REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

FINANCIAL TIMES ELECTRONIC PUBLISHING PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9631

Members:

CASTAÑEDA, JR., *Chairperson,*
MINDARO-GRULLA, *and*
BACORRO-VILLENA, *JJ.*

Promulgated:
JAN 16 2020 2:02 pm

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RESOLUTION

For the Court's resolution is the Motion for Reconsideration (**MR**) filed by petitioner, Financial Times Electronic Publishing Philippines, Inc. (**FTEPP/petitioner-movant**) on 23 October 2019. Respondent Commissioner of Internal Revenue (**CIR/respondent**) failed to file his Comment despite directive to do so. In the MR, petitioner-movant seeks the reversal of this Court's Decision dated 07 October 2019 in the above-captioned case denying petitioner-movant's Petition for Review, and effectively denying its claim to a credit/refund of allegedly erroneously paid value-added taxes (**VAT**).

In support of the MR, petitioner-movant asserts that, as a VAT-registered entity, all its services rendered to Financial Times Limited **(FTL),** which according to the former is a non-resident foreign corporation not doing business in the Philippines, should be subject to zero percent VAT in accordance with the National Internal Revenue Code (**NIRC**).

Based on the records and as stated in the assailed Decision, the denial of petitioner-movant's Petition for Review was grounded on its failure to prove that FTL was in fact a nonresident foreign corporation not doing business in the Philippines during the time the questioned services were rendered. In particular, petitioner-movant was unable to produce any other document of sufficient evidentiary weight, except for a certificate of non-registration issued by the Securities and Exchange Commission **(SEC)**. Such document, however, is neither sufficient nor directly indicative of FTL's non-engagement in business within the Philippines.

Although petitioner-movant was able to produce several foreign documents suggesting FTL's registration in England, namely: (1) FTL's Certificate of Incorporation **(COI)**; (2) FTL's Certificate of Change of Name **(COCN)**; and, (3) the Certification from the Registrar of Companies for England **(CRCE)**, the Court did not lend credence to them for petitioner-movant's failure to duly prove their authenticity in accordance with the Rules of Court. The Court, in its assailed Decision, found that these documents were not properly *consularized*. What was *consularized* was an apostille which authenticated the affidavit of a certain, David Noel Lloyd Fawcett, an English notary public who in his affidavit attested in turn to the authenticity of photocopies of the COI, COCN, and the original of the CRCE. In sum, the COI, COCN and CRCE, all pieces of documentary evidence which would have lent confidence to the allegation of FTL's foreign nationality were in themselves not certified by our own consular officials. This, in effect, resulted in the Court's application of the rule on processual presumption as already adequately discussed in the assailed Decision.[1]

Nevertheless, in its motion, petitioner-movant argues that it was able to duly establish the veracity of the aforementioned documents. First, it argues that its witness, Paulito B. De Pano (**De Pano**) testified to the fact that FTL is a foreign corporation. Second, petitioner-movant claims that its evidence presented a *prima facie* case in its favor, thereby shifting the burden of proof to respondent. Lastly, petitioner-movant argues that the evidence presented; particularly, the affidavit of Fawcett was certified by the Philippine embassy in London in a manner consistent with our evidentiary rules.

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[1] Division Docket, pp. 569-589.

We are not swayed.

The portion of De Pano's testimony, as quoted in the instant motion, could be considered no more than self-serving. As stated, FTL's COI was not *consularized*. On the other hand, his testimony regarding the Service Agreements between FTEPP and FTL have no bearing on FTL's lack of business engagements within the Philippines. It bears stressing that the absence of a corporation's local registration or its registration abroad does not conclusively prove that it is *not* conducting business within our country.[2]

Due to the insufficiency of its evidence, we find no merit in petitioner-movant's arguments that the evidence it presented during the trial was enough to shift the burden on the CIR to prove FTEPP's non-entitlement to a tax credit/refund. It is well-settled that tax refunds are in the nature of tax exemptions, and tax laws providing for such are interpreted *strictissimi juris* against the taxpayer. In other words, it is incumbent on the taxpayer to prove his entitlement to the tax refund despite its perceived weakness of the CIR's evidence.

As regards petitioner-movant's last argument, the Court finds no error in its application of prevalent rules and jurisprudence as embodied in the assailed Decision, and briefly discussed above. The Court therefore, does not see the necessity to further belabor itself with a repeated discussion on the matter.

Finally, petitioner-movant's reliance on cases decided by the Court of Tax Appeals wherein it allowed into evidence screenshots of official websites of a foreign government does not also impress. Aside from these cases not being on all fours with the present case, the decisions of this Court, whether it sits *En Banc* or in *Division* are not binding precedent, and thus, do not warrant the application of the principle of *stare decisis*.[3]

WHEREFORE, the foregoing considered, petitioner-movant's Motion for Reconsideration filed on 23 October 2019 is **DENIED** for lack of merit.

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[2] See *Sitel Philippines Corporation v. Commissioner of Internal Revenue*, G.R. No. 201326, 08 February 2017.

[3] See *Commissioner of Internal Revenue v. San Roque Power Corporation.*, G.R. No. 187485, 12 February 2013; *Taganito Mining Corporation v. Commissioner of Internal Revenue*, G.R. No. 196113, 12 February 2013; *Philiex Mining Corporation v. Commissioner of Internal Revenue*, G.R. No. 197156, 12 February 2013.

SO ORDERED.

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

(On Leave)
CIELITO N. MINDARO-GRULLA
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice