REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

COLT COMMERCIAL, INC., Petitioner,	CTA Case No. 9356
	Members:
-versus-	FABON-VICTORINO, and RINGPIS LIBAN, JJ.
	Promulgated:
THE COMMISSIONER OF INTERNAL REVENUE, Respondent.	MAY 09 2019 3:02 p.m.

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RESOLUTION

***Fabon-Victorino, J.*:**

This resolves respondent's *Motion for Reconsideration* dated January 18, 2019,[1] assailing the Decision[2] dated December 18, 2018, the *fallo* of which reads as follows:

> **WHEREFORE**, the instant Petition for Review filed by petitioner Colt Commercial, Inc., on May 23, 2016, is **PARTIALLY GRANTED**. Accordingly, respondent is **DIRECTED TO REFUND OR TO ISSUE A TAX CREDIT CERTIFICATE** in favour of petitioner the amount of **₱3,155,032.77**, representing its unutilized and excess input VAT attributable to its zero-rated sales for the 1st and 2nd quarters of TY 2014.
>
> **SO ORDERED**.

Respondent maintains that the Philippine Economic Zone Authority (PEZA), as well as Subic Bay Metropolitan Authority (SBMA) Certificates of Registration adduced by petitioner were neither originals nor certified true copies as

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[1] Docket, pp. 928-931.
[2] Ibid. at pp. 904-927.

claimed by Independent certified public accountant (ICPA) Sonny S. Bonilla. Thus, the Court egregiously erred in considering the said documents.

Respondent as well claims that to be entitled to the refund sought, petitioner must prove all the requirements under substantive law have been complied with, lest denial of its refund is in order. Further, since tax refunds are in the nature of tax exemptions, they must be strictly construed against taxpayer-claimant such as petitioner. On account that petitioner failed to establish by competent evidence the existence of its zero-rated sales as mandated by Section 112 of the NIRC, as amended, the entirety of its refund claim must be rejected.

On the other hand,[3] petitioner points out that while ICPA Bonilla failed to verify whether its clients' PEZA/SBMA Certificates of Registration were faithful reproductions of the original, he nonetheless confirmed that per PEZA Certification dated July 5, 2016, its clients listed therein are PEZA-registered with corresponding PEZA Certificate numbers. Further, respondent failed to register any objections on the authenticity of foregoing documents during the course of proceedings, justifying denial of the present motion.

THE RULING OF THE COURT

To be sure, the best evidence rule requires that the original document be produced whenever its contents are the subject of inquiry, except in certain limited cases laid down in Section 3 of Rule 130. However, to set this rule in motion, a proper and timely objection is necessary.[4]

Relevantly, Section 36, Rule 132 of the Rules of Court states, among others, that in cases of a written formal offer of evidence, a party must interpose his objections, if any, within three (3) days after notice of the offer unless the Court prescribes a different period. <u>Grounds for objections</u>

[3] Petitioner's Comment/Opposition dated February 26, 2019.
[4] *Spouses Tapayan vs. Martinez,* G.R. No. 207786, January 30, 2017.

<u>not raised at the proper time shall be considered waived, even if the evidence was objected to on some other ground</u>.[5]

The record shows that in his comment/opposition to petitioner's formal offer of evidence, respondent challenged the admissibility of the subject PEZA/SBMA Certificates of Registration[6] on the ground that they are *hearsay for lack of proper authentication by the issuing office or authority*.[7] It is only now and for the first time via the instant Motion that he is raising the objection against the admission of PEZA/SBMA Certificates of Registration of petitioner's clients on the ground that they were *mere photocopies and/or not originals.* A party's right to impugn the admissibility of evidence is a mere privilege which can be waived. The objection must be made at the earliest opportunity, lest silence when there is opportunity to speak may operate as a waiver of objections.[8]

And granting *ex gratia argumenti* that such PEZA/SBMA Certificates were indeed photocopies, by reason of respondent's failure to object within the period prescribed by the rules, the same may be admitted and considered as sufficient to prove the facts therein asserted,[9] and it is, like any other evidence, to be considered and given the importance it deserves.[10]

WHEREFORE, there being no formidable argument warranting a reversal, much less a modification of the assailed Decision of December 18, 2018, respondent's *Motion for Reconsideration* dated January 18, 2019 is **DENIED**.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

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[5] *People v. Martin,* G.R. No. 172069, January 30, 2008. Underscoring supplied.
[6] Exhibit P-7, inclusive of submarkings.
[7] Docket, pp. 847-848.
[8] See *Catuira vs. Court of Appeals,* G.R. No. 105813, September 12, 1994.
[9] See *Tison vs. Court of Appeals,* G.R. No. 121027, July 31, 1997.
[10] See *Manliclic vs. Calaunan,* G.R. No. 150157, January 25, 2007, citing *Top Weld Manufacturing, Inc. vs. ECED S.A.,* G.R. No. 44944, August 9, 1985.

I Concur:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice