Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

SUPREME COURT OF THE PHILIPPINES
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NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **March 11, 2019** *which reads as follows:*

"G.R. No. 233581 ***(Filminera Resources Corporation v. Commissioner of Internal Revenue)***

Before the Court is a Petition for Review on *Certiorari*[1] assailing the March 24, 2017 Court of Tax Appeals *(CTA)* En Banc Decision[2] and the July 19, 2017 Resolution[3] in CTA EB No. 1394, which affirmed the August 3, 2015 CTA Second Division Decision[4] and the November 11, 2015 Resolution[5] in CTA Case No. 8666 denying the claim for refund of petitioner Filminera Resources Corporation.

The crux of the controversy lies on the admission of a vital document necessary for the claim of refund of petitioner Filminera Resources Corporation.

The facts are uncontroverted.

Petitioner filed a claim for a refund of its alleged excess input value- added tax *(VAT)* in the amount of ₱51,966,544.20 for the period covering January 1, 2011 to March 31, 2011 for fiscal year ending in June 30, 2011.[6]

- over – eight (8) pages ...

[1] *Rollo*, pp. 12-30.
[2] Id. at 36-47 & 48-49; penned by Associate Justice Ma. Belen M. Ringpis-Liban, and concurred in by Associate Justices Juanito C. Castañeda, Jr. Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla and Catherine T. Manahan, with a Concurring Opinion from Presiding Justice Roman G. Del Rosario.
[3] Id. at 50-52.
[4] Penned by Associate Justice Amelia R. Cotangco-Manalastas, concurred in by Associate Justices Juanito C. Castañeda and Caesar A. Casanova. *http://cta.judiciary.gov.ph/decres_caseno*
[5] Id.
[6] *Rollo*, p. 37.

The CTA, both the Division and en banc, found that petitioner was able to prove the existence of excess input VAT amounting to ₱49,489,584.45. However, the CTA Division found no evidence that the subject claim was deducted from the total allowable input VAT, as no amount was indicated in the portion "VAT refund/TCC claimed" of BIR Form 2550Q for the first quarter of 2012, which creates an impression that petitioner still had the input VAT in its books of accounts and is available as a credit against its future output VAT liability.[7]

In its motion for reconsideration,[8] petitioner attached an amended BIR Form 2550Q for the first quarter of 2012 (Annex "P-1") which shows an entry on the space for VAT refund/TCC claimed in the amount of ₱360,739,406.51.[9]

The CTA Division nevertheless denied the motion. It held that Annex "P-1" cannot be admitted to form part of the record of the case. Although the appellate court recognized that additional evidence may be allowed when it is newly discovered, or where it has been omitted through inadvertence or mistake, or where the purpose of the evidence is to correct evidence previously offered, it still denied the admission of the additional evidence as it found that there was no allegation that Annex "P-1" was not available during trial and petitioner neither claims any mistake/inadvertence of its omission to present the documents subject herein, nor alleges any intention to correct evidence previously offered.[10]

The appeal to the CTA en banc was denied for lack of merit. On the basis of Section 34, Rule 32 of the Rules of Court and the case of *Heirs of the Deceased Carmen Cruz-Zamora v. Multiwood International, Inc.*[11] where this Court held that the offer of evidence is necessary because it is the duty of the court to rest its findings of fact and its judgment only and strictly upon the evidence offered by the parties, the CTA en banc affirmed the denial of admission of Annex "P-1." It strongly adhered to the well-settled rule that actions for tax refund, as in this case, are in the nature of a claim for exemption and the law is construed in *strictissimi juris* against the taxpayer.[12]

Petitioner's motion for reconsideration was likewise denied.

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[7] Id. at 43-44.
[8] Id. at 53-68.
[9] Id. at 65.
[10] Supra note 5.
[11] 596 Phil. 150, 159 (2009).
[12] *Rollo*, p. 46.

Hence, this petition.

The Courts Ruling

We GRANT the petition.

At the outset, it is undisputed that petitioner had substantially proven the existence of excess input VAT amounting to ₱49,489,584.45 for the period covering January 1, 2011 to March 31, 2011 for fiscal year ending in June 30, 2011. However, the question as to whether the said excess input VAT was utilized or carried over as credit to the succeeding quarters may only be resolved upon final determination of the admissibility of Annex "P-1."

The CTA chose to err on the side of caution in deciding to deny the admission of the document which would prove the remaining issue on the entitlement to a refund of petitioner. The CTA was looking for a specific allegation of inadvertence or the intention to correct the evidence previously offered, which petitioner failed to state in its motion for reconsideration.

We, however, rule that substantial justice would justify the admission of the Annex "P-1" in favor of petitioner.

Section 8 of Republic Act (RA) No. 1125 or An Act Creating the Court of Tax Appeals, as amended by RA No. 9282, specifically provides:

> Section 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.** (emphasis ours)

Clearly, liberal application of technical rules of evidence is generally allowed in proceedings before the CTA.

Contrary to the cited jurisprudence of the CTA, We found a more appropriate ruling of this Court on the matter of admission of belatedly submitted evidence. In *BPI-Family Savings Bank, Inc. v. Court of Appeals, et al.*,[13] the taxpayer was able to prove that it had excess withholding taxes for the year 1989 and was, thus, entitled to a refund amounting to ₱112,491.00. The CTA and the CA, however,

[13] 386 Phil. 719, 724-725 (2000).

denied the claim for tax refund. Since petitioner declared in its 1989 Income Tax Return that it would apply the excess withholding tax as a tax credit for the following year, the tax court held that petitioner was presumed to have done so. The CTA and the CA ruled that petitioner failed to overcome this presumption because it did not present its 1990 Return, which would have shown that the amount in dispute was not applied as a tax credit. However, a copy of the Final Adjustment Return for 1990 was attached to petitioner's Motion for Reconsideration filed before the CTA. Thus, the Court has held:

> True, strict procedural rules generally frown upon the submission of the Return after the trial. The law creating the Court of Tax Appeals, however, specifically provides that proceedings before it "shall not be governed strictly by the technical rules of evidence." The paramount consideration remains the ascertainment of truth. Verily, the quest for orderly presentation of issues is not an absolute. It should not bar courts from considering undisputed facts to arrive at a just determination of a controversy.
>
> In the present case, the Return attached to the Motion for Reconsideration clearly showed that petitioner suffered a net loss in 1990. Contrary to the holding of the CA and the CTA, petitioner could not have applied the amount as a tax credit. In failing to consider the said Return, as well as the other documentary evidence presented during the trial, the appellate court committed a reversible error.
>
> It should be stressed that the rationale of the rules of procedure is to secure a just determination of every action. They are tools designed to facilitate the attainment of justice. But there can be no just determination of the present action if we ignore, on grounds of strict technicality, the Return submitted before the CTA and even before this Court. To repeat, the undisputed fact is that petitioner suffered a net loss in 1990; accordingly, it incurred no tax liability to which the tax credit could be applied. Consequently, there is no reason for the BIR and this Court to withhold the tax refund which rightfully belongs to the petitioner.
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>
> Finally, respondents argue that tax refunds are in the nature of tax exemptions and are to be construed *strictissimi juris* against the claimant. Under the facts of this case, we hold that petitioner has established its claim. Petitioner may have failed to strictly comply with the rules of procedure; it may have even been negligent. These circumstances, however, should not compel the Court to disregard this cold, undisputed fact: that petitioner suffered a net loss in 1990, and that it could not have applied the amount claimed as tax credits.

> Substantial justice, equity and fair play are on the side of petitioner. 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.[14] (citations omitted)

Similarly, in *CIR v. Ironcon Builders and Development Corporation*,[15] We have held:

> The rule is that before a refund may be granted, respondent Ironcon must show that it had not used the creditable amount or carried it over to succeeding taxable quarters. Originally, the CTA's Second Division said in its January 5, 2006 decision that Ironcon's failure to offer in evidence its quarterly returns for 2001 was fatal to its claim. Ironcon filed a motion for reconsideration, attaching its 2001 returns, and, at the hearing of the motion, had these returns marked as Exhibits "A-1," "B-1," "C-1," and "D-1". Petitioner CIR argues that these Exhibits should be deemed inadmissible considering that they were offered only after trial had ended and should be treated as forgotten evidence.
>
> Citing *BPI-Family Savings Bank v. Court of Appeals*, the CTA ruled that once a claim for refund has been clearly established, it may set aside technicalities in the presentation of evidence. Petitioner CIR points out, however, that the present case is not on all fours with *BPI*. The latter case dealt with the refund of creditable income taxes withheld, for which the NIRC specifically grants taxpayers the option to apply for refund of any excess.
>
> But, considering the CTA's finding in the present case that Ironcon had excess creditable VAT withheld for which it was entitled to a refund, it makes no sense to deny Ironcon the benefit of the *BPI* ruling that overlooks technicalities in the presentation of evidence. In *BPI*, this Court admitted an exhibit attached to the claimant's motion for reconsideration, even if the claimant submitted it only after the trial.
>
> > [The claimant] may have failed to strictly comply with the rules of procedure; it may have even been negligent. These circumstances, however, should not compel the Court to disregard this cold, undisputed fact: that [the claimant] x x x could not have applied the amount claimed as tax credits.
>
> Substantial justice dictates that the government should not keep money that does not belong to it at the expense of citizens.

[14] Id. at 726-729.
[15] 625 Phil. 644 (2010).

> Since he ought to know the tax records of all taxpayers, petitioner CIR could have easily disproved the claimant's allegations. That he chose not to amounts to a waiver of that right. Also, the CIR failed in this case to make a timely objection to or comment on respondent Ironcon's offer of the documents in question despite an opportunity to do so. Taking all these circumstances together, it was sufficiently proved that Ironcon's excess creditable VAT withheld was not carried over to succeeding taxable quarters.[16]

In this case, there is no doubt that petitioner was able to prove its excess input VAT. The amended BIR Form 2550Q for the first quarter of 2012 shows that petitioner has a VAT refund/TCC claim in the total amount of ₱360,739,406.52 which is inclusive of the proven excess input VAT of ₱49,489,584.45 for the period January to March 2011. Additionally, in its Formal Offer of Evidence, although it had attached the original BIR 2550Q for the 1st quarter of fiscal year 2012, the intention to show that petitioner has deducted in its allowable input VAT the originally claimed ₱51,966,544.20 was apparent when it mentioned the purpose of offering Annex "P-19," to wit:

P-19	BIR FORM 2550Q for 1st Quarter of FY 2012 (July 2010 to September 2010)	To prove that Filminera Resources Corporation has properly reflected in its Quarterly VAT Return the input VAT being claimed which has not been applied against output taxes in the amount of Php 51,966,544.20 which was already paid and incurred. To prove that the amount of Php 51,966,544.20 was deducted from the allowable input tax and was classified as VAT refund/TCC Claimed of the 1st Quarter VAT Return.[17]

A careful scrutiny of Annex "P-19" shows that there is nothing indicated on the spaces provided for "VAT refund/TCC claimed," thus, it could not serve the very purpose of offering the said exhibit, and consequently it was the basis of the CTA Division in denying the claim. However, upon the presentation of the amended form which was attached as Annex "P-1" in petitioner's Motion for Reconsideration, it became clear and evident that it was the form that petitioner was referring to in its Formal Offer of Evidence. Therefore, we see no reason to deprive petitioner of what is rightfully theirs only because the aforesaid amended BIR Form was belatedly submitted.

[16] Id. at 650-651.
[17] *Rollo*, p. 68.

This is not to say that we should overlook the government's right to due process by allowing the admission of the document without petitioner having formally offered the same and without giving the CIR the chance to examine its due execution and authenticity. In admitting Annex "P-1," We bear in mind that this form was submitted to the BIR thru its electronic filing and payment system (eFPS), thus, it has every opportunity to verify through its system the veracity of the attached document.

It is worthy to reiterate that substantial justice dictates that the government should not keep money that does not belong to it at the expense of citizens.[18] 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.[19]

As a consequence, with the admission of Annex "P-1" petitioner is now entitled to a refund of excess input VAT amounting to ₱49,489,584.45 for the period covering January 1, 2011 to March 31, 2011 for fiscal year ending in June 30, 2011.

WHEREFORE, the petition is **GRANTED**.

SO ORDERED."

Very truly yours,

LIBRADA C. BUENA
Division Clerk of Court

266

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[18] *CIR v. Ironcon Builders and Development Corporation*, supra note 15 at 651.
[19] *BPI v. CA, et al.*, supra note 13 at 729.

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266

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