REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

CARMEN COPPER CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA *EB* NO. 2428
(CTA Case No. 9543)

Present:

DEL ROSARIO, *P.J.*,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
JAN 0 8 2024 4:20pm

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RESOLUTION

CUI-DAVID, J.:

For the resolution of the Court *En Banc* is petitioner's ***Motion for Reconsideration Ex Abundanti Ad Cautelam (Amended Decision dated April 5, 2023)***,[1] filed on May 3, 2023, with respondent's ***Opposition (Re: Motion for Reconsideration of the Amended Decision dated April 5, 2023)***,[2] filed on June 19, 2023.

Petitioner seeks the reconsideration of the Court *En Banc*'s *Amended Decision* promulgated on April 5, 2023,[3] the dispositive portion of which reads:

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[1] *En Banc (EB)* Docket, pp. 217-234.
[2] *EB* Docket, pp. 242-249.
[3] *EB* Docket, pp. 178-199.

> **WHEREFORE**, respondent's *Motion for Reconsideration (Re: Decision promulgated 22 June 2022)* is **GRANTED**, while petitioner's *Motion for Reconsideration (Decision dated June 22, 2022)* is **DENIED**.
>
> Accordingly, the dispositive portion of the *Decision* of the Court *En Banc*, dated 22 June 2022, is **MODIFIED** to read as follows:
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>> **WHEREFORE**, in view of the foregoing discussion, the Petition for Review filed by Carmen Copper Corporation is **DENIED**, for lack of merit. The assailed Decision dated June 25, 2020 and Resolution dated January 8, 2021 rendered by the Court's Third Division in CTA Case No. 9543 are **AFFIRMED**.
>
> **SO ORDERED.**

The assailed *Amended Decision*, granting respondent's *Motion for Reconsideration,* was received by petitioner on April 18, 2023. Thus, petitioner had until May 3, 2023 to file a *Motion for Reconsideration* against the *Amended Decision.* Accordingly, on May 3, 2023, petitioner timely filed its *Motion for Reconsideration Ex Abundanti Ad Cautelam (Amended Decision dated April 5, 2023).*

We now proceed to petitioner's arguments.

Anent the Court *En Banc*'s grant of respondent's *Motion for Reconsideration,* petitioner argues that the Court erred in reversing its earlier *Decision* and in granting respondent's *Motion for Reconsideration.* Petitioner points out that there is nothing in the National Internal Revenue Code ("**NIRC**") of 1997, as amended, which requires that direct export sales be paid for in acceptable foreign currency. *First,* petitioner theorizes that the tax base in the case of export sales is gross sales and not gross receipts; hence, actual payment is not a pre-condition for zero-rating. *Second,* petitioner suggests that there is no requirement for inward remittance of the proceeds as allegedly acknowledged by the Bureau of Internal Revenue ("**BIR**") under Revenue Memorandum Circular ("**RMC**") No. 57-1997 and RMC No. 42-2003. Petitioner proceeds to cite *Commissioner of Internal Revenue v. Cebu Toyo Corporation.*[4]

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[4] G.R. No. 149073, February 16, 2005, 491 PHIL 625-640.

Petitioner then compares Executive Order ("**EO**") No. 273 and Republic Act ("**RA**") No. 7716. Petitioner points out that the requirement of inward remittance was removed upon the passage of RA No. 7716.

Petitioner also points out that the requirement found in Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, is inapplicable to Section 106(A)(2)(a)(5) of the same law. According to petitioner, Congress intended to exclude the sales of Board of Investments ("**BOI**")-registered enterprises "from the additional burden of accounting for its export proceeds."

In relation to the denial of petitioner's *Motion for Reconsideration (Decision dated June 22, 2022)*, petitioner repeats its arguments in its earlier *Motion*. To reiterate, petitioner argues that:

> 1. The violation of its due process right must have consequences, specifically, its refund claim should be deemed granted in full.
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> 2. While the validity of petitioner's zero-rated sales is essential to the determination of its entitlement to its claim for refund and something that could have been considered as a "related issue," it was improper for the Court to raise it as an issue considering that it was not elevated to the CTA's exclusive appellate jurisdiction having been already decided upon by respondent, in the exercise of his exclusive and original jurisdiction to decide tax refunds.
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> 3. Exports sales supported by bills of lading should qualify as zero-rated sales. Consistent with the Court En Banc's pronouncement that a BOI-registered exporter should only prove actual exportation of goods, it necessarily follows that there is no more reason to disallow the alleged ₱105,471,946.18 export sales simply because the amount in the sales invoices cannot be traced to the Summary List of Sales (SLS).
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> As far as the sale of goods is concerned, the Tax Code provides that sales invoices are the primary evidence to prove the same. The invoicing requirements duly established in Bureau of Internal Revenue (BIR) regulations and in countless decisions of the CTA never required that the VAT sales invoice, to be valid, must tally with the SLS. The SLS only shows the breakdown of the sales reported in the VAT returns. It is not controlling when there is a discrepancy between the amount in the invoice and in the SLS. The sales invoice, being the source document, must prevail.

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> Had the ICPA been recalled and allowed to explain the report, the ICPA would have testified that only the partial amount of ₱105,471,946.18 was reported in the third quarter of TY 2014 because some portions of the invoice amount were already reported in prior periods.

Petitioner argues that just as in assessments wherein a violation of due process renders an assessment void, a violation of due process in refund claims renders the denial void. According to petitioner, the nullification of the denial would lead to a grant of its claim for a refund. Petitioner suggests this approach is "a recognition of the primacy of the various fundamental Constitutional protections against the vast powers the people have given to the government."

Petitioner insists that, although it was ruled in *Commissioner of Internal Revenue v. Lancaster Philippines, Inc. (Lancaster case)*[5] that the CTA can resolve an issue not raised by the parties, such authority of the CTA is limited only to related issues. Thus, petitioner suggests that the Court's Third Division "could have orderly resolved the claim without touching on the validity of [p]etitioner's zero-rated sales because the validity of the zero-rated sales was already resolved and was not brought before the CTA in an appeal."

Lastly, petitioner questions the disallowance made by the Court in Division in relation to the discrepancy found between the amounts declared in its Summary List of Sales ("**SLS**") and those supported by the sales invoice. Petitioner posits that the sales invoice should prevail as it is the source document and that the fact that the amount supported in the sales invoice is greater than the amount declared in the SLS shall allegedly lead to an increase in petitioner's zero-rated sales.

On the other hand, respondent quotes the Second Division's ruling and Associate Justice Ma. Belen M. Ringpis-Liban's Dissenting Opinion on the original *En Banc* Decision as its legal anchor in stating that payment in acceptable foreign currency in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* ("**BSP**") is required to establish the validity of petitioner's zero-rated sales.

Respondent ends its argument by stating that a tax refund is in the nature of a tax exemption, and such must be construed *strictissimi juris* against petitioner.

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[5] G.R. No. 183408, July 12, 2017.

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Petitioner's *Motion for Reconsideration* is unmeritorious.

Proof that direct export sales to foreign entities were paid for in acceptable foreign currency and duly accounted for in accordance with BSP rules and regulations is indispensable.

As stated in the *Amended Decision*, the Court in Division correctly ruled that petitioner is required to prove that its direct export sales to foreign entities were paid for in acceptable foreign currency and duly accounted for in accordance with the BSP rules and regulations. Accordingly, the Court in Division is likewise correct in disallowing petitioner's zero-rated sales for failure to prove that these zero-rated sales were paid for in acceptable foreign currency.

Petitioner's invocation of *Commissioner of Internal Revenue v. Cebu Toyo Corporation*[6] is misplaced. Nowhere in the *Decision* did the Supreme Court dispense with the requirement of foreign currency payments to prove the validity of zero-rated sales to claim a refund of input VAT. The Supreme Court merely touched upon the issue when it narrated what happened before this Court. We quote:

> Undaunted, respondent filed on February 21, 2000, a Motion for Reconsideration arguing that: (1) proof of its inward remittance was not required by law; (2) BSP and BIR regulations do not require BSP approval on its Agreement of Offsetting nor do they require certification on the amount constructively remitted; (3) it was not legally required to prove foreign currency payments on the remaining sales to MEPZ enterprises; and (4) it had complied with the substantiation requirements under Section 106(A)(2)(a) of the Tax Code. Hence, it was entitled to a refund of unutilized VAT input tax.
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> On May 31, 2000, the tax court partly granted the motion for reconsideration in a Resolution, to wit:
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> ... ...
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> In granting partial reconsideration, the tax court found that there was no need for BSP approval of the Agreement of Offsetting since the same may be categorized as an inter-company open account offset arrangement. Hence, the respondent need not present proof of foreign currency

[6] G.R. No. 149073, February 16, 2005, 491 PHIL 625-640.

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> exchange proceeds from its sales to MEPZ enterprises pursuant to Section 106(A)(2)(a) 10 of the Tax Code. However, the CTA stressed that respondent must still prove that there was an actual offsetting of accounts to prove that constructive foreign currency exchange proceeds were inwardly remitted as required under Section 106(A)(2)(a).

Contrary to petitioner's position, the Supreme Court mentioned that the CTA ruled that respondent must still prove that constructive foreign currency exchange proceeds were inwardly remitted.

Petitioner's invocation of RMC No. 42-2003[7] as its basis for dispensing the proof of inward remittance is likewise bereft of merit. Specifically, petitioner cites Q8/A8 of the said Circular. We quote:

> Q-8: With the full liberalization of the BSP rules on foreign exchange and trade transactions (CB Circular NO. 1389 dated April 13, 1993 enunciated in RMC No. 57-97), the BIR requirement for full documentation of proofs of inward remittances of export proceeds should no longer be enforced. Accordingly, what should be the acceptable documentary requirements in the processing of claims for TCC/refund, **specifically on offsetting arrangements**?
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> A-8: In the case of offsetting arrangements, the following documents should be required:
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> a. Import documents which created liability accounts in favor of the foreign parent or affiliated company;
>
> b. Other contracts with the foreign or affiliated company that brought about the liabilities which were offset against receivables from export sales;
>
> c. Evidence of proceeds of loans, in case the claimant has received loans or advances from the foreign company;
>
> d. Documents or correspondence regarding offsetting arrangements;
>
> e. Confirmation of the offsetting arrangements by the heads of the business organizations involved;
>
> f. Documents to prove actual export of goods;
>
> g. Documents to prove that the sales are zero-rated sales.

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[7] Clarifying Certain Issues Raised Relative to the Processing of Claims for VAT Credit/Refund, July 15, 2003.

Q8/A8 of RMC No. 42-2003, which petitioner forwards as its anchor, applies specifically to **offsetting arrangements**, not to direct export sales of BOI-registered entities as in the instant case.

Neither can RMC No. 57-1997 serve as petitioner's anchor to dispense with the proof of payment in foreign currency, as such Circular does not constitute any directive on the part of the Bureau. In fact, contrary to petitioner's supposition, proof of inward remittance of foreign currency is still being required by the Supreme Court, most notably in *San Roque Power Corp. v. Commissioner of Internal Revenue*,[8] and echoed in recent cases such as in *Chevron Holdings, Inc. v. Commissioner of Internal Revenue* [9] and *Maibarara Geothermal, Inc. v. Commissioner of Internal Revenue.*[10] Notwithstanding the letter dated October 22, 1996, sent by the Managing Director and Officer-in-Charge of the Foreign Exchange Department of the BSP as merely circularized by RMC No. 57-1997, proof of inward remittance of foreign currency is still required by no less than the Supreme Court, and as consistently held by this Court.

Now, as to the applicability of the above requirement to BOI-registered enterprises engaged in direct export sales, We find petitioner's arguments to be bereft of merit.

At the risk of being repetitive, We quote our Amended Decision, where We discussed why the direct export sales under Article 23 of EO No. 226 [and consequently Section 106(A)(2)(a)(5)] are subject to the BSP rules on foreign currency exchange, *viz.*:

> The National Internal Revenue Code ("NIRC") of 1997, as amended, provides that export sales by value-added tax ("VAT") registered persons shall be subject to zero percent (0%) rate. Export sales is defined under Section 106(A)(2)(a) as to include the following:
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> "SEC. 106. **Value-Added Tax on Sale of Goods or Properties.** -
>
> xxx xxx xxx
>
> (a) Export Sales. — The term "**export sales**" means:

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[8] G.R. No. 180345, November 25, 2009, 620 PHIL 554-584.
[9] G.R. No. 215159, July 5, 2022.
[10] G.R. No. 250479, July 18, 2022.

(1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

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(5) Those considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, and other special laws; and ...

In relation thereto, Section 112 of the NIRC of 1997, as amended, allows the refund or tax credit of unutilized excess input VAT attributable to zero-rated or effectively zero-rated sales, subject to the condition that the acceptable foreign currency exchange proceeds had been duly accounted for in accordance with the rules and regulations of the BSP, in export sales falling under Sections 106 (A) (2) (a) (1) and (2), to wit:

"SEC. 112. **Refunds or Tax Credits of Input Tax.** —

(A) *Zero-rated or Effectively Zero-rated Sales.* — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales,...: *Provided, however,* <u>**That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108 (B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP)**</u>: ..."

The *ponencia* ruled that since Petitioner alleged that its direct export sales are zero-rated based on Section 106 (A) (2) (a) (5), and not under Sections 106 (A) (2) (a) (1) and (2) of the NIRC of 1997, as amended, the requirement above need not be complied with.

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At first glance, this may seem sound. However, a plain reading of the pertinent provisions of Executive Order ("EO") No. 226 show that export sales are classified into two (2) categories, the direct export sales and the constructive export sales. Articles 23 and 77 (2) of EO No. 226 are reproduced hereunder:

> "ARTICLE 23. 'Export sales' shall mean the Philippine port F.O.B. value, determined from invoices, bills of lading, inward letters of credit, landing certificates, and other commercial documents, of exports products exported directly by a registered export producer or the net selling price of export product sold by a registered export producer to another export producer, or to an export trader that subsequently exports the same: Provided, That sales of export products to another producer or to an export trader shall only be deemed export sales when actually exported by the latter, as evidenced by landing certificates or similar commercial documents: *Provided, further,* That without actual exportation the following shall be considered constructively exported for purposes of this provision: (1) sales to bonded manufacturing warehouses of export-oriented manufacturers; (2) sales to export processing zones; (3) sales to registered export traders operating bonded trading warehouses supplying raw materials used in the manufacture of export products under guidelines to be set by the Board in consultation with the Bureau of Internal Revenue and the Bureau of Customs; (4) sales to foreign military bases, diplomatic missions and other agencies and/or instrumentalities granted tax immunities, of locally manufactured, assembled or repacked products <u>whether paid for in foreign currency or not</u>: *Provided, further,* That export sales of registered export trader may include commission income: and *Provided, finally,* That exportation of goods on consignment shall not be deemed export sales until the export products consigned are in fact sold by the consignee.
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> Sales of locally manufactured or assembled goods for household and personal use to Filipinos abroad and other non-residents of the Philippines, as well as returning Overseas Filipinos under the Internal Export Program of the government and <u>paid for in convertible foreign currency inwardly remitted through the Philippine banking systems</u> shall also be considered export sales."
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> "ARTICLE 77. Tax Treatment of Merchandise in the Zone. —

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(2) Merchandise purchased by a registered zone enterprise from the customs territory and subsequently brought into the zone, shall be considered as export sales and the exported thereof shall be entitled to the benefits allowed by law for such transaction."

From the foregoing, the classification of export sales (by the nature of the sales transaction) under EO No. 226 may be summarized as follows:

1) direct export sales

a. exports products exported directly by a registered export producer; and
b. sales of locally manufactured or assembled goods for household and personal use to Filipinos abroad and other non-residents of the Philippines, as well as returning Overseas Filipinos under the Internal Export Program of the government.

2) constructive export sales

a. export product sold by a registered export producer to another export producer or to an export trader that subsequently and actually exports the same;
b. sales to bonded manufacturing warehouses of export-oriented manufacturers;
c. sales to export processing zones;
d. sales to registered export traders operating bonded trading warehouses ...;
e. sales to foreign military bases, diplomatic missions and other agencies and/or instrumentalities ...; and
f. merchandise purchased by a registered zone enterprise from the customs territory and subsequently brought into the zone.

The classification above is further supported by the inclusion of the phrase "whether paid for in foreign currency or not" to sales to foreign military bases, diplomatic missions and other agencies and/or instrumentalities granted tax immunities, which intimates that Congress intended to group the said sales as constructive export sales (notwithstanding the fact that they may be actually directly exported), and be exempted from the BSP rules on foreign currency. Conversely, the inclusion of the phrase "paid for in convertible foreign currency inwardly remitted through the Philippine banking systems" to sales of locally manufactured or assembled goods for household and personal use to Filipinos abroad and other

> Filipino non-residents indicates their treatment as direct export sales.
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> Incidentally, the phrase "paid for in foreign currency" was not conjugated to "exports products exported directly by a registered export producer." And yet, it would be too much of a stretch to construe that Congress intended the absence of the said phrase on direct export sales. On the contrary, Congress may have been well aware the same is superfluous for direct export sales are necessarily paid using foreign currency.
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> Thus, it is inaccurate to say that the condition found in Section 112 of the NIRC of 1997, as amended, does not apply to export sales falling under Section 106 (A) (2) (a) (5). The correct conclusion is that the BSP rules on foreign currency exchange is not required for constructive export sales under EO No. 226, but not those which constitute direct export sales.
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> Indeed, Section 106 (A) (2) (a) (1) of the NIRC of 1997, as amended, clearly states that "the sale and actual shipment of goods from the Philippines to a foreign country" (*i.e.*, referring to direct export sales) should be paid for in acceptable foreign currency and accounted for in accordance with BSP rules. By adding Section 106 (A) (2) (a) (5) in the enumeration of export sales under the Tax Code, the lawmakers in all likelihood acknowledged the existence of constructive export sales, and the inapplicability of using foreign currency on these transactions.
>
> *Interpretare et concordare leges legibus, est optimus interpretandi modus.* The best method of interpretation is that which makes laws consistent with other laws. To say that direct export sales under Article 23 of EO No. 226 [and consequently Section 106 (A) (2) (a) (5)] are exempt from BSP rules on foreign currency exchange, will contradict the provision of Section 106 (A) (2) (a) (1) of the NIRC of 1997, as amended. Hence, such interpretation should be frowned upon.

Thus, We held that the condition found in Section 112 of the NIRC of 1997, as amended, applies to export sales falling under Section 106(A)(2)(a)(5); that the requirement that the direct export sales must be paid in acceptable foreign currency duly accounted in accordance with the BSP rules and regulations equally applies to BOI-registered enterprises like petitioner as we have likewise ruled in different cases involving petitioner itself, *i.e., Commissioner of Internal Revenue v. Carmen Copper Corporation* and *Carmen Copper Corporation v. Commissioner of Internal Revenue* (CTA *EB* Case Nos. 2480

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& 2515),[11] *Carmen Copper Corporation v. Commissioner of Internal Revenue* (CTA *EB* Case No. 1461),[12] *Carmen Copper Corporation v. Commissioner of Internal Revenue* (CTA *EB* Case No. 2161),[13] and *Carmen Copper Corporation v. Commissioner of Internal Revenue* (CTA *EB* Case No. 2018).[14]

As discussed above, this is owing to the classification by no less than EO No. 226 between direct and constructive export sales.

Petitioner begs to ask this Court the rationale why Section 106(A)(2)(a)(5) was separated from Section 106(A)(2)(a)(1). According to petitioner, this evinces Congress' intention to remove the requirement that the transaction be paid for in acceptable foreign currency in Section 106(A)(2)(a)(5).

However, Section 106(A)(2)(a)(5) of the NIRC of 1997, as amended, was separated by Congress simply to compel us to refer to EO No. 226. **EO No. 226 distinguishes direct export sales from constructive export sales**. In providing that constructive export sales are zero-rated "whether paid for in foreign currency or not," the reasonable interpretation and the interpretation which is in harmony with the other provisions of the NIRC of 1997, as amended, as this Court has consistently held, is that direct export sales, whether under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, or under EO No. 226 **require payment in acceptable foreign currency** accounted for in accordance with the rules and regulations of the BSP.

Petitioner failed to prove this. Accordingly, this renders petitioner's argument as to the discrepancy between the amount declared in its SLS and the amount allegedly supported by sales invoices inconsequential, as petitioner nevertheless failed to prove that its sales are paid for in acceptable foreign currency in accordance with the rules and regulations of the BSP.

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[11] CTA *EB* Case Nos. 2480 & 2515 (CTA Case No. 10016), January 10, 2023.
[12] CTA *EB* Case No. 1461 (CTA Case No. 8418), November 16, 2017.
[13] CTA *EB* Case No. 2161 (CTA Case No. 9457), November 25, 2020.
[14] CTA *EB* Case No. 2018 (CTA Case Nos. 9124 & 9200), March 9, 2020.

Respondent's violation of petitioner's due process right does not result in the automatic grant of the latter's refund claim.

Petitioner argues that "the violation of its due process right must have consequences, specifically, its refund claim should be deemed granted in full." Petitioner even suggests that this approach is "a recognition of the primacy of the various fundamental Constitutional protections against the vast powers the people have given to the government."

We disagree. We maintain our discourse in the assailed *Amended Decision, viz.*:

> It must be stressed that an applicant for tax refund or credit must not only prove entitlement to the claim but also *comply* with all the documentary and evidentiary requirements, such as Value-Added Tax (VAT) invoicing requirements provided by tax laws and regulations.
>
> Being a derogation of the State's power of taxation, tax refunds or credits — just like tax exemptions — are *strictly* construed against taxpayers and liberally in favor of the State. Strict compliance with the mandatory and jurisdictional conditions prescribed by law to claim such tax refund or credit is essential and necessary for such claim to prosper.
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> Under Section 8 of the Republic Act (R.A.) No. 1125, the Court of Tax Appeals (CTA) is described as a court of record. As cases filed before it are litigated *de novo, party litigants should prove every minute aspect of their cases.*
>
> As applied in the instant case, since the claim for a tax refund was litigated *anew* before the CTA, the latter's decision should be *solely* based on the evidence formally presented before it, notwithstanding any pieces of evidence that may have been submitted (or not submitted) to the Commissioner of Internal Revenue (CIR). Thus, what is vital in the determination of a judicial claim for a tax credit/refund of Creditable Withholding Tax, is the evidence presented before the CTA, regardless of the body of evidence found in the administrative claim.
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> Hence, petitioner cannot conclude that, since the BIR's denial of its administrative claim for refund is not in accordance with the tenets of due process, its refund claim before this Court should be automatically granted. That is not the contemplation of the law.

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> The burden is on the taxpayer, like petitioner, to show that it has strictly complied with the conditions for the grant of the tax refund or credit.

The Court sees no compelling reason to depart from this ruling.

The Court has the authority to resolve issues not raised by the parties.

Petitioner insists that, although it was pronounced in the *Lancaster* case[15] that the CTA could resolve an issue not raised by the parties, such authority of the CTA is limited only to related issues. Thus, petitioner suggests that the Court's Third Division "could have orderly resolved the claim without touching on the validity of [p]etitioner's zero-rated sales because the validity of the zero-rated sales was already resolved and was not brought before the CTA in an appeal."

We disagree.

The Court in Division's examination of petitioner's zero-rated sales is necessarily intertwined with the disposition of the instant case, *i.e.*, whether petitioner is entitled to its claim for refund of unutilized input VAT attributable to zero-rated sales. In no stretch of interpretation can We consider that the examination of zero-rated sales is unrelated or unnecessary to the issue at hand.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration Ex Abundanti Ad Cautelam (Amended Decision dated April 5, 2023)* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

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[15] G.R. No. 183408, July 12, 2017.

WE CONCUR:

(I reiterate my Concurring and Dissenting Opinion to the Amended Decision)
ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(I maintain concurrence with PJ's CDO)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

(I join PJ Del Rosario's CDO dated April 5, 2023)
HENRY S. ANGELES
Associate Justice