REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
****

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2488** (CTA Case No. 9266)
	Present:
- versus -	**DEL ROSARIO,** P.J., **UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO,** and **CUI-DAVID,** JJ.
CHEVRON HOLDINGS, INC., Respondent.	***Promulgated:*** SEP 2 1 2022 4:30 pm

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DECISION

UY, J.:

Before this Court are the *Petition for Review*[1] and *Supplemental Petition for Review*[2] filed on June 22, 2021 and June 21, 2022, respectively, by petitioner Commissioner of Internal Revenue, against respondent Chevron Holdings, Inc.

The ***Petition for Review*** seeks the reversal of the Decision dated October 7, 2020[3] (original Decision) and the Resolution dated May 31, 2021[4], (first assailed Resolution) both rendered by the First

[1] EB Docket, pp. 1 to 19.
[2] EB Docket, pp. 130 to 147.
[3] Penned by Presiding Justice Roman G. Del Rosario and concurred by Associate Justice Catherine T. Manahan, EB Docket, pp. 27 to 96.
[4] EB Docket, pp. 97 to 108.

Division of this Court (Court in Division) in CTA Case No. 9266, entitled *"Chevron Holdings, Inc., Petitioner, versus Commissioner of Internal Revenue, Respondent"*, the dispositive portions of which, respectively read as follows:

Decision dated October 7, 2020:

> **WHEREFORE**, premises considered, the 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 **SIX MILLION FOUR HUNDRED FORTY THREE THOUSAND NINE HUNDRED EIGHTY NINE PESOS AND EIGHTY EIGHT CENTAVOS (₱6,443,989.88)**, representing petitioner's excess and unutilized input VAT attributable to zero-rated sales for the four quarters of calendar year 2014.
>
> **SO ORDERED**."

Resolution dated May 31, 2021:

> "**WHEREFORE**, premises considered, the **Motion for Partial Reconsideration (Re: Decision promulgated 7 October 2020)** of the Commissioner of Internal Revenue is **DENIED** for lack of merit. The **Motion to Reopen Case** of Chevron Holdings, Inc. is **GRANTED** in the interest of truth and justice.
>
> Meanwhile, the resolution of Chevron Holdings Inc.'s Motion for Reconsideration is **HELD IN ABEYANCE** pending the presentation of petitioner's evidence, *i.e., supplemental evidence, and the clearer/readable copies of certain exhibits, as specified in the Omnibus Motion.*
>
> Let a commissioner's hearing be held on **August 17, 2021** at **1:30 p.m.** for the marking of petitioner's supplemental evidence and for the marking of the replaced exhibits, which were specified in the Omnibus Motion.
>
> Set the hearing of this case for the presentation of petitioner's evidence on **August 26, 2021** at **9:00 a.m.**

Petitioner is **DIRECTED** to submit the necessary Judicial Affidavit of its witness/es, and to serve personally or through a licensed courier a copy thereof to respondent not later than five (5) days before the scheduled hearing.

SO ORDERED."

On the other hand, the ***Supplemental Petition for Review*** seeks to reverse and set aside the Amended Decision[5] dated March 16, 2022 and Resolution[6] dated June 3, 2022 (second assailed Resolution), rendered by the Court in Division, the dispositive portions of which, respectively read as follows:

Amended Decision dated March 16, 2022:

"**WHEREFORE**, premises considered, the exhibits offered in petitioner's **Supplemental Formal Offer of Evidence** filed on November 4, 2021 are **ADMITTED**.

Petitioner's **Motion for Reconsideration (Re: Decision dated October 7, 2020)** filed on October 28, 2020 is **PARTIALLY GRANTED**. Accordingly, the Decision of this Court dated October 7, 2020 is **MODIFIED**. Respondent Commissioner of Internal Revenue is hereby **ORDERED TO REFUND or ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner Chevron Holdings Inc. in the amount of **₱49,789,268.42**, representing the latter's excess and unutilized input VAT attributable to zero-rated sales for the four quarters of calendar year 2014.

SO ORDERED."

Resolution dated June 3, 2022:

"**WHEREFORE**, premises considered, respondent's **Motion for Partial Reconsideration (Re: Amended**

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[5] EB Docket, pp. 157 to 189.
[6] EB Docket, pp. 191 to 194.

Decision promulgated 16 March 2022), filed on March 31, 2022 is **DENIED** for lack of merit.

SO ORDERED."

THE FACTS

Petitioner is the duly appointed Commissioner of Internal Revenue (CIR) vested under appropriate laws with the authority to carry out the functions, duties and responsibilities of said office, including *inter alia*, the duty to act upon and approve claims for refund or tax credit pursuant to the provisions of the National Internal Revenue Code (NIRC) of 1997 and other tax laws, rules, and regulations.

On the other hand, respondent Chevron Holdings, Inc., (or Chevron) is a foreign corporation organized and existing under laws of Delaware, U.S.A. It is licensed by the Securities and Exchange Commission (SEC) to transact business as regional operating headquarters in the Philippines with purposes limited to general administration and planning; business planning and coordination; sourcing and procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistic services; research and development services and product development; technical support and maintenance; data processing and communication; and business development.

It is registered with the Bureau of Internal Revenue (BIR) as a Value-Added Tax (VAT) taxpayer and was issued a Certificate of Registration (BIR Form No. 2303) with OCN 8RC0000385300, dated February 9, 2016, and with Tax Identification Number (TIN) 201-056-391-000.

Chevron filed its Quarterly VAT Returns (BIR Form No. 2550-Q) for the first, second, third and fourth quarters of calendar (CY) 2014 on April 25, 2014, June 25, 2014, October 24, 2014 and January 23, 2015, respectively. It filed its Amended Quarterly VAT Returns for the first, second and fourth quarters of CY 2014 on September 15, 2014, September 18, 2014 and March 18, 2015, respectively.

In four (4) separate letters dated September 14, 2015 addressed to the BIR, together with an accomplished *Application for Tax Credits/Refunds* (BIR Form No. 1914) and *Sworn Certification* that documents submitted are complete for purposes of processing its claim, Chevron requested for VAT refund or the issuance of tax credit certificates (TCCs) of its alleged unutilized excess input taxes for the first, second, third and fourth quarters of CY 2014 in the amounts of ₱18,743,943.24, ₱24,183,569.15, ₱16,454,339.20 and ₱24,846,157.61, respectively. Said administrative claims for refund were received by the BIR on September 24, 2015.

Alleging that the 120-day period under Section 112(C) of the Tax Code for the CIR to resolve its administrative claims has expired on January 22, 2016, and that it had until February 21, 2016 to file its judicial claim, Chevron filed a *Petition for Review* on February 19, 2016, docketed as CTA Case No. 9266. The case was raffled to the Third Division of this Court.

In compliance with the *Summons* issued on March 31, 2016, the CIR filed his *Answer* on April 15, 2016, interposing, among others, special and affirmative defenses which include the following: that the claim for refund is subject to administrative routinary investigation/ examination by the BIR; that in an action for refund, the burden of proof is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund/credit. Allegedly, Chevron must show that it has complied with the provisions of Section 112 of the NIRC of 1997 on the prescriptive period for claiming tax refund/credit. According to the CIR, there is no record that Chevron submitted complete documents to substantiate its administrative claim for refund. Further, it is the CIR's position that Chevron's failure to submit documents supporting its claim for refund makes its administrative claim for refund *pro forma*; and that without a validly and duly filed administrative claim for refund, the Court is without jurisdiction to entertain the *Petition for Review*.

After the Pre-Trial Conference held on August 2, 2016, the parties filed their *Joint Stipulation of Facts and Issues* on August 12, 2016. The Pre-Trial Order was issued on September 2, 2016.

During trial, Chevron presented the following as witnesses, namely: (i) Benedicta A. Santos, its Manager-Business Analysis and Support; (ii) Carolyn C. Ardina, its Finance Coordinator-Business Analysis and Support; (iii) Elmira V. Villalobos, its Team Leader-Fixed

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Assets; and, (iv) Fredieric B. Landicho, the Independent Certified Public Accountant (ICPA).

Chevron presented and offered in evidence pieces of exhibits listed in its *Formal Offer of Evidence* filed on March 1, 2018, with respondent's *Comment* thereon filed on March 2, 2018.

Meanwhile, in the Order issued on October 1, 2018 by the Third Division, CTA Case No. 9266 was transferred to the Court in Division (First Division), in line with CTA Administrative Circular No. 02-2018, dated September 18, 2018, reorganizing the three (3) Divisions of the Court of Tax Appeals (CTA).

In the Resolution dated October 25, 2018, the Court in Division admitted certain exhibits offered by Chevron, except the following:

1. Exhibits "P-16.1" to "P-16.31", "P-18.1" to "P-18.37" and "P-19.1" to "P-19.5", including their sub-markings, for failure to comply with the Rules of Electronic Evidence with respect to the authentication of documents;

2. Exhibits "P-10.3", "P-16.3", "P-16.6", "P-16.7", "P-16.10", "P-16.11", "P16.12", "P-16.13", "P-16.14", "P-16.14.1", "P-16.15", "P-16.17", "P-16.17.1", "P-16.18", "P-16.20", "P-16.21", "P-16.22", "P-16.23", "P-16.24", "P-16.26", "P-16.26.1", "P-16.28", "P-16.29", "P-16.30", "P-16.31", for failure to present the originals for comparison;

3. Exhibits "P-20.5" and "P-20.15", for failure to correspond with the description of the documents actually marked; and

4. Exhibit "P-20.25", as it is not found in the records of the case.

On November 29, 2018, Chevron filed its *Motion for Partial Reconsideration (Resolution dated October 25, 2018).*

In the Resolution dated February 27, 2019, the Court in Division granted Chevron's motion to set a commissioner's hearing for the marking of Exhibits "P-10.3", "P-8.2", "P-8.3" and "P-8.4". It granted Chevron's prayer to amend the description of Exhibits "P-20.5", "P-20.15" and "P-16.10" as indicated in the *Formal Offer of Evidence* to conform to the evidence presented during the commissioner's hearing.

After the aforesaid commissioner's hearing, Chevron filed its *Amended Formal Offer of Evidence* on May 22, 2019, with the CIR's *Comment* thereon filed on June 4, 2019.

In the Resolution dated November 22, 2019, the Court in Division partially granted Chevron's *Motion for Partial Reconsideration (Resolution dated October 25, 2018)* and admitted Exhibits "P-10.3", "P-16.1", "P-16.2", "P-16.4", "P-16.5", "P-16.8", "P-16.9", "P-16.16", "P-16.19", "P-16.25", "P-16.27", "P-18.1" to "P-18.37", "P-19.1" to "P-19.5", inclusive of the sub-markings, "P-20.5" and "P-20.15" as evidence for petitioner. Exhibits "P-16.3", "P-16.6", "P-16.7", "P-16.10", "P-16.11", "P-16.12", "P-16.13", "P-16.14", "P-16.14.1", "P16.15", "P-16.17", "P-16.17.1", "P-16.18", "P-16.20", "P-16.21", "P-16.22", "P-16.23", "P-16.24", "P-16.26", "P-16.26.1", "P-16.28", "P-16.29", "P-16.30" and "P-16.31" were still denied admission for Chevron's failure to present the originals thereof for comparison.

In the Resolution dated November 26, 2019, the Court in Division cancelled the previous setting for the initial presentation of the CIR's evidence in view of the earlier manifestation of CIR's counsel during the November 20, 2018 hearing that he was waiving the presentation of evidence in CTA Case No. 9266. In the same Resolution, the parties were granted a period of thirty (30) days from receipt thereof to file their respective memoranda.

Chevron filed its *Memorandum* on February 21, 2020; while the CIR failed to file the required memorandum as per *Records Verification* [Report] dated February 27, 2020 issued by the Court's Judicial Records Division. On March 10, 2020, CTA Case No. 9266 was submitted for decision

On October 7, 2020, the Court in Division issued the assailed Decision[7] partially granting Chevron's *Petition for Review* and ordering the CIR to refund or issue a tax credit certificate in favor of Chevron in the amount of ₱6,443,989.88.

On October 26, 2020, the CIR filed his *Motion for Partial Reconsideration (Re: Decision promulgated 7 October 2020)*.

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[7] EB Docket, pp. 27 to 96.

On October 28, 2020, Chevron filed its *Omnibus Motion (1) Motion for Reconsideration (Re: Decision dated October 7, 2020) (2) Urgent Motion to Reopen Case.*

On January 11, 2021, Chevron filed its *Comment (Re: Respondent's Motion for Partial Reconsideration dated October 19, 2020)*; while the CIR filed his *Opposition (Re: Omnibus Motion (1) Motion for Reconsideration (Re: Decision dated October 7, 2020) (2) Urgent Motion to Reopen Case.*

In the assailed Resolution[8] dated May 31, 2021, the Court in Division denied the CIR's *Motion for Partial Reconsideration* and granted Chevron's *Motion to Reopen Case*. The Court in Division set the case for hearing for the presentation of Chevron's evidence and held in abeyance the resolution of Chevron's *Motion for Reconsideration* pending the presentation of its evidence.

On June 22, 2021, the CIR filed the instant *Petition for Review*[9] before the Court *En Banc*.

In the Resolution[10] dated July 27, 2021, the Court *En Banc* directed Chevron to file its comment/opposition to the CIR's *Petition for Review* within ten (10) days from notice.

On October 22, 2021, respondent filed its *Comment (Re: Petition for Review dated June 14, 2021)*[11].

In the Resolution[12] dated December 9, 2021, the instant case was submitted for decision.

Subsequently, on March 16, 2022, the Court in Division issued an Amended Decision[13] in CTA Case No. 9266 granting Chevron's *Motion for Reconsideration* and ordering the CIR to refund or issue tax credit certificate in the amount of ₱49,789,268.42 in favor of Chevron.

[8] EB Docket, pp. 97 to 108.
[9] EB Docket, pp. 1 to 21.
[10] EB Docket, pp. 110 to 111.
[11] EB Docket, pp. 112 to 123.
[12] EB Docket, pp. 128 to 129.
[13] EB Docket, pp. 157 to 189.

On March 31, 2022, the CIR filed a *Motion for Partial Reconsideration (Re: Amended Decision promulgated 16 March 2022).*

Thereafter, the Court in Division issued the assailed Resolution[14] on June 3, 2022, denying the CIR's *Motion for Partial Reconsideration (Re: Amended Decision promulgated 16 March 2022).*

On June 21, 2022, the CIR filed the instant *Supplemental Petition for Review*[15] assailing the Court in Division's *Amended Decision* dated March 16, 2022 and Resolution dated June 3, 2022.

It appearing however that the *Supplemental Petition for Review* is not duly accompanied by a motion to admit said pleading, the admissibility of the same shall be included in the resolution of the instant case.

ASSIGNMENT OF ERRORS

In both *Petitions*, the CIR assigns the following errors supposedly committed by the Court in Division, *to wit*:

I.

> WHETHER OR NOT THE FIRST DIVISION OF THE HONORABLE COURT ERRED IN RULING THAT RESPONDENT IS ENTITLED TO REFUND IN THE REDUCED AMOUNT OF **[₱6,443,989.88**[16] **/ ₱49,789,268.42**.[17]] REPRESENTING ALLEGED EXCESS AND UNUTILIZED INPUT VAT ALLEGEDLY ATTRIBUTABLE TO ZERO-RATED SALES FOR THE FOUR QUARTERS OF CALENDAR YEAR 2014.

II.

> WHETHER OR NOT THE FIRST DIVISION OF THE HONORABLE COURT ERRED IN GRANTING RESPONDENT'S MOTION TO REOPEN THE CASE.

[14] EB Docket, pp. 191 to 194.
[15] EB Docket, pp. 130 to 150.
[16] Assignment of Errors, *Petition for Review*, EB Docket, p. 3.
[17] Assignment of Errors, *Supplemental Petition for Review*, EB Docket, p. 132.

CIR's arguments:

In its *Petition for Review* and *Supplemental Petition for Review*, the CIR argues that the Court in Division erred in ruling that Chevron had valid input VAT attributable to its zero-rated sales. According to the CIR, no attributability was established between the input tax on purchases vis-à-vis the zero-rated. Further, the CIR maintains that the connection between the purchases and the finished product should be concrete and not imaginary or remote.

The CIR likewise avers that since the instant case involves a claim for refund, Chevron must establish its claim by the quantum of evidence and not by assumption. Allegedly, tax refunds are construed against the claimant as the same partakes the nature of exemption from taxation, and as such they are looked upon with disfavor.

Finally, the CIR contends that the Court in Division erred in reopening the case. According to the CIR, a motion to reopen may only be presented before judgment has been rendered; and that the Court should not tolerate the practice of litigants in the guise substantial justice to present additional evidence after a decision has already been rendered.

Chevron's counter-arguments:

Chevron counter-argues that contrary to the CIR's assertion, there is nothing in Section 112(A) of the NIRC of 1997, as amended, its implementing regulations and applicable jurisprudence which require that the input taxes subject of a claim for refund be directly attributable to zero-rated sales or effectively zero-rated sales.

Moreover, Chevron submits that the Court in Division did not err in reopening the case. Allegedly, the reopening of case is warranted if a simple examination of the additional documents would show that the admission of the same in evidence would materially alter the decision.

In addition, Chevron posits that proper administration of justice and protection of substantive right prevail over technical rule of procedure; and that the Courts should not be so strict on procedural lapses that do not impair the proper administration of justice.

THE COURT *EN BANC'S* RULING

<u>The CIR's Petition for Review</u>

After careful consideration of the arguments and issues raised in the instant *Petition for Review*, the antecedent facts and obtaining circumstances in CTA Case No. 9266, the Court *En Banc* finds the filing of the Petition for Review premature, and must perforce be dismissed for lack of jurisdiction.

A perusal of the records reveal that Chevron's *Motion for Reconsideration* filed in CTA Case No. 9266 was still pending resolution by the Court in Division when the instant *Petition for Review* (CTA EB 2488) was filed before the Court *En Banc* on June 22, 2021. Specifically, the assailed Resolution dated May 31, 2021 of the Court in Division denied the CIR's *Motion for Partial Reconsideration*. On the other hand, the Court in Division granted Chevron's *Motion to Reopen Case*, and pending the presentation of Chevron's evidence in support of its motion, the Court in Division held in abeyance the resolution of Chevron's *Motion for Partial Reconsideration*..

Clearly therefore, when the CIR filed the instant Petition for Review, the proceedings in CTA Case No. 9266 had not been terminated, and Chevron's *Motion for Partial Reconsideration* had not been resolved by the Court in Division. Hence, the Court in Division's Decision dated October 7, 2020 in CTA Case No. 9266 cannot be challenged by the instant appeal.

Section 1 of Rule 41 of the 1997 Rules of Civil Procedure, which applies suppletorily to proceedings before this Court[18], expressly states, *inter alia*, that a party is only allowed to appeal a judgment or a final order which completely disposes of the case, to wit:

> "SECTION 1. *Subject of appeal*. - **An appeal may be taken from a judgment or final order that <u>completely disposes of the case</u>**, or of a particular matter therein when declared by these Rules to be appealable.

[18] Section 3 of Rule 1 of the RRCTA provides as follows:
"SEC. 3. *Applicability of the Rules of Court.* – The Rules of Court in the Philippines shall apply suppletorily to these Rules. (n)"

No appeal may be taken from:

(a) An order denying a motion for new trial or reconsideration;

(b) An order denying a petition for relief or any similar motion seeking relief from judgment;

(c) An interlocutory order;

(d) An order disallowing or dismissing an appeal;

(e) An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent;

(f) An order of execution;

(g) A judgment or final order for or against one or more of several parties or in separate claims, counterclaims, cross-claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; and

(h) An order dismissing an action without prejudice.

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65." (*Boldfacing and underscoring supplied*)

Based on the foregoing, only judgment or final order which completely disposes of the case may be appealed. Conversely, no appeal may be taken from orders or resolutions which are interlocutory in nature.

In the case of *Judy Anne L. Santos vs. People of the Philippines, and Bureau of Internal Revenue*[19] the Supreme Court distinguished "interlocutory orders" from a "final order", *to wit*:

"The Court distinguishes final judgments and orders from interlocutory orders in this wise:

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[19] G.R. No. 173176, August 26, 2008.

> Section 2, Rule 41 of the Revised Rules of Court provides that '**(o)nly final judgments or orders shall be subject to appeal.**' Interlocutory or incidental judgments or orders do not stay the progress of an action nor are they subject of appeal 'until final judgment or order is rendered for one party or the other.' **The test to determine whether an order or judgment is interlocutory or final is this: 'Does it leave something to be done in the trial court with respect to the merits of the case? If it does, it is interlocutory; if it does not, it is final'. A court order is final in character if it puts an end to the particular matter resolved or settles definitely the matter therein disposed of, such that no further questions can come before the court except the execution of the order**. The term "final" judgment or order signifies a judgment or an order which disposes of the cause as to all the parties, reserving no further questions or directions for future determination. xxx xxx xxx. The word 'interlocutory' refers to 'something intervening between the commencement and the end of a suit which decides some point or matter but is not a final decision of the whole controversy.'"
>
> In other words, after a final order or judgment, the court should have nothing more to do in respect of the relative rights of the parties to the case. **Conversely, "an order that does not finally dispose of the case and does not end the Court's task of adjudicating the parties' contentions in determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the Court, is interlocutory**." (*Emphasis and underscoring supplied.*)

As elucidated in the aforequoted jurisprudence, a **final order** is one that disposes of the whole matter or terminate the particular proceedings or action leaving nothing to be done but to enforce by execution of what has been determined.

In contrast, an order that does not terminate of finally dispose of the case, but leaves something to be done by the court before the case is finally decided on the merits is "**interlocutory**." It refers to something between the commencement and the end of the suit which decides some point or matter, but it is not a final decision on the whole controversy.[20] It bears noting that it is only final judgments or orders which shall be subject to appeal.

Thus, only a decision or order which has been resolved with finality, and which, in effect, completely disposes of a case, is appealable to the Court *En Banc.*

In this case, the assailed Resolution dated May 31, 2021, which denied the CIR's *Motion for Partial Reconsideration* and granted Chevron's *Motion to Reopen Case,* is merely an interlocutory order as it did not finally and completely dispose the case but leaves something still to be done by the Court in Division. Being interlocutory in nature, the assailed Resolution may not be the subject of an appeal at this stage. In other words, it is not yet final and therefore, no appeal therefrom would lie.

As such, the filing of the instant *Petition for Review* while the case was still pending before the Court in Division was premature and should be dismissed outright.

<u>CIR's Supplemental Petition for Review</u>

In filing the instant ***Supplemental Petition for Review***, the CIR failed to comply with the requirements for filing a supplemental pleading under Section 6, Rule 10 of the Rules of Court, *to wit*:

> **Section 6.** *Supplemental pleadings.* — **<u>Upon motion of a party, the court may, upon reasonable notice and upon such terms as are just</u>, permit him or her to serve a supplemental pleading setting forth transactions**, occurrences or events which have happened since the date of the pleading sought to be supplemented. The adverse party may plead thereto within ten (10) calendar days from notice of the order admitting the supplemental pleading.

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[20] *Philippine Computer Solutions, Inc. v. Hon. Jose R. Hernandez, Presiding Judge, RTC of Pasig City, Br. 158, and Winefrida Manzo*, July 17, 2007.

Clearly from the foregoing, the filing of a supplemental pleading requires prior leave of court.

Accordingly, considering that the CIR filed the instant *Supplemental Petition for Review* without prior leave of court as required by the rules, the same cannot be admitted by the Court.

The Supplemental Petition for Review will not cure the procedural infirmity of the original Petition for Review.

Further, it must be emphasized that the filing of the *Supplemental Petition for Review* will not cure the procedural defect of the original *Petition for Review.*

In the case of *Campos Rueda Corporation vs Hon. Jose S. Bautista, et al*[21], the Supreme Court ruled that a complaint cannot be amended so as to confer jurisdiction on the court in which it is filed, if the cause of action originally set forth was not within the court's jurisdiction.

Likewise, in *Swagman Hotels and Travel, Inc. v. Hon. Court of Appeals, et al.*[22], the Supreme Court clarified that the lack of cause of action at the commencement of the suit cannot be cured or remedied by an amended or supplemental pleading alleging the existence or accrual of a cause of action while the case is pending, *to wit*:

> **"It thus follows that a complaint whose cause of action has not yet accrued cannot be cured or remedied by an amended or supplemental pleading alleging the existence or accrual of a cause of action while the case is pending.** Such an action is prematurely brought and is, therefore, a groundless suit, which should be dismissed by the court upon proper motion seasonably filed by the defendant. The underlying reason for this rule is that a person should not be summoned before the public tribunals to answer for complaints which are [premature]. As this Court

[21] G.R. No. L-18453, September 29, 1962

[22] G.R. No. 161135, April 8, 2005; *Citations omitted, emphasis in the original text and underscoring supplied.*

eloquently said in *Surigao Mine Exploration Co., Inc. v. Harris:*

> It is a rule of law to which there is, perhaps, no exception, either at law or in equity, that to recover at all ***there must be some cause of action at the commencement of the suit***. As observed by counsel for appellees, there are reasons of public policy why there should be no needless haste in bringing up litigation, and why people who are in no default and against whom there is yet no cause of action should not be summoned before the public tribunals to answer complaints which are groundless. **We say groundless because if the action is [premature], it should not be entertained, and an action prematurely brought is a groundless suit.**
>
> It is true that an amended complaint and the answer thereto take the place of the originals which are thereby regarded as abandoned *(Reynes vs. Compañia General de Tabacos* [1912], 21 Phil. 416; *Ruyman and Farris vs. Director of Lands* [1916], 34 Phil. 428) and that "the complaint and answer having been superseded by the amended complaint and answer thereto, and the answer to the original complaint not having been presented in evidence as an exhibit, the trial court was not authorized to take it into account." *(Bastida vs. Menzi & Co.* [1933], 58 Phil. 188.) But in none of these cases or in any other case have we held that if a right of action did not exist when the original complaint was filed, one could be created by filing an amended complaint. In some jurisdictions in the United States what was termed an "imperfect cause of action" could be perfected by suitable amendment *(Brown vs. Galena Mining & Smelting Co.,* 32 Kan., 528; *Hooper vs. City of Atlanta,* 26 Ga. App., 221) and this is virtually permitted in *Banzon and Rosaura vs. Sellner* ([1933], 58 Phil. 453); *Asiatic Potroleum [sic] Co. vs. Veloso* ([1935], 62 Phil. 683); and recently in *Ramos vs. Gibbon* (38 Off. Gaz. 241). ***That, however, which is no cause of action whatsoever cannot by amendment or supplemental pleading* be converted into a cause of action**: *Nihil de re accrescit ei qui nihil in re quando jus accresceret habet.*
>
> **We are therefore of the opinion, and so hold, that *unless the plaintiff has a valid and subsisting cause of action at the time his action is commenced,***

> ***the defect cannot be cured or remedied by the acquisition or accrual of one while the action is pending, and a supplemental complaint or an amendment setting up such after-accrued cause of action is not permissible.***"

Consequently, considering that the Court *En Banc* had no jurisdiction over the original *Petition for Review*, the subsequent filing of the *Supplemental Petition for Review* did not confer jurisdiction upon the Court *En Banc,* as this is not sanctioned by existing rules and jurisprudence.

At any rate, even assuming *arguendo* that the Court can consider the CIR's allegations in its *Supplemental Petition for Review*, the same should still be denied for lack of merit.

Chevron has established that the creditable input taxes are attributable to its zero-rated sales.

According to the CIR, no attributability was established between the input tax on purchases vis-à-vis the zero-rated sales of Chevron. It is the CIR's position that to be creditable, the input tax must come from purchases of goods that form part of the finished product of the taxpayer or it must be directly used in the chain of production. The CIR further asserts that *"the connection between the purchases and the finished product must be concrete and not imaginary or remote*". allegedly, there is nothing in the assailed Decision of the Court in Division showing the "direct attributability" of the purchases or input tax to the finished product whose sale is zero-rated.

We disagree.

Section 110 of the NIRC of 1997, as amended, provides, in part, as follows:

> "SEC. 110. *Tax Credits.* —
>
> (A) *Creditable Input Tax.* —

> **(1)** Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions **shall be creditable against the output tax:**
>
> **(a) Purchase or importation of goods:**
>
> **(i) For sale; or**
>
> **(ii)For conversion into or intended to form part of a finished product for sale including packaging materials; or**
>
> **(iii)For use as supplies in the course of business; or**
>
> **(iv)For use in trade or business for which deduction for depreciation or amortization is allowed under this Code.**
>
> **(b) Purchase of services on which a value-added tax has actually been paid.**
>
> xxx xxx xxx
>
> **The term 'input tax' means the <u>value-added tax due from or paid by a VAT-registered person in the course of his trade or business on importation of goods or local purchase of goods or services, including lease or use of property, from a VAT-registered person</u>.** It shall also include the transitional input tax determined in accordance with Section 111 of this Code." *(Emphases and underscoring supplied.)*

Based on the foregoing, an input VAT evidenced by a VAT invoice or official receipt is creditable against the output VAT not only on the purchase or importation of goods *"for conversion into or intended to form part of a finished product for sale including packaging materials,"* but also those purchase/importation of goods for sale, for use as supplies in the course of business, and for use in trade or business for which deduction for depreciation or amortization is allowed under the NIRC.

It is a rule in statutory construction that every part of the statute must be interpreted with reference to the context, i.e., *that every part of the statute must be considered together with the other parts, and kept subservient to the general intent of the whole enactment*. Because the law must not be read in truncated parts, its provisions must be read in relation to the whole law. The statute's clauses and phrases must not, consequently, be taken as detached and isolated expressions, but the whole and every part thereof must be considered in fixing the meaning of any of its parts in order to produce a harmonious whole. Consistent with the fundamentals of statutory construction, all the words in the statute must be taken into consideration in order to ascertain its meaning.[23]

The CIR's insistence that "*to be creditable, the input tax must come from purchases of goods that form part of the finished product of the taxpayer or it must be directly used in the chain of production*" is not entirely consistent with the above-quoted Section 110. This is so because the said provision, as clearly stated, did not limit itself to purchases or importation of goods which are to be converted into or intended to form part of a finished product for sale, or to be used in the chain of production; but also includes, *inter alia*, purchases or importation of goods for use as supplies in the course of business, or for use in trade or business for which deduction for depreciation or amortization is allowed; as well as purchase of services for which VAT has been actually paid. Accordingly, provided that the subject input tax is evidenced by a VAT invoice or official receipt issued in accordance with Section 113 of the NIRC of 1997, as amended, the same may be creditable against the output VAT.

We likewise do not find merit in the CIR's allegation that for an input tax to be attributable to zero-rated sales, it must be shown that "*the connection between the purchases and finished product is 'concrete' and not 'imaginary' or 'remote'*". Section 112 of the NIRC of 1997, as amended, allows the allocation of creditable input taxes which cannot be directly or entirely attributable to zero-rated sales, to wit:

> "Sec. 112. *Refunds or Tax Credits of Input Tax.-*
>
> (A) *Zero-Rated or Effectively Zero-Rated Sales*. - Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the

[23] *Philippine International Trading Corporation vs. Commission on Audit*, G.R. No. 183517, June 22, 2010.

close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: Provided, however, That in the case of zero-rated sales under Section 1 06(A)(2)(a)(1), (2) and (b) and Section 108 (8)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): **Provided, further, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales**: Provided, finally, That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales." (Emphasis and underscoring supplied).

Based on the foregoing, creditable input taxes which cannot be directly or entirely attributable to any sale transaction (i.e., zero-rated or effectively zero-rated sale and taxable or exempt sale of goods of properties or services), shall be ***allocated proportionally*** on the basis of the volume of sales. Evidently, contrary to the CIR's allegation, the attribution of the input VAT to the zero-rated sales need not always be direct.

Accordingly, We sustain the Court in Division's ruling that is it not required that the claimed input tax be directly attributable to zero-rated sales in order to be creditable.

At this juncture, it must be stressed that the findings of fact by the Court in Division are **not** to be disturbed without any showing of grave abuse of discretion considering that the members of the Division are in the best position to analyze the documents presented by the parties.[24]

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[24] *Republic of the Philippines, represented by the Commissioner of Internal Revenue* v. *Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*, G.R. No. 188016, January 14, 2015 citing *Sea-Land Service, Inc.* v. *Court of Appeals*, G.R. No. 122605, April 30, 2001, 357 SCRA 441, 445-446. Refer also to *Rhombus Energy, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 206362, August 1, 2018.

In this case, apart from the general averment that Chevron failed to prove that its claimed input VAT were directly attributable to zero-rated sales, the CIR failed to make any specific discussion to support his stance, or to particularly pinpoint which of the findings of the Court in Division, as regards the attributability of the refundable input VAT, is erroneous. The mere general averment of the CIR failed to convince this Court *En Banc* that a reversible error was committed by the Court in Division.

The Court in Division committed no error in granting Chevron's Motion to Reopen Case.

The CIR avers that the Court in Division erred in reopening the case. Allegedly, a motion to reopen may only be presented before judgment has been rendered.

We are not persuaded.

In *Cabarles vs. Maceda*,[25] the Supreme Court held:

> "A motion to reopen a case to receive further proofs was not in the old rules but it was nonetheless a recognized procedural recourse, deriving validity and acceptance from long, established usage. . . .
>
> xxx xxx xxx
>
> Generally, after the parties have produced their respective direct proofs, they are allowed to offer rebutting evidence only. However, the court, for good reasons, in the furtherance of justice, may allow new evidence upon their original case, and its ruling will not be disturbed in the appellate court where no abuse of discretion appears. **A motion to reopen may thus properly be presented only after either or both parties had formally offered and closed their evidence, but before judgment is rendered, <u>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</u>.** This

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

> remedy of reopening a case was meant to prevent a miscarriage of justice." (*Emphasis supplied.*)

Further, in *BPI-Family Savings Bank vs. Court of Appeals*[26], the Supreme Court ruled that the paramount consideration remains the ascertainment of truth, to wit:

> "True, strict procedural rules generally frown upon the submission of the Return after the trial. **The law creating the Court of Tax Appeals, however, specifically provides that proceedings before it 'shall not be governed strictly by the technical rules of evidence.' The paramount consideration remains the ascertainment of truth**. Verily, the quest for orderly presentation of issues is not an absolute. It should not bar courts from considering undisputed facts to arrive at a just determination of a controversy."

Clearly from the foregoing jurisprudential pronouncements, a motion to reopen trial may properly be presented, even after promulgation of judgment, but before its finality in the interest of substantial justice and to prevent a miscarriage of justice. Technicalities and legalisms, however exalted, should not be misused by the government to keep money not belonging to it and thereby enrich itself at the expense of its law-abiding citizens.[27]

Moreover, under Section 8 of Republic Act No. 1125[28], as amended, proceedings before the CTA are not governed strictly by the rules of evidence. Litigations should, as much as possible, be decided on the merits and not on technicalities. Every party-litigant must be afforded ample opportunity for the proper and just determination of his case, free from the unacceptable plea of technicalities.[29]

It must be remembered that 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

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[26] G.R. No. 122480, April 12, 2000.
[27] *BPI-Family Savings Bank, Inc. vs. Court of Appeals, et al.*, G.R. No. 122480, April 12, 2000.
[28] Otherwise known as *"An Act Creating the Court of Tax Appeals."*
[29] *Alfredo Jaca Montajes vs. People of the Philippines*, G.R. No. 183449, March 12, 2012.

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.[30]

Thus, We find that the Court in Division did not err in reopening the case and allowing Chevron to present supplemental evidence.

WHEREFORE, in light of the foregoing considerations, the Commissioner of Internal Revenue's *Petition for Review* filed on June 22, 2021 and *Supplemental Petition for Review* filed on June 21, 2022 are hereby **DISMISSED.**

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

LANEE S. CUI-DAVID
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice