REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

HALLIBURTON WORLDWIDE LIMITED-PHILIPPINE BRANCH,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 2476
(CTA Case No. 9670)

Present:

DEL ROSARIO, *PJ,*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, and
FERRER-FLORES, *JJ.*

Promulgated:
SEP 1 5 2023 1:12

x---x

RESOLUTION

REYES-FAJARDO, *J.*:

On April 4, 2023, we rendered a Decision,[1] disposing CTA EB No. 2476, as follows:

> **WHEREFORE,** the Petition for Review dated June 21, 2021, in CTA EB No. 2476, is **DENIED,** for lack of merit. The Decision dated January 11, 2021 and Resolution dated May 24, 2021 in CTA Case No. 9670, are **AFFIRMED.**
>
> **SO ORDERED.**

---

1 *Rollo,* pp. 117-132.

In so ruling, we discoursed: *first,* the Department of Energy Certificate of Endorsement (DOE-COE) is *not* required to reap the benefit of 0% VAT anchored on Section 15(g) of Republic Act (RA) No. 9513, in relation to Section 108(B)(7) of the 1997 National Internal Revenue Code (NIRC), as amended; *second,* the Board of Investments Certificate of Registration (BOI-COR) is required for the enjoyment of said incentive; and *third,* petitioner's sales to Energy Development Corporation (EDC) and Maibarara Geothermal, Inc. (MGI) may *not* be accorded 0% VAT because petitioner unjustifiably failed to timely present the BOI-COR of EDC and MGI.

On May 3, 2023, petitioner filed its Motion for Reconsideration (Re: Decision dated 4 April 2023), contending that: (1) the BOI Certifications were attached to its Motion for Reconsideration, in line with jurisprudence putting supreme importance on the ascertainment of truth; and (2) the paramount interests of justice would be served by admitting the documents attached to its motion for reconsideration.

On May 19, 2023, respondent filed through accredited courier, his Comment/Opposition (To Petitioner's Motion for Reconsideration), counter-arguing that petitioner's sales to EDC and MGI may not be considered as 0% VAT because it failed to present the BOI-COR of EDC and MGI. Additionally, the BOI-COR sought to be introduced by petitioner as evidence is forgotten evidence; hence, the Court correctly denied the admission thereof as petitioner's evidence.

The Motion lacks merit.

We have exhaustively discussed in pages 13-15 of the assailed Decision, the reason for the rejection of additional evidence sought to be presented by petitioner. To quote:

> Section 5, Rule 30 of the Rules of Court, as amended, provides the general rule that the presentation of evidence by the parties is done during trial stage. By way of exception, after judgment has been rendered, the aggrieved party may move for new trial to present evidence. The two (2) well-defined grounds for new trial are found in Section 5, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA), which provides:

> **SEC. 5.** *Grounds of motion for new trial.* - A motion for new trial may be based on one or more of the following causes materially affecting the substantial rights of the movant:
>
> (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or
>
> (b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial and, which, if presented, would probably alter the result.
>
> A motion for new trial shall include all grounds then available and those not included shall be deemed waived.

None of these grounds are present in this case. Particularly, DC No. DC2009-05-0008 had already been in existence way back 2009. Petitioner, too, is well aware of said circular as it recognized the same in its petition for review before the Court in Division. Thus, we cannot lend credence on petitioner's claim that it is of the honest belief that only the DOE-COR is the *sole* document to be produced to confer VAT zero-rating on its sales to EDC and MGI.

Moreover, the evidence petitioner seeks to present was not omitted due to fraud, accident, mistake, or excusable negligence; nor may these documents be considered newly discovered evidence. Being so, such kind of evidence does not justify the grant of a new trial. As aptly observed by the Court in Division:

> It is well-established that a Motion to Reopen Trial like a Motion for New Trial may be granted only upon specific, well-defined grounds set forth in the [Rules of Court]. Unfortunately, petitioner did not mention any circumstance that would justify the reopening of the case for reception of additional evidence.
>
> Here, the additional documents which petitioner asks us to consider and admit are neither newly discovered evidence nor omitted due to fraud, accident, mistake, or excusable negligence. Certainly, by exercising reasonable diligence, it could have requested and offered in evidence the BOI Certificate of Registration and the DOE Certificate of Endorsement of the concerned RE Developers in support of its application for VAT refund. On this basis, the documents attached to petitioner's MR cannot be considered as newly discovered evidence but merely forgotten evidence.
>
> 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 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.
>
> Although Section 8 of RA 1125, as amended, creating the CTA, expressly provides that proceedings before this Court shall not be governed strictly by technical rules of evidence and there are instances where the Court allows the reopening of trial even though judgment has already been rendered, still, We find that petitioner has not demonstrated any convincing reason for the Court to apply the technical rules liberally.[2]

WHEREFORE, petitioner's Motion for Reconsideration (Re: Decision dated 4 April 2023), filed on May 3, 2023, is **DENIED**, for lack of merit.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

---

2 Citations omitted.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA A. MODESTO-SAN PEDRO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice