REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

ZMG WARD HOWELL, INC.,
Petitioner,

- versus –

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9004

Members:

CASTAÑEDA, JR., *Chairperson,*
CASANOVA, and
MANAHAN, *JJ.*

Promulgated:

JAN 30 2018 3:20 pm

x---x

RESOLUTION

CASTAÑEDA, JR., *J.:*

For resolution of this Court is petitioner's *Motion for Reconsideration (Re: Decision dated September 18, 2017) With Motion for Leave to Admit attached Supplemental Evidence*[1] filed on October 4, 2017 with respondent's *Comment/Opposition (To Petitioner's Motion for Reconsideration with Motion for Leave to Re-Open the Case for Presentation of Supplemental Evidence)*[2] filed via registered mail on November 7, 2017.

---

[1] Division Docket Vol. III, pp. 1170-1188.
[2] *Id.*, pp. 1193-1198.

Petitioner moves for reconsideration of the Decision dated September 18, 2017,[3] (the "Assailed Decision") of this Court denying its Petition for Review. The dispositive portion of the Assailed Decision reads:

> "**WHEREFORE**, the present Petition for Review is **DENIED.**
>
> **SO ORDERED.**"

In its Motion, petitioner moves for reconsideration of the Assailed Decision on the basis of the following grounds: [4]

1. Petitioner presented sufficient and uncontroverted evidence to prove that it is a VAT-registered entity; and

2. Petitioner's sales of services to enterprises registered with the Philippine Economic Zone Authority (PEZA) are effectively zero-rated sales pursuant to Section 108(B)(3), Tax Code.

Petitioner likewise moves for leave to submit supplemental evidence, particularly its Bureau of Internal Revenue (BIR) Certificate of Registration, to prove that it is a VAT-registered entity.[5] Petitioner submits that it did not offer in evidence its BIR Certificate of Registration because of its honest belief, on the basis of law and past decisions of this Court, that it is only required to submit its Amended Articles of Incorporation, Quarterly VAT Returns, PEZA Certifications on VAT zero-rating, and supporting ORs evidencing its sales in order to prove that its sales are VAT zero-rated.[6] It added that its failure to submit the said document could only have resulted from its good faith that the evidence submitted has already satisfied the quantum of evidence necessary to prove its case.[7] Otherwise, it would have readily submitted in evidence the BIR Certificate of Registration which was duly issued by and forms part of the public records of the BIR.[8]

---

[3] *Id*, pp. 1144-1169.
[4] *Id.*, p. 1171.
[5] *Id.*, pp. 1176-1184.
[6] *Id.*
[7] *Id.*
[8] *Id.*

Respondent, on the other hand, in his *Comment/Opposition*, disagrees with petitioner's arguments for being erroneous, misplaced, misleading and bereft of factual and legal bases.[9] Respondent points out that petitioner is well-aware that the subject BIR Certificate of Registration allegedly showing that it is a VAT-registered entity which the latter intends to present is crucial in proving its case but it merely submitted as evidence its Amended Articles of Incorporation, Quarterly VAT Returns, PEZA Certifications on VAT zero-rating and Official Receipts.[10] Respondent posits that petitioner's intention to present the alleged BIR Certificate of Registration was a mere afterthought, intended to remedy the deficiency that became apparent only after this Court had promulgated the Assailed Decision.[11] Thus, the grant of a new trial is not proper as the alleged BIR Certificate of Registration which the petitioner seeks to present is not a newly discovered evidence but a mere forgotten evidence.[12] Respondent also contends that to allow petitioner to re-open the case for trial and to present additional evidence would violate the Pre-Trial Order dated August 20, 2015, as duly approved by this Court on the present case.[13]

After a circumspect evaluation of the grounds and arguments interposed by petitioner, the Court finds that the grant of new trial for the presentation of additional evidence is in order.

In *BPI Family Savings Bank vs. Court of Appeals, et al.*,[14] the Supreme Court allowed the appreciation of the document attached to the Motion for Reconsideration filed before the CTA. In the said case, the Supreme Court pointed out that the law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence. The Supreme Court added that:

> "xxx The paramount consideration remains the ascertainment of truth. Verily, the quest for orderly presentation of issues is not an absolute. It should not bar courts from considering undisputed facts to arrive at a just determination of a controversy."[15]

---

[9] *Id.*, p. 1193.
[10] *Id.*, p. 1195.
[11] *Id.*
[12] *Id.*
[13] *Id.*, p. 1196.
[14] G.R. No. 122480, April 12, 2000, 330 SCRA 507.
[15] *Ibid.*, p. 515.

The foregoing pronouncement is consistent with the avowed policy of this Court to liberally apply its rules of procedure to promote their objective of securing a just, speedy, and inexpensive determination of every action and proceeding before the Court.[16]

Indeed, in *Felix Lim and Jose Lee v. Court of Appeals et. al.*,[17] the Supreme Court aptly stated as follows:

> "xxx In meritorious cases, a liberal not literal interpretation of the rules becomes imperative and technicalities should not be resorted to in derogation of the intent of the rules which is the proper and just determination of litigations. Litigations should, as much as possible be decided on their merits and not on technicality, x x x. As has been the constant ruling of this Court, every party-litigant should be afforded the amplest opportunity for the proper and just disposition of his cause free from the constraints of technicalities."

Nevertheless, the Supreme Court held in *Dizon vs. Court of Tax Appeals and Commissioner of Internal Revenue*[18] that this Court must not consider evidence which has not been formally offered. Thus, in the interest of substantial justice and to give petitioner final opportunity to prove its case, this Court deems it proper to allow petitioner to present and formally offer the document mentioned and attached to its Motion. Its submission, however, is still subject to the Court's final evaluation and/or appreciation of its relevance, competence and probative value to the issues involved in the present case.

WHEREFORE, the Court resolves to **SET THIS CASE FOR HEARING** for the presentation of the document mentioned and attached to petitioner's *Motion for Reconsideration* on February 12, 2018 at 9:00 a.m. Meanwhile, the resolution of petitioner's *Motion for Reconsideration* is **HELD IN ABEYANCE** pending the submission and formal offer of the aforesaid document.

---

[16] Section 2, Rule 1, Revised Rules of the Court of Tax Appeals (RRCTA), as amended.

[17] G.R. Nos. 84154-55, July 28, 1990, 188 SCRA 33 citing *Fonseca v. CA*, G.R. No. L-36035, August 30, 1988; *Hernandez v. Quirtan*, G.R. No. L-48457, November 29, 1988, 168 SCRA 99.

[18] G.R. No. 140944, April 30, 2008, 553 SCRA 111.

SO ORDERED.

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

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice