REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE
Petitioner,

CTA *EB* NO. 1921
(CTA Case No. 9011)

-*versus*-

Present:

DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

DOLE FOOD COMPANY, INC.,
Respondent.

Promulgated:
JUL 27 2020
1:53 p.m.

x- x

RESOLUTION

MANAHAN, J.:

To be resolved before this Court is petitioner's **Motion for Reconsideration Re: Decision dated 03 February 2020**[1] filed on February 21, 2020, praying for the reversal and setting aside of the Court in Division's Decision dated April 13, 2018, its Resolution dated August 6, 2018, and this En Banc Court's *Decision* dated February 3, 2020[2], of which the dispositive portion is quoted below:

> **WHEREFORE**, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the assailed April 13, 2018 *Decision* and August 6, 2018 *Resolution* are hereby **AFFIRMED**.
>
> **SO ORDERED.**

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[1] *Rollo*, CTA EB No. 1921, pp. 126-132.
[2] *Id.*, pp. 113-125.

Petitioner faulted this Court in considering the documents which were allegedly not submitted at the administrative level of respondent's claim for refund.

Petitioner insists that the value of the Property, Plant and Equipment (PPE) of respondent should be based on fair market value at the time of sale.

Petitioner also argues that claims for refund are construed strictly against the taxpayer and in favor of the government.

On the other hand, respondent in its comment[3], argues that petitioner does not raise any new ground to warrant a reversal of the Court's Decision.

We deny the instant motion.

First, this Court shall determine whether the instant motion is filed on time. Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides that:

> "SECTION 1. *Who may and when to file motion.*- Any aggrieved party may seek a reconsideration or new trial of any decision, resolution, or order of the Court. He shall file a motion for reconsideration or new trial **within fifteen days from the date he received notice of the decision**, resolution or order of the Court in question." (*Emphasis supplied*)

The records of the case reveal that petitioner received the assailed *Decision* dated February 3, 2020 on February 7, 2020[4]. In accordance with the abovementioned provision of the RRCTA, petitioner had until February 22, 2020 within which to file its motion for reconsideration. Thus, the filing of the instant Motion for Reconsideration on February 21, 2020 was on time.

The issues raised by petitioner in the instant motion have already been thoroughly addressed by this Court in the assailed Decision. However, for the sake of clarity and to re-

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[3] *Rollo*, Comment (To: Motion for Reconsideration filed by Commissioner of Internal Revenue dated 21 February 2020), pp. 142-150.
[4] *Rollo*, Notice of Decision dated February 4, 2020, p. 180.

enforce the judgment, the earlier disquisitions are repeated below.

Section 8 of Republic Act (R.A.) No. 1125[5], as amended by R.A. Nos. 9282[6] and 9503[7], provides:

> "**Section 8. *Court of record; seal; proceedings.*** - The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence."

Petitioner should be aware that the proceedings of this Court is not governed strictly by technical rules of evidence, hence, it may consider any evidence whether presented or not before any jurisdiction, and that this court may conduct a new trial as if the case submitted before it has not been tackled in said jurisdiction, as pronounced in the case of *Commissioner of Internal Revenue v. Manila Mining Corporation*[8], *viz.*:

> "Section 8 of Republic Act 1125 (An Act Creating the Court of Tax Appeals) provides categorically that **the Court of Tax Appeals shall be 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. (Emphasis and underscoring supplied)"

In *Commissioner of Internal Revenue v. Philippine National Bank*[9], the Supreme Court reiterated said mandate of this Court, to wit:

> "More importantly, **the Court of Tax Appeals is not precluded from accepting respondent's evidence**

[5] AN ACT CREATING THE COURT OF TAX APPEALS.
[6] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.
[7] AN ACT ENLARGING THE ORGANIZATIONAL STRUCTURE OF THE COURT OF TAX APPEALS, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.
[8] G.R. No. 153204, August 31, 2005.
[9] G.R. No. 180290, September 29, 2014.

> **assuming** these **were not presented at the administrative level**. Cases filed in the Court of Tax Appeals are litigated *de novo*. Thus, respondent "should prove every minute aspect of its case by presenting, formally offering and submitting . . . to the Court of Tax Appeals [all evidence] . . . required for the successful prosecution of [its] administrative claim." (*Emphasis supplied*)

Thus, petitioner is totally mistaken in its averment that this Court cannot admit evidence allegedly not presented by respondent at the administrative level.

As to petitioner's insistence that the value of respondent's PPE should be based on fair market value at the time of sale, we reiterate our disquisitions and findings, to wit:

> "Paragraph 15 of the International Accounting Standard (IAS) 16, which was adopted by the Philippine Financial Reporting Standard (PFRS), pertaining to Property, Plant and Equipment (PPE) provides that initially an item of PPE that qualifies for recognition as an asset is measured at its cost.
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> Likewise, paragraph 29 of IAS 16 provides that after such initial recognition, an entity shall choose either the *cost model* (paragraph 30) or the *revaluation model* (paragraph 31) as its accounting policy and shall apply that policy to an entire class of PPE. The first model is carried at cost less any accumulated depreciation and any accumulated impairment losses while, on the other hand, the second model is carried at revalued amount, being its fair value at the date of the revaluation less any subsequent accumulated depreciation and subsequent accumulated impairment losses.
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> However, **petitioner did not provide any empirical evidence** to **support that respondent opted to use the revaluation** model **wherein the latter is supposed to carry its PPEs** in its **FS at fair market value**." (*Emphasis supplied*)

As to petitioner's insistence on the *strictissimi juris* application in respondent's claim for refund, petitioner should be aware that the Court in Division found that the respondent had been able to prove its entitlement to said claim for refund and that such findings are conclusive before this Court unless petitioner will prove otherwise with enough empirical evidence.

In *Federal Builders, Inc. v. Foundation Specialists, Inc.*[10], the Supreme Court ruled:

> "... Well-entrenched in jurisprudence is the rule that factual findings of the trial court, especially when affirmed by the appellate court, are accorded the highest degree of respect and considered conclusive between the parties, save for the following exceptional and meritorious circumstances: (1) when the factual findings of the appellate court and the trial court are contradictory; (2) when the findings of the trial court are grounded entirely on speculation, surmises or conjectures; (3) when the lower court's inference from its factual findings is manifestly mistaken, absurd or impossible; (4) when there is grave abuse of discretion in the appreciation of facts; (5) when the findings of the appellate court go beyond the issues of the case, or fail to notice certain relevant facts which, if properly considered, will justify a different conclusion; (6) when there is a misappreciation of facts; (7) when the findings of fact are themselves conflicting; and (8) when the findings of fact are conclusions without mention of the specific evidence on which they are based, are premised on the absence of evidence, or are contradicted by evidence on record."

In the instant case, petitioner did not allege any of the above exceptional circumstances nor provide or adduce any evidence to buttress his opposition. Thus, this Court will not disturb the factual findings of the Court in Division.

There being no other new issues or matters raised by the petitioner in the instant motion, this Court finds no compelling reason to reverse the earlier ruling in the assailed Decision.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration Re: Decision dated 03 February 2020* is hereby **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

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[10] G.R. Nos. 194507 and 194621, September 08, 2014.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice