

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

SCHAEFFLER PHILIPPINES, INC., CTA Case No. 10197
Petitioner,

- versus -

COMMISSIONER OF INTERNAL
REVENUE,

Respondent. *Promulgated:*

Members:

UY, Chairperson,
RINGPIS-LIBAN, and
MODESTO-SAN PEDRO, JJ.

MAY 23 2023

1:10 p.m.

X ----- X

RESOLUTION

UY, J.:

For resolution is petitioner's "**OMNIBUS MOTION A. For Partial Reconsideration of the Decision dated 09 January 2023; and B. To Reopen Case to Submit Supplemental Evidence**" filed on February 2, 2023, without respondent's Comment despite due notice.

In its Omnibus Motion, petitioner prays for the following reliefs:

1) The reversal and setting aside of the Court's Decision dated January 9, 2023, the dispositive portion of which reads:

"**WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for lack of merit.

SO ORDERED."

2) The reopening of the case to allow petitioner to present witnesses and other evidence to prove the admissibility in evidence of the single administrative documents (SADs) and Statements of

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Settlement of Duties and Taxes (SSDTs) covering petitioner's disallowed input VAT on importations, denominated as Exhibits "P-356" to "P-545"; and

3) To grant petitioner a period to file the judicial affidavits of its witnesses and submit copies of its supplemental evidence as attachments thereto.

In support of its Omnibus Motion, petitioner argues that:

1. The SADs and SSDTs submitted by petitioner to the Independent Certified Public Accountant (ICPA) for verification/examination were original computer printouts, downloaded directly from the BOC's official website by petitioner's broker, A. Hartrodt Philippines, Inc. (AHPI).

2. In the course of the ICPA's verification/examination of petitioner's voluminous supporting documents, the SSDTs and SADs were verified by the ICPA's team against bank certifications provided to them by petitioner.

3. Petitioner's input VAT was fully substantiated by the original computer print-outs of the SADs and SSDTs, which should be deemed as equivalents of original documents, as stated in the Rules on Electronic Evidence.

4. In view of the disallowance of petitioner's input VAT, due to its alleged failure to submit the original SADs and SSDTs, and in the greater interest of justice and equity, petitioner prays that it be allowed to present the following supplemental evidence:

- a. The testimony of an officer/duly authorized representative of AHPI, whose testimony will be offered to prove the procedure for accessing, downloading, and emailing/forwarding the SADs and SSDTs comprising its Exhibits "P-356" to "P-545," as well as the authenticity, reliability, and integrity of the subject SADs and SSDTs downloaded from the BOC website and forwarded/emailed to petitioner;
- b. The testimony of Ms. Flor-Jean G. Ancheta, an officer of petitioner's Supply Chain Management Department; and
- c. Additional documentary evidence tending to prove the matters testified upon by petitioner's witnesses.



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5. While a motion to re-open is not specifically mentioned and prescribed as a remedy by the Rules of Court, it is nevertheless a recognized procedural recourse or device, controlled by no other rule than that of the paramount interest of justice.

THE COURT'S RULING

Petitioner's *Omnibus Motion* lacks merit.

**Motion For Partial Reconsideration of the Decision dated 09
January 2023**

In its *Motion For Partial Reconsideration*, petitioner argues that its input VAT was fully substantiated by the original computer print-outs of the SADs and SSDTs, which should be deemed as equivalents of original documents, as stated in the Rules on Electronic Evidence.

We are not convinced.

In order for petitioner's Exhibits "P-356" to "P-545" to be admitted into evidence as electronic documents, they must comply with the rules on admissibility prescribed by the Rules of Court and related laws and must be authenticated in the manner prescribed by the Rules on Electronic Evidence.¹

To be specific, petitioner should comply with the authentication process under Section 1, Rule 5 and method of proof under Section 1, Rule 9 of the Rules on Electronic Evidence, which provides:

"Rule 5

SEC. 1. *Burden of proving authenticity.* — The person seeking to introduce an electronic document in any legal proceeding has the burden of proving its authenticity in the manner provided in this Rule.

Rule 9

SECTION 1. *Affidavit of evidence.* — All matters relating to the admissibility and evidentiary weight of an electronic document may be established by an affidavit stating facts of direct personal knowledge of the affiant or

¹ Section 2, Rule 3, Rules on Electronic Evidence.



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based on authentic records. The affidavit must affirmatively show the competence of the affiant to testify on the matters contained therein.”

From the foregoing, petitioner should have complied with the foregoing provisions of the Rules on Electronic Evidence, through authentication of the supposed electronic documents through the required affidavit of evidence.² Records show, however, that petitioner failed to adduce the required proof of authentication that would render the subject exhibits admissible as original copies of electronic documents. In the absence of the requisite affidavit of evidence, petitioner’s Exhibits “P-356” to “P-545” cannot be deemed as equivalents of original documents.

Finally, anent petitioner’s contention that it had already proved the integrity, accuracy and genuineness of the subject SSDTs and SADs to the ICPA and her team,³ the same cannot be countenanced. After all, the findings of the ICPA are not conclusive upon this Court, as stated in Section 3, Rule 13 of the Revised Rules of the Court of Tax Appeals (RRCTA), to wit:

“SEC. 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 and underscoring supplied*)

In other words, petitioner should have presented the original copies of the subject exhibits, or at the very least, comply with the relevant provisions of the Rules on Electronic Evidence.

Motion To Reopen Case to Submit Supplemental Evidence

In its *Motion To Reopen Case to Submit Supplemental Evidence*, petitioner prays that it be allowed to reopen the case for the

² *RCBC Bankard Services Corp. vs. Oracion, Jr.*, G.R. No. 223274, June 19, 2019.

³ Paragraph 11, Docket – Vol. 2, p. 1069.



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presentation of supplemental evidence, in the greater interest of justice and equity.

We are not swayed.

In the case of *Ramon J. Alegre vs. Hon. Manuel T. Reyes, et al.*,⁴ the Supreme Court held that a motion to reopen trial may only be availed of **before judgment**, to wit:

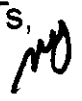
"For one thing, a **motion to reopen** may properly be presented only after either or both parties have formally offered, and closed their evidence, but **before judgment**. On the other hand, a motion for new trial is proper only after rendition or promulgation of judgment.

For another, a motion for reopening, unlike a motion for new trial, is not specifically mentioned and prescribed as a remedy by the Rules of Court. There is no specific provision in the Rules of Court governing motions to reopen. It is albeit a recognized procedural recourse or device, deriving validity and acceptance from long, established usage.

A motion for new trial in civil or criminal actions may be applied for and granted only upon specific, well-defined grounds, set forth respectively in Rules 37 (Section 1) and 121 (Section 2). On the other hand, **the reopening of a case for the reception of additional evidence after a case has been submitted for decision but before judgment is actually rendered** is, it has been said, controlled by no other rule than that of the paramount interests of justice, resting entirely in the sound judicial discretion of a Trial Court; and **its concession, or denial, by said Court in the exercise of that discretion will not be reviewed on appeal unless a clear abuse thereof is shown**. A brief review of precedents treating of the matter of reopening a trial provides a clearer insight into the nature of the remedy, and is not inutile at this point." (*Emphasis and underscoring supplied*)

In the instant case, petitioner prays for the reopening of this case to present the testimony of witnesses, which will allegedly prove the authenticity, reliability, and integrity of the subject SADs and SSDTs,

⁴ G.R. No. L-56923, May 9, 1988.



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only after this Court had rendered the assailed Decision dated January 9, 2023.

Considering that this Court already rendered a decision, petitioner could no longer avail of the remedy of reopening the case.

At this juncture, it bears stressing that petitioner filed its *Formal Offer of Evidence*⁵ on May 19, 2021. In the Resolution⁶ dated October 28, 2021, this Court denied the admission of the subject SADs and SSDTs comprising its Exhibits "P-356" to "P-545."

Despite having ample opportunity, before judgment, to have the case reopened, for the presentation of supplemental evidence in support of the subject SADs and SSDTs, petitioner did *not* file a motion to reopen.

Instead, petitioner filed its *Tender of Excluded Evidence (of Petitioner)*⁷ on February 17, 2022, praying that Exhibits "P-20" to "P-24," be attached to form part of the records of the case in accordance with Section 40, Rule 132 of the Rules of Court. However, it is noted that petitioner made no mention of Exhibits "P-356" to "P-545."

From the foregoing, it is clear that the relaxation of the rules is not warranted, as the testimony of the witnesses that petitioner seeks to present would fall under the purview of *forgotten evidence*.

In the case of *Philippine National Bank vs. Commissioner of Internal Revenue*,⁸ forgotten evidence was defined as follows:

"Forgotten evidence refers to evidence already in existence or available before or during a trial; known to and obtainable by the party offering it; and could have been presented and offered in a seasonable manner, were it not for the sheer oversight or forgetfulness of the party or the counsel. Presentation of forgotten evidence is disallowed, because it results in a piecemeal presentation of evidence, a procedure that is not in

⁵ Docket – Vol. 2, pp. 677 to 713.

⁶ Docket – Vol. 2, pp. 933 to 939.

⁷ Docket – Vol. 2, pp. 970 to 975.

⁸ G.R. Nos. 242647 & 243814, March 15, 2022, citing *Office of the Ombudsman, etc. vs. Carmencita D. Corornel*, G.R. No. 164460, June 27, 2006.



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accord with orderly justice and serves only to delay the proceedings. A contrary ruling may open the floodgates to an endless review of decisions, whether through a motion for reconsideration or for a new trial, in the guise of newly discovered evidence." (*Emphasis and underscoring supplied*)

Considering that the supplemental testimonies that petitioner seeks to present were already available before or during trial, known to and obtainable by the petitioner, they should have been offered in a timely manner. After all, apart from the bare invocation of the interests of substantial justice, which is not a magic wand that will automatically compel the suspension of procedural rules,⁹ petitioner did not proffer any other persuasive reasons to allow the reopening of the case.

WHEREFORE, in light of the foregoing considerations, petitioner's "**OMNIBUS MOTION A. For Partial Reconsideration of the Decision dated 09 January 2023; and B. To Reopen Case to Submit Supplemental Evidence**" is **DENIED** for lack of merit.

SO ORDERED.


ERLINDA P. UY
Associate Justice

WE CONCUR:


MA. BELEN RINGPIS-LIBAN
Associate Justice

(*On Official Business*)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

⁹ *Id.*