

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

**HERMA SHIPPING AND
TRANSPORT CORPORATION,**

Petitioner,

-versus-

CTA CASE NO. 9561

Members:

UY, Chairperson,

RINGPIS-LIBAN, and

MODESTO-SAN PEDRO, JJ.

Promulgated:

**HON. NICANOR FAELDON, IN HIS
CAPACITY AS COMMISSIONER OF
THE BUREAU OF CUSTOMS,**

Respondent.

SEP 29 2021

2107 p.m.

x

x

RESOLUTION

MODESTO-SAN PEDRO, J.:

For resolution is respondent's Motion for Reconsideration (Re: Decision 17 July 2020), filed on 16 October 2020 ("Motion for Reconsideration"),¹ with petitioner's Comment/Opposition (To the Motion for Reconsideration dated 12 October 2020), filed through registered mail on 3 November 2020 ("Comment").²

In the Motion for Reconsideration, respondent alleges the following:

1. A forfeiture proceeding, like the present case, is directed against the vessel itself as the offender. Hence, petitioner is bereft of legal capacity to bring a suit on behalf of the M/T Malolos;
2. Fuel smuggling did occur in the case at bar; and
3. The Warrant of Seizure and Detention ("WSD") and the Decision, dated 20 January 2017, are not void. *l*

¹ Records, Vol. 16, pp. 7213-7225.

² *Id.*, pp. 7160-7195.

On the other hand, petitioner counter-argues the following in its Comment:

1. Petitioner, Herma Shipping and Transport Corporation, being the owner of M/T Malolos, has legal capacity to bring the present action on behalf of said vessel. This is because it is the party who has personal, substantial, and material interest in the success or failure of the instant Petition for Review;
2. This Court correctly ruled that no fuel smuggling occurred in the instant case. As a ship chartered by the owner of the goods, M/T Malolos only had the obligation to secure the required clearances, receive the cargo, and deliver the same to the intended destination. To impose upon M/T Malolos the duty to actually determine, verify, and trace the source of the cargo beyond the documents presented would be to go beyond its mandate already. Moreover, Captain Gocotano positively identified that the loading of the petroleum products were coursed through oil terminal pipelines by SL Harbor Bulk Terminal Corporation ("SLHBTC"). Hence, it had no knowledge whatsoever if the said cargo was sourced from M/T Magnolia or the terminal, considering that SLHBTC had its own stock and inventory that may be loaded to M/T Malolos. Thus, petitioner never had knowledge of the alleged violations and the commission of the alleged acts. As such, the forfeiture of M/T Malolos is unwarranted; and
3. The WSD and the Decision, dated 20 January 2017, of the District Commissioner of Customs are void for failing to comply with the procedural rules. Respondent inappropriately argued that an Alert Order is unnecessary prior to the issuance of a WSD. An Alert Order is essential prior to the issuance of a WSD. Moreover, it is the District Collector of Customs who is authorized to issue a WSD under the Customs Modernization and Tariff Act. Thus, the subject WSD is null and void for it was issued by a mere Deputy Collector for Operations, and not by the District Collector of Customs.

We deny the Motion for Reconsideration.

In *Ortigas and Company Limited Partnership vs. Judge Tirso Velasco and Dolores V. Molina, and Dolores V. Molina vs. Hon. Presiding Judge, RTC, Quezon City, Br. 105, and Manila Banking Corporation*,³ the Supreme Court had an occasion to rule in this wise:

³ G.R. Nos. 109645 and 112564, Resolution, 4 March 1996.

*“Effect, and Disposition of
Motion for Reconsideration*

The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, ART. VIII, Constitution); *i.e.*, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.”

Moreover, in *H. Harry L. Roque, Jr., et al. v. Commission on Election, represented by Hon. Chairman Jose Melo, et al.*,⁴ the Supreme Court *En Banc* ruled that whenever the issues raised in the Motion for Reconsideration have already been addressed and passed upon in the Decision, and the Motion for Reconsideration failed to raise matters which are substantially plausible or compellingly persuasive that would lead the Court to rule in favor of the desired course of action, then the Motion for Reconsideration will be denied by the Court, to wit:

“Petitioners’ above contention, as well as the arguments, citations, and premises holding it together, is a rehash of their previous position articulated in their memorandum in support of their petition. They have been considered, squarely addressed, and found to be without merit in the Decision subject hereof. The Court is not inclined to embark on another extended discussion of the same issue again...”

xxx xxx xxx

While a motion for reconsideration may tend to dwell on issues already resolved in the decision sought to be reconsidered—and this should not be an obstacle for a reconsideration—the hard reality is that petitioners have failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.

xxx xxx xxx

WHEREFORE, the instant separate motions for reconsideration of the main and intervening petitioners are DENIED.”

⁴ G.R. No. 188456, Resolution, 10 February 2010

This was reiterated in *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*,⁵ as follows:

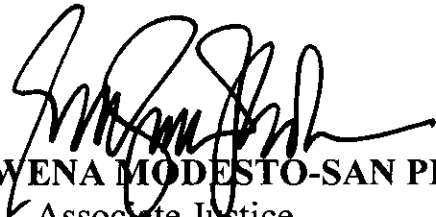
“The bulk of the aforementioned grounds is a mere rehash of movant’s previous arguments. While DGC is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle 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.”

Applying the foregoing judicial pronouncements in the case at bar, a perusal of the Motion for Reconsideration would show that the arguments raised therein are a mere rehash of those raised in the Petition for Review. Thus, these have already been sufficiently passed upon, discussed, threshed out, and judiciously resolved in the Decision, dated 17 July 2020. The Motion for Reconsideration discloses no cogent reason to disturb the findings and conclusions which this Court made in said Decision. Thus, nothing is left for this Court to do but to deny the same.

WHEREFORE, the Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:


ERLINDA P. UY
Associate Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice

⁵ G.R. No. 159938, Resolution, 22 January 2007.