REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- *versus* –

UNISYS PUBLIC SECTOR SERVICES CORPORATION,
Respondent.

CTA EB No. 1429
(CTA Case No. 8293)

Present:

Del Rosario, *P.J.*
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Cotangco-Manalastas,
Ringpis-Liban, *JJ.*

Promulgated:

SEP 09 2016 2:45 p.m.

x---x

DECISION

CASTAÑEDA, JR., *J.:*

This is a Petition for Review[1] filed by the Commissioner of Internal Revenue (CIR) on February 29, 2016 which seeks the reversal of the Decision dated September 22, 2015,[2] (Assailed Decision) as well as the Resolution dated February 10, 2016[3] (Assailed Resolution) of the Third Division (Court in Division)[4] of this Court in CTA Case No. 8293, entitled *Unisys Public Sector Services Corporation v. Commissioner of Internal Revenue.*

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[1] Court *En Banc's* Docket, pp.1-16.
[2] *Ibid.*, pp. 21-61.
[3] *Id.*, pp. 62-73.
[4] Composed of Associate Justice Lovell R. Bautista as Chairperson, Associate Justice Esperanza R. Fabon-Victorino and Associate Justice Ma. Belen M. Ringpis-Liban as members.

The respective dispositive portions of the Assailed Decision and Resolution are quoted hereunder:

Assailed Decision:

> "**WHEREFORE**, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of P51,187,799.96, representing petitioner's erroneous payments of VAT for the second to fourth quarters of CY 2009 and the succeeding three quarters of CY 2010.
>
> **SO ORDERED.**"

Assailed Resolution:

> "**WHEREFORE**, Petitioner's Motion for Partial Reconsideration posted on October 9, 2015 and Respondent's Motion for Partial Reconsideration filed on October 9, 2015, are hereby **DENIED**, for lack of merit.
>
> **SO ORDERED.**"

THE FACTS

The facts of the present case, as found by the Court in Division in its Decision dated September 22, 2015, are as follows:[5]

> "Petitioner Unisys Public Sector Services Corporation (hereinafter referred to as "Unisys") is a domestic corporation with address at Level 9 One Cyberpod, Eton Centris Station, EDSA corner Quezon Avenue, Quezon City. It was incorporated on July 14, 1994 with the primary purpose as follows:
>
>> 'To create, manufacture, process, assemble, fabricate, develop, supply, license, lease (without engaging in financial leasing), sell at wholesale

[5] Court *En Banc's* Docket, pp. 21-30 (Citations omitted).

> (for cash or on credit), barter, exchange, trade, make advances upon, import or otherwise acquire, distribute, integrate, market, upgrade or modify computer hardware, computer systems software programs, applications, components, devices and supplies, as well as to provide support, training and consultancy services in the use and application of these products; to do any and all acts and things in relation to, arising out of and incidental to the creation, manufacturing, processing, assembly, fabrication, development, supply, licensing, leasing, sale, barter, exchange, trade, importation, acquisition, distribution, marketing, upgrading or modification of the aforementioned products, including but not limited to the sale, installation and maintenance of computer hardware, computer systems software programs, applications, components, devices and supplies, as well as to supply, install, maintain and provide management, operational, and technical expertise and other advisory and consultation services.'

Petitioner is a registered VAT taxpayer with Tax Identification Number (TIN) 003-933-453-000 issued by the Bureau of Internal Revenue (BIR).

Respondent (hereinafter referred to as "CIR"), on the other hand, is the Commissioner of Internal Revenue (CIR), with the authority to act on claims for refund or tax credit of erroneously or excessively paid taxes. She holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.

On December 23, 1999, Unisys Australia Limited (UAL), (Philippine Branch) entered into a contract for an estimated period of twelve (12) years with the National Statistics Office (NSO), a government agency responsible for the collection, compilation, classification, production, publication and dissemination of general-purpose statistics and civil registry data. The Civil Registry System Information Technology Project (CRS-ITP) Contract provides, among others, that UAL would be responsible for the design, development, construction, installation, testing and commissioning of NSO's Civil Registry System-Information Technology (CRS-IT). ya

On July 1, 2001, UAL and petitioner, with the consent of NSO, executed an Assignment and Assumption Agreement (Agreement) by virtue of which UAL unconditionally and irrevocably assigned and transferred to petitioner all its rights, title, benefits, privileges and interests and obligations, undertakings, covenants, liabilities and indebtedness, including any obligation, undertaking, covenant, liability or indebtedness that may have accrued and have not been fully performed or paid as of the date of the Assignment.

For the four quarters of CY 2009 and the succeeding three quarters of CY 2010, petitioner generated gross sales in the amount of ₱1,382,319,932.81.

Petitioner subjected to and withheld five percent (5%) final VAT on its gross sales to NSO pursuant to Section 114(C) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Petitioner filed its VAT Returns for the four quarters of CY 2009 and for the succeeding three quarters of CY 2010 and paid the total amount of ₱148,031,890.38 on the following dates[:]

Quarter (CY 2009)	**Date of Filing of VAT Return and payment of VAT**	**Exhibit**
First	April 24, 2009	"S" and "S-1"
First (amended)	January 19, 2011	"F" and "F-1"
Second	July 23, 2009	"T" and "T-1"
Second (amended)	January 20, 2011	"G" and "G-1"
Third	October 23, 2009	"U" and "U-1"
Third (amended)	January 20, 2011	"H" and "H-1"
Fourth	January 25, 2009	"V" and "V-1"
Fourth (amended)	January 20, 2011	"I" and "I-1"

Quarter (CY 2010)	**Date of Filing of VAT Return and payment of VAT**	**Exhibit**
First	April 26, 2010	"W" and "W-1"
First (amended)	January 20, 2011	"J" and "J-1"
Second	July 26, 2010	"X" and "X-1"
Second (amended)	January 20, 2011	"K" and "K-1"
Third	October 20, 2010	"Y" and "Y-1"
Third (amended)	January 20, 2011	"L" and "L-1"

Subsequently, petitioner discovered that it erroneously paid VAT to the BIR when it used its actual accumulated input VAT for the four quarters of the CY 2009 and the succeeding three quarters of CY 2010, instead of the seven percent (7%) standard input VAT in computing the net VAT payable. As a consequence, it overpaid VAT for the cited period in the total amount of ₱76,091,087.98.

On February 11, 2011, petitioner filed with the BIR Large Taxpayers Regular Audit Division III a claim for refund or issuance of a TCC for the alleged erroneously overpaid VAT of ₱76,091,087.98.

On May 30, 2011, petitioner filed the instant Petition for Review claiming inaction on the part of respondent on its application for refund and to suspend the running of the two-year prescriptive period under the law.

On July 12, 2011, respondent filed her Answer stating that petitioner's claim is subject to routinary examination. In any event, there is no showing that petitioner submitted complete documents pursuant to Revenue Memorandum Order (RMO) No. 53-98 justifying denial of the application by inaction. Finally, a claim for refund is construed strictly against the claimant for it partakes of the nature of an exemption from taxation and as such, it is looked upon with disfavor.

After the pre-trial conference, the Pre-Trial Order dated September 15, 2011 was issued based on the parties' Joint Stipulation of Facts and Issues.

During the trial, petitioner presented witnesses Jennifer G. Glinoga, Veronica Joy R. Catajoy, and Annalyn B. Artuz.

Petitioner's Finance Manager since January 2007, **Jennifer G. Glinoga**, by way of Judicial Affidavit, testified that she oversees all matters relating to petitioner's tax reporting and regulatory compliance. Petitioner is engaged in the business of licensing and modifying computer hardware, computer system software programs, application, components, devices and supplies, as well as providing support, training and consultancy services in the use and application of said products. It is registered with the BIR with Certificate of Registration No. 8RC0000019693.

On December 23, 1999, NSO and UAL executed the CRS-ITP Contract, which petitioner assumed on July 1, 2001, via the Assignment and Assumption Agreement. Based on the two (2) agreements, petitioner shall be responsible for the design, development, construction, installation, testing and commissioning of NSO's CRS-IT. NSO shall pay petitioner a percentage of the revenues generated by NSO for the use of the Project's technology in rendering services to the public, which includes, authentication, certification, and issuance of Certificate of Live Birth, Certificate of Marriage, Certificate of No-[M]arriage, and other civil registry data.

For the four quarters of CY 2009 and the succeeding three quarters of CY 2010, petitioner generated a total gross sales of ₱1,327,843,870.03, which were subjected to the 5% final VAT of ₱66,392,193.50, deducted and withheld by NSO pursuant to Section 114(C) of the NIRC of 1997, as amended. However, in computing for its output VAT liability, petitioner erroneously credited the actual amount of its input VAT accumulated for the period, instead of the 7% standard input VAT prescribed for payments received from the Government through the NSO, although the actual accumulated input VAT was lower than the 7% standard input VAT on that period. Consequently, petitioner erroneously paid ₱76,091,087.98 VAT.

Petitioner filed its VAT returns with the BIR through the Electronic Filing and Payment System (EFPS) and paid the corresponding VAT of ₱148,031,890.38, inclusive of the erroneously paid VAT, for the four quarters of CY 2009 and the succeeding three quarters of CY 2010.

On February 11, 2011, petitioner filed an administrative claim for refund/TCC which remains pending with respondent. Hence, the filing of the instant petition on May 30, 2011.

In her Judicial Affidavit, witness **Veronica Joy T. Catajoy** declared that she worked with Isla Lipana & Co., which services as External Tax Consultant was secured by petitioner. In connection thereto, she handled petitioner's tax concerns under the supervision of Mary Assumption S. Bautista-Villareal. She and her team reviewed and amended petitioner's VAT filings for the four quarters of CY 2009 and the succeeding three quarters of CY 2010, and assisted petitioner in the filing of its administrative claim for refund with the BIR.

Per their review, petitioner has an existing build, operate and transfer (BOT) contract with the NSO for the design, development, construction, installation, testing and commissioning of NSO's CRS-IT for which petitioner receives a percentage of the revenues generated from it. For the four quarters of CY 2009 and the succeeding three quarters of CY 2010, petitioner collected a total of ₱1,327,843,870.03 for its sale of services to NSO pursuant to the BOT contract, which was subjected to 12% VAT. The total output VAT liabilities incurred by petitioner from its sales to NSO were categorically segregated from its total sales.

As a government entity, NSO withheld a 5% final VAT of ₱66,392,193.48 from its payments to petitioner which represents the net VAT payable by petitioner, while the remaining 7% effectively accounts for the standard input VAT, in lieu of the actual input VAT directly attributable or ratably apportioned to such sales.

In computing its VAT liability for the covered period, petitioner erroneously deducted its actual input VAT of ₱17,846,501.25, instead of the 7% standard input tax as provided under Section 114(C) of the NIRC of 1997, as amended, and as implemented by Section 4.114-2 of Revenue Regulations No. 16-2005, from its total output VAT liabilities of ₱165,878,391.96. Thus, petitioner erroneously paid a total VAT of ₱148,031,890.38.

In connection with the VAT overpayment, her team revalidated the accuracy and correctness of petitioner's original computations and discovered that petitioner erroneously credited the actual amount of its input VAT accumulated for the period, instead of the 7% standard input VAT which is prescribed for payments received from the government. Hence, petitioner overpaid its VAT liabilities in the total amount of ₱76,091,087.98.

To arrive at the net VAT payable, the amount of ₱92,949,070.91, representing petitioner's 7% standard input VAT, was deducted since the majority of petitioner's services were rendered to NSO, hence, the 7% standard input VAT shall be in lieu of petitioner's actual input VAT directly attributable or ratably apportioned to its total sales for the covered period. The 7% standard input VAT was higher than the actual input

VAT attributable to its sales to NSO for the covered period. The difference was reported by petitioner as part of its "Non-operating & Taxable Other Income" in its Amended Annual Income Tax Return for CY 2009 and Annual Income Tax Return for CY 2010.

The difference in the input VAT used by petitioner and the input tax in the amended VAT Returns pertains to the withholding VAT remitted by petitioner from its royalty payments to Unisys Corporation, a non-resident corporation.

Petitioner paid VAT in the total amount of ₱148,031,890.38 for the four quarters of CY 2009 and the succeeding three quarters of CY 2010. On February 11, 2011, petitioner, with their assistance, filed its administrative claim for refund/TCC for its erroneous overpayments.

Independent Certified Public Accountant (ICPA) **Annalyn B. Artuz** also executed a Judicial Affidavit declaring that petitioner's overpayment of VAT was due to its use of actual input VAT as deduction against output VAT in computing for the net VAT payable in its originally filed VAT Returns instead of the 7% standard input VAT. Petitioner's total actual VAT payments consists of actual VAT payments upon filing of the original VAT Returns amounting to ₱81,639,696.87 and 5% final VAT withheld by NSO amounting to ₱66,392,193.50 for the four quarters of CY 2009 and the succeeding three quarters of CY 2010.

Based on her examination of pertinent documents, petitioner is entitled to its claim for refund pertaining to its erroneous overpayment of VAT in the total amount of ₱76,091,087.98 for the four quarters of CY 2009 and the succeeding three quarters of CY 2010.

The ICPA clarified that petitioner's claim for refund pertains to its VAT payments in excess of the 5% final VAT withheld by NSO for its sales to the government.

After petitioner rested, respondent presented Revenue Officers (ROs) Melinda Lim and Maria Nimfa P. Saga.

RO **Melinda G. Lim**, stated in her Judicial Affidavit, that she is currently with the Large Taxpayers Regular Audit

Division III of the BIR. She learned about the case through petitioner's request for refund filed on February 11, 2011 pertaining to its alleged VAT overpayment amounting to ₱40,606,843.59 for CY 2009.

On July 1, 2011, Letter of Authority No. LOA-126-2011-00000016 was issued against petitioner. Thereafter, three notices were sent to it, namely: 1) The First Notice/Initial Data Request with attachment; 2) [T]he Second Notice/Data Request with attachment; and 3) [T]he Third and Final Notice with attachment, which she and her Division Chief Lindagrace B. Sagum signed. Despite receipt of all the Notices, petitioner only partially complied.

In her Memorandum dated February 26, 2012 approved by OIC-Assistant Commissioner of the Large Taxpayers Service, Alfredo V. Misajon, she recommended the denial of petitioner's entire claim for refund on the following grounds: 1) the claim lacks legal basis; 2) petitioner has no personality to claim refund; and 3) submission of incomplete records. In a Letter dated February 26, 2012, petitioner was informed of the denial of its claim.

RO Lim affirmed that petitioner's claim for refund was due to its erroneous computation of its net VAT payable. However, VAT refunds are only allowed in three instances, i.e., in relation to zero-rated sales, purchases or dissolution of business.

In her Judicial Affidavit, RO **Nimfa P. Saga**, assigned at the BIR's Large Taxpayers Excise Audit Division 2, corroborated the foregoing declaration and added that she denied petitioner's claim for refund because based on her review of the documents submitted, it has no legal basis. Further, petitioner only submitted the Assignment and Assumption Agreement and the Civil Registry and Information Technology Project. Moreover, VAT refund is allowed only in three instances, namely, zero-rated, fixation and dissolution of business and she does not know whether overpayment of tax is one of the basis for refund.

After submission of the parties' respective memoranda, the case was submitted for decision on September 24, 2014."

On September 22, 2015, the Court in Division rendered its Decision partially granting Unisys' Petition for Review. The Court in Division ordered the CIR to a refund or to issue tax credit certificate in favor of Unisys in the reduced amount of ₱51,187,799.96 representing Unisys' erroneous payments of VAT for the 2nd to 4th quarters of CY 2009 and the succeeding three quarters of CY 2010. In a Resolution dated February 10, 2016, the Court in Division denied the parties' respective Motions for Partial Reconsideration for lack of merit.

Hence, the CIR filed the present Petition for Review.

THE ISSUE

In the present Petition for Review, the CIR raises the issue of whether or not the Court in Division erred in finding that Unisys is entitled to refund in the reduced amount of ₱51,187,799.96 allegedly representing erroneous payments for VAT for the 2nd to 4th quarters of CY 2009 and the succeeding three quarters of CY 2010.[6]

THE COURT *EN BANC*'S RULING

Erroneous Payment of VAT

In his Petition, the CIR argues that there was no erroneous payment of VAT and that Unisys failed to prove its entitlement to refund.[7] The CIR added that the 7% standard input tax is "only a standard which is simply the limit by which the actual input tax is compared to determine if it exceeds, or if it is below the standard of seven percent (7%) of gross sales to government."[8] As such, the difference between the actual input tax and the 7% standard input tax may either be charged to expense or treated as taxable income, but never to be used as part of the allowable input tax.[9]

Unisys, on the other hand, asserts that the CIR misconstrued the rules and counter-argues that the 7% standard input tax is allowable input tax on sales to government, in lieu of the actual input tax.[10]

The CIR's position is bereft of merit.

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[6] *Ibid.*, p. 9.
[7] *Id.*
[8] *Id.*, p. 11.
[9] *Id.*
[10] *Id.*, p. 87.

Section 4.114-2 (a) of Revenue Regulations (RR) No. 16-05, as amended by RR No. 4-2007, reads:

> "**SECTION 4.114-2.** ***Withholding of VAT on Government Money Payments and Payments to Non-Residents. —***
>
> (a) The government or any of its political subdivisions, instrumentalities or agencies, including government-owned or controlled corporations (GOCCs) shall, before making payment on account of each purchase of goods and/or of services taxed at twelve percent (12%) VAT pursuant to Secs. 106 and 108 of the Tax Code, deduct and withhold a final VAT due at the rate of five percent (5%) of the gross payment thereof.
>
> The five percent (5%) final VAT withholding rate shall represent the net VAT payable of the seller. The remaining seven percent (7%) effectively accounts for the standard input VAT for sales of goods or services to government or any of its political subdivisions, instrumentalities or agencies including GOCCs, in lieu of the actual input VAT directly attributable or ratably apportioned to such sales. Should actual input VAT attributable to sale to government exceeds seven percent (7%) of gross payments, the excess may form part of the sellers' expense or cost. On the other hand, if actual input VAT attributable to sale to government is less than seven percent 7% of gross payment, the difference must be closed to expense or cost.
>
> x x x x x x x x x"

The rule is clear and needs no interpretation. The 7% standard input tax is the allowable input tax on sale of goods and/or services to the government or any of its political subdivisions, instrumentalities or agencies, including government-owned or controlled corporations (GOCCs). The same is in lieu of the actual input tax of the seller directly attributable or ratably apportioned to such sales.

However, the amount of the standard input tax cannot be directly reported as allowable deduction on the VAT return as only the amount of the actual input tax may be reflected therein. As such, the difference between the standard input tax and the actual input tax shall be closed to the taxpayer's cost or expense which is also reported in the VAT return. In so doing, the whole amount of the standard input tax is incorporated in the computation of the VAT due or overpayment per VAT return.

In the present case, the Court in Division correctly found that Unisys used its actual accumulated input VAT in computing its VAT payable for the relevant period subject of the present claim for refund in its original VAT returns. Unisys failed to take into account the 7% standard input tax as provided under Section 4.114-2 (a) of Revenue Regulations (RR) No. 16-05, as amended. The Court in Division likewise found that the actual accumulated input VAT attributable to its sales to NSO and which was used by Unisys in computing its VAT payable is lower than the 7% standard input tax. Accordingly, the Court in Division found that Unisys erroneously made a VAT overpayment albeit in the reduced amount of ₱51,187,799.96 considering that Unisys failed to substantiate some of its reported input VAT.

Legal Personality to File the Claim for Refund

The CIR likewise claims that Unisys has no legal personality to file the present claim for refund.[11] According to CIR, while it is true that the rights and obligations of Unisys Australia Ltd. (UAL) under the Civil Registry System Information Technology Project (CRS-ITP) Contract it entered into with the National Statistics Office (NSO) had been completely assigned to Unisys through the execution of the Assignment and Assumption Agreement dated July 1, 2001, another Assignment and Assumption Agreement dated March 6, 2008 was executed by and between Unisys and UAL whereby Unisys transferred all of the previously assigned rights and obligations under the CRS-ITP Contract back to UAL.[12] Consequently, for the taxable periods covering the present claim for refund, it was UAL, not Unisys, that was the ultimate beneficiary and party in interest under the CRS-ITP Contract.[13] The CIR likewise alleges that all the files submitted by Unisys to the revenue officers who handled the administrative claim for refund were all in the name of UAL.[14]

The CIR's allegations lack basis.

Upon review of the records, it appears that CIR failed to present any evidence to prove the foregoing affirmative allegations. If there is any truth to the CIR's allegation that the rights and obligations of Unisys under the CRS-ITP Contract were re-assigned to UAL through the Assignment and

[11] *Id.*, pp. 12-13.
[12] *Id.*
[13] *Id.*
[14] *Id.*

Assumption Agreement in 2008, he could have presented the said document as evidence before this Court. It is a basic rule in evidence that burden of proof lies on the party who makes the allegations.[15] Mere allegation is not evidence, and is not equivalent to proof.[16] Bare allegations, unsubstantiated by sufficient evidence, cannot be given credence by this Court.

Submission of Complete Supporting Documents

The CIR also posits that Unisys failed to submit complete documents in support of its claim for refund, as mandated by the National Internal Revenue Code of 1997, as amended, and Revenue Regulations No. 16-05.[17] The CIR added that "mere filing of an administrative claim for refund or issuance of tax credit certificate without submitting the complete documents in support of the application thereof is not conclusive to sustain its contention that it has the right to claim a refund."[18]

The Court *En Banc* disagrees.

In claims for VAT refund, the non-submission of complete supporting documents in the administrative level is not fatal to the taxpayer's judicial claim. This Court is not barred from receiving, evaluating and appreciating evidence submitted before it. Once the claim for refund has been elevated to the Court, the admissibility, materiality, relevance, probative value and weight of evidence presented therein become subject to the relevant provisions of the Rules of Court. The question of whether or not the evidence submitted by a party is sufficient to warrant the grant of a claim for refund lies within the sound discretion and judgment of the Court.[19]

As this Court had ruled in *Commissioner of Internal Revenue v. Philippine Airlines, Inc.*, viz.:[20]

> "It has been settled in several CTA *en banc* cases that judicial claims should not be denied on the sole ground that the taxpayer allegedly failed to submit before the BIR the complete

[15] *Acabal vs. Acabal et. al.*, G.R. No. 148376, March 31, 2005, 454 SCRA 555, 569.
[16] *Hector C. Villanueva vs. Philippine Daily Inquirer, Inc. et. al.*, G.R. No. 164437, May 15, 2009, 588 SCRA 1, 11; *Social Security Commission and Social Security System vs. Teresa G. Favila,* G.R. No. 170195, March 28, 2011, 646 SCRA 462, 477; *ECE Realty and Development, Inc. vs. Rachel G. Mandap,* G.R. No. 196182, September 1, 2014, 734 SCRA 76, 84.
[17] Court *En Banc*'s Docket, p. 14.
[18] *Ibid.*
[19] *Commissioner of Internal Revenue vs. CE Luzon Geothermal Power Company, Inc.*, CTA EB No. 474, September 1, 2009; *Commissioner of Internal Revenue vs. Toledo Power Company*, CTA EB No. 589, September 15, 2010; *Commissioner of Internal Revenue vs. San Roque Power Corporation*, CTA EB No. 657, April 4, 2012.
[20] CTA EB No. 775, November 13, 2012.

documents in support of its administrative claim for refund. In the case of *Philippine Bank of Communications vs. Commissioner of Internal Revenue*, We passed upon the issue on the non-submission of supporting documents in the administrative level as NOT fatal to a claim for refund. The pertinent portion of the Decision provides:

> **'Non-submission of supporting documents in the administrative level is not fatal to a claim for refund. Judicial claims are litigated *de novo* and decided based on what has been presented and formally offered by the parties during the trial.** In the case of *CIR vs. Manila Mining Corporation*, it was explained that 'Under Section 8 of RA 1125, the CTA is described as a court of record. As cases filed before it are litigated *de novo*, party litigants should prove every minute aspect of their cases.' Finally, pieces of evidence submitted in the administrative proceeding have no evidentiary value unless presented and formally offered before the Court.
>
> This Court is not barred from receiving, evaluating and appreciating evidence formally offered before it. Once the claim for refund has been elevated to the Court, the admissibility, materiality, relevancy, probative value and weight of evidence presented therein become subject to the Rules of Court. The question of whether or not the evidence submitted by a party is sufficient to warrant the granting of a claim for refund lies within the sound discretion and judgment of the Court. The CTA being a court of record, the cases filed before it are litigated *de novo* and party litigants should prove every minute aspect of their cases. Otherwise stated, **judicial claims are being decided based on what has been presented and formally offered by party litigants during the trial of the case before the Court and not on the mere allegation of non-submission of complete documents before the BIR.**" *(Citations omitted and emphasis supplied)*

Similarly, in *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*,[21] the Supreme Court dealt with the issue of submission of supporting documents regarding claims for refund for zero-rated

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[21] G.R. No. 207112, December 8, 2015.

transactions, which can be applied, by analogy, to the present case. The relevant discussion in the said case is as follows:

> "x x x [F]or purposes of determining when the supporting documents have been completed — it is the taxpayer who ultimately determines when complete documents have been submitted for the purpose of commencing and continuing the running of the 120-day period. After all, he may have already completed the necessary documents the moment he filed his administrative claim, in which case, the 120-day period is reckoned from the date of filing. The taxpayer may have also filed the complete documents on the 30th day from filing of his application, pursuant to RMC No. 49-2003. He may very well have filed his supporting documents on the first day he was notified by the BIR of the lack of the necessary documents. In such cases, the 120-day period is computed from the date the taxpayer is able to submit the complete documents in support of his application.
>
> Then, except in those instances where the BIR would require additional documents in order to fully appreciate a claim for tax credit or refund, in terms of what additional document must be presented in support of a claim for tax credit or refund — it is the taxpayer who has that right and the burden of providing any and all documents that would support his claim for tax credit or refund. After all, in a claim for tax credit or refund, it is the taxpayer who has the burden to prove his cause of action. As such, he enjoys relative freedom to submit such evidence to prove his claim.
>
> The foregoing conclusion is but a logical consequence of the due process guarantee under the Constitution. Corollary to the guarantee that one be afforded the opportunity to be heard, it goes without saying that the applicant should be allowed reasonable freedom as to when and how to present his claim within the allowable period.
>
> **Thereafter, whether these documents are actually complete as required by law — is for the CIR and the courts to determine.** Besides, as between a taxpayer-applicant, who seeks the refund of his creditable input tax and the CIR, it cannot be denied that the former has greater interest in ensuring that the complete set of documentary evidence is provided for proper evaluation of the State.

> Lest it be misunderstood, the benefit given to the taxpayer to determine when it should complete its submission of documents is not unbridled. Under RMC No. 49-2003, if in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the legitimacy of the claim, the taxpayer-claimants shall submit such documents within thirty (30) days from request of the investigating/processing office. **Again, notice, by way of a request from the tax collection authority to produce the complete documents in these cases, is essential.**" *(Underscoring supplied)*

At any rate, it must be noted that the Court in Division already found that Unisys was able to substantiate its claim for refund albeit in the reduced amount of ₱51,187,799.96 through the documents it presented during trial, all enumerated in the Assailed Decision.[22] The Court *En Banc* finds no reason to reverse or modify such ruling.

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

SO ORDERED.

J. C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

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[22] Court *En Banc*'s Docket, p. 71.

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice