No. 8243 on 4 January 2016, partially granting the petition of DKS. The Decision granted the claim for refund of DKS' unutilized/excess input VAT for the 1st quarter of CY 2009 in the amount of Php 2,178,213.10. DKS then filed a Motion for Partial Reconsideration with Motion to Re-Open Trial (re: Decision dated January 4, 2016), while CIR also filed a Motion for Partial Reconsideration.

On 26 October 2016, the CTA First Division promulgated an Amended Decision partially granting DKS' Motion for Partial Reconsideration by increasing the amount of refund to Php 5,581,215.62 but denying its Motion to Re-Open Trial. In the same Amended Decision, the CTA First Division denied the CIR's Motion for Partial Reconsideration. Subsequently, DKS and the CIR filed their respective Petitions for Review before the CTA *En Banc*.

The issue is whether the CIR and DKS sufficiently complied with the requirement of filing a motion for reconsideration with the CTA First Division prior to the filing of a petition for review before the CTA *En Banc*.

They did not.

In *Asiitrust*,<sup>31</sup> the Court ruled that a motion for reconsideration of an amended decision of the CTA in Division is a condition precedent to an appeal to the CTA *En Banc* which is based on the finding that the CIR failed to file a motion for reconsideration of the CTA in Division's amended decision. Likewise, in *CE Luzon Geothermal Power Company, Inc. v. Commissioner of Internal Revenue*,<sup>32</sup> the Court pronounced that an amended decision is a different decision, and thus, is a proper subject of a motion for reconsideration anew.

In *Asiitrust* and *CE Luzon*, the amended decision of the CTA in Division was entirely new. The amended decision was based on a re-evaluation of the parties' allegations or reconsideration of new and/or existing

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<sup>31</sup> *Id.*

<sup>32</sup> 767 Phil. 782-791 (2015).

evidence that were not considered and/or previously rejected in the original decision. In *Asiatrust*, the case was set for hearing, and the Court allowed Asiatrust Bank to submit additional evidence, which became the foundation of the amended decision. In *CE Luzon*, the Court re-examined the pieces of documentary evidence supporting CELG's claim for refund of unutilized input VAT and found it meritorious, thereby increasing the amount of refund granted to CELG for refund. In both cases, the Court held that the amended decisions were proper subjects of motions for reconsideration.<sup>33</sup>

In this case, the Amended Decision pronounced that DKS has, with respect to the refundable amount of PhP 5,581,215.62, overcome the burden of showing strict compliance with the conditions for the grant of a tax refund. Notably, in the Amended Decision, the CTA in Division re-evaluated the pieces of documentary evidence supporting DKS' claim for a tax refund. Similar to the cases cited above, the Amended Decision is the result of a modified perspective of the court on the same set of evidence which is a proper subject of a motion for reconsideration. Since the Amended Decision is considered a new decision, the filing of another motion for reconsideration will not be tantamount to the filing of a second motion for reconsideration.

The failure of the CIR and DKS to move for a reconsideration or new trial of the Amended Decision dated 26 October 2016 of the CTA in Division is a ground for the dismissal of their respective Petitions for Review before the CTA *En Banc*. With this procedural lapse, the CTA *En Banc* is correct in not taking cognizance of the Petitions for Review filed by both parties.

The rules are clear. Before the CTA *En Banc* can take cognizance of the petition for review concerning a case falling under its exclusive appellate jurisdiction, the litigant must sufficiently show that it sought prior reconsideration or moved for a new trial with the concerned CTA division. Procedural rules are not to be trifled with or be excused simply because non-compliance therewith may have prejudiced a party's substantive rights. Rules are meant to be followed.<sup>34</sup> They may be relaxed only for very exigent and persuasive reasons which are not present in this case.

**WHEREFORE**, the instant consolidated Petitions are **DENIED**. The Decision dated 22 March 2018 and Resolution dated 8 August 2018 of the Court of Tax Appeals *En Banc* in CTA EB Nos. 1549 and 1552 are **AFFIRMED**.

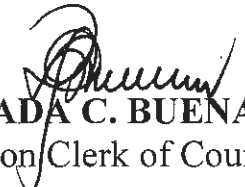
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<sup>33</sup> *Commissioner of Internal Revenue v. Commission on Elections*, G.R. Nos. 244155 & 247508, 11 May 2021.

<sup>34</sup> *Commissioner of Customs v. Marina Sales, Inc.*, 650 Phil. 143 (2010).

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *9/15*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

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