REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PHILIPPINE NATIONAL BANK,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8636

Members:

DEL ROSARIO, *PJ, Chairperson*
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

MAR 0 9 2017 ; 3:19 pm

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RESOLUTION

MINDARO-GRULLA, *J.*:

For this Court's resolution are the following:

1. respondent's **Motion for Partial Reconsideration (Re: Decision promulgated 3 October 2016)**, filed on October 20, 2016, with petitioner's **Comment (to Respondent Commissioner of Internal Revenue's Motion for Partial Reconsideration dated 20 October 2016)**, filed on November 21, 2016; and

2. petitioner's **Motion for Partial Reconsideration of Decision and/or to Reopen the Case for Presentation of Evidence**, filed on October 21, 2016, with respondent's **Comment/Opposition (Re: Motion for Partial Reconsideration And/Or to Reopen the Case for Presentation of Evidence)**, filed on November 14, 2016.

In their respective motions, petitioner and respondent seek reconsideration of the Court's Decision promulgated on October 3, 2016 (assailed Decision), the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO ISSUE A TAX CREDIT CERTIFICATE** in the amount of ₱210,337,544.67 in favor of petitioner, representing petitioner's excess creditable withholding taxes for taxable year 2010.
>
> **SO ORDERED.**"

Respondent's Motion for Partial Reconsideration

Respondent prays that the Court reconsider its Decision and another one be rendered denying the entire claim for refund. He avers that it is incumbent upon petitioner to discharge its burden of proving entitlement thereto, which basically must include the fact of withholding of taxes and their subsequent remittance to the Bureau of Internal Revenue (BIR). According to respondent, petitioner not only failed to have its documents and the entries therein, identified by the respective withholding agents, but more importantly, also failed to prove the remittance of the amounts alleged to have been withheld to the BIR. Following the principle that claims for refund of taxes are construed strictly against claimants for they partake of the nature of tax exemptions, petitioner's judicial claim deserves no merit and should therefore fall, for its failure to establish clearly and convincingly that it is entitled to the claim being sought for.

The Court finds that the arguments in respondent's motion are mere rehash of the arguments raised in her previous pleadings filed in this case, all of which have already been thoroughly and exhaustively passed upon, and comprehensively addressed by the Court in the assailed Decision.

Contrary to respondent's allegation, the Court already found that petitioner sufficiently substantiated the Creditable Withholding Taxes for taxable year 2010 in the amount of ₱285,373,676.59 pursuant to Section 76 of the National Internal Revenue Code (NIRC) of 1997, as amended. Thus, petitioner was able to discharge its burden to prove its entitlement to the above amount of refund claimed.

Petitioner's Motion for Partial Reconsideration and/or Motion to Reopen the Case for Presentation of Evidence

In its motion, petitioner prays that the Court partially reconsider and set aside its Decision, particularly the portion applying petitioner's income tax liability for taxable year 2010 in the amount of ₱75,036,131.92, against its substantiated CWT amounting to ₱285,373,676.59, thus resulting in a refundable excess CWTs for taxable year 2010 of only ₱210,337,544.67 or, in the alternative, to reopen trial to allow petitioner to present additional evidence.

Petitioner insists that the presentation of CWT certificates is not indispensable in proving the existence of prior years' excess credits. It argues that in the case cited by the Court, the issue raised was the validity of the withholding tax certificates, considering that the various withholding agents were not presented to identify the contents thereof and to prove the subsequent remittance of the taxes withheld to the BIR. According to petitioner, the issue on the substantiation of prior years' excess credits was not raised at all, and hence, the ruling in said case as to the absolute necessity of presenting the CWT certificates cannot apply in a similar manner to prior years' excess credits.

A motion for reopening of trial is a recognized procedural recourse in this jurisdiction. Nevertheless, petitioner cannot avail of the said remedy since it sought to reopen the trial of this case only after the Court rendered its judgment. The ruling of the Supreme Court in *Alegre vs. Reyes, et al.*[1] is instructive:

> "xxx the reopening of a case for the reception of additional evidence *after a case has been submitted for decision but before judgment is actually rendered* is, it has been said, controlled by no other rule than that of the paramount interests of justice, resting entirely in the sound judicial discretion of a Trial Court; and its concession, or denial, by said Court in the exercise of that

[1] G.R. No. L-56923, May 9, 1988.

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discretion will not be reviewed on appeal unless a clear abuse thereof is shown." *(Italics supplied)*

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.[2] Moreover, fundamental considerations of public policy and sound practice necessitate that, at the risk of occasional errors, the judgment or orders of courts should attain finality at some definite time fixed by law or else, there would be no end to litigation.[3]

The Court promulgated a Decision in this case on October 3, 2016, while petitioner filed its motion only on October 21, 2016. Clearly, at the time petitioner filed the said motion, the Court had already rendered judgment in this case. Hence, for failure of the petitioner to file the motion to reopen trial before the Court rendered its judgment, the motion to reopen trial cannot be granted. Further, even if the Court treats petitioner's motion to reopen trial as a motion for new trial, the same would still be bereft of merit because such motion may be granted only upon specific, well-defined grounds, set forth in the Rules.[4]

Sections 1 and 2, Rule 37 of the Rules of Court provide:

"**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

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[2] *Philippine National Bank vs. Commissioner of Internal Revenue*, G.R. No. 172458, December 14, 2011.
[3] *Tadeja vs. People of the Philippines*, G.R. No. 145336, February 20, 2013.
[4] *Alegre vs. Reyes, et al., supra.*

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(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.

Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law.

Section 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.

A motion for new trial shall be proved in the manner provided for proof of motion. A motion for the cause mentioned in paragraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by affidavits. A motion for the cause mentioned in paragraph (b) 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 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.

A *pro forma* motion for new trial or reconsideration shall not toll the reglementary period of appeal."

In the case of *Commissioner of Internal Revenue vs. A. Soriano Corporation, et al.,*[5] the Supreme Court laid down the requisites for the grant of a motion for new trial on the ground of newly discovered evidence, to wit:

> "Under Section 1, Rule 37 of the Rules of Court, the requisites for newly discovered evidence as a ground for a new trial are: (a) the evidence was discovered after the trial; (b) such evidence could not have been discovered and produced at the trial with reasonable diligence; and (c) that it is material, not merely cumulative, corroborative or impeaching, and is of such weight that, if admitted, will probably change the judgment. All three requisites must characterize the evidence sought to be introduced at the new trial."

Based on the foregoing, it can be observed that the rules allow the filing of a motion for new trial on the grounds of fraud, accident, mistake or excusable negligence; or of newly discovered evidence, in the manner provided for proof of motions.

However, an examination of the instant motion would show that it was neither based on fraud, accident, mistake or excusable negligence that would need affidavits of merit, nor based on newly discovered evidence which would require affidavits of witnesses. Hence, the Court cannot grant the instant motion.

Moreover, a claim for tax credit or refund, like a claim for tax exemption, is construed strictly against the taxpayer.[6] In this case, since petitioner opted to claim a refund of its excess CWT for taxable year 2010 in its entirety, i.e., undiminished by any income tax liability, it becomes incumbent upon petitioner to prove that it has sufficient prior year's excess CWT to cover its income tax liability for taxable year 2010. Failing to do so, the income tax liability for taxable year 2010 shall be offset with the substantiated unutilized CWT for 2010.

In this case, the Schedules of Creditable Withholding Taxes for the years 2000 to 2009 and 2011 to 2013, standing alone, are

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[5] G.R. No. 113703, January 31, 1997.
[6] *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue,* G.R. Nos. 184360 & 184361, and 184384, February 19, 2014.

insufficient to prove that petitioner had prior year's excess credits for being self serving.

Thus, even if the presentation of CWT certificates is not indispensable in proving the existence of prior year excess credit, petitioner still fell short in complying with the third requisite for the grant of its claim for refund or issuance of a tax credit certificate.

From the foregoing, finding no cogent reason to disturb the Court's findings in the assailed Decision, the Court denies both motions for reconsideration.

WHEREFORE, premises considered, respondent's **Motion for Partial Reconsideration (Re: Decision promulgated 3 October 2016)** and petitioner's **Motion for Partial Reconsideration of Decision and/or to Reopen the Case for Presentation of Evidence** are hereby **DENIED** for lack of merit.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

(I maintain my Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice