REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

UNIVATION MOTOR PHILIPPINES, INC. (FORMERLY, NISSAN MOTOR PHILIPPINES, INC.)
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8637

Members:

DEL ROSARIO, *P.J., Chairperson*
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:
JUN 30 2015 ; 11:03 a.m.

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RESOLUTION

DEL ROSARIO, P.J.:

This resolves respondent's **"MOTION FOR PARTIAL RECONSIDERATION (Re: Decision Promulgated on 10 March 2015)"** filed on April 1, 2015, with petitioner's **"COMMENT (Re: Motion for Partial Reconsideration dated March 30, 2015)"** filed on May 12, 2015.

Respondent moves for partial reconsideration of this Court's Decision dated March 10, 2015, the dispositive portion of which reads, as follows:

> "WHEREFORE, in light of the foregoing, Univation Motor Philippines, Inc.'s Petition for Review is hereby PARTIALLY GRANTED. Respondent Commissioner of Internal Revenue is hereby ordered to issue a tax credit certificate in the amount of TWELVE MILLION SEVEN HUNDRED TWENTY NINE THOUSAND SIX HUNDRED SEVENTEEN AND 90/100 (₱12,729,617.90) representing

petitioner's unutilized or excess creditable withholding taxes for taxable year ending December 31, 2010.

SO ORDERED."

In the subject Motion for Partial Reconsideration, respondent prays of this Honorable Court to grant the subject motion, to recall the Decision promulgated on 10 March 2015, and to render a new one denying petitioner's claim for refund.

The motion is anchored on the following grounds: (1) the subject claim for tax refund is tainted with procedural infirmity due to petitioner's failure to submit complete documents in support of its administrative claim for refund; (2) petitioner failed to exhaust administrative remedies before elevating the case to this Court; (3) petitioner failed to prove its entitlement to refund in the judicial proceedings; and, (4) that claims for refund are construed strictly against the taxpayer and in favor of Government.

In its comment, petitioner counter-argues that: (1) the submission of complete supporting documents in the administrative level is not prerequisite to the grant of the judicial claim for refund; (2) it was able to prove that the income from which the taxes were withheld was included in its Annual ITR for CY 2010; and, (3) the rule that "claims for refund of overpaid taxes are construed *strictissimi juris* against the taxpayer" does not apply to claims for refunds of overpaid or erroneously paid taxes.

The Court finds respondent's "Motion for Partial Reconsideration" devoid of merit.

The National Internal Revenue Code (NIRC) of 1997, as amended, and the relevant Revenue Regulations issued by respondent do not provide for a list of documents required to be submitted for claims of unutilized creditable withholding taxes. Respondent cannot demand what type of supporting documents should be submitted. In *Commissioner of Internal Revenue vs. First Express Pawnshop Company, Inc.*[1], the Supreme Court ruled that the submission of "relevant supporting documents" should be determined by the taxpayer and not the Bureau of Internal Revenue (BIR), thus:

> The term "relevant supporting documents" should be understood as those documents necessary to support the legal basis in disputing a tax assessment as determined by the taxpayer. The BIR can only inform the taxpayer to submit additional documents. The BIR cannot demand what type of supporting documents should be submitted. Otherwise, a taxpayer

[1] G.R. Nos. 172045-46, June 16, 2009.

> will be at the mercy of the BIR, which may require the production of documents that a taxpayer cannot submit."[2]

From the above jurisprudence, it has been held time and again that the submission of supporting documents depends on the discretion of the taxpayer. It is respondent's duty to inform or send a notice to the taxpayer if she finds that the relevant supporting documents submitted by petitioner are insufficient. A careful perusal of the records shows that respondent did not inform petitioner to submit additional documents in support of its administrative claim for refund.

Respondent cannot take refuge in the argument that petitioner failed to exhaust administrative remedies prior to bringing its claim for refund before the Court. It was on March 12, 2012 when petitioner filed its administrative claim for refund. The subject petition was filed due to respondent's inaction on April 12, 2013. Petitioner cannot wait indefinitely as the two-year prescriptive period in claiming a refund for its 2010 unutilized or excess Creditable Withholding Tax was about to expire. More importantly, during trial, petitioner was able to substantiate its claim for refund.

Finding no valid or substantial argument to warrant the reconsideration sought, the Court has no recourse but to deny the present motion.

WHEREFORE, premises considered, respondents **"MOTION FOR PARTIAL RECONSIDERATION (Re: Decision Promulgated on 10 March 2015)"** is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

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

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[2] *Id.*