REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SPECIAL SECOND DIVISION

ASURION HONG KONG LIMITED - ROHQ,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. **10121**

Members:

BACORRO-VILLENA, *Acting Chairperson,*
CUI-DAVID, *JJ.*

Promulgated:
APR 13 2023 4:00 pm

x - x

RESOLUTION

***BACORRO-VILLENA, J.*:**

For the Court's resolution is respondent Commissioner of Internal Revenue's (**respondent**'s) "Motion for Partial Reconsideration (of the Decision dated 05 October 2022)"[1] (**MPR**) filed on 24 October 2022[2], with petitioner Asurion Hong Kong Limited – ROHQ's (**petitioner**'s) "Comment (Re: Motion for Partial Reconsideration dated October 24, 2022)"[3] filed on 28 November 2022.

The dispositive portion of the assailed Decision[4] reads:

> ...
>
> **WHEREFORE,** the foregoing considered, the Petition for Review filed by petitioner Asurion Hong Kong Limited – ROHQ on 18 July 2019 is hereby **PARTIALLY GRANTED**. Accordingly,

---

1 Division Docket, Volume II, pp. 937-960.
2 Received by the Court on 04 November 2022.
3 Division Docket, Volume II, pp. 964-979.
4 Id., pp. 902-936.

respondent Commissioner of Internal Revenue is **ORDERED** to **ISSUE** a **TAX REFUND** or **TAX CREDIT CERTIFICATE** in favor of petitioner in the total amount of ₱13,445,586.53 representing its excess unutilized input value-added tax for calendar year 2017.

SO ORDERED.

...

In the instant motion, respondent argues that despite petitioner's Service Agreements with its international clientele, the latter failed to prove that services to them were actually rendered in the Philippines. Harping on this Court's decision in *Procter & Gamble International Operations SA – ROHQ v. Commissioner of Internal Revenue*[5] (**P&G**), respondent contends proof that such services were rendered within the Philippines is necessary for the availment of value-added tax (**VAT**) zero-rating under Section 108(B)(2) of the National Internal Revenue Code (**NIRC**).

In *P&G*[6], this Court held, thusly:

...

It must be noted that the issue as to whether or not petitioner performed services in the Philippines is a question of fact. Hence, it must be proven by specific evidence. Petitioner cannot merely rely on the provision that ROHQs are licensed to do business in the Philippines to prove a fact in issue. To the Court's mind, although it was shown that petitioner is an ROHQ, it is still necessary on its part to prove that its services were indeed performed in the Philippines.

Accordingly, the Court disallowed the sales of services to some of petitioner's NRFC-clients not only because it failed to present the pertinent Service Agreements but, more so, because it did not offer any other specific evidence to show that the services to such NRFC-clients were rendered in the Philippines. As stated, apart from petitioner's bare allegation, no other document was presented to infer that the qualifying services to such NRFC-clients (with no Service Agreements with petitioner) are to be rendered and performed by petitioner in the Philippines.

It must be emphasized that tax refunds, which are in the nature of tax exemptions, are construed strictly against the taxpayer and liberally in favor of the government. This is because taxes are the lifeblood of the nation.

...

---

5 CTA Case No. 9897, 04 October 2022.
6 Supra; Citation omitted.

It must be emphasized that in *P&G*, the taxpayer failed to submit some of its Service Agreements between it and its alleged Non-resident Foreign Corporation (**NRFC**) clients. Such circumstance, therefore, casted doubt on whether the taxpayer's claims that it rendered services to these foreign entities within (or outside) the Philippine territory are actually true. Due to the lack of valid Service Agreements, the Court needed to look for proof that services were not only rendered to these foreign entities and that the same were performed in the Philippines. The Court could not even determine the nature of the services rendered in *P&G* since the taxpayer's proof came only in the form of the self-serving testimony of its witnesses. Thus, in *P&G*[7], We held that:

> ...
>
> Settled is the rule that bare allegations will not suffice without proof. It is hornbook doctrine that mere allegations do not constitute proof. It is basic in the rule of evidence that bare allegations, unsubstantiated by evidence, are not equivalent to proof. In short, mere allegations are not evidence. Needless to say, it is the duty of the person who asserts something to produce evidence in order to prove it — which, unfortunately, petitioner failed to do in this case.
>
> ...

Unlike in the case at bar, petitioner was able to present all its Service Agreements with the following NRFCs:

1) Asurion Insurance Services, Inc. (**AISI**), a corporation organized under the laws of Nashville, Tennessee, United States of America (**USA**);
2) New Asurion Corporation (**NAC**), a corporation organized under the laws of Nashville, Tennessee, USA;
3) Phone Repair Centre Limited (**PRCL**), a corporation organized under the laws of London, United Kingdom (**UK**); and,
4) New Asurion Singapore Pte. Ltd. (**NAS**), a corporation organized under the laws of Singapore.

The same were also authenticated by petitioner's witness, Santiago De Guzman II, who likewise testified how these services were carried out within the Philippines.

---

7 Supra; Citations omitted.

The difference between *P&G* and the case at bar, at this point, glaring. In the present case, petitioner was able to *prima facie* establish that its transactions were subject to zero-rating under Section 108(B)(2) of the NIRC. The fact that its clients are NRFCs, the validity of its Service Agreements with them and the corroborative testimonies of its witnesses were all *unrebutted* by any evidence presented by respondent. There was, therefore, no reason for the Court to doubt petitioner's allegations considering the amount of evidence it presented and the absence of any contrary proof from respondent.

As regards other issues raised by respondent, the same are mere rehashes of its previous arguments. In *Licomcen Incorporated v. Foundation Specialists, Inc.*[8], the Supreme Court, citing *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[9], the Supreme Court held that:

> ...
>
> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, ... deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); *i.e.*, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.
>
> ...

With the foregoing, the Court finds no reason to delve in a re-examination of respondent's recycled arguments, the merits thereof

---

8 G.R. No. 167022, 31 August 2007.

9 G.R. No. 109645, 04 March 1996.

have already been considered by the Court in arriving at the assailed Decision.

WHEREFORE, the foregoing premises considered, respondent's "Motion for Partial Reconsideration (of the Decision dated 05 October 2022)" filed on 24 October 2022 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice