REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

PACIFIC PLAZA CONDOMINIUM CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10199

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:
JUN 01 2023 3:25 pm

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RESOLUTION

CUI-DAVID, *J.*:

Before the Court is petitioner's *Motion for Reconsideration [Re: Decision dated February 10, 2023]* filed on February 28, 2023, with respondent's *Comment/Opposition [To Petitioner's Motion for Reconsideration (Re: Decision dated February 10, 2023)]* filed *via* courier on March 16, 2023, and received by the Court on March 17, 2023.

The dispositive portion of the Decision dated February 10, 2023 (assailed Decision) reads:

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

Petitioner alleges that it is claiming a refund of erroneously paid VAT under Section 229 of the National Internal Revenue Code of 1997, as amended (NIRC), and not input VAT. Considering that there is a legal basis showing that petitioner is not liable to pay VAT on its collected association dues, petitioner must only show that it has erroneously paid VAT on the association dues collected.

Petitioner cites the cases of *Ericsson Telecommunications, Inc. v. Commissioner of Internal Revenue*[1] (*Ericsson*), where it is apparent on the face of the return that the taxpayer erroneously paid taxes, and *Chevron Holdings, Inc. v. Commissioner of Internal Revenue*[2] (*Chevron*), which dispensed with the practice of requiring substantiation of input VAT credits used or applied against the output VAT due *sans* a previous audit or assessment finding the crediting improper.

Petitioner claims that it has proven its payment of the output VAT since there is nothing in the law that requires the taxpayer to prove every item in the return, which is not relevant to the tax subject of the claim for refund. Petitioner insists that it must be allowed to claim a refund of VAT paid on association dues, consistent with the verification made by the independent Certified Public Accountant (ICPA).

On the other hand, respondent counters that petitioner failed to prove actual payment or remittance to the BIR of the amount being claimed for refund in the absence of VAT invoices and official receipts. Respondent adds that the cases of *Ericsson* and *Chevron* are inapplicable in this case, the latter involving Section 112 of the Tax Code. *Ericsson* seeks a refund of the erroneously paid input VAT amounting to ₱8,092,182.94, which is an excess input tax over output tax. There, the amount of erroneous payment of *Ericsson* is apparent on the face of its VAT return, taking away the need for substantiation of input VAT with official receipts and invoices. Also, the taxpayer therein was able to prove the actual remittance of the excess input VAT paid as shown in its filed VAT return and the confirmation payment generated in the eFPS.

The motion must be denied.

To claim a refund of erroneously paid or illegally collected taxes, it must be proven that the taxpayer has paid the tax and that such payment was erroneous. Here, while condominium dues are not subject to VAT, petitioner failed to prove payment of the output VAT collected on association dues for the 3rd and 4th quarters of CY 2017 since it was not able to establish the input VAT from which it credited its output VAT.

[1] CTA Case No. 8027, August 2, 2012.
[2] G.R. No. 215159, July 5, 2022.

Unlike *Ericsson*, the alleged erroneous VAT payment on condominium dues could not be readily seen on the face of petitioner's VAT returns. Hence, the Court must examine petitioner's documentary evidence to ascertain that the output taxes on condominium dues have been paid.

Considering that petitioner's input taxes were applied against its output tax liability, the former must be evidenced by VAT invoices or official receipts to support its validity. However, no evidence on record supports the allowable input tax declared in petitioner's VAT Returns. To quote the assailed Decision:

> A perusal of the evidence offered by petitioner shows that it did not adduce evidence to prove the allowable input tax declared in its VAT Returns. The evidence presented and offered by petitioner include: original and amended Quarterly VAT Returns for the subject period; monthly VAT declarations with eFPS Payment Details; monthly summary list of sales; VAT official receipts covering the association dues collected from unit owners; and Application for Tax Credits/Refunds dated October 22, 2019, requesting the refund of erroneously paid or collected VAT for refund.[3] **None can be found in the records of the case to support the input tax credits of ₱2,410,026.76.** *[Emphasis supplied]*

Consequently, petitioner's failure to present evidence supporting its input tax credits of ₱2,410,026.76 will result in the denial of its claim.

While the ICPA verified the VAT official receipts to determine the output VAT collected on association dues for the 3rd and 4th quarters of CY 2017, the ICPA failed to explain in detail whether the same has been actually paid. As a result, the Court cannot verify whether the input taxes, as indicated in petitioner's VAT returns, are valid from which the output taxes can be credited.

Without proof of valid input tax credits, the amount of ₱1,666,089.79 is not deemed fully paid. Thus, petitioner's claim for refund of its erroneously paid VAT must fail.

WHEREFORE, petitioner's *Motion for Reconsideration [Re: Decision dated February 10, 2023)* is **DENIED**.

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[3] Amended Formal Offer of Evidence, Docket – Vol. II, pp. 343-443.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice