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SECOND DIVISION

[G.R. NO. 141973, June 28, 2005]

PHILIPPINE PHOSPHATE FERTILIZER CORPORATION, PETITIONER, VS. COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Once more, we stand by our ruling that:

> If the State expects its taxpayers to observe fairness and honesty in paying their taxes, so must it apply the same standard against itself in refunding excess payments. When it is undisputed that a taxpayer is entitled to a refund, the State should not invoke technicalities to keep money not belonging to it. No one, not even the State, should enrich oneself at the expense of another.[1]

The antecedents of this case are as follows:

Philippine Phosphate Fertilizer Corporation (Philphos) is a domestic corporation registered with the Export Processing Zone Authority (EPZA). It manufactures fertilizers for domestic and international distribution and as such, utilizes fuel, oil and other petroleum products which it procures locally from Petron Philippines Corporation (Petron). Petron initially pays the Bureau of Internal Revenue (BIR) and the Bureau of Customs the taxes and duties imposed upon the petroleum products. Petron is then reimbursed by petitioner when Petron sells such petroleum products to the petitioner. In a letter dated August 28, 1995, petitioner sought a refund of specific taxes paid on the purchases of petroleum products from Petron for the period of September 1993 to December 1994 in the total amount of P602,349.00 which claim is pursuant to the incentives it enjoyed by virtue of its EPZA registration. Since the two-year period within which petitioner could file a case for tax refund before the Court of Tax Appeals (CTA) was about to expire and no action had been taken by the BIR, petitioner instituted a petition for review before the CTA against the Commissioner of Internal Revenue (CIR).[2] During the trial, to prove that the duties imposed upon the petroleum products delivered to petitioner by Petron had been duly paid for by petitioner, petitioner presented a Certification from Petron dated August 17, 1995; a schedule of petroleum products sold and delivered to petitioner detailing the volume of sales and the excise taxes paid thereon; photocopies of Authority to Accept Payment for

Excise Taxes issued by the CIR pertaining to petroleum products purchased; as well as the testimony of Sylvia Osorio, officer of Petron, to attest to the summary and certification presented.[3] The CIR did not present any evidence to controvert the ones presented by petitioner nor did it file an opposition to petitioner's formal offer of evidence.[4]

On August 11, 1998, the CTA promulgated its Decision finding that while petitioner is exempt from the payment of excise taxes, it failed to sufficiently prove that it is entitled to refund in this particular case since it did not submit invoices to support the summary of petroleum products sold and delivered to it by Petron.[5] The CTA rationalized thus:

> …**[P]etitioner, as an EPZA registered enterprise is exempted from the payment of excise taxes, and if said taxes were passed on by the supplier to EPZA registered enterprise like the petitioner, tax credit shall be granted to the latter. The fact that it was not the petitioner who had paid the taxes directly to the Bureau of Internal Revenue does not have an adverse effect on petitioner's action for refund. The law granting the exemption makes no distinction as to the circumstances when the law shall apply. Since the law makes no distinction, neither should we. The exemption is so broad as to cover the present situation. Since an export processing zone is not considered to be covered by Philippine customs and internal revenue laws, the taxes paid by the petitioner on the petroleum products should be refunded or credited in its favor**. **Thus, the only thing left for us to do is to determine whether or not petitioner is entitled to the amount claimed for refund.** After a careful scrutiny of the evidence presented, however, there appears to be a dispute with respect to the amount claimed. Petitioner submitted in evidence a certification issued by Petron to prove that the duties imposed upon the petroleum products delivered to petitioner by Petron had been duly paid for by petitioner (Exhibit "A", p. 71, CTA records). Petitioner likewise presented a schedule of petroleum products sold and delivered to petitioner detailing the volume of sales and the excise taxes paid thereon (Exhibits "A-1" to "A-1a", pp. 72-73, CTA records). However, to show that Petron had previously paid the excise taxes on these petroleum products, petitioner presented photocopies of Authority to Accept Payment for Excise Taxes issued by respondent pertaining to petroleum products purchased (Exhibits "A-2" to "A-80), pp. 74-152, CTA records).
>
> Although these Authority to Accept Payment for Excise Taxes reflect therein the amount of excise taxes paid by Petron to respondent, **this Court cannot verify the exact amount of excise taxes which correspond to the petroleum products delivered to petitioner**. This Authority to Accept Payment for Excise Taxes only proves the payment of millions of pesos in excise taxes made by Petron during the period covered by the claim but they fail to show to this Court which part of this huge amount actually represents the excise taxes paid on the petroleum products actually delivered to herein petitioner. **Petitioner merely presented a summary of petroleum products sold and delivered by**

> **Petron during the period covered by the claim. We cannot, by the summary alone, ascertain the veracity of the amount being claimed neither can it prove the existence of the invoices being referred to therein. <u>Petitioner should have submitted the invoices supporting the schedules of petroleum products sold and delivered to it by Petron</u>. These invoices would reveal whether or not the amount claimed for refund by petitioner is correct**….
>
> In an action for refund/credits the taxpayer has the burden of showing that the taxes paid are erroneously collected and that failure to meet such a burden is fatal to his cause. Tax refunds partake of the nature of the tax exemptions and therefore cannot be allowed unless granted in the most explicit and categorical language. The grant of refund privileges must be strictly construed against the taxpayer and liberally in favor of the government. (citations omitted)
>
> Petitioner has the burden to prove the material allegations in its petition as well as the truth of its claim.[6] (Emphasis supplied)

disposing of the case as follows:

> WHEREFORE, in view of the foregoing, the claim of refund of petitioner in the amount of P602,349.00 is hereby DENIED for lack of merit.[7]

On August 31, 1998, petitioner filed a motion for reconsideration alleging that it failed to submit invoices because it thought that the presentation of said invoices was not necessary to prove the claim for refund, since petitioner's previous claims, in CTA Case Nos. 4654, 4993 and 4994,[8] involving similar facts, were granted by the CTA even without the presentation of invoices. It then prayed that the CTA decision be reconsidered and its claim for refund be allowed, or in the alternative, allow petitioner to present and offer the invoices in evidence to present its claim.[9]

The CTA denied the motion for reconsideration on January 6, 1999, explaining as follows:

> It is important to note at the outset that Petitioner's reliance on CTA Case Nos. 4994, 4654 and 4993 is misplaced because during the hearings of these cases up to the time of formal offer of evidence, CTA Circular No. 1-95 was not yet in effect. The nature and presentation of evidence involving voluminous documents prior to the effectivity of CTA Circular No. 1-95 differ from that which is required by this Court from the effectivity of said Circular beginning January 25, 1995. In the instant case, the Petition for Review was filed on September 1, 1995. It is obviously clear that the provisions of CTA Circular 1-95 already applied to Petitioner's presentation of evidence. Quoted hereunder are portions of CTA Circular 1-95:
>
> 1. The party who desires to introduce as evidence such voluminous

documents must present: (a) Summary containing the total amount/s of the tax account or tax paid for the period involved and a chronological or numerical list of the numbers, dates and amounts covered by the invoices or receipts; and (b) a Certification of an independent Certified Public Accountant attesting to the correctness of the contents of the summary after making an examination and evaluation of the voluminous receipts and invoices. Such summary and certification must properly be identified by a competent witness from the accounting firm.

2. The method of individual presentation of each and every receipt or invoice or other documents for marking, identification and comparison with the originals thereof need not be done before the Court or the Commissioner anymore after the introduction of the summary and CPA certification. It is enough that the receipts, invoices and other documents covering the said accounts or payments must be pre-marked by the party concerned and submitted to the Court in order to be made accessible to the adverse party whenever she/he desires to check and verify the correctness of the summary and CPA certification. However, the originals of the said receipts, invoices or documents should be ready for verification and comparison in case doubts on the authenticity of the particular documents presented is raised during the hearing of the case.

It can be revealed from the evidence presented by the Petitioner that it failed to present a certification of an independent Certified Public Accountant, as well as the invoices supporting the schedules of petroleum products sold and delivered to it by Petron. From this perspective alone, the claim for refund was correctly denied. Now that an unfavorable decision has been rendered by this Court, Petitioner belatedly seeks to present the invoices as additional evidence.

The prayer to present additional evidence partakes of the nature of a motion for new trial under Section 1 Rule 37 of the 1997 Rules of Civil Procedure. It has already been emphasized in several cases that failure to present evidence already existing at the time of trial does not warrant the grant of a new trial because said evidence can no longer be considered newly discovered but is more in the nature of forgotten evidence. Neither can such inadvertence on the part of the counsel to present said evidence qualify as excusable negligence.[10] (*Emphasis supplied*)

CTA Presiding Judge Ernesto D. Acosta dissented with the view that in the interest of justice, petitioner should be given a chance to prove its case by allowing it to present the invoices of its purchases.[11] He reasoned that:

…A review of the schedule of invoices, Exhibits "A-1" "A-1-a", reveals that there are only about ninety four (94) invoices which does not need the

> assistance of an independent CPA. It can easily be presented before this Court or before a Clerk of Court for markings and comparison.
>
> The reason advanced by the Petitioner was that they thought the presentation by the Manager of Petron Corporation of a duly notarized certification (supporting the schedules of invoices), coupled with testimonies of witness, Mrs. Sylvia Osorio of Petron Corporation, are enough to prove their case. Respondent did not even controvert said exhibits and testimonies. It is this Court that raised doubts on the veracity of the claim in view of the absence of the invoices. This ground could easily fall under the phrase "mistake or excusable negligence" as a ground for new trial under Sec. 1(a) of Rule 37 and not under the phrase "newly discovered evidence" as stated in our said resolution. The denial of this motion is too harsh considering that this case is only civil in nature, govern (sic) merely by the rule on preponderance of evidence.[12]

On January 25, 1999, petitioner filed another motion for reconsideration with motion for new trial praying that it be allowed to present an additional witness and to have invoices and receipts pre-marked in accordance with CTA Circular No. 1-95.[13] The CTA denied the same for the reason that it found no convincing reason to reverse its earlier decision and the motion for new trial was filed beyond the period prescribed by Sec. 1, Rule 37 of the Rules of Court as well as for appeals as provided under Sec. 4, Rule 43.[14]

Petitioner then went to the Court of Appeals (CA) which issued the herein assailed Resolution dismissing the petition for review, to wit:

> Considering that the "AFFIDAVIT OF NON-FORUM SHOPPING" was executed by petitioner's counsel, when under Adm. Circular No. 04-94, the petitioner should be the one to certify as to the facts and undertakings as required; and since any violation of the circular "shall be a cause for the dismissal" of the petition, the petition for review is hereby DENIED DUE COURSE OUTRIGHT, and is DISMISSED.
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> SO ORDERED.[15]

The motion for reconsideration was likewise denied.[16]

Hence the present petition raising the following issues:

1. Whether or not the Court of Tax Appeals should have granted petitioner's claim for refund.

2. Whether or not the Court of Appeals should have given due course to the Petition for Review.[17]

Anent the first issue, petitioner argues that: the CTA erred in denying its claim for refund for its failure to present invoices and receipts; the evidence it adduced, which the CIR did not controvert nor contest, is sufficient to support petitioner's claim for refund or tax credit; as opined by the Presiding Judge of the CTA in his dissenting opinion, the failure of petitioner to present invoices and receipts is a minor infraction of CTA Circular No. 1-95 which should not defeat petitioner's right to refund; there is nothing in said circular which will support the contention of the CTA that the petitioner is mandated to present the invoices in the present case; the CTA, in its previous decisions involving the petitioner, one of which was even affirmed by the CA, held that a refund may be granted solely on the basis of certifications issued by Petron;[18] if it is the avowed purpose of CTA Circular No. 1-95 to ensure the speedy administration of justice, it should not compel petitioner to present additional voluminous evidence which will require the presentation of a Certified Public Accountant (CPA) for court examination aside from entailing additional costs to petitioner; petitioner's counsel was of the honest belief that he was not required to adhere to what is provided in CTA Circular No. 1-95; petitioner should not be burdened by the infraction of its counsel and should be given the fullest opportunity to establish the merits of its action rather than for it to lose property on mere technicalities; it has also been held that evidence not offered and formally presented in evidence during the trial may still be considered by a court in the exercise of its discretion so as not to allow a mere technicality to overcome justice and fairness; petitioner should be granted its claim for refund, or, in the alternative, be given an opportunity to present the pre-marked invoices in accordance with CTA Circular No. 1-95.[19]

As to the second issue, petitioner explains that: its counsel was of the belief that he was authorized to execute the affidavit of non-forum shopping; in any event, its counsel immediately attached to the motion a copy of the affidavit of non-forum shopping executed by petitioner's President, Ramon C. Avecilla as soon as he learned of his error; and Supreme Court Administrative Circular No. 04-94 should be liberally construed following *Maricalum Mining Corp. vs. NLRC*,[20] *Loyola vs. Court of Appeals,*[21] and *Philippine Fishing Boat Officers and Engineers Union vs. Court of Industrial Relations*.[22]

It then prayed that: the resolutions of the CA and the Decision of the CTA be reversed; and an order be issued to award petitioner tax credit certificate/refund in the amount of P602,349.00 representing excise taxes paid for the period of September 1993 to December 1994 or in the alternative to allow petitioner to adduce evidence before the CTA to support its case.[23]

The CIR, in his Comment, contends that: the burden of proving entitlement to the refund/credit rests upon petitioner; the CTA was correct in requiring the submission of the invoices to support the schedules presented especially in this case where the CTA cannot determine which part of the huge amount paid by Petron actually represents the excise taxes paid on the petroleum products actually delivered to petitioner; the schedules are self-serving and if not corroborated by evidence have no evidentiary weight; the CTA is not precluded from requiring other evidence which will once and for all erase doubts to the

claim for refund; claims for refund, partaking of the nature of tax exemptions, are construed in strictissimi juris against the taxpayer and liberally in favor of the taxing authority; even setting aside the requirements in CTA Circular No. 1-95, petitioner is still obliged to present the invoices in order to corroborate the entries in the summary and to reveal whether or not the amount claimed for refund by petitioner is correct; petitioner's Motion for Reconsideration and Motion for New Trial filed on January 25, 1999 were properly denied by the CTA for having been filed out of time; and the CTA's decision must be respected on appeal since it has developed an expertise on the subject.[24]

Anent the second issue, respondent avers that the CA did not err in dismissing the petition for review on the ground that the affidavit of non-forum shopping was executed by petitioner's counsel contrary to the requirements in Sec. 5, Rule 7 of the Rules of Court; and that the denial of the motion for reconsideration was also proper since the failure to comply with the requirements of non-forum shopping shall not be curable by mere amendment to the complaint.[25]

For clarity, we shall first discuss the issue of whether or not the CA should have given due course to the petition for review.

The primary question that has to be resolved is whether an Affidavit of Non-Forum Shopping, erroneously signed by counsel, may be cured by subsequent compliance.

Generally, subsequent compliance with the requirement of affidavit of non-forum shopping does not excuse a party from failure to comply in the first instance.[26]

Supreme Court Administrative Circular No. 04-94 of Section 5, Rule 7 of the 1997 Rules of Civil Procedure which requires the pleader to submit a certificate of non-forum shopping to be executed by the plaintiff or principal party is mandatory.[27] A certification of the plaintiff's counsel will not suffice for the reason that it is petitioner, and not the counsel, who is in the best position to know whether he actually filed or caused the filing of a petition.[28] A certification against forum shopping signed by counsel is a defective certification that is equivalent to non-compliance with the requirement and constitutes a valid cause for the dismissal of the petition.[29] Hence, strictly speaking, the CA was correct in dismissing the petition.

There are instances, however, when we treated compliance with the rule with relative liberality, especially when there are circumstances or compelling reasons making the strict application of the rule clearly unjustified.[30]

In the case of _Far Eastern Shipping Co. vs. Court of Appeals_,[31] while we said that, strictly, a certification against forum shopping by counsel is a defective certification, the verification, signed by petitioner's counsel in said case, is substantial compliance inasmuch as it served the purpose of the Rules of informing the Court of the pendency of another

action or proceeding involving the same issues.[32] We then explained that procedural rules are instruments in the speedy and efficient administration of justice which should be used to achieve such end and not to derail it.[33]

In *Damasco vs. NLRC*,[34] the certifications against forum shopping were erroneously signed by petitioners' lawyers, which, generally, would warrant the outright dismissal of their actions.[35] We resolved however that as a matter of social justice, technicality should not be allowed to stand in the way of equitably and completely resolving the rights and obligations of the parties.[36] In *Cavile vs. Heirs of Clarita Cavile*,[37] we likewise held that the merits of the substantive aspects of the case may be deemed as "special circumstance" for the Court to take cognizance of a petition although the certification against forum shopping was executed and signed by only one of the petitioners.[38] Finally, in *Sy Chin vs. Court of Appeals*,[39] we categorically stated that while a petition may be flawed as the certificate of non-forum shopping was signed only by counsel and not by the party, such procedural lapse may be overlooked in the interest of substantial justice.[40]

Here, the affidavit of non-forum shopping was signed by petitioner's counsel. Upon receipt of the resolution of the CA, however, which dismissed its petition for non-compliance with the rules on affidavit of non-forum shopping, petitioner submitted, together with its motion for reconsideration, an affidavit signed by petitioner's president in compliance with the said rule.[41] We deem this to be sufficient especially in view of the merits of the case, which may be considered as a special circumstance or a compelling reason that would justify tempering the hard consequence of the procedural requirement on non-forum shopping.[42]

Which brings us to the other issue of whether or not the CTA should have granted petitioner's claim for refund.

The general rule is that claimants of tax refunds bear the burden of proving the factual basis of their claims.[43] This is because tax refunds are in the nature of tax exemptions, the statutes of which are construed strictissimi juris against the taxpayer and liberally in favor of the taxing authority.[44] Taxes are the lifeblood of the nation, therefore statutes that allow exemptions are construed strictly against the grantee and liberally in favor of the government.[45]

In this case, there is no dispute that petitioner is entitled to exemption from the payment of excise taxes by virtue of its being an EPZA registered enterprise.[46] As stated by the CTA, the only thing left to be determined is whether or not petitioner is entitled to the amount claimed for refund.[47]

Petitioner's entire claim for refund, however, was denied for petitioner's failure to present

invoices allegedly in violation of CTA Circular No. 1-95. But nowhere in said Circular is it stated that invoices are required to be presented in claiming refunds. What the Circular states is that:

> 1. The party who **desires** to introduce as evidence such voluminous documents must present: (a) Summary containing the total amount/s of the tax account or tax paid for the period involved and a chronological or numerical list of the numbers, dates and amounts covered by the invoices or receipts; and (b) a Certification of an independent Certified Public Accountant attesting to the correctness of the contents of the summary after making an examination and evaluation of the voluminous receipts and invoices. Such summary and certification must properly be identified by a competent witness from the accounting firm. (*Emphasis supplied*)

The CTA in denying petitioner's motion for reconsideration, also mentioned for the first time that petitioner's failure to present "a certification of an independent CPA" is another ground that justified the denial of its claim for refund.

Again, we find such reasoning to be erroneous. The certification of an independent CPA is not another mandatory requirement under the Circular which petitioner failed to comply with. It is rather a requirement that must accompany the invoices should one decide to present invoices under the Circular. Since petitioner did not present invoices, on the assumption that such were not necessary in this case, it logically did not present a certification because there was nothing to certify.

The CTA also could not deny that in its previous decisions involving petitioner's claims for refund, invoices were not deemed necessary to grant such claims. It merely said that in said decisions, CTA Circular No. 1-95 was not yet in effect.[48] Since CTA Circular No. 1-95 did not make it mandatory to present invoices, coupled with the previous cases of petitioner where the certifications issued by Petron sufficed, it is understandable that petitioner did not think it necessary to present invoices and the accompanying certifications when it filed the present case for refund before the CTA.

Even then, petitioner, in its motion for reconsideration, asked the CTA for an opportunity to present invoices to substantiate its claims. But this was denied by the CTA explaining that its prayer to present additional evidence partakes of the nature of a motion for new trial under Section 1, Rule 37 of the Rules of Court. The CTA held that under such rule, failure to present evidence already existing at the time of trial does not warrant the grant of a new trial because such evidence is not newly discovered but is more in the nature of forgotten evidence which is not excusable.[49]

On this point, we agree with the dissenting opinion of CTA Presiding Judge Ernesto D. Acosta who stated that:

> The reason advanced by the Petitioner…that they thought the presentation by

> the Manager of Petron Corporation of a duly notarized certification (supporting the schedules of invoices), coupled with testimonies of witness, Mrs. Sylvia Osorio of Petron Corporation, are enough to prove their case… could easily fall under the phrase "mistake or excusable negligence" as a ground for new trial under Sec. 1(a) of Rule 37 and not under the phrase "newly discovered evidence" as stated in our said resolution. The denial of this motion is too harsh considering that this case is only civil in nature, govern (sic) merely by the rule on preponderance of evidence.[50]

Sec. 1, Rule 37 of the Rules of Court provides as follows:

> SECTION 1. *Grounds of and period for filing motion for new trial or reconsideration.*--- Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:
>
> (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or
>
> (b) Newly discovered evidence, which could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.

…

It is true that petitioner could not move for new trial on the basis of newly discovered evidence because in order to have a new trial on the basis of newly discovered evidence, it must be proved that: (a) the evidence was discovered after the trial; (b) such evidence could not have been discovered and produced at the trial with reasonable diligence; (c) it is material, not merely cumulative, corroborative or impeaching; and (d) it is of such weight that, if admitted, will probably change the judgment.[51] This does not mean however, that petitioner is altogether barred from having a new trial. As pointed out by Judge Acosta, the reasons put forth by petitioner could fall under mistake or excusable negligence.

The "mistake" that is allowable in Rule 37 is one which ordinary prudence could not have guarded against.[52] Negligence to be "excusable" must also be one which ordinary diligence and prudence could not have guarded against and by reason of which the rights of an aggrieved party have probably been impaired.[53] The test of excusable negligence is whether a party has acted with ordinary prudence while transacting important business.[54]

In this case, it cannot be said that petitioner did not act with ordinary prudence in claiming its refund with the CTA, in light of its previous cases with the CTA which did not require

invoices and the non-mandatory nature of CTA Circular No. 1-95.

Respondent also argues that petitioner's motion for new trial was filed out of time and should therefore be dismissed in view of Sec. 1, Rule 37 and Sec. 4, Rule 43 of the Rules of Court.

Sec. 1, Rule 37 provides that:

> Section 1. *Grounds of and period for filing motion for new trial or reconsideration.*--- Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial …

and Sec. 4, Rule 43 holds that:

> Section 4. *Period of appeal.* --- The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency *a quo*. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

It is borne by the records however that in its first motion for reconsideration duly filed on time, petitioner had already prayed that it be allowed to present and offer the pieces of evidence deemed lacking by the CTA in its Decision dated August 11, 1998.[55] Thus, while it named its pleading as a Motion for New Trial only in its motion dated January 25, 1999, petitioner should not be deemed to have moved for new trial only at such time.

We reiterate the fundamental principle that technical rules of procedure are not ends in themselves but are primarily designed to aid in the administration of justice.[56] And in cases before tax courts, Rules of Court applies only by analogy or in a suppletory character and whenever practicable and convenient shall be liberally construed in order to promote its objective of securing a just, speedy and inexpensive disposition of every action and proceeding.[57] The quest for orderly presentation of issues is not an absolute.[58] It should not bar the courts from considering undisputed facts to arrive at a just determination of a controversy.[59] This is because, after all, the paramount consideration remains the ascertainment of truth.[60] Section 8 of R.A. No. 1125 creating the CTA also expressly provides that it shall not be governed strictly by technical rules of evidence.[61]

Since it is not disputed that petitioner is entitled to tax exemption, it should not be precluded from presenting evidence to substantiate the amount of refund it is claiming on mere technicality especially in this case, where the failure to present invoices at the first instance was adequately explained by petitioner.

As we pronounced in *BPI-Family Savings Bank, Inc. vs. Court of Appeals:*[62]

> …Technicalities and legalisms, however exalted, should not be misused by the government to keep money not belonging to it and thereby enrich itself at the expense of its law-abiding citizens. If the State expects its taxpayers to observe fairness and honesty in paying their taxes, so must it apply the same standard against itself in refunding excess payments of such taxes. Indeed, the State must lead by its own example of honor, dignity and uprightness.[63]

WHEREFORE, the petition is GRANTED. The assailed resolution is SET ASIDE and the case REMANDED to the Court of Tax Appeals for the reception of evidence, particularly invoices supporting the schedules of petroleum products sold and delivered to petitioner by Petron and the corresponding certification of an independent Certified Public Accountant, for the proper and immediate determination of the amount to be refunded to petitioner.

SO ORDERED.

Puno, (Chairman), Callejo, Sr., Tinga, and *Chico-Nazario, JJ.,* concur.

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[1] BPI-Family Savings Bank, Inc. vs. Court of Appeals, G.R. No. 122480, April 12, 2000, 330 SCRA 507.

[2] *Rollo*, pp. 17-18, 48.

[3] *Id*., pp. 54, 236.

[4] *Id*., pp. 18, 63.

[5] *Id*., pp. 53-56.

[6] *Rollo*, pp. 53-56.

[7] *Id*., p. 56.

[8] Philippine Phosphate Fertilizer Corporation vs. Commissioner of Internal Revenue,

CTA Case No. 4993; Philippine Phosphate Fertilizer Corporation vs. Commissioner of Internal Revenue, CTA Case No. 4654; and Philippine Phosphate Fertilizer Corporation vs. Commissioner of Customs, CTA Case No. 4994.

[9] *Rollo*, pp. 149-152.

[10] *Rollo,* pp. 59-61.

[11] *Id.*, p. 63.

[12] *Id.*, pp. 62-63.

[13] *Id.*, pp. 154-157.

[14] *Id.*, pp. 64-65.

[15] *Id.*, p. 12.

[16] *Id.*, p. 10.

[17] *Rollo*, p. 21.

[18] *See* note 8.

[19] *Rollo*, pp. 21-25.

[20] G.R. No. 124711, November 3, 1998, 298 SCRA 378, 385-386.

[21] G.R. No. 117186, June 29, 1995, 245 SCRA 477, 483-484.

[22] No. L-30592, February 25, 1982, 112 SCRA 159.

[23] *Rollo*, p. 26.

[24] *Id.*, pp. 214-216.

[25] *Id.*, p. 216.

[26] Melo vs. Court of Appeals, G.R. No. 123686, November 16, 1999, 318 SCRA 94, 103.

[27] Chan vs. Regional Trial Court of Zamboanga del Norte in Dipolog City, Br. 9, G.R. No. 149253, April 15, 2004, 427 SCRA 796, 806.

[28] *Ibid.*

[29] *Id.*, pp. 806-807.

[30] *Id.*, p. 808.

[31] G.R. No. 130068, October 1, 1998, 297 SCRA 30.

[32] *Id.*, p. 53.

[33] *Ibid.*

[34] G.R. No. 115755, December 4, 2000, 346 SCRA 714.

[35] *Id.*, pp. 720-721.

[36] *Id.*, p. 721.

[37] G.R. No. 148635, April 1, 2003, 400 SCRA 255.

[38] *Id.*, p. 262.

[39] G.R. No. 136233, November 23, 2000, 345 SCRA 673.

[40] *Id.,* p. 684.

[41] See *Rollo,* pp. 10, 12.

[42] Twin Towers Condominium Corp. vs. Court of Appeals, G.R. No. 123552, February 27, 2003, 398 SCRA 203, 212.

[43] Commissioner of Internal Revenue vs. Seagate Technology, G.R. No. 153866, February 11, 2005.

[44] *Ibid.*

[45] Davao Gulf Lumber Corp. vs. Commissioner of Internal Revenue, G.R. No. 117359,

July 23, 1998, 293 SCRA 76, 77.

[46] *Rollo*, p. 48.

[47] *Id.*, p. 53.

[48] *Rollo*, p. 59.

[49] *Id.*, pp. 60-61.

[50] *Id.*, pp. 62-63.

[51] Custodio vs. Sandiganbayan, G.R. Nos. 96027-28, March 8, 2005.

[52] Viking Industrial Corp. vs. Court of Appeals, G.R. No. 143794, July 13, 2004, 434 SCRA 223.

[53] Air Phils. Corp. vs. International Business Aviation Services Phils. Inc., G.R. No. 151963, September 9, 2004, 438 SCRA 51, 66.

[54] *Ibid.*

[55] *Rollo,* p. 52.

[56] AB Leasing and Finance Corp. vs. Commissioner of Internal Revenue, G.R. No. 138342, July 8, 2003, 405 SCRA 380, 388.

[57] Calamba Steel Center, Inc. vs. Commissioner of Internal Revenue, G.R. No. 151857, April 28, 2005.

[58] BPI case, *supra* at p. 515.

[59] *Ibid.*

[60] *Ibid.*

[61] Sec. 8. *Court of record; seal; proceedings*. --- The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings

shall not be governed strictly by technical rules of evidence.

[62] G.R. No. 122480, April 12, 2000, 330 SCRA 507, 509-510.

[63] *Id*., p. 518.

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