



Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated April 19, 2023 which reads as follows:

“G.R. No. 217940 (*United Coconut Planters Bank (UCPB) [substituted by Land Bank of the Philippines] vs. Commissioner of Internal Revenue*). — This is an Appeal by *Certiorari*¹ seeking to reverse and set aside the November 12, 2014 Decision² and the April 22, 2015 Resolution³ of the Court of Tax Appeals *En Banc* (CTA *En Banc*) in CTA EB Case No. 1108. The CTA *En Banc* affirmed the May 31, 2013 Decision⁴ and the November 26, 2013 Resolution⁵ of the CTA Special First Division (CTA *Division*) in CTA Case No. 8274.

Antecedents

The instant case traces its roots from a claim for refund or issuance of a tax credit certificate (*TCC*) filed under Section 229 of the National Internal Revenue Code (*NIRC*) of 1997, as amended. United Coconut Planters Bank (*petitioner*) is a corporation formed to operate under an expanded commercial bank authority; and by virtue thereof, to exercise the powers authorized for commercial banks, the powers of investment houses, and the authority to invest in the equity of allied and non-allied undertakings in accordance with pertinent laws, rules, and regulations. It is registered with the Bureau of

¹ *Rollo*, pp. 9-50.

² *Id.* at 56-66; penned by Associate Justice Caesar A. Casanova and concurred in by Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Cielito N. Mindaro-Grulla, Amelia R. Cotangco-Manalastas, and Ma. Belen M. Ringpis-Liban; Esperanza R. Fabon-Victorino, on leave.

³ *Id.* at 51-55; penned by Associate Justice Caesar A. Casanova and concurred in by Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, Amelia R. Cotangco-Manalastas, and Ma. Belen M. Ringpis-Liban.

⁴ *Id.* at 72-94; penned by Associate Justice Erlinda P. Uy and concurred in by Associate Justice Esperanza R. Fabon-Victorino.

⁵ *Id.* at 68-70.

Internal Revenue (*BIR*) per its Certificate of Registration No. OCN8RC0000019221.⁶

On April 17, 2009, petitioner filed its Annual Income Tax Return (*ITR*) for the taxable year 2008. It filed an amended Annual ITR for the same year on June 17, 2009 and September 14, 2009, respectively.⁷

On April 13, 2011, petitioner filed an administrative claim for the issuance of a TCC for its purported unutilized creditable withholding taxes (*CWT*) for 2008 amounting to ₱65,033,972.00 with the BIR Large Taxpayer Regular Audit Division II. Two days later, or on April 15, 2011, petitioner filed a Petition for Review with the CTA.⁸

The Commissioner of Internal Revenue (*respondent*) filed an Answer on May 26, 2011 objecting to petitioner's claim for tax refund. The parties entered into a Joint Stipulation of Facts and Issues and Supplemental Joint Stipulation of Facts and Issues on July 28, 2011 and August 8, 2011, respectively. The CTA Division approved the same in its August 17, 2011 Resolution and thereafter, terminated the pre-trial.⁹

On November 15, 2011, the CTA Division commissioned an independent certified public accountant (*ICPA*) to verify and issue a report on petitioner's claim for refund. Court-commissioned ICPA Emmanuel Y. Mendoza submitted a report¹⁰ dated December 15, 2011 and a supplement¹¹ thereto dated March 8, 2012. The ICPA reported that petitioner had a valid claim for refund in the amount of ₱56,264,511.95 of CWTs, as opposed to the amount of ₱65,033,972.00 which the latter claimed.¹²

CTA Division Ruling

On May 31, 2013, the CTA Division rendered its Decision denying the petition for lack of merit. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit.

SO ORDERED.¹³

⁶ Id. at 56-57.

⁷ Id. at 57.

⁸ Id.

⁹ Id. at 57-61.

¹⁰ Id. at 224-344.

¹¹ Id. at 346-369.

¹² Id. at 224 and 346-347.

¹³ Id. at 93.

The CTA Division held that petitioner was not able to prove that it was entitled to the entire amount of CWT it claimed. Likewise, the CTA Division ruled that petitioner was unable to show that the income upon which the CWTs were withheld was included in its 2008 ITR. Petitioner should have presented the detailed items found in its General Ledger, reconciliation schedules, or other documents that would have enabled the CTA Division to trace the discrepancy and determine with certainty that the income payments related to the claimed CWT formed part of the taxable gross income of its 2008 ITR.¹⁴ The CTA Division also stated that the report of the ICPA does not bind the court because the report merely served as a tool or guide to aid in the resolution of the case. Thus, petitioner had the burden of proof to establish the basis for its tax credit or refund. Since tax refunds are in the nature of tax exemptions, they are strictly construed against the person or entity claiming the refund.¹⁵

Petitioner filed a Motion for Reconsideration on July 10, 2013,¹⁶ but the same was denied by the CTA Division in its November 26, 2013 Resolution. Aggrieved, petitioner elevated the matter to the CTA *En Banc* through a Petition for Review.

CTA *En Banc* Ruling

In its assailed November 12, 2014 Decision, the CTA *En Banc* dismissed the Petition for Review and affirmed the CTA Division's Decision and Resolution. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the present Petition for Review is hereby **DENIED**, and accordingly, **DISMISSED** for lack of merit.

SO ORDERED.¹⁷

The CTA *En Banc* noted that petitioner did not refute the CTA Division's findings on the following: that it had CWT withheld in 2008 in the amount of ₱65,033,972.00; that it had sufficiently complied with the two-year prescriptive period under Sec. 204(C) in relation to Sec. 229 of the NIRC; and that it was only able to substantiate the amount of ₱64,923,755.13 of CWTs for 2008. As such, the only issue left to be resolved by the CTA *En Banc* was whether petitioner's income, upon which the taxes were withheld, was included in its return. The CTA *En Banc* found no reversible error and concurred with the observation and conclusion of the CTA Division that

¹⁴ Id. at 87-92.

¹⁵ Id. at 92-93.

¹⁶ Id. at 68.

¹⁷ Id. at 65.

petitioner should have presented a detailed General Ledger, the reconciliation schedules, or other documents through which the court could have traced the discrepancy and determine with certainty that the income payments related to the CWT were included in the ITR for 2008. Petitioner's failure to do so was fatal to its claim.¹⁸

Petitioner filed a Motion for Reconsideration¹⁹ and a Supplemental Motion for Reconsideration,²⁰ however, these were all denied by the CTA *En Banc* for lack of merit.

Hence, this petition for review on *certiorari*, which essentially raises the following issues:

- (1) Whether the CTA *En Banc* erred in not relying on the report of the court-commissioned ICPA which amounts to violation of petitioner's right to due process;
- (2) Whether the jurisprudential rule that "tax refunds are in the nature of tax exemptions to be strictly construed against the taxpayer" should not apply in this case;
- (3) Whether the CTA *En Banc* has the power to impose conflicting evidentiary requirements to taxpayer-claimants;
- (4) Whether the CTA *En Banc* erred in ruling that petitioner is not entitled to the issuance of a TCC for its unutilized CWT amounting to ₱65,033,972.00.²¹

Petitioner argues the following points: *first*, that its right to due process was violated when the CTA rejected the findings of the ICPA without being given the opportunity to present additional evidence. The ICPA clearly stated in its report that the income payments and losses related to the CWT formed part of the declared income/loss on petitioner's ITR. Thus, petitioner claims that it could not be faulted if it relied on the report of the court-commissioned ICPA. Petitioner adds that it should have been notified if the court found the report unsatisfactory so it could submit additional evidence, if necessary.²²

Second, petitioner asserts that the strict construction of tax refunds should not apply in this case as it does not question its liability for tax, only that there are excess payments resulting from the imposition of a withholding tax system. It argued that the Court has held that a tax refund on erroneous or

¹⁸ Id. at 64-65.

¹⁹ Id. at 95-107.

²⁰ Id. at 108-131.

²¹ Id. at 19.

²² Id. at 23-26.

excess payment of tax merely necessitates preponderance of evidence as such erroneous payment is founded on the principle of *solution indebiti*.²³ Petitioner further points out that the CTA *En Banc* itself acknowledged the sufficiency of evidence submitted by the former in its April 22, 2015 Resolution which states that the documents “could have successfully proven that the income related to the creditable withholding tax claim actually formed part of Petitioner’s gross income reported in its Annual ITR for the taxable year 2008.”²⁴ However, the CTA *En Banc* denied the claim of petitioner as it adhered strictly to the procedural rules on formal offer of evidence.²⁵

Third, petitioner questions the conflicting evidentiary requirements imposed by the CTA in various cases. For claims of refund or issuance of TCC for unutilized CWT, no specific set of rules have been established which taxpayers should follow in order to prove entitlement to their claims.²⁶

Fourth, petitioner stated that it would have been able to prove its entitlement to a refund if not for the CTA’s refusal to accept the documents it attached. Petitioner then posits that the CTA should have remanded the case to the court of origin so as not to be denied to what it is legally due by a mere technicality.²⁷

In its Comment,²⁸ respondent argues that petitioner’s right to due process was not violated as the CTA is not bound by the findings of the ICPA since the former is mandated to independently evaluate or assess the merits of each case. Further, petitioner was able to present evidence and participate in various stages of the proceedings. There was nothing that prohibited it from presenting additional documents during that time. The burden of proof resides with petitioner to establish the basis of its claim for refund or TCC to the court; at the same time, the CTA cannot be faulted for strictly adhering to the procedural rules on formal offer of evidence.²⁹ Finally, respondent avers that the present petition should be dismissed outright due to noncompliance with the requirements of Secs. 4 and 5, Rule 45 of the Rules of Court.³⁰

In its Reply,³¹ petitioner reiterates its arguments, stating that the non-reliance by the CTA on the findings of the ICPA, who is a court-commissioned officer, constitutes a violation of its right to due process. If the ICPA committed a mistake on his report, petitioner should not be faulted for

²³ Id. at 26-30

²⁴ Id. at 53.

²⁵ Id. at 32-34.

²⁶ Id. at 35-40.

²⁷ Id. at 40-42.

²⁸ Id. at 738-761.

²⁹ Id. at 750-752.

³⁰ Id. at 756-757.

³¹ Id. at 764-778.

its reliance thereon.³² Further, it is precisely the denial by the CTA to consider additional documents submitted in support of its claims that violates petitioner's due process right.³³ Finally, petitioner argues that contrary to respondent's assertions, it complied with the requirements of Secs. 4 and 5, Rule 45 of the Rules of Court.³⁴

The Court's Ruling

The petition lacks merit.

The findings of the ICPA are not binding on the CTA.

Sec. 1, Rule 13 of A.M. No. 05-11-07-CTA or the Revised Rules of the CTA (*Revised CTA Rules*) allows a party to secure the services of an ICPA at its own expense. It states:

Section 1. *Appointment of Independent Certified Public Accountant (CPA)*. — A party desiring to present voluminous documents in evidence before the Court may secure the services of an independent Certified Public Accountant (CPA) at its own expense. The Court shall commission the latter as an officer of the Court solely for the purpose of performing such audit functions as the Court may direct.

The duties of the ICPA include, among others, the making of findings as to compliance with substantiation requirements under pertinent tax laws, regulations, and jurisprudence, and the submission of a formal report with certification of authenticity and veracity of findings and conclusions in the performance of the audit.³⁵ Meanwhile, Sec. 3, Rule 13 of the Revised CTA Rules provides:

Section 3. *Findings of Independent CPA*. — The submission by the independent CPA of pre-marked documentary exhibits shall be subject to verification and comparison with the original documents, the availability of which shall be the primary responsibility of the party possessing such documents and, secondarily, by the independent CPA. **The findings and conclusions of the independent CPA may be challenged by the parties and shall not be conclusive upon the Court**, which may, in whole or in part, adopt such findings and conclusions subject to verification. (Emphasis supplied)

³² Id. at 765-772.

³³ Id. at 773-774.

³⁴ Id. at 774-775.

³⁵ Revised Rules of the Court of Tax Appeals (A.M. No. 05-11-07-CTA), Rule 13, Sec. 2(d) and (e). Approved on November 22, 2005.

It is quite clear from the Revised CTA Rules that the findings of the ICPA are not binding upon the CTA even though the former is an officer commissioned by the court. As stated in Sec. 3, the findings and conclusions of the ICPA may be challenged by the parties and shall not be conclusive upon the CTA. Notably, the provision used the word “may” regarding the adoption of the findings of the ICPA. It is a settled doctrine in statutory construction that the word “may” denotes discretion and cannot be construed as having a mandatory effect.³⁶

Accordingly, the CTA is not obliged to follow the findings and conclusions of the ICPA. The functions of the CTA would be rendered nugatory if it is bound to follow the recommendations made by the ICPA. At best, the findings of the ICPA in its report are merely recommendatory and non-binding, and the CTA can either adopt, modify, or reject such findings or can even return the report to the ICPA for further study. Thus, petitioner cannot insist that the CTA should strictly rely on the findings of the ICPA, as the CTA must make its own independent assessment and arrive at its own conclusions based on the facts and evidence submitted.

Further, petitioner’s argument that the CTA has a duty to inform it of the court’s evaluation of the ICPA’s findings and give it an opportunity to present new evidence, is misplaced. The burden of establishing the factual basis of a claim for a refund rests on the taxpayer.³⁷ Petitioner should have had the foresight to introduce in evidence all of the documents needed to prove its claim.³⁸

Likewise, petitioner cannot argue that its right to due process has been violated. As pointed out by respondent, the essence of due process is the opportunity to be heard.³⁹ Petitioner was undeniably given the chance to present evidence. Petitioner was even allowed to belatedly tender evidence originally excluded when it failed to present original copies for comparison and submission.⁴⁰ Thus, petitioner cannot now claim its right to due process was violated simply because the CTA found, upon review, that the evidence it adduced was insufficient to prove its claim. Petitioner failed to present all the required evidence to prove its claim due to its own negligence. Hence, the CTA committed no error when it rejected the ICPA’s report and drew its conclusions based on its own factual findings.

³⁶ *Tolentino v. Court of Appeals*, 435 Phil. 39, 47 (2002).

³⁷ *Commissioner of Internal Revenue v. Far East Bank & Trust Company*, 629 Phil. 405, 418 (2010).

³⁸ *Atlas Consolidated Mining and Development Corp. v. Commissioner of Internal Revenue*, 551 Phil. 519, 556 (2007).

³⁹ See *Rizal Commercial Banking Corp. v. Commissioner of Internal Revenue*, 524 Phil. 524, 529 (2006).

⁴⁰ *Rollo*, p. 17.

*Petitioner is not entitled to the
issuance of a Tax Credit
Certificate.*

On the issue of whether petitioner is entitled to the issuance of a TCC, this Court notes that the resolution of such issue requires a review of the sufficiency of petitioner's evidence and the determination of the amount of refund. These are all questions of fact which are best left for the judicious determination by the CTA.⁴¹ This Court must reiterate the settled rule that only questions of law may be raised in a petition for review under Rule 45 of the Rules of Court. It is not this Court's function to analyze or weigh all over again the evidence already considered in the proceedings below as the Court's jurisdiction is limited to reviewing only errors of law that may have been committed by the lower courts.⁴² Further, it is doctrinal that the Court will not lightly set aside the conclusions reached by the CTA which, by the very nature of its function of being dedicated exclusively to the resolution of tax problems, has developed an expertise on the subject, unless there has been an abuse or improvident exercise of authority.⁴³

At any rate, the Court finds that the CTA did not seriously err in ruling that petitioner is not entitled to the issuance of a TCC in its favor. The basis of petitioner's application for refund is its unutilized CWT for 2008 amounting to ₱65,033,972.00. This is pursuant to Sec. 76 of the NIRC which states:

Section 76. *Final Adjustment Return.* – Every corporation liable to tax under Section 27 shall file a final adjustment return covering the total taxable income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable income of that year, the corporation shall either:

- (A) Pay the balance of tax still due; or
- (B) Carry-over the excess credit; or
- (C) Be credited or refunded with the excess amount paid, as the case may be.

In case the corporation is entitled to a tax credit or refund of the excess estimated quarterly income taxes paid, the excess amount shown on its final adjustment return may be carried over and credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable years. Once the option to carry-over and apply the excess quarterly income tax against income tax due for the taxable quarters of the succeeding taxable years has been made, such option shall be considered irrevocable for that taxable period and no application for cash refund or issuance of a tax credit certificate shall be allowed therefor.

⁴¹ *Fortune Tobacco Corp. v. Commissioner of Internal Revenue*, 762 Phil. 450, 460 (2015).

⁴² *Commissioner of Internal Revenue v. Philippine Bank of Communications*, G.R. No. 211348, February 23, 2022.

⁴³ *Commissioner of Internal Revenue v. Univation Motor Phils., Inc.*, 851 Phil. 1078, 1090-1091 (2019).

Thus, a taxpayer claiming for a tax credit or refund of creditable withholding tax must comply with the following requisites:

- 1) The claim must be filed with the Commissioner of Internal Revenue within the two (2)-year period from the date of payment of the tax;
- 2) It must be shown on the return of the recipient that the income received was declared as part of the gross income; and
- 3) The fact of withholding is established by a copy of a statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld.⁴⁴

The first requirement is based on Sec. 229 of the NIRC which provides that:

Section 229. *Recovery of Tax Erroneously or Illegally Collected.*— No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.

In *Commissioner of Internal Revenue v. Univation Motor Phils., Inc.*,⁴⁵ the Court held that the second and third requirements are specifically imposed under Sec. 2.58.3(B) of Revenue Regulations No. 2-98,⁴⁶ which states:

Section 2.58.3. *Claim for tax credit or refund.* — (B) Claims for tax credit or refund of any creditable income tax which was deducted and withheld on income payment shall be given due course only when it is shown that the income payments has been declared as part of the gross income and the fact of withholding is established by a copy of the

⁴⁴ *Commissioner of Internal Revenue v. Philippine Bank of Communications*, supra note 42.

⁴⁵ Supra at 1091.

⁴⁶ Implementing Republic Act No. 8424, "An Act Amending the National Internal Revenue Code, As Amended" Relative to the Withholding on Income Subject to the Expanded Withholding Tax and Final Withholding Tax, Withholding of Income Tax on Compensation, Withholding of Creditable Value-Added Tax and Other Percentage Taxes. Issued on April 17, 1998.

withholding tax statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld therefrom.

There is no dispute that petitioner complied with the first and third requirements. As to the second requisite – whether the income payments were declared as part of the gross income – petitioner explained that the bulk of the income subject of the CWTs in this case is from the sale of real and other properties acquired (*ROPA*), which were subjected to a 6% tax. The income that was recorded in the books for the sale of *ROPA* was the difference between the selling price and the book value of the asset. The amount subjected to CWT would then either be the gross selling price/total amount of consideration or the fair market value, whichever is higher. Consequently, it is not the amount subjected to CWT that is recorded in the books but the gain or loss from the sale of *ROPA*.⁴⁷ To illustrate this further, petitioner explained that its transactions involving the sale of *ROPA* were recorded in its daily transaction sheets and the total thereof was recorded in the General and Subsidiary Ledgers, specifically under Account Nos. 932400 and 932500. The total of the two accounts (₱187,184,635.82) was adjusted according to the accepted accounting standards. The resulting amount (₱191,117,028.56) was then reflected in petitioner's Statement of Income for the year ending on December 31, 2008, as provided in its Audited Financial Statement (*AFS*) for 2008. The adjusted balance of the trading and securities gain (₱79,933,387.74) was then added to the resulting amount of ₱191,117,028.56, for a total sum of ₱271,050,416.30. This is the amount reflected in petitioner's annual ITR for 2008.⁴⁸

Petitioner offered the following documents as evidence before the CTA: 1) 2008 Consolidated Trial Balance; 2) 2008 Income Tax Mapping; 3) 2008, 2009, and 2010 Annual ITRs; 4) 2008, 2009, and 2011 Quarterly ITRs; 5) Schedules and General and Subsidiary Ledgers; 6) Contract to Sell and/or Deed of Absolute Sale, as well as Transaction Sheet Registers; and 7) Reconciliation Between the Amounts of Revenue Reported in the General Ledger and Trial Balance and the 2008 Annual ITR.⁴⁹

However, the CTA Division and the CTA *En Banc* unanimously ruled that the pieces of evidence presented by petitioner were insufficient to prove that the income received was declared as part of the gross income as shown on the ITR of petitioner. They ruled, thus:

Upon perusal of the records, the Court finds that some of the income payments are in the General Ledger as they have been traced with their transaction sheet numbers. Partly, petitioner's argument is true.

⁴⁷ *Rollo*, pp. 856-858.

⁴⁸ *Id.* at 860-868.

⁴⁹ *Id.* at 92.

Notwithstanding, **petitioner still failed to present documents, i.e., reconciliation schedules of the Income Tax Return and General Ledger, that will indisputably prove that the income payments related to the claimed CWT indeed formed part of petitioner's gross income in its 2008 Annual Income Tax Return.** It is noteworthy that in the assailed Decision, the Court ruled as follows:

x x x The questioned income payments cannot be traced with certainty from the GL provided by petitioner, more so, with the Annual Income Tax Return.

It must be emphasized that the Annual Income Tax Return merely provides summarized data without the supporting scheduler notes that will apprise the Court as to the detailed items included therein. **Petitioner should have presented, among others, detailed General Ledger, reconciliation schedules or any other documents whereby the Court can trace the discrepancy and can determine with certainty that the income payments related to the claimed CWT formed part of its taxable gross income in its 2008 Annual Income Tax Return.** Failure to present the foregoing documents is fatal to petitioner's claim.⁵⁰ (Emphases supplied)

As properly held by the CTA, petitioner did not present evidence showing the reconciliation schedules of the ITR and General Ledger, which could have proven that the income payments related to the CWT indeed formed part of petitioner's gross income in its 2008 Annual ITR. At the very least, petitioner should have presented a detailed general ledger, reconciliation schedules or any other documents where the discrepancy in the income can be traced and from which it can be determined with certainty that the income payments related to the claimed CWT formed part of its taxable gross income in its 2008 Annual ITR. However, petitioner neither presented nor formally offered such evidence during trial.

Belatedly, while its motion for reconsideration was pending before the CTA *En Banc*, petitioner submitted the following additional documents: 1) Subsidiary Ledgers for Account Nos. 932400 and 932500 – Profit/(Loss) from Assets Sold/Exchanged; 2) List of Adjustments in the Proposed Adjusting Journal Entries; 3) Statement of Income and Expenses; and 4) Schedule of Trading and Securities Gain per 2008 AFS.⁵¹ It must be underscored that petitioner attached these additional documents only to its Supplemental Motion for Reconsideration with the CTA *En Banc*. Said documents were not formally offered in evidence during trial.

The CTA is categorically described as a court of record.⁵² Since cases filed before the CTA are litigated *de novo*, party litigants should endeavor to prove at the first instance every minute aspect of their cases in accordance with the Rules of Court, most especially on the rules on documentary

⁵⁰ Id. at 64-65.

⁵¹ Id. at 53.

⁵² Republic Act No. 1125, Sec. 8; An Act Creating the Court of Tax Appeals.

evidence which require that documents must be formally offered.⁵³ Pertinent thereto is Sec. 34, Rule 132 of the Revised Rules on Evidence which reads:

Section 34. *Offer of evidence.* — The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.

Thus, in *Dizon v. Court of Tax Appeals*,⁵⁴ the Court held that a formal offer is necessary because judges are mandated to base their findings of facts and their judgment only and strictly upon the evidence offered by the parties at the trial. Its function is to enable the trial judge to know the purpose or purposes for which the proponent is presenting the evidence. This also allows opposing parties to examine the evidence and object to its admissibility. Further, it facilitates review as the appellate court will not be required to review documents not previously scrutinized by the trial court.⁵⁵

In the case at bench, the failure of petitioner to comply with court procedures serves as a death knell to its claim for refund as no evidentiary value can be given the pieces of evidence belatedly submitted by petitioner in its supplemental motion for reconsideration before the CTA *En Banc*. It is as if petitioner had not proven anything regarding those belated evidence attached in the supplemental motion for reconsideration. Thus, no error can be attributed to the CTA *En Banc* when it denied the Motion for Reconsideration, stating that no evidentiary value can be given the pieces of evidence as the rules on documentary evidence require that these documents must be formally offered before the CTA.⁵⁶

Neither can petitioner's plea for liberality be countenanced here. For one, petitioner only tried to provide additional documents together with its motion for reconsideration filed before the CTA *En Banc*; second, petitioner had not offered any explanation for its belated submission of the documents despite the CTA Division clearly declaring that the documents petitioner submitted were insufficient. Plainly, it would not be proper to allow petitioner to prevail and compel a tax refund in the amount it claims without proving its claim.⁵⁷

It is a cardinal rule that tax refunds are in the nature of exemptions which are construed *in strictissimi juris* against the entity claiming the refund and in favor of the taxing power.⁵⁸ This is the reason why a claimant must

⁵³ *Atlas Consolidated Mining and Development Corp. v. Commissioner of Internal Revenue*, supra note 38, at 551.

⁵⁴ 576 Phil. 110 (2008), citing *Heirs of Pedro Pasag v. Spouses Parocha*, 550 Phil. 571, 578-579 (2007).

⁵⁵ Id. at 132.

⁵⁶ Id. at 128.

⁵⁷ *Atlas Consolidated Mining and Development Corp. v. Commissioner of Internal Revenue*, 569 Phil. 483, 494 (2008).

⁵⁸ *Winebrenner & Iñigo Insurance Brokers, Inc. v. Commissioner of Internal Revenue*, 752 Phil. 375, 387-388 (2015).

positively show compliance with the statutory requirements provided for under the NIRC in order to successfully pursue one's claim.⁵⁹ Sec. 8 of Republic Act No. 1125 expressly provides that the CTA shall not be governed by technical rules of evidence.⁶⁰ Thus, in *Mato Vda. de Oñate v. Court of Appeals*⁶¹ (*Oñate*), the Court allowed evidence, not formally offered, to be considered provided the following requirements are present: (1) evidence must have been duly identified by testimony duly recorded and (2) it must have been incorporated in the records of the case.⁶² The present case does not fall within the exception in *Oñate* case.

To reiterate, due to the nature of its function, the CTA has dedicated itself to the study and consideration of tax problems and has necessarily developed an expertise on the subject. The Court thus gives the highest respect to the factual findings of the CTA and will not set them aside unless they are not supported by substantial evidence or if the CTA has committed gross error or abuse.⁶³

If the Court will countenance the belated submission of evidence by petitioner without any reasonable justification, then it will open the flood gates to numerous appeals constantly praying for the submission of evidentiary facts that is beyond the ambit of the Court. Verily, if the Court entertains such belatedly submitted evidence of petitioner regarding its tax exemption, it will effectively defeat the function of the CTA being the exclusive tribunal dedicated to the resolution of taxation issues, which has developed an expertise on the subject matter of taxation.⁶⁴

In this case, the CTA Division and the CTA *En Banc* consistently ruled that petitioner did not present sufficient evidence to prove that the income related to its claim of tax credit for its CWT was declared in its 2008 Annual ITR. The Court sees no reason to disturb the findings of the CTA *En Banc* as they are consistent with law and jurisprudence. A review of the records of the case shows no grave error on the part of the CTA in its denial of petitioner's claim for tax refund.

Finally, petitioner's argument on whether the CTA has the power to impose evidentiary requirements deserves scant consideration. The requisites to prove petitioner's tax refund are laid down by law. The documentary evidence required to prove the requisites would depend on the different circumstance of each claimant's case. Again, party litigants should endeavor

⁵⁹ Id. at 388.

⁶⁰ *AB Leasing and Finance Corporation v. Commissioner of Internal Revenue*, 453 Phil. 297, 308 (2003).

⁶¹ 320 Phil. 344 (1995).

⁶² Id. at 350, citing *Commissioner of Internal Revenue v. Ocier*, 843 Phil. 573, 583-584 (2018); *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*, 738 Phil. 335, 345 (2014); *Dizon v. Court of Tax Appeals*, supra at 129; *Far East Bank & Trust Co. v. Commissioner of Internal Revenue*, 533 Phil. 386, 389 (2006).

⁶³ *Commissioner of Internal Revenue v. Univation Motor Phils., Inc.*, supra note 43, at 1093.

⁶⁴ Id.


to prove at the first instance every minute aspect of their cases. If the CTA found petitioner's evidence as insufficient, it cannot be faulted for requiring more documents to prove the veracity of its claim.⁶⁵ Petitioner could certainly provide different documents to actually prove its claim for tax refund. In the end, petitioner failed to meet the burden of proof required in order to establish the factual basis of its claim for a tax refund.

WHEREFORE, the petition is **DENIED**. The November 12, 2014 Decision and the April 22, 2015 Resolution of the Court of Tax Appeals *En Banc* in CTA EB Case No. 1108 are **AFFIRMED in toto**.

The Letter dated November 15, 2022 of Atty. Danilo B. Fernando, Executive Clerk of Court IV, Court of Tax Appeals, Quezon City, in compliance with the Resolution dated June 15, 2022, transmitting the *rollo* and complete records of CTA EB No. 1108 and CTA Case No. 8274, is **NOTED**.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *K/A 4/14*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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MAY 16 2023

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(CTA EB No. 1108)
(CTA Case No. 8274)

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⁶⁵ *Atlas Consolidated Mining and Development Corp. v. Commissioner of Internal Revenue*, supra at 494.