REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

SYCAMORE GLOBAL SHIPPING CORPORATION, Petitioner,	**CTA Case No. 10070**
	Members:
- versus -	**DEL ROSARIO,** *P.J., Chairperson,* and **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUN 17 2021 8:13am

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RESOLUTION

DEL ROSARIO, P.J.:

This resolves petitioner's **"Motion for Reconsideration"** filed on December 16, 2020, without respondent's comment despite due notice, as per Records Verification dated February 24, 2021.

Petitioner prays that the Court reconsider and set aside the assailed Decision dated November 19, 2020 and rule that petitioner is entitled to a tax refund amounting to ₱7,199,992.00, representing erroneously paid income tax for the year 2016. The dispositive portion of the assailed Decision states:

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

In support of its Motion, petitioner insists that it has sufficiently established by way of preponderance of evidence its entitlement to the refund sought. Petitioner contends that the testimony of petitioner's witness, Mr. Jesse V. Lava, remains uncontroverted and that respondent's counsel did not even bother to refute the statements during the cross-examination of the witness.

According to petitioner, Mr. Lava unequivocally answered that the cash dividends received from Banyan Towage Services, Inc. (BTSI) in 2016 were reported as part of "Other Income" in petitioner's 2016 Annual Income Tax Return (ITR). Mr. Lava also identified petitioner's Annual ITR for 2016 and proceeded to testify that the breakdown of the amount of ₱115,638,854, which represents "Other Income" as appearing in Schedule 3 of Petitioner's 2016 Annual ITR, includes the cash dividends it received from BTSI amounting to ₱23,999,976.00.

Petitioner asserts that the testimony of Mr. Lava should be given weight and credence by the Court, especially when respondent was actually allowed to controvert the same during cross-examination but failed to do so. Moreover, petitioner avers that respondent did not present any documentary or testimonial evidence that would dispute the fact that the cash dividends, which petitioner received from BTSI, were reported as part of "Other Income" in petitioner's 2016 Annual ITR.

Petitioner further claims that the statements given by Mr. Lava are not self-serving nor hearsay, as they were based on his personal knowledge as the Head of Finance of petitioner, and as the one responsible in the preparation of petitioner's Annual ITR, including the year in question. Petitioner further notes that the testimony of Mr. Lava was given under oath and under duress of being prosecuted for perjury or false testimony.

Moreover, petitioner contends that the Court erred when it ruled that no other documents such as petitioner's audited financial statements or any other source documents were presented to validate the entries in the "Other Income" in Schedule 3 of petitioner's 2016 Annual ITR. According to petitioner, the Court may have overlooked the fact that petitioner also presented the Secretary's Certificate of BTSI, which certifies the board resolution declaring cash dividends to its stockholders of record, including petitioner, and the Acknowledgement Receipt it issued to BTSI as proof that it actually received from the latter cash dividends amounting to ₱23,999,976.00.

THE COURT'S RULING

Petitioner's Motion is bereft of merit.

Perusal of the arguments made and documents referred to by petitioner in its motion, shows that the same have already been considered and given weight by the Court as extensively discussed in pages 13 to 16 of the assailed Decision.

It bears stressing that a claimant has the burden of proof to establish the factual basis of his or her claim for tax credit or refund.[1] Tax refunds are in the nature of tax exemptions. Tax refunds, being in the nature of tax exemptions, are construed in *strictissimi juris* against the taxpayer and liberally in favor of the government.[2] The burden in claiming tax refund rests upon the taxpayer which petitioner has failed to discharge. For failing to prove its entitlement to a tax refund, petitioner's claim must perforce be denied.

All told, there is no compelling reason for the Court to modify, much more, to reverse its assailed Decision dated November 19, 2020.

WHEREFORE, in light of the foregoing premises, petitioner's **Motion for Reconsideration** filed on December 16, 2020 is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

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[1] *Citibank N.A. vs. Court of Appeals and Commissioner of Internal Revenue*, G.R. No. 107434, October 10, 1997.
[2] *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 183531, March 25,2015.

***I CONCUR*:**

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice