REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

CARMEN COPPER CORPORATION, Petitioner,	**CTA CASE NO. 9659**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson,* **MANAHAN,** *(Special Member) and* **BACORRO-VILLENA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUN 2 2 2021 8:15 a.m.

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RESOLUTION

CASTAÑEDA, JR., *J.*:

Submitted for resolution is respondent's **Motion for Reconsideration**, filed on February 22, 2021, with petitioner's **Comment (To Respondent's Motion for Reconsideration)**, filed on May 24, 2021.

The dispositive portion of the assailed February 16, 2021 Resolution is hereunder quoted, to wit:

> "**WHEREFORE**, premises considered, petitioner's **Motion For Leave of Court to Reopen the Case for the Recall of a Witness** is **GRANTED.** Accordingly, let the case be set for hearing on March 8, 2021 at 9:00 a.m. for the presentation of the court-commissioned ICPA.
>
> In the meantime, the resolution of petitioner's Motion for Reconsideration is **HELD IN ABEYANCE.**

SO ORDERED."

It can be recalled that this Court promulgated a Decision on September 10, 2020, denying the Petition for Review filed by petitioner for lack of merit. In the said Decision, the Court dismissed petitioner's claim for refund of the alleged excess and unutulized Input Value Added Tax (VAT) on the ground that it has already been granted VAT Credit/Refund by the respondent in an amount more than what was found by the Court to be refundable.

As such, on October 15, 2020, petitioner filed by registered mail a Motion for Reconsideration (With Motion for Leave of Court to Reopen the Case for the Recall of a Witness) of the aforementioned Decision, to which respondent filed his opposition on November 20, 2020.

The Court later granted petitioner's motion for leave to reopen the case and set the hearing on March 8, 2021 for the recall of the court-commissioned Independent Certified Public Accountant (ICPA) per Resolution dated February 16, 2021.

Thus, on February 22, 2021, respondent filed the instant Motion for Reconsideration of the February 16, 2021 Resolution. Petitioner then filed its comment thereon on May 24, 2021.

In his motion, respondent prays for the Court to reverse the assailed Resolution and render a new one denying petitioner's motion to reopen the case for the recall of witness.

Citing several legal authorities, respondent essentially contends that petitioner was already accorded full opportunity to ventilate its case during trial and that the additional evidence sought to be presented by petitioner is neither newly discovered nor omitted through inadvertence or mistake.

For its part, petitioner opposes the arguments presented by respondent in the instant motion and alleges that the decided cases cited by respondent are not applicable on the matter as there are no new documents to be presented for the first time in this case which would call for a new trial in the context as normally understood in civil litigation.

Petitioner points out that even if we are to consider that the recall of the ICPA amounts to a new trial, it could fall under Section 5(b), Rule 15 of the Revised Rules of the Court of Tax Appeals because the issue on zero-rated sales was only discovered by the Court when it decided the case and that it could not have reasonably assume that respondent is disputing the same considering that in his administrative decision, such issue on zero-rated sales was not among those mentioned as grounds for disallowance of input taxes claimed.

Lastly, petitioner avers that the Supreme Court in the case of *BPI Family vs. Court of Appeals* has already ruled that evidence could be presented even after the decision was rendered if only to ascertain the truth and for the just determination of the controversy.

Respondent's motion lacks merit.

The Court notes that the arguments of respondent in the instant Motion for Reconsideration were already laid down in his Opposition filed on November 20, 2020, which this Court have already addressed and explained in the Resolution sought to be reconsidered. Thus, this Court finds no valid or cogent reason to deviate from the conclusion reached in its Resolution dated February 16, 2021.

It bears stressing that a motion to reopen trial may be properly presented after either or both parties had formally offered and closed their evidence but before judgment is rendered, and even after promulgation but before finality of judgment and the only controlling guideline governing a motion to reopen is the paramount interest of justice as held by the Supreme Court in the case of *Rene Cabarles vs. Hon. Judge Bonifacio Sanz Maceda, et. al.*[1]

Further, technical rules of procedure are not ends in themselves but are primarily designed to aid in the administration of justice. And in cases before tax courts, Rules of Court applies only by analogy or in a suppletory character and whenever practicable and convenient shall be liberally construed in order to promote its objective of securing a just, speedy and inexpensive disposition of every action and proceeding.[2]

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[1] G.R. No. 161330, February 20, 2007.

[2] *Philippine Phosphate Fertilizer Corporation vs. Commissioner of Internal Revenue*, G.R. No. 141973, June 28, 2005.

Thus, while we are not bound by the findings of the ICPA or that of respondent, this Court deemed it just and proper to allow the recall of the court-commissioned ICPA, to further elaborate on the ICPA Report in order to have a full and final determination of this case. By doing so, the ends of justice would be better served.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration** is **DENIED** for lack of merit.

Accordingly, set the case for the presentation of the court-commissioned ICPA on August 16, 2021 at 9:00 a.m.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CATHERINE T. MANAHAN
Associate Justice
(Special Member)

(With due respect, I maintain my Dissenting Opinion.)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice