

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Special Second Division

TOLEDO POWER COMPANY,
Petitioner,

CTA CASE NO. 11109

Members:

- versus -

RINGPIS-LIBAN, P.J. & Chairperson
MODESTO-SAN PEDRO, and
FERRER-FLORES, JJ.

COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

Promulgated: SEP 14 2026 4:00 PM

X -----X

RESOLUTION

RINGPIS-LIBAN, P.J.:

For resolution is respondent Commissioner of Internal Revenue's (respondent) *Motion for Partial Reconsideration*¹ dated April 22, 2026 (the Motion), seeking reconsideration of the Court's Decision² dated March 19, 2026 (the Decision), the dispositive portion of which reads:

“**WHEREFORE**, in light of the foregoing considerations, the present Petition for Review is **PARTIALLY GRANTED**.

Accordingly, respondent is **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner, the amount of ₱13,559,722.41, representing the latter's unutilized input VAT attributable to its zero-rated sales for the 4th quarter of CY 2020.

SO ORDERED.”³

Petitioner Toledo Power Company (petitioner) filed its *Comment*⁴ dated May 25, 2026, pursuant to the Court's Resolution⁵ dated May 8, 2026, opposing the Motion.

¹ Docket-Vol. 2, unpaginated, Motion for Partial Reconsideration dated April 22, 2026.

² *Id.*, Decision dated March 19, 2026.

³ *Id.*, p. 23.

⁴ *Id.*, Comment (Re: Motion for Partial Reconsideration dated April 22, 2026) dated May 25, 2026.

⁵ *Id.*, Resolution dated May 8, 2026.

The Antecedents

The present controversy stems from petitioner's claim for refund or issuance of a tax credit certificate in the amount of ₱14,208,017.90, representing its alleged unutilized input value-added tax (VAT) attributable to zero-rated sales for the 4th quarter of calendar year (CY) 2020. Petitioner instituted the underlying Petition for Review before this Court on March 27, 2023, following respondent's denial of its administrative claim for refund.

On March 19, 2026, the Court promulgated the Decision, partially granting the Petition for Review and ordering respondent to refund or issue a tax credit certificate in the amount of ₱13,559,722.41, out of the ₱14,208,017.90 originally claimed, representing petitioner's substantiated unutilized input VAT properly attributable to its valid zero-rated sales for the covered period.

Respondent received the Decision on April 7, 2026. On April 22, 2026 — the fifteenth (15th) and last day of the reglementary period — respondent filed the Motion, praying that the evidence not presented during the administrative proceedings be excluded or disregarded, that the Decision be reconsidered, and that petitioner's claim be DENIED in its entirety for failure to substantiate the same.

In a Resolution dated May 8, 2026, which petitioner received on May 20, 2026, the Court directed petitioner to file its Comment on the Motion within five (5) days from notice. Petitioner timely filed its Comment on May 25, 2026.

The Motion is now submitted for resolution.

Summary of the Motion's Grounds

Respondent seeks reconsideration of the Decision on the following grounds, faithfully restated without evaluation:

First, respondent contends that the Court erred in partially granting the Petition for Review and in ordering the refund or issuance of a tax credit certificate in favor of petitioner in the amount of ₱13,559,722.41, representing petitioner's alleged unutilized input VAT attributable to its zero-rated sales for the 4th quarter of CY 2020.

Second, respondent contends that the Court erred in admitting and according evidentiary value to documents that were not presented during the administrative proceedings. Respondent argues that since the Court's jurisdiction over a judicial claim for refund becomes strictly appellate once an administrative decision has been rendered, the Court is confined to the record upon which the administrative denial was based and cannot give weight to documents examined

by the Independent CPA (ICPA) and the Court that were not previously submitted to the Bureau of Internal Revenue (BIR). Respondent invokes *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*⁶ and the dissenting opinions of Associate Justices Jean Marie A. Bacorro-Villena and Henry S. Angeles in *Commissioner of Internal Revenue v. Stefanini Philippines, Inc.*⁷ in support of this position and prays that petitioner's claim be DENIED for failure to substantiate the same at the administrative level.

The Court's Ruling

The Motion is bereft of merit and is accordingly DENIED.

Respondent's theory cannot be raised for the first time on reconsideration.

A review of the record shows that respondent's *Answer*⁸ raised only the following defenses: that petitioner is not entitled to the claimed input VAT refund; that, based on the verification procedures made, there is no VAT refundable amount due to insufficient input taxes with valid supporting documents; and that the burden of proof in an action for refund lies with petitioner, whose failure to adduce sufficient proof is fatal to its claim. Respondent did not, at any stage of the proceedings — not in the Answer, not in his Comment on petitioner's Formal Offer of Evidence,⁹ and not in a Memorandum, which respondent did not in fact file¹⁰ — raise the specific theory that the Court is precluded, by reason of the appellate character of its review, from considering evidence formally offered and admitted at trial merely because such evidence was not part of the administrative record.

It is settled that a party cannot change its theory of the case on appeal or raise an entirely new issue for the first time in a motion for reconsideration, to the prejudice of the adverse party who was never given the opportunity to meet the same at trial. Respondent's belated invocation of the appellate-review theory, only after an adverse Decision had been rendered, bears the hallmark of an afterthought rather than a timely and properly pleaded defense, and may be dismissed on this basis alone.

Pilipinas Total Gas does not bar the Court from considering evidence

⁶ G.R. No. 207112, December 8, 2016; Motion, pp. 3-9.

⁷ CTA EB No. 2864, Dissenting Opinions of Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Henry S. Angeles, both dated March 2, 2026; Motion, pp. 4-9.

⁸ Docket-Vol 1, pp. 172 to 178, Respondent's Answer dated September 5, 2023.

⁹ *Id.*, pp. 436 to 438, Comment, par. 7; Comment (On Petitioner's Formal Offer of Evidence) dated June 14, 2024.

¹⁰ *Id.*, p. 493, Comment, par. 8, citing Records Verification dated February 27, 2025 issued by the Judicial Records Division of this Court.

formally offered and admitted at trial.

Even on the merits, respondent's reliance on *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*¹¹ is misplaced. In that case, the Supreme Court held that where an administrative claim was dismissed by the CIR due to the taxpayer's failure to submit complete documents despite notice or request, the taxpayer must convince this Court, on appeal, that the CIR had no reason to deny the claim. Neither *Pilipinas Total Gas* nor the dissenting opinions in *Commissioner of Internal Revenue v. Stefanini Philippines, Inc.*¹² invoked by respondent purports to strip the Court of its settled authority to receive, evaluate, and give weight to evidence formally offered and admitted before it during trial. To the contrary, a judicial claim for refund or tax credit before this Court is litigated de novo, such that the taxpayer must prove every minute aspect of its case by presenting, formally offering, and submitting its evidence to the Court, and part of the evidence to be submitted here must necessarily include whatever is required for the successful prosecution of the administrative claim.¹³

This Court has since had occasion to reiterate that RMO No. 53-98 — the very same species of internal issuance underlying respondent's present theory — is merely a guide addressed to the BIR's revenue officers and employees, and is not a benchmark for determining whether the documents submitted by a taxpayer are actually complete to support a claim for tax credit or refund; a taxpayer's failure to submit complete supporting documents at the administrative level does not deprive the Court of jurisdiction over its judicial claim, nor does it result in the automatic denial thereof.¹⁴ There is nothing in Section 112 of the National Internal Revenue Code (NIRC) of 1997, as amended, or in the BIR's own issuances, that mandates the outright denial of a refund claim for incompleteness of documents at the administrative stage, to the exclusion of evidence properly offered before this Court.¹⁵

The Court did not rely on documents different from those examined administratively.

Respondent's Motion rests on the unproven premise that the documents evaluated by the Court and by respondent's own revenue officers are not the same. Respondent, however, does not identify a single exhibit relied upon by the

¹¹ *Supra.*

¹² *Supra.*

¹³ *Commissioner of Internal Revenue v. Philippine Mining Service Corporation*, CTA EB Case No. 2951 (CTA Case No. 10261), January 16, 2026, citing *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*, G.R. No. 207112, December 8, 2016.

¹⁴ *Commissioner of Internal Revenue v. Pilipinas Kyohritsu, Inc.*, CTA EB Case No. 2334 (CTA Case No. 9557), January 20, 2022, citing *Commissioner of Internal Revenue v. Chevron Holdings, Inc. [Formerly Caltex (Asia) Limited]*, G.R. No. 233301, February 17, 2020.

¹⁵ *Id.*

Court that was allegedly absent from the administrative record. On the contrary, the figures on record show a close correlation between respondent's own administrative findings and those of the Court: respondent's revenue officers disallowed input VAT in the amount of ₱42,187,808.88 for lack of supporting documents,¹⁶ while the Court found unsubstantiated input VAT in the closely comparable amount of ₱41,920,720.59;¹⁷ and respondent's own computation reflected an "Adjusted Input Tax available for refund" of ₱30,467,104.19,¹⁸ while the Court found substantiated valid input VAT of ₱30,663,573.26.¹⁹ This substantial correlation confirms that the Decision was anchored on essentially the same body of source documents examined at the administrative level, the minimal variance being attributable only to differences in evaluation and interpretation, and not to the introduction of a wholly new evidentiary record.

The first ground is derivative of, and mooted by, the second.

Respondent's first ground — that the Court erred in partially granting the Petition for Review and ordering the refund — presents no argument independent of the second. Having resolved that the Court properly considered the evidence formally offered and admitted during trial, and that respondent's belated theory to the contrary cannot be sustained, there is no remaining basis to disturb the Decision's award of ₱13,559,722.41 in favor of petitioner, representing its substantiated unutilized input VAT attributable to its valid zero-rated sales for the 4th quarter of CY 2020.

WHEREFORE, in view of the foregoing considerations, respondent's Motion for Partial Reconsideration dated April 22, 2026 is hereby **DENIED** for lack of merit.

SO ORDERED.


MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

WE CONCUR:


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

¹⁶ *Id.* at Note 1, p. 10.

¹⁷ *Id.* at Note 2, p. 20.

¹⁸ *Id.* at Note 1, p. 14.

¹⁹ *Id.* at Note 2, p. 21.

Corazon G. Ferrer-Flores
CORAZON G. FERRER-FLORES
Associate Justice