REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

EMPRESS DENTAL LABORATORIES, INC., Petitioner,	**CTA CASE NO. 10186**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson, and* **BACORRO-VILLENA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: OCT 19 2021 9:N a.m.

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RESOLUTION

CASTAÑEDA, JR., J.:

Before this Court is respondent's **Motion for Reconsideration [Re: Decision dated June 7, 2021]** filed on June 25, 2021, with petitioner's **Comment/Opposition (to Respondent's Motion for Reconsideration)** filed on July 23, 2021.

On June 7, 2021, the Court promulgated a Decision granting petitioner's claim for refund of its erroneously paid withholding taxes on compensation (WTC), the dispositive portion of which is quoted hereafter as follows:

> "**WHEREFORE**, in light of the foregoing considerations, the *Petition for Review* is **GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND or TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **₱562,007.96**, representing the its erroneously paid withholding taxes on compensation for the month of September 2017.

SO ORDERED."

In his Motion, respondent primarily insists that the Court has no jurisdiction over the present case. He asserts that the claim for refund was not in order since there is no record of petitioner ever submitting complete documents to substantiate its administrative claim. Respondent continues that by failing to submit supporting documents in its claim for refund, makes its administrative claim *pro-forma* which therefore violates the requirement that an administrative claim for refund should be filed prior to the institution of a judicial claim for refund. As such, respondent argues that without a validly filed administrative claim for refund, the Court is without jurisdiction to entertain the present Petition for Review.

More so, respondent further states that assuming without conceding that the Court has jurisdiction, the present petition should be dismissed for utter lack of merit. He stresses that in claims for tax refund, the taxpayer-claimant has the burden of proof to establish the factual basis of its claim. In the present case, respondent claims that there was no proof submitted to confirm that petitioner indeed made erroneous multiple payments, and that the documents submitted by petitioner during trial do not necessarily prove its entitlement to the refund sought since the said documents are susceptible to different interpretations. Hence, respondent concludes that petitioner fell short of proving the veracity of its claim of alleged multiple payment of WTC for September 2017.

On the other hand, in its Comment, petitioner primarily points out that the arguments in respondent's motion for reconsideration were mere rehashes of his previous arguments in his Memorandum filed on August 17, 2020, which have already been thoroughly discussed in the Decision he assails. In any case, petitioner maintains that the Court correctly held that it has jurisdiction over the present case. Petitioner further asserts that it submitted sufficient documents to support its administrative claim for refund and that respondent conveniently omits to mention, discuss, or enumerate what the term "complete documents" contemplate. Lastly, petitioner posits that the Court correctly held that it is entitled to the issuance of tax credit certificate or refund of erroneously paid taxes on its September 2017 WTC return.

This Court finds respondent's Motion for Reconsideration bereft of merit.

As correctly pointed out by petitioner, respondent's allegations in the instant Motion are mere rehash of his previous arguments which have already been addressed and passed upon by the Court in the assailed Decision.

Again, this Court finds that petitioner sufficiently presented and submitted documents to support its administrative claim for refund. With emphasis, except in those instances where the Bureau of Internal Revenue (BIR) would require additional documents in order to fully appreciate a claim for tax credit or refund, in terms ***what*** additional document must be presented in support of a claim for tax credit or refund – it is the taxpayer who has that right and the burden of providing any and all documents that would support his claim for tax credit or refund. After all, in a claim for tax credit or refund, it is the taxpayer who has the burden to prove his cause of action. As such, he enjoys relative freedom to submit such evidence to prove his claim.[1]

Thereafter, whether these documents are *actually* complete as required by law – is for the CIR and the courts to determine. Besides, as between a taxpayer-applicant, who seeks the refund of his creditable input tax and the Commissioner of Internal Revenue (CIR), it cannot be denied that the former has greater interest in ensuring that the complete set of documentary evidence is provided for proper evaluation of the State.[2]

In the case of *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.),*[3] the Supreme Court held that failure to submit documents at the administrative level is not fatal to a claim for refund at the judicial level brought about by respondent's inaction thereto, to wit:

> "Petitioner CIR argued that failure of the respondent to submit the required complete documents as required by Revenue Memorandum Order No. 53-98 and Revenue Regulations No. 2-2006 rendered the petition with the CTA dismissible on the ground of lack of jurisdiction. It reasoned out that when a taxpayer prematurely filed a judicial claim with the CTA, the latter has no jurisdiction over the appeal.

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[1] *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*, G.R. No. 207112, December 8, 2015.
[2] *Ibid.*
[3] G.R. No. 231581, April 10, 2019.

In the instant case, respondent's failure to submit the complete documents at the administrative level did not render its petition for review with the CTA dismissible for lack of jurisdiction. At this point, it is necessary to determine the grounds relied upon by a taxpayer in filing its judicial claim with the CTA. The case of *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue* is instructive, thus:

> A distinction must, thus, be made between administrative cases appealed due to inaction and those dismissed at the administrative level due to the failure of the taxpayer to submit supporting documents. If an administrative claim was dismissed by the CIR due to the taxpayer's failure to submit complete documents despite notice/request, then the judicial claim before the CTA would be dismissible, not for lack of jurisdiction, but for the taxpayer's failure to substantiate the claim at the administrative level. When a judicial claim for refund or tax credit in the CTA is an appeal of an unsuccessful administrative claim, the taxpayer has to convince the CTA that the CIR had no reason to deny its claim. It, thus, becomes imperative for the taxpayer to show the CTA that not only is he entitled under substantive law to his claim for refund or tax credit, but also that he satisfied all the documentary and evidentiary requirements for an administrative claim. It is, thus, crucial for a taxpayer in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first place. Consequently, a taxpayer cannot cure its failure to submit a document requested by the BIR at the administrative level by filing the said document before the CTA.

In this case, it was the inaction of petitioner CIR which prompted respondent to seek judicial recourse with the CTA. Petitioner CIR did not send any written notice to respondent informing it that the documents it submitted were incomplete or at least require respondent to submit additional documents. As a matter of fact, petitioner CIR did not even render a Decision denying respondent's administrative claim on the ground that it had failed to submit all the required documents.

Considering that the administrative claim was never acted upon, there was no decision for the CTA to review on appeal *per se*. However, this does not preclude the CTA from considering evidence that was not presented in the administrative claim with the BIR. Thus, RA No. 1125 states:

> 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.

The law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence. The paramount consideration remains the ascertainment of truth. Thus, the CTA is not limited by the evidence presented in the administrative claim in the Bureau of Internal Revenue. The claimant may present new and additional evidence to the CTA to support its case for tax refund.

Cases filed in the CTA are litigated *de novo* as such, respondent 'should prove every minute aspect of its case by presenting, formally offering and submitting xxx to the Court of Tax Appeals all evidence xxx required for the successful prosecution of its administrative claim.' Consequently, the CTA may give credence to all evidence presented by respondent, including those that may not have been submitted to the CIR as the case is being essentially decided in the first instance." *(Citations omitted)* ~~pe~~

Apparently, the Court of Tax Appeals (CTA) is categorically described as a court of record.[4] As such, it shall have the power to promulgate rules and regulations for the conduct of its business, and as may be needed, for the uniformity of decisions within its jurisdiction. Moreover, as cases filed before it are litigated *de novo*, party-litigants shall prove every minute aspect of their cases.[5] The power of the CTA to exercise its appellate jurisdiction does not preclude it from considering evidence that was not presented in the administrative claim in the Bureau of Internal Revenue (BIR).[6] The question of whether the evidence submitted by a party is sufficient to warrant the granting of its prayer lies within the sound discretion and judgment of the Court.[7]

In the present case, this Court found that based on the evidence on record, petitioner was able to establish its entitlement to the claimed refund. Nonetheless, in spite being given adequate opportunity to show contrary evidence against petitioner's claim, respondent, other than his bare allegation, failed to prove his own claim. It is an age-old rule that the one who alleges a fact has the burden of proving it and the proof should be clear, positive and convincing. Mere allegation is not evidence.[8] Moreover, it is worthy to note that a judgment has to be based on facts. Conjectures and surmises cannot substitute for the facts – a conjecture is always a conjecture; it can never be admitted as evidence.[9]

The Court emphasizes that while tax refunds are strictly construed against the taxpayer, the Government should not resort to technicalities and legalisms, much less frivolous appeals, to keep the money it is not entitled to at the expense of the taxpayers. Substantial justice, equity and fair play are on the side of petitioner. Technicalities and legalisms, however exalted, should not be misused by the government to keep money not belonging to it and thereby enrich itself at the expense of its law-abiding citizens. If the State expects its taxpayers to observe fairness and honesty in paying their taxes, so must it apply the same standard against itself in refunding excess

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[4] Section 8 of Republic Act No. 1125.
[5] *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014.
[6] *Philippine Airlines, Inc. v. Commissioner of Internal Revenue* and *Commissioner of Internal Revenue v. Philippine Airlines, Inc.*, G.R. Nos. 206079-80 and 206309, January 17, 2018.
[7] *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*, G.R. No. 207112, December 8, 2015.
[8] *Dionarto Q. Noblejas v. Italian Maritime Academy Phil., Inc. et al.*, G.R. No. 207888, June 9, 2014.
[9] *Spouses William Guidangen and Mary Guidangen v. Devota B. Wooden*, G.R. No. 174445, February 15, 2012.

payments of such taxes. Indeed, the State must lead by its own example of honor, dignity and uprightness.[10]

In view of the foregoing disquisitions, there being no new matter or substantial issue raised in respondent's Motion for Reconsideration, the Court finds no compelling reason to reverse, amend, or modify the Decision promulgated on June 7, 2021.

WHEREFORE, premises considered, respondent's Motion for Reconsideration [Re: Decision dated June 7, 2021] 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

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[10] *Commissioner of Internal Revenue vs. Co, et al.*, G.R. No. 241424, February 26, 2020.