REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	CTA EB No. 1303 (CTA CASE No. 8436)
	Present: DEL ROSARIO, P.J, CASTAÑEDA, JR., BAUTISTA,
-versus-	UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS, and
CHEVRON HOLDINGS, INC., *Respondent.*	RINGPIS-LIBAN, *JJ.*
	Promulgated: MAY 17 2016

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DECISION

MINDARO-GRULLA, J.:

Submitted for decision is a Petition for Review for the Court *En Banc* under *Section 4(b), Rule 8*[1] *of the 2005 Revised Rules of the Court of Tax Appeals (RRCTA), as amended,* of the Decision dated October 22, 2014[2] rendered

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[1] **SEC. 4.** *Where to appeal; mode of appeal. –*

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(b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal.

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[2] Penned by Associate Justice Esperanza R. Fabon-Victorino concurred in by Associate Justice Lovell R. Bautista and Associate Justice Ma. Belen M. Ringpis-Liban, *En Banc* Docket, pp. 17-56.

by the Third Division of this Court, the dispositive portion of which reads as follows:

> "**WHEREFORE,** the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is hereby **DIRECTED** to **REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner Chevron Holdings Inc. in the reduced amount of ₱31,119,589.65, representing unutilized and excess input VAT for the four taxable quarters of CY 2010 attributable to its zero-rated receipts.
>
> **SO ORDERED.**"

The facts of the case, as recited by the Third Division in its Decision, read as follows:

> "Petitioner Chevron Holdings Inc. is the Philippine branch of a duly organized multinational American company licensed by the Securities and Exchange Commission (SEC) as a regional operating headquarters (ROHQ) to transact business in the Philippines with SEC Registration No. A199802486 dated June 3, 1998. Its office is located at the 35th Floor, Yuchengco Tower, RCBC Plaza, 6819 Ayala Avenue, Makati City.
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> xxx xxx xxx
>
> Respondent, on the other hand, is the Commissioner of Internal Revenue (CIR) with authority to act upon claims for refund or tax credit pursuant to the provisions of the National Internal Revenue Code (NIRC) of 1997, as amended.
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> Petitioner filed with the Bureau of Internal Revenue (BIR) its Quarterly VAT Returns for the four quarters of CY 2010 on the following dates:

PERIOD	**DATE OF FILING ORIGINAL RETURN**
1ST Quarter	April 29, 2010
2nd Quarter	July 20, 2010
3rd Quarter	October 20, 2010

4th Quarter	February 14, 2011

On October 6, 2011, petitioner filed an administrative claim for refund or issuance of tax credit certificate with respondent in the amount of ₱77,878,491.52, representing its unutilized and excess input taxes for CY 2010.

On October 25, 2011, petitioner filed a clarificatory letter with respondent stating that upon review of records, the proper amount for refund was only ₱62,066,592.88.

On March 2, 2012, petitioner filed the instant Petition for Review citing respondent's inaction on its claim for refund or tax credit.

On March 29, 2012, respondent filed her Answer stating among others, that petitioner's claim is subject to routinary examination. There is however no showing that it submitted complete documents to substantiate the same contrary to its allegation warranting its denial by inaction. For lack of substantiation, petitioner's claim for refund/tax credit is pro-forma, hence, should be deemed not filed. Without the pre-requisite administrative claim for refund, the Court cannot entertain the present petition for lack of jurisdiction. Finally, like tax exemptions, claims for refund are construed *strictissimi juris* against the claimant and liberally in favor of the taxing authority."

The Third Division partially granted the claim for refund upon examination of all the exhibits provided for by Chevron Holdings Inc. (Chevron) for its claim of unutilized input value-added tax. On the issue of jurisdiction, the Third Division ruled that Chevron was able to submit documents in its claim for refund before the administrative level, contrary to CIR's allegation that this Court cannot acquire jurisdiction over the case since there was no valid application before her office was filed absent submission of complete documents. Moreover, the Third Division ruled that non-submission of documents before the administrative level is not fatal to the taxpayer's claim for refund in the judicial level.

CIR filed her Motion for Reconsideration[3] on October 30, 2014, while Chevron filed its Omnibus Motion (for Partial Reconsideration and to Reopen Trial)[4] on November 7, 2014 and its Supplemental Motion for Partial Reconsideration[5] on December 10, 2014, which were all denied by the Third Division as per Resolution promulgated on April 13, 2015, hence, CIR's Petition for Review.

CIR argues in her Petition for Review that Chevron was not able to comply with the submission of all supporting and relevant documents provided under Revenue Memorandum Order (RMO) No. 53-98 and other existing rules and regulations to warrant the grant of the application for refund. Consequently, the 120-day period provided for by law within which the CIR has to act on Chevron's claim for refund has not yet commenced considering Chevron's failure to comply with such requirements. Thus, Chevron failed to exhaust the administrative remedies which led to the premature filing of the Petition for Review before this Court's Third Division. Likewise, no certification from other agencies was presented to prove that no other claim for refund was filed.

We rule to DENY the Petition for Review.

The arguments proffered by CIR in her Petition for Review are mere rehash of the arguments raised before the Court in Division, which were thoroughly and exhaustively passed upon in the assailed Decision, as well as in the Resolution denying CIR's Motion for Partial Reconsideration.

CIR's arguments boil down to the sole issue of whether Chevron presented sufficient documents for its claim for refund. This Court has ruled in the case of *Commissioner of Internal Revenue vs. Toledo Power Company*[6] that the alleged non-submission of complete documents at the administrative level is not fatal to a claim for refund in the judicial level. Hence, even assuming *arguendo* that Chevron was not able to complete its documents before the office of

[3] Division docket, pp. 3694-3702.
[4] Division docket, pp. 3731-3753.
[5] Division docket, pp. 4036-4045.
[6] CTA EB Case No. 589, January 12, 2011.

the CIR, it will not bar this Court from receiving, evaluating and appreciating evidence submitted before it.[7] The submission of complete documents in the administrative level becomes inconsequential when the taxpayer elevates the claim for refund before this Court where cases of this nature are litigated *de novo* and the documents submitted in the administrative level bear no evidentiary value.[8]

Nonetheless, CIR's reliance on RMO No. 53-98 regarding the sufficiency of supporting documents submitted by Chevron is misplaced. This Court ruled in the case of *Commissioner of Internal Revenue vs. Visayas Geothermal Power Company Inc.,*[9] that the law does not require the taxpayer to submit the documents prescribed by RMO 53-98 as a pre-condition to the claim for refund of unutilized input VAT payments.

Regarding the proper supporting documents, the Supreme Court, in the case of *Pilipinas Total Gas Inc., vs. Commissioner of Internal Revenue,*[10] pointed out that a taxpayer's failure to submit the requirements listed under RMO No. 53-98 is not fatal to its claim for tax credit or refund of excess unutilized VAT. The Supreme Court explained that RMO No. 53-98 is addressed to internal revenue officers and employees, for purposes of equity and uniformity, to guide them as to what documents they may require taxpayers to present upon audit of their tax liabilities.[11] There is nothing stated in the issuance that would show that it was intended to be a benchmark in determining whether the documents submitted by a taxpayer are actually complete to support a claim for tax credit or refund of excess unutilized VAT.[12] The Supreme Court recognizes that it is the taxpayer who ultimately determines when complete documents have been submitted for the purpose of reckoning the 120-day period.

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[7] Ibid.
[8] Commissioner of Internal Revenue vs. Team Sual Corporation (Formerly Mirant Sual Corporation), CTA EB CASE NO. 686. September 17, 2012.
[9] CTA EB Case No. 282, November 20, 2007.
[10] GR No. 207112 dated December 8, 2015.
[11] Ibid.
[12] Ibid.

In the case of *Commissioner of Internal Revenue vs. Dakudao & Sons. Inc.,*[13] this Court held that:

> "Third, anent petitioner's contention that it is imperative for respondent to show proof of compliance with the checklist of requirements to be submitted involving a claim for VAT refund/ tax credit in accordance with the requirements set forth under RMO No. 53-98, this Court agrees with respondent that said RMO is for tax audit investigation and not for refund of erroneously paid VAT. The same is explicit in its objective, which is to "identify the documents to be required from a taxpayer during audit."
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> RMO No. 53-98 merely prescribes the documents required for submission by a taxpayer upon audit of his tax liabilities per type of tax, as well as the different mandatory audit reporting requirements to be prepared, submitted and attached to a tax audit docket by a Revenue Officer. The case at bar being a claim for refund of VAT erroneously paid by a taxpayer, and not a tax audit investigation, said RMO is not applicable.
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> However, assuming arguendo that respondent failed to submit the complete documents listed in RMO No. 53-98, this Court has consistently held that the term "complete documents" should be understood to refer to those documents that are necessary to support the application for refund or tax credit certificate, as determined by the taxpayer. The BIR examiner can require the taxpayer to submit additional documents but the examiner cannot demand what type of supporting documents should be submitted. Otherwise, the taxpayer will be at the mercy of the examiner, who may require the production of documents that the taxpayer cannot submit. Moreover, it is basic that petitioner ought to know the tax records of all taxpayers.[14]

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[13] CTA EB Case No. 1150, May 12, 2015.

[14] Citing Diageo Philippines v. Commissioner of Internal Revenue CTA Case No. 7846 and 7865, January 16, 2012, further citing BPI-Family Savings Bank, Inc. v. Court of Appeals, et. al., G.R. No. 122480, April 12, 2000, and Commissioner of Internal Revenue v. Ironcon Builders and Development Corporation, G.R. No. 180042, February 8, 2010; Commissioner of Internal Revenue v. First Express Pawnshop, G.R. Nos. 172045-46, June 16, 2009.

> Judicial claims should not be denied on the sole ground that the taxpayer allegedly failed to submit before the BIR the "complete documents" in support of its administrative claim for refund. The non-submission of supporting documents in the administrative level is not lethal to a claim for refund.
>
> In this respect, this Court has consistently ruled that the requirements listed under RMO No. 53-98 refer mainly to the requirements for refund or tax credit in the administrative level for purposes of establishing the authenticity of a taxpayer's claim for refund or credit. However, in the judicial level or when the case is elevated to the Court, it is the duty of the claimant to prove its entitlement to the claim for refund or credit, and the question of whether or not 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.[15]"

As to the issue of absence of certification from other agencies, the verification and certification attached to the petition for review, which contains a pronouncement that it has not commenced any other action or proceeding involving the same issues in the Supreme Court, or in any other court, tribunal or agency, would suffice for the matter.[16]

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED**. Accordingly, the Decision dated October 22, 2014 is hereby **AFFIRMED**.

SO ORDERED.

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

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[15] Citing Commissioner of Internal Revenue v. Mindanao II Geothermal Partnership; Mindanao II Geothermal Partnership v. Commissioner of Internal Revenue, CTA EB Nos. 863, 865, October 23, 2012.

[16] Commissioner of Internal Revenue vs. CE Casecnan Water and Energy Company, Inc., CTA Case No. 8446, March 25, 2014.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation among the members of the Court En Banc before the case was assigned to the writer of the opinion of the Court En Banc.

ROMAN G. DEL ROSARIO
Presiding Justice