REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

ROYAL CARIBBEAN CRUISES LTD., under the name RCL REGIONAL OPERATING HEADQUARTERS,
Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10508

Present:

RINGPIS-LIBAN, *Chairperson*,
MODESTO-SAN PEDRO, and
FERRER-FLORES, *JJ.*

Promulgated:

11:55 am

x - x

RESOLUTION

FERRER-FLORES, J.:

For this Court's resolution are the following:

1. petitioner's **Motion for Partial Reconsideration and/or New Trial** filed on November 5, 2024, with respondent's **Comment/Opposition (Re: Petitioner's Motion for Partial Reconsideration dated 04 November 2024)** filed on December 9, 2024; and,

2. respondent's **Motion for Partial Reconsideration (Re: Decision dated 15 October 2024)** filed on November 19, 2024, with petitioner's **Comment/Opposition (To Respondent's Motion for Partial Reconsideration dated November 15, 2024)** filed on January 8, 2025.

On October 15, 2024, the Court promulgated the Decision partially granting petitioner's claim for issuance of tax credit certificate representing its unutilized input value-added tax (VAT), but in the reduced amount of ₱7,038,142.81, for failing to fully substantiate its claim for zero-rated sales of services for the fourth quarter of calendar year (CY) 2018, the dispositive portion of which reads as follows:

> **WHEREFORE**, in light of the foregoing considerations, the present *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 **₱7,038,142.81** representing petitioner's unutilized input VAT attributable to its zero-rated sales for the fourth quarter of calendar year 2018 or for the period covering October 1, 2018 to December 31, 2018.
>
> **SO ORDERED**.

Undaunted, both parties implore the Court to take a second and hard look on the conclusions reached in the above Decision and pray that the same be partially reconsidered based on their respective *Motions*.

Petitioner's Motion for Partial Reconsideration and/or New Trial.

In its *Motion*, petitioner seeks reconsideration of the said Decision and/or re-opening of the case, raising the following grounds as bases thereof:

1. Excusable negligence by the Independent Certified Public Accountant (ICPA) and in the interest of substantial justice;

2. Excusable negligence by the supplier; and,

3. Erroneous disallowance due to misapplication of invoicing requirements for transactions below one thousand pesos (₱1,000.00).

With regard to the *first* ground, petitioner assails the disallowances made by the Court, explaining that the Court-commissioned ICPA, Ms. Maricelle L. Ricafort, inadvertently submitted copies of official receipts (ORs) which were cut off, resulting in the missing of the last three digits of petitioner's tax identification number (TIN). The other disallowances similarly stemmed from the ICPA's inadvertence to include the missing invoices and ORs that were duly listed in the ICPA Report and to verify the countersignatures of authorized representatives on some invoices. As such, petitioner seeks the kind indulgence of the Court to allow it to present complete copies of pre-identified and marked ORs, invoices, certifications to prove the veracity of the signatures in the ORs and invoices, and to recall the ICPA as its witness, in the interest of substantial justice, equity, and fairplay.

As to the *second* ground, petitioner explains that the disallowance due to the Court's perceived lack of authenticity in some of the ORs was brought about by mere oversight on the part of its supplier in failing to sign the said ORs. Petitioner submits that it would be unjust to hold it against petitioner since it had no control over the affixing of supplier's signature. Nonetheless, petitioner avers that the attached billing statements for each receipt have been properly signed which indicates that the transactions are legitimate, not dubious, and it should be allowed to re-submit the signed ORs for proper verification.

Lastly, for the *third* ground, petitioner asserts that the Court erroneously disallowed several invoices below ₱1,000.00 based on invoicing requirements. Petitioner points out that Section 4.113-1(B)(3) of Revenue Regulations (RR) No. 16-2005, provides that the TIN of the purchaser is required only for transactions exceeding ₱1,000.00. As such, petitioner argues that, since the said invoices contain amounts less than ₱1,000.00, then the same should be accepted for refund purposes, regardless of incomplete, incorrect, or missing TINs.

On the other hand, in his *Comment*, respondent maintains that the reasons cited by petitioner in its *Motion* clearly does not merit the reopening it prayed for. Respondent stresses that petitioner had been given enough time and opportunity to gather sufficient documents to support its claim for refund. He avers that the documents petitioner wants to introduce as additional evidence, could have and should have been submitted along with its administrative claim for refund. Respondent, thus, assails the fact that, only now that a Decision had been rendered does petitioner move to present the said documents which, as mentioned, should have been introduced as early as its administrative claim for refund.

After due consideration, the Court finds petitioner's *Motion for Partial Reconsideration and/or New Trial* bereft of merit.

At the outset, a motion for new trial may be granted only upon specific, well-defined grounds, as set forth under Section 1[1] of Rule 37 of the Rules of

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[1] **SECTION 1.** *Grounds of and period for filing motion for new trial or reconsideration.* — Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or

(b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result

Court. Relative thereto are Sections 5 and 6, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA),[2] which read:

> **SEC. 5.** *Grounds of motion for new trial.* – A motion for new trial may be based on one or more of the following causes materially affecting the substantial rights of the movant:
>
> (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which the rights of such aggrieved party has probably been impaired in his rights; or
>
> (b) Newly discovered evidence, which the party could not, with reasonable diligence, have discovered and produced at the trial and, which, if presented, would probably alter the result.
>
> A motion for new trial shall include all grounds then available and those not included shall be deemed waived.
>
> **SEC. 6.** *Contents of motion for reconsideration or new trial and notice.* – The motion shall be in writing stating its grounds, a written notice of which shall be served by the movant on the adverse party.
>
> A motion for new trial shall be proved in the manner provided for proof of motions. A motion for the cause mentioned in subparagraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by counter-affidavits. A motion for the cause mentioned in subparagraph (b) of the preceding section shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.
>
> A motion for reconsideration or new trial that does not comply with the foregoing provisions shall be deemed *pro forma,* which shall not toll the reglementary period for appeal.

Based on the foregoing, a *Motion for New Trial* due to fraud, accident, mistake or excusable negligence is required to be accompanied by affidavits of merit, *i.e.*, affidavits showing the facts (not mere conclusions or opinions) constituting the valid cause of action or defense which the movant may prove in case a new trial is granted, because a new trial would serve no purpose and would just waste the time of the court as well as the parties if the complaint is after all groundless or the defense is nil or ineffective. The moving party must show that he/she has a meritorious defense. The facts constituting the movant's good and substantial defense, which he/she may prove if the petition was granted, must be shown in the affidavit which should accompany the motion for a new trial.[3]

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[2] A.M. No. 05-11-07-CTA.

[3] *Elpidio S. Uy vs. First Metro Integrated Steel Corp., et al.*, G.R. No. 167245, September 27, 2006.

In this case, assuming that petitioner's basis for a new trial is founded on excusable negligence, petitioner nonetheless failed to comply with the required affidavits of merit. On this score alone, petitioner's prayer for a new trial cannot be granted. To allow the presentation of petitioner's additional evidence without having complied with the requisites for the grant of a motion for new trial will set a dangerous precedent of never-ending suits.

All the same, even if the Court was to disregard the required affidavit of merit, We still find petitioner's allegations not sufficient ground falling within the ambit of excusable negligence. Negligence to be "excusable" must be one which ordinary diligence and prudence could not have guarded against and by reason of which the rights of an aggrieved party have probably been impaired. The test of excusable negligence is whether a party has acted with ordinary prudence while transacting important business.[4]

In the same vein, litigation is not a "trial and error" proceeding. A party who moves for a new trial on the ground of excusable negligence must show that ordinary prudence could not have guarded against it. A new trial is not a refuge for the obstinate. Ordinary prudence in these cases would have dictated the presentation of all available evidence that would have supported the claims for refund/credit of input VAT of petitioner.[5]

Going back to the present case, petitioner did not act with ordinary diligence and prudence. Had it done so, there would be no need for the presentation of additional evidence after judgment was already rendered. Bearing in mind that pieces of evidence are *strictissimi* scrutinized in claims for VAT refund or credit, by exercising ordinary diligence and prudence, petitioner could have corrected in a timely manner the exhibits relating to ORs with incomplete TIN; or exhibits bearing a countersignature different from that of the authorized signatory appearing on the invoice/OR; or ORs without the signature of the issuer's authorized representative.

It must be noted that it is essential for all the parties to present all arguments and available evidence in support of their respective positions to the court **before** the case is deemed submitted for judgment save only under exceptional circumstances, as held in the case of *Lolita R. Alamayri vs. Rommel Pabale*, *et al.,*[6] to wit:

> **The parties must diligently and conscientiously present all arguments and available evidences in support of their respective**

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

5 See *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. Nos. 141104 & 148763, June 8, 2007.

6 G.R. No. 151243, April 30, 2008.

> **positions to the court before the case is deemed submitted for judgment. Only under exceptional circumstances may the court receive new evidence after having rendered judgment; otherwise, its judgment may never attain finality since the parties may continually refute the findings therein with further evidence.** Alamayri failed to provide any explanation why she did not present her evidence earlier. Merely invoking that the ends of justice would have been best served if she was allowed to present additional evidence is not sufficient to justify deviation from the general rules of procedure. Obedience to the requirements of procedural rules is needed if the parties are to expect fair results therefrom, and utter disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction. Procedural rules are tools designed to facilitate the adjudication of cases. Courts and litigants alike are thus enjoined to abide strictly by the rules. And while the Court, in some instances, allows a relaxation in the application of the rules, this, we stress, was never intended to forge a bastion for erring litigants to violate the rules with impunity. The liberality in the interpretation and application of the rules applies only to proper cases and under justifiable causes and circumstances. While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to insure an orderly and speedy administration of justice. *(Emphasis supplied)*

Here, the additional evidence sought to be presented by petitioner clearly falls squarely as forgotten evidence. Inevitably, "forgotten evidence" refers to evidence already in existence or available before or during a trial; known to and obtainable by the party offering it; and could have been presented and offered in a seasonable manner, were it not for the sheer oversight or forgetfulness of the party or the counsel. Presentation of forgotten evidence is disallowed, because it results in a piecemeal presentation of evidence, a procedure that is not in accord with orderly justice and serves only to delay the proceedings. A contrary ruling may open the floodgates to an endless review of decisions, whether through a motion for reconsideration or for a new trial, in the guise of newly discovered evidence.[7] Consequently, the presentation of the omitted invoices/official receipts cannot be allowed.

Lastly, as to petitioner's argument that the invoices and/or ORs valued at less than ₱1,000.00 were disallowed based on requirements which do not apply to low-value transactions, the Court is not swayed.

To bolster its argument, petitioner heavily relied in Section 4.113-1(B)(3) of RR No. 16-2005,[8] which reads as follows:

> SECTION 4.113-1. *Invoicing Requirements.* —
>
> xxx xxx xxx

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[7] *Office of the Ombudsman, et al. vs. Carmencita D. Coronel*, G.R. No. 164460, June 27, 2006.
[8] SUBJECT: Consolidated Value-Added Tax Regulations of 2005; Dated September 1, 2005.

> (B) Information contained in VAT invoice or VAT official receipt. — The following information shall be indicated in VAT invoice or VAT official receipt:
>
> xxx xxx xxx
>
> (3) In the case of sales in the amount of one thousand pesos (₱1,000.00) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and TIN of the purchaser, customer or client, shall be indicated in addition to the information required in (1) and (2) of this Section.

In relation thereto, Section 113(B)(4) of the National Internal Revenue Code (NIRC) of 1997, as amended, which is implemented by the aforecited provision in RR No. 16-2005, actually provides as follows:

> SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* —
>
> xxx xxx xxx
>
> (B) *Information Contained in the VAT Invoice or VAT Official Receipt.* — **The following information shall be indicated in the VAT invoice or VAT official receipt**:
>
> xxx xxx xxx
>
> (4) **In the case of sales in the amount of One thousand pesos (₱1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client**. *(Emphasis supplied)*

Based on the foregoing, petitioner contends that invoices and receipts for transactions under ₱1,000.00 do not require the purchaser's TIN. Therefore, these invoices should allegedly be accepted for refund purposes regardless of incomplete, incorrect or missing TINs.

The Court notes that the amounts enumerated by petitioner in its *Motion*, which allegedly pertain to invoices and receipts for transactions under ₱1,000.00, actually pertain to the <u>amounts of input VAT</u>, not the sales amount; hence, only those transactions with input VAT amount of less than ₱120.00 (*i.e.,* ₱1,000.00 x 12%), should have been listed by petitioner in its *Motion* as actually pertaining to invoices and receipts for transactions under ₱1,000.00, to wit:

Exhibit No.	Name of Supplier	VAT Amount
"P-35-100"	PLDT Inc.	₱ 103.32
"P-35-103"	PLDT Inc.	72.00
"P-35-115"	PLDT Inc.	72.00
"P-35-118"	PLDT Inc.	82.69
"P-35-126"	PLDT Inc.	76.18
"P-35-127"	PLDT Inc.	72.00
"P-35-128"	PLDT Inc.	88.01
"P-35-135"	PLDT Inc.	92.17
"P-35-137"	PLDT Inc.	117.24
"P-35-140"	PLDT Inc.	100.93
"P-35-145"	PLDT Inc.	88.00
	Total	**₱ 964.54**

Notwithstanding the foregoing, it must be noted that Section 237 of the NIRC of 1997, as amended by Republic Act (R.A.) No. 10963 or the Tax Reform for Acceleration and Inclusion (TRAIN) Law,[9] provides that, for each sale of merchandise or services rendered valued at **₱100.00 or more**, the seller must issue invoices or receipts showing the date of transaction, quantity, unit cost and description of merchandise or nature of service, and where the purchaser is a VAT-registered person, the invoice or receipt shall further show the TIN of the purchaser, to wit:

> SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* —
>
> (A) *Issuance.* — **All persons subject to an internal revenue tax shall, at the point of each sale and transfer of merchandise or for services rendered valued at One hundred pesos (P100) or more, issue duly registered receipts or sale or commercial invoices, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service**: *Provided, however*, That where the receipt is issued to cover payment made as rentals, commissions, compensation or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client: *Provided, further*, **That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser**. xxx xxx xxx *(Emphasis supplied)*

Ostensibly, petitioner, however, failed to consider the above requirement and solely relied on Section 113 of the NIRC of 1997, as amended.

In this regard, cardinal is the rule in statutory construction "that the particular words, clauses and phrases should not be studied as detached and isolated expressions, but the *whole* and *every* part of the statute must be

[9] Effective January 1, 2018.

considered in fixing the meaning of any of its parts and in order to produce a harmonious whole. A statute must be so construed as to harmonize and give effect to all its provisions whenever possible." And the rule — that statute must be construed as a whole — requires that apparently conflicting provisions should be reconciled and harmonized, if at all possible.[10] Accordingly, Section 113(B)(4) of the NIRC of 1997, as amended, must be read together in conformity with Section 237 thereof in order to produce a harmonious whole.

Furthermore, Section 4.110-8 of RR No. 16-2005 also provides for the substantiation requirements of input tax credits on purchases of goods, properties, and services, as follows:

> SECTION 4.110-8. *Substantiation of Input Tax Credits.* –
>
> (a) Input taxes for the importation of goods or the domestic purchase of goods, properties or services is made in the course of trade or business, whether such input taxes shall be credited against zero-rated sale, non-zero-rated sales, or subjected to the 5% Final Withholding VAT, must be substantiated and supported by the following documents, and must be reported in the information returns required to be submitted to the Bureau:
>
> xxx xxx xxx
>
> (2) For the domestic purchase of goods and properties - invoice showing the information required under **Secs. 113 and 237** of the Tax Code.
>
> xxx xxx xxx
>
> (4) For the purchase of services - official receipt showing the information required under **Secs. 113 and 237** of the Tax Code. xxx *(Emphasis supplied)*

From the foregoing, Section 113(B)(4) of the NIRC of 1997, as amended, requires that, in case of sales of ₱1,000.00 or more where the sale or transfer is made to a VAT-registered person, then, the name, business style, if any, address and TIN of the purchaser must be contained in the VAT invoice or official receipt. This, however, does not mean that, for sales of less than ₱1,000.00, the TIN of the purchaser is no longer required to be indicated in the invoice or OR as Section 237 of the NIRC of 1997, as amended, clearly provides that, for each sale valued at ₱100 or more, the seller must issue invoices or receipts showing, among others, the TIN of the purchaser, where the purchaser is a VAT-registered person. More so, in order to be entitled to input tax credits, the same must be duly substantiated by supporting documents prescribed under Section 4.110-8 of RR No. 16-2005.

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[10] *National Tobacco Administration vs. Commission on Audit*, G.R. No. 119385, August 5, 1999.

It must be emphasized that, in claims for VAT refund/credit, applicants must satisfy the substantiation and invoicing requirements under the NIRC of 1997, as amended, and other implementing rules and regulations.[11] The taxpayer's compliance with all the VAT invoicing requirements is required to be able to file a claim for input taxes attributable to zero-rated sales.[12] Indeed, the invoicing and substantiation requirements should be followed because it is the only way to determine the veracity of the taxpayer's claims.[13]

Considering all the invoices and/or official receipts enumerated by petitioner to have been erroneously disallowed by the Court for having an incorrect/incomplete TIN or no TIN are valued at ₱600 or more,[14] then these invoices or ORs should still have shown the correct TIN of petitioner, as required by Section 237 of the NIRC of 1997, as amended. Hence, the Court correctly disallowed the same.

It cannot be denied that actions for tax refund or credit, as in the present case, are in 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**. The burden is on the taxpayer to show that he/she has strictly complied with the conditions for the grant of the tax refund or credit. Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented as they are not intended to be liberally construed.[15]

That having been settled, the Court shall now proceed to determine the merit of respondent's *Motion for Partial Reconsideration*.

Respondent's Motion for Partial Reconsideration

In his *Motion*, respondent primarily argues that the Court erred in partially granting petitioner's claim for refund in the total amount of ₱7,038,142.81. Respondent claims that the period of petitioner's claim is for fourth quarter of CY 2018; however, an examination of petitioner's documents reveals that a portion of the claim pertains to prescribed or out of

[11] *Team Energy Corporation vs. Commissioner of Internal Revenue, et seq.*, G.R. Nos. 197663 and 197770, March 14, 2018.

[12] *J.R.A. Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013.

[13] *Nippon Express (Philippines) Corporation vs. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018.

[14] The lowest amount of Input VAT enumerated by petitioner to have been incorrectly disallowed is ₱72.00, hence, the VATable sales thereof is ₱600.00 (₱72.00 / 12%).

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

period input taxes which includes claims from the first to third quarters of 2018. It is for this reason that the total claimed amount of ₱14,825,740.94 was denied by the Bureau of Internal Revenue (BIR).

Respondent elaborates further that petitioner failed to comply with Section 112(A) of the NIRC of 1997, as amended. For respondent, it is clear that the application for tax refund must be filed within two years after the close of the taxable quarter when the sales were made. Herein, petitioner filed its claim for refund with the VAT Credit Audit Division of the BIR on December 4, 2020. As such, the first to third quarters had already clearly prescribed. Respondent points out that, in an attempt to cloak its belated filing of VAT refund for the first to third quarters, petitioner also included the input VAT pertaining to the said quarters of 2018 in its application for refund for the fourth quarter of 2018, thereby violating the requirement that applications for tax refund must be filed within two years after the close of the taxable quarter when the sales were made.

Respondent likewise insists that petitioner failed to comply with the invoicing requirements under Section 113 of the NIRC of 1997, as amended, and also with the submission of all documentary requirements for refund as prescribed in Revenue Memorandum Circular (RMC) No. 47-2019[16] and Revenue Memorandum Order (RMO) No. 47-2020.[17] In addition, respondent submits that petitioner is mandated to submit proofs of payment for its big-ticket local purchases. However, during the evaluation of petitioner's claim, it was found that petitioner failed to submit the required complete documentation for its claim for refund to prosper.

Lastly, respondent asserts that, since an unfavorable decision has already been rendered in the administrative level due to prescription and non-compliance with invoicing requirements, petitioner cannot therefore present before the Court documents that it did not submit during the administrative proceedings.

On the other hand, in its *Comment*, petitioner submits that respondent's argument – that it failed to substantiate its administrative claim for tax refund – is patently erroneous. It expounds that respondent's partial approval in the amount of ₱2,347,228.34 out of the total amount of ₱17,172,969.28 being claimed as VAT refund categorically disproves the assertion that it failed to

[16] SUBJECT: Revised Guidelines and Mandatory Requirements for the Processing and Grant of Value-Added Tax (VAT) Refund Claims within the 90-day Period Pursuant to Section 112 of the Tax Code of 1997, as Amended, dated April 16, 2019.

[17] SUBJECT: Consolidated and Updated Guidelines and Procedures on the Processing of Claims for Value-Added Tax Credit/Refund Except Those under the Authority and Jurisdiction of the Legal Group, dated November 24, 2020.

substantiate its administrative claim. The fact that respondent partially granted the claim serves as clear and unequivocal proof that its supporting evidence and documentation were duly reviewed, evaluated, and deemed sufficient to justify a refund, albeit not in its entirety.

As to respondent's assertion that petitioner failed to file its claim within two years after the close of the taxable quarter when such sales were made, petitioner counters that the reckoning point for the two-year prescriptive period is from the time of the sales transaction and not the time of purchase from which the input VAT was derived. Hence, since its zero-rated sales pertain to the fourth quarter of 2018 (*i.e.,* October 1, 2018 to December 31, 2018), petitioner had until December 31, 2020, within which to file its claim. Clearly, its filing date of December 4, 2020 falls within the said period.

Petitioner also assails respondent's argument that it is not entitled to the claimed refund due to non-compliance with the said BIR issuances. Petitioner maintains that such is unfounded, as petitioner has the right to decide which documents to present to substantiate its claim. Petitioner further clarifies that it complied with the invoicing requirements under Section 113 of the NIRC of 1997, as amended. Moreover, the Court has thoroughly examined the official receipts it submitted and determined that invoices amounting to ₱7,038,142.81 fully complied with the invoicing requirements of the NIRC of 1997, as amended, for purposes of tax refund.

Finally, petitioner asserts that the Court did not err in appreciating new evidence submitted by petitioner, as it is an established rule that a claimant may present new and additional evidence to the Court to support its case for tax refund even if it was not presented at the administrative level.

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

A cursory reading of respondent's *Motion for Partial Reconsideration* would reveal that the arguments of respondent are mere repetitions of the matters raised in his various pleadings which have already been addressed and exhaustively discussed by this Court.

As correctly pointed out by petitioner, the fact that its administrative claim for refund was partially granted in the amount of ₱2,347,228.34, contradicts respondent's claim that petitioner failed to substantiate its claim. To recall, the *VAT Refund Notice* dated February 2, 2021 issued by BIR

Assistant Commissioner Maria Luisa I. Belen,[18] shows that the amount of ₱14,825,740.94 was denied for the following grounds:

Deductions from the Claim	Amount
Prescribed and/or out-of-period input VAT included in the claim (1Q to 3Q 2018)	₱ 14,195,993.64
Disallowed input tax due to non-compliance with the invoicing requirements pursuant to Sec. 113 of the NIRC of 1997, as amended (Annex "B")	420,694.66
Big-ticket disallowance (Annex "C")	209,052.64
TOTAL	**₱14,825,740.94**

As to the big-ticket disallowance, Annex "C" shows that it was denied on the ground that it was "out-of-period" and that the proof of payment thereof were marked as "ok". Hence, the reason for the denial of the input VAT claim was either it was prescribed and/or out-of-period or due to non-compliance with invoicing requirements. This clearly contradicts respondent's claim that petitioner failed to submit proofs of payment for its big-ticket local purchases as prescribed in RMC No. 47-2019.

Moreover, as already discussed in the assailed Decision, petitioner was already amenable to respondent's disallowance of input VAT due to non-compliance with the invoicing requirements under Section 113 of the NIRC of 1997, as amended, in the total amount of ₱420,694.66, as well as the input VAT from big-ticket purchases amounting to ₱209,052.64. Petitioner only assails the denial of input VAT in the amount of ₱14,195,993.64 for allegedly being prescribed and/or out of period.

With regard to respondent's assertion that petitioner failed to file its administrative claim for refund within two years after the close of the taxable quarter when the sales were made, suffice it to say that the Court already squarely addressed this issue in the assailed Decision. To reiterate, the two-year period to file a claim for refund/tax credit of input VAT must be reckoned from the end of the taxable quarter when the zero-rated or effectively zero-rated sale was made and not when the input VAT was incurred.

As to respondent's contention that petitioner failed to comply with the invoicing requirements under Section 113 of the NIRC of 1997, as amended, and that the Court erred in partially granting the *Petition for Review* and ordering him to refund the total amount of ₱7,038,142.81, the discussions in the assailed Decision clearly shows that this Court has painstakingly scrutinized the documentary evidence presented by petitioner and found that only the amount of ₱7,038,142.81 represents petitioner's valid input VAT

[18] Exhibits "P-4" and "R-5", BIR Records (Exhibit "R-6"), p. 310.

while the remaining amount of ₱7,157,850.83 must be disallowed for failure to meet the substantiation and invoicing requirements under the VAT law and regulations.

In any case, aside from the generic argument that petitioner failed to substantiate its claim, respondent failed to even point out specifically the VAT invoices and official receipts which allegedly failed to comply with the invoicing requirements under Section 113 of the NIRC of 1997, as amended, as required by Section 2, Rule 37 of the Rules of Court,[19] in relation to Section 3, Rule 1 of the RRCTA.[20]

In view of the foregoing disquisitions and there being no new matter or substantial issue raised by the parties in their respective *Motions*, the Court finds no compelling reason to reverse or modify the conclusions reached in the Decision promulgated on October 15, 2024.

WHEREFORE, premises considered, petitioner's *Motion for Partial Reconsideration and/or New Trial* and respondent's *Motion for Partial Reconsideration (Re: Decision dated 15 October 2024)* are both **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

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[19] **SEC. 2.** *Contents of motion for new trial or reconsideration and notice thereof.* — The motion shall be made in writing stating the ground or grounds therefor, a written notice of which shall be served by the movant on the adverse party.

xxx xxx xxx

A motion for reconsideration shall point out specifically the findings or conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions. xxx. (*Emphasis supplied*)

[20] **SEC. 3.** *Applicability of the Rules of Court.* — The Rules of Court in the Philippines shall apply suppletorily to these Rules.

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice