REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

DELTEK SYSTEMS (PHILIPPINES) LTD., Petitioner,	**CTA CASE NO. 9445**
	Members:
- versus -	**CASATAÑEDA, JR.,** *Chairperson, and* **BACORRO-VILLENA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUN 24 2020 2:48 PM

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RESOLUTION

CASTAÑEDA, JR., J.:

Before this Court is petitioner's **Motion for Reconsideration with Urgent Motion for Leave** filed through registered mail on November 27, 2019 and received by this Court on December 4, 2019, with respondent's **Comment (to Petitioner's Motion for Reconsideration with Urgent Motion for Leave dated November 27, 2019)** filed through registered mail on January 11, 2020 and received by this Court on January 24, 2020.

On November 11, 2019, a Decision was promulgated by this Court denying petitioner's claim of its unused input value-added tax (VAT) as of the cancellation of its VAT registration for failing to provide a tax clearance certificate from the Bureau of Internal Revenue (BIR), the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the instant Petition for Review is hereby **DENIED**.
>
> **SO ORDERED.**

In its Motion, petitioner primarily argues that mandating a BIR tax clearance certificate as an essential requirement in claiming refund of its unutilized input VAT is contrary to law and the applicable regulations. It claims that during the time of the filing of its Petition for Review on August 25, 2016, the applicable Revenue Regulations (RR) implementing Section 112(B) of the National Internal Revenue Code (NIRC) of 1997, as amended, is RR No. 16-05[1]. Notably, under Section 112(B) of the NIRC of 1997, as well as the RR, there is no requirement for presentation of a tax clearance certificate in claiming unutilized input VAT for cancellation of VAT registration. Petitioner continues that the said requirement was only recently introduced in 2018 *via* RR No. 13-18[2], which is more than two years after filing its Petition. Thus, considering the non-retroactivity of rulings under Section 246[3] of the NIRC, as amended, requiring a BIR tax clearance certificate as an essential element in its claim for refund is contrary to law.

More so, petitioner asserts that it has submitted sufficient evidence to show that it has no existing internal revenue tax liabilities. In this regard, petitioner points out that during trial, it submitted testimonial evidence to support its allegation that it was already processing its application for tax clearance, and it even submitted a Tax Delinquency Verification Report from the BIR to support its claim. Petitioner also posits that the Audited Financial Statements (AFS) were sufficient to prove that it had no existing tax liabilities.

Nonetheless, petitioner claims that, in the interest of substantial justice, it opted to submit the following documents attached in its Motion as additional evidence, *viz.*:

1. Certified True Copies of its AFS filed with the Securities and Exchange Commission (SEC) covering taxable years 2015-2019; and,

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[1] "SUBJECT: Consolidated Value-Added Tax Regulations of 2005", dated September 1, 2005.

[2] "SUBJECT: Regulations Implementing the Value-Added Tax Provisions under the Republic Act (RA) No. 10963, or the 'Tax Reform for Acceleration and Inclusion (TRAIN),' Further Amending Revenue Regulations (RR) No. 16-2005 (Consolidated Value-Added Tax Regulations of 2005), as Amended", dated March 15, 2018.

[3] **SEC. 246.** *Non-Retroactivity of Rulings.–* Any revocation, modification or reversal of any of the rules and regulations promulgated in accordance with the preceding Sections or any of the rulings or circulars promulgated by the Commissioner shall not be given retroactive application if the revocation, modification or reversal will be prejudicial to the taxpayers, except in the following cases:

(a) Where the taxpayer deliberately misstates or omits material facts from his return or any document required of him by the Bureau of Internal Revenue; (b) Where the facts subsequently gathered by the Bureau of Internal Revenue are materially different from the facts on which the ruling is based; or(c) Where the taxpayer acted in bad faith.

2. Photocopy of a Tax Clearance with the BIR for its registration with the Philippine Economic Zone Authority (PEZA), valid until October 7, 2014.

As such, in view of the foregoing, petitioner prays that this Court grant leave and allow it to present additional evidence by setting a schedule for the hearing for the presentation of evidence in support of its motion; and in the alternative, reconsider the assailed Decision dated November 11, 2019 and thereby grant its claim for refund of its unutilized input VAT in the amount of ₱84,302,838.02.

On the other hand, in its Comment, respondent opposes the re-opening of the present case. He argues that none of the justifiable grounds for allowing the presentation of additional evidence are present in this case. Respondent insists that the documents sought to be presented by petitioner are not newly discovered evidence since they could have been produced during trial, and that, its omission to do so could also not be considered as inadvertence or mistake.

After due consideration, petitioner's urgent leave of court to present additional evidence is bereft of merit.

Perforce, strict compliance with the rules of procedure is the general rule and may be relaxed only to attain substantial justice in the most persuasive and weighing reasons. In the case of *Philippine National Bank v. Commissioner of Internal Revenue*[4], the Supreme Court had the occasion to rule that:

> "It is an accepted tenet that rules of procedure must be faithfully followed except only when, for persuasive and weighting reasons, they may be relaxed to relieve a litigant of an injustice commensurate with his failure to comply with the prescribed procedure. Concomitant to a liberal interpretation of the rules of procedure, however, should be an effort on the part of the party invoking liberality to adequately explain his failure to abide by the rules." ge

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[4] G.R. No. 172458, December 14, 2011, citing *Ma. Rosario Suarez v. Judge Martin S. Villarama, Jr., et al.,* G.R. No. 124512, June 27, 2006.

As also similarly held in the case of *Gregorio De Leon, doing business as G.D.L. Marketing v. Hercules Agro Industrial Corporation, et al.,*[5] the Supreme Court declared that:

> "To be sure, the relaxation of procedural rules cannot be made without any valid reasons proffered for or underpinning it. To merit liberality, petitioner must show reasonable cause justifying its non-compliance with the rules and must convince the Court that the outright dismissal of the petition would defeat the administration of substantial justice... The desired leniency cannot be accorded absent valid and compelling reasons for such a procedural lapse...
>
> We must stress that the bare invocation of 'the interest of substantial justice' line is not some magic wan[d] that will automatically compel this Court to suspend procedural rules. Procedural rules are not to be belittled, let alone dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights. Utter disregard of the rules cannot be justly rationalized by harping on the policy of liberal construction."

In the present case, petitioner has not given any justifiable reason or has not adequately explained the circumstances for its failure to submit during trial the additional AFS and the tax clearance attached to its Motion. As pointed out in the above cases, this Court cannot simply relax the rules without justifiable grounds. Indeed, while a party may believe that it has a meritorious legal defense, this must be weighed against the need to halt an abuse of the flexibility of procedural rules. It is well established that faithful compliance with the Rules of Court is essential for the prevention and avoidance of unnecessary delays and for the organized and efficient dispatch of judicial business.[6]

As to petitioner's motion for reconsideration, the Court likewise finds the same without merit. gr

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[5] G.R. No. 183239, June 2, 2014, citing *Building Care Corporation/Leopard Security & Investigation Agency v. Macaraeg*, G.R. No. 198357, December 10, 2012.

[6] *Philippine National Bank v. Commissioner of Internal Revenue*, G.R. No. 172458, December 14, 2011.

To recall, this Court denied petitioner's claim for the issuance of a Tax Credit Certificate (TCC) for its accumulated unutilized/excess input VAT as of the cancellation of its VAT registration because petitioner failed to sufficiently establish that it has no internal revenue tax liabilities against which the TCC may be utilized.

Citing Section 112(B)[7] of the NIRC of 1997, as amended, and as held in the case of *SMI-ED Philippines Landholdings, Inc. v. Commissioner of Internal Revenue*[8], this Court ruled that the presentation of the tax clearance certificate by the taxpayer showing that it has no liabilities, is an essential requirement to claim a tax refund or issuance of a TCC on unused input taxes due to the cancellation of its VAT registration. With regard to the Tax Delinquency Verification Report, the same does not definitely state that petitioner has no pending tax liabilities, but merely verifies and checks the status of the taxpayer (*i.e.* compliance with the requirements of the BIR, filing of the tax returns, existence of open cases or outstanding tax liabilities and on-going assessments).

Also worth noting is that, RR No. 16-05 was the implementing rules used by this Court in the assailed Decision, while RR No. 7-95[9] was the one used in the *SMI-ED Philippines Landholdings* case, contrary to petitioner's assertion that this Court anchored the said Decision on the amendments introduced by RR No. 13-18.

Again, the liberality in the interpretation and application of the rules applies only in 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. The instant case is no exception to this rule.[10]

Accordingly, this Court finds no cogent reason to reverse or modify the ruling in the Decision assailed.

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[7] **SEC. 112.** *Refunds or Tax Credits of Input Tax.*– x x x.

(B) *Cancellation of VAT Registration.*– A person whose registration has been cancelled due to retirement from or cessation of business, or due to changes in or cessation of status under Section 106(C) of this Code may, within two (2) years from the date of cancellation, apply for the issuance of a tax credit certificate for any unused input tax which may be used in payment of his other internal revenue taxes.

[8] CTA Case No. 6740, April 20, 2006, which was later affirmed by the CTA *En Banc* in CTA EB No. 208, February 27, 2008.

[9] "SUBJECT: Consolidated Value-Added Tax Regulations", dated December 9, 1995.

[10] *Spouses David Bergonia, et al. v. Court of Appeals, et al.*, GR 189151, January 25, 2012.

WHEREFORE, in view of the foregoing, petitioner's Motion Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

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

I Concur:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice