REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

CITCO INTERNATIONAL SUPPORT SERVICES LIMITED – PHILIPPINE ROHQ, Petitioner,	**CTA CASE NO. 10462**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: 4:15 pm

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RESOLUTION

FERRER-FLORES, J.:

Before this Court is petitioner's **Motion for Reconsideration (of the Decision promulgated on 6 May 2025)** filed through registered mail on March 29, 2025, and received by the Court on June 4, 2025, with respondent's **Comment and Opposition (Re: Motion for Reconsideration dated 29 May 2025)** filed on July 14, 2025.

On May 6, 2025, the Court promulgated a Decision (assailed Decision) denying petitioner's claim for refund of unutilized input value-added tax (VAT) for failing to sufficiently establish that its sale of services for the third and fourth quarters of calendar year (CY) 2018 qualify for zero-rating under Section 108(B)(2) of the National Internal Revenue Code (NIRC) of 1997, as amended, the dispositive portion of which reads as follows:

> **ACCORDINGLY**, in light of the foregoing considerations, the present *Petition for Review* is **DENIED** for lack of merit.
>
> **SO ORDERED.**

In its *Motion*, petitioner prays for the Court to reconsider the assailed Decision declare petitioner entitled to a refund in the total amount of

₱13,493,509.53, representing the excess and unutilized input VAT attributable to zero-rated sales of service for the third and fourth quarters of CY 2018, based on the following grounds:

> I.
> It is not disputed by Respondent that Petitioner's services to its non-resident foreign affiliate-clients for the third and fourth quarters of calendar year 2018 are not in the nature of "processing, manufacturing, or repacking goods."
>
> II.
> The evidence on record and the Rules of Evidence establish that Petitioner's services to its non-resident foreign affiliate-clients are not in the nature of "processing, manufacturing, or repacking goods".
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> III.
> There is clear preponderance of evidence that Petitioner's services to its non-resident foreign affiliate-clients are not in the nature of "processing, manufacturing, or repacking goods".
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> IV.
> It is clear from Revenue Memorandum Circular No. 57-97, CB Circular No. 1389 dated 13 April 1993, and Respondent's Rulings that inward remittance of foreign currency proceeds from export sales is no longer necessary for the qualification of export sales of services as VAT zero-rated.

Anent the *first* ground, petitioner points out that respondent denied its claim for VAT refund ast here was no bank certification that was submitted to prove inward remittance" of the proceeds from petitioner's export sales. Petitioner expounds that, even during the court hearings held on September 26, 2023 and November 30, 2023, respectively, respondent's revenue officers (ROs) confirmed that the said reason, as stated in the letter of Bureau of Internal Revenue (BIR) Assistant Commissioner Maria Luis I. Belen, is the only ground for their denial of petitioner's claim for refund. Moreover, petitioner argues that respondent did not dispute in his *Answer* – and even throughout the course of the trial – that petitioner's sales of services for the third and fourth quarters of CY 2018 are "other than processing, manufacturing, or repacking goods". As such, petitioner submits that the nature of services rendered to its non-resident foreign affiliate-clients was never disputed and respondent's silence on the issue during trial constitutes judicial admission which dispenses with the need for further evidence to prove the same.

With regard to the *second* ground, petitioner reiterates that, as stipulated by the parties and as stated in the assailed Decision, petitioner is a foreign corporation duly organized and existing under the laws of Cayman Islands licensed to do business in the Philippines as a regional operating headquarters (ROHQ). Petitioner asserts that its Certificate of Registration and License, both issued by the Securities and Exchange Commission (SEC), show that it is registered and licensed "to engage in general administration and planning; business planning and coordination; sourcing/procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistics services; research and development services and product development; technical support and maintenance; data processing and communication; and business development". Petitioner continues that the foregoing fact was even confirmed by the BIR in the Memorandum Report dated November 18, 2020, offered and marked by respondent as Exhibit "R-3".

To further bolster its claim that it is not engaged in processing, manufacturing, or repacking of goods for the third and fourth quarters of CY 2018, petitioner enumerates the "qualifying services" allowed for a ROHQ under Executive Order (EO) No. 226, as amended by Republic Act (RA) No. 8756, or the *Omnibus Investment Code.* Petitioner also insists that there is no evidence on record that would show respondent disputed the performance by petitioner of such "qualifying services" to its non-resident foreign affiliates – which are mainly banks and entities engaged in assets management and fund administration. Petitioner likewise appended the Second Judicial Affidavit of Ms. Jocelyn L. Payuyo as Annex "A" to its *Motion* to confirm the said unrebutted fact.

As to the *third* ground, petitioner submits that claims for refund are civil in nature, and only the preponderance of evidence threshold is needed to substantiate a claim for tax refund. Petitioner argues that the undisputed evidence on record establishes the fact that during the period of its claim for VAT refund, petitioner performed services in the Philippines other than "processing, manufacturing, or repacking goods" to its customer-clients.

For its last and *fourth* ground, petitioner cites Revenue Memorandum Circular (RMC) No. 57-97, Central Bank (CB) Circular No. 1389 dated April 13, 1993, BIR Ruling No. 176-94, BIR Ruling [UN-145-95] dated April 10, 1995, BIR Ruling [UN-422-95] dated December 1, 1995, BIR Ruling [UN-422-95] dated December 1, 1995, and VAT Ruling No. 047-00 dated October 26, 2000, in justifying its stance that Section 108(B)(2) of the NIRC of 1997, as amended, does not specifically require "inward remittance" of foreign currency proceeds for export sales to qualify as VAT zero-rated.

On the other hand, in his *Comment*, respondent avers that the arguments propounded by petitioner in its *Motion* are without merit and raised no points of contention that would warrant the reversal of the Decision it assails. He maintains that the Court correctly denied petitioner's claim for refund since it failed to discharge the burden of complying with the requirements, *i.e.*, failing to submit proof of inward remittances, in order for the supply of services be considered VAT zero-rated. Lastly, respondent submits that taxes paid and collected by the BIR are presumed to have been made in accordance with law, rules and regulations and the burden to prove otherwise is with the taxpayer-claimant.

After due consideration, the Court finds petitioner's *Motion for Reconsideration* bereft of merit.

To summarize, petitioner primarily contends that, it was able to sufficiently prove that the services to its other customers are not in the nature of "processing, manufacturing, or repacking goods", and, that inward remittance of foreign currency proceeds from export sales is not necessary for the qualification of export sales of services as VAT zero-rated.

At the onset, while it is true that respondent wholly denied its claim for VAT refund on the ground that "no bank certification was submitted to prove inward remittance" of the proceeds from petitioner's export sales, the Court is not precluded to consider or verify undisputed facts such as petitioner's compliance with other requirements to arrive at a just conclusion. It must be emphasized that Section 8 of RA No. 1125,[1] as amended, describes this Court as a **court of record** and as such, it is required to conduct a formal trial (trial *de novo*) where the parties must present their evidence accordingly if they desire the Court to take such evidence into consideration.[2] As cases filed before this Court are **litigated *de novo***, party-litigants must prove every minute aspect of their cases by presenting, formally offering, and submitting its evidence to the Court.[3] Moreover, every court has the positive duty to consider and give due regard to everything on record that is relevant and competent to its resolution of the ultimate issue presented for its adjudication.[4]

The question of whether the evidence submitted by a party is sufficient to warrant the granting of its prayer lies within the sound discretion and judgment of the Court. As cases filed before this Court are litigated *de novo*, the Court is not governed strictly by technical rules of evidence, thus, is not precluded from considering evidence not presented at

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1 AN ACT CREATING THE COURT OF TAX APPEALS.
2 *Commissioner of Internal Revenue v. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.
3 *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007.
4 *Commissioner of Internal Revenue v. Ocier*, G.R. No. 192023, November 21, 2018.

the administrative level for the paramount consideration remains the ascertainment of truth.[5] More so, in contemplation that actions for tax refund or credit, as in the present case, partake the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven. Thus, the burden is on the taxpayer to show that it has strictly complied with the conditions for the grant of the tax refund or credit.[6]

Applying the foregoing, and in the performance of its positive duty, this Court sought to determine and verify petitioner's claim that the services it rendered are not in the same category as "processing, manufacturing, or repacking goods." Standing alone, the services enumerated in the SEC Certificate of Registration and License, or the "qualifying services" enumerated under EO No. 226, as amended by RA No. 8756, which an ROHQ in the Philippines may render to its foreign affiliates, are insufficient to establish the actual services performed by petitioner absent any supporting document that could prove that such services were indeed rendered to its foreign affiliates.

Also, worth noting is that the *Second Judicial Affidavit* of Ms. Jocelyn L. Puyuyo and the documents attached thereto as appended in the present *Motion* are bereft of evidentiary value as they were never presented, authenticated, marked, identified, or formally offered in evidence. Nonetheless, even assuming that this Court would consider the Service Agreements mentioned in the *Second Judicial Affidavit* of Ms. Jocelyn L. Puyuyo, petitioner would still not be entitled to its claim for refund on the ground that there is no showing that the proceeds from its sale of services were inwardly remitted through the Philippine banking system and duly accounted for in accordance with the Bangko Sentral ng Pilipinas (BSP) rules and regulations.

It must be emphasized that the requirement of inward remittance of foreign currency through the Philippine banking system, duly accounted for in accordance with BSP rules and regulations, has already been settled by the Court in the assailed Decision, thus:

> However, petitioner's invocation of RMC No. 57-97 as its basis for dispensing the proof of inward remittance is bereft of merit. RMC No. 57-1997 cannot serve as petitioner's anchor to dispense with the proof of payment in foreign currency, as such Circular does not constitute any directive on the part of the BIR. In fact, contrary to petitioner's supposition, proof of inward remittance of foreign currency is still being required as stressed by the Supreme Court, most notably in the case of *San*

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[5] *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.)*, G.R. No. 231581, April 10, 2019.

[6] *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222428, February 19, 2018.

> *Roque Power Corp. vs. Commissioner of Internal Revenue*, and echoed in recent cases such as in *Chevron Holdings, Inc. vs. Commissioner of Internal Revenue* and *Maibarara Geothermal, Inc. vs. Commissioner of Internal Revenue*. Thus, proof of inward remittance of foreign currency is still required by no less than the *Supreme Court*, and as consistently held by this Court.
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> Moreover, Section 108(B)(2) of the NIRC of 1997, as amended, explicitly provides that the consideration for the services rendered must be *'paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)'*. It is a basic rule in statutory construction that where the law does not distinguish, the courts should not distinguish. *Ubi lex non distinguit nee nos distinguere debemos.* No distinction should be made in the application of the law where none has been indicated. Courts can only interpret the law; it cannot read into the law what is not written therein.[7] *(Citations omitted)*

Lastly, it cannot be gainsaid that a BIR ruling contains the official interpretation of the Commissioner on a query raised by a particular taxpayer regarding their specific set of facts and circumstances. It is, however, merely an interpretative opinion addressed to that specific entity or taxpayer and, correspondingly, cannot be considered binding precedents in the same way as pronouncements from the Supreme Court. There is only one Supreme Court from whose decisions all other courts should take their bearings.[8]

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by petitioner in its *Motion for Reconsideration*, the Court finds no compelling reason to reverse or modify the Decision promulgated on May 6, 2025.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration (of the Decision promulgated on 6 May 2025)** is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

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[7] Decision dated May 6, 2025, pp. 18 to 19.

[8] *Commissioner of Internal Revenue v. Michel J. Lhuillier Pawnshop, Inc.*, G.R. No. 150947, July 15, 2003.

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

(On Leave)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice