REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

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NOKIA (PHILIPPINES), INC., Petitioner,	**CTA CASE NO. 8304**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson,* **CASANOVA,** *and* **COTANGCO-MANALASTAS,** ***JJ.***
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** OCT 14 2014 3:50 p.m.

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RESOLUTION

CASANOVA, *J.*:

Submitted before this Court are the following:

1. respondent's **"MOTION FOR PARTIAL RECONSIDERATION (Re: Decision promulgated 12 August 2014)"** filed on September 3, 2014, with petitioner's **"COMMENT (Re: Respondent's Motion for Partial Reconsideration dated 03 September 2014)"** filed on September 26, 2014; and

2. petitioner's **"MOTION FOR PARTIAL RECONSIDERATION (of the Decision dated 12 August 2014)"** filed on September 4, 2014, with respondent's **"OPPOSITION (Re: Motion for Partial Reconsideration of the Decision dated 12 August 2014)"** filed on September 29, 2014.

In both Motions, the parties primarily pray that this Court reconsider the Decision dated August 12, 2014, the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, the Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED** to **REFUND** or to **ISSUE A TAX CREDIT CERTIFICATE** to petitioner in the reduced amount of THREE MILLION TWO HUNDRED SIXTY-FIVE THOUSAND THREE HUNDRED SEVENTY-EIGHT and 98/100 PESOS (₱3,265,378.98) representing its unutilized excess input VAT attributable to zero-rated sales for the second quarter of 2009.
>
> **SO ORDERED.**"

Respondent prays that the above decision be partially reversed and another be rendered denying the entire claim for refund, considering that petitioner failed to substantiate its claim since it failed to comply with the invoicing and accounting requirements under Sections 113, 114 and 236 of the National Internal Revenue Code (NIRC) of 1997, as amended, and its implementing regulations under Revenue Regulations No. 16-2005. Petitioner also failed to submit all supporting and relevant documents in its administrative claim for refund, as provided under Revenue Memorandum Order No. 53-98, thereby, in essence, not fully exhausting the doctrine of administrative remedies. Lastly, petitioner likewise failed to prove that no other claim for refund has been filed with the Board of Investment, Department of Finance, Special Economic Zones/Freeport Zones as no certifications from said agencies were neither presented by petitioner during the administrative stage nor before the Court during its presentation of evidence.

On the other hand, petitioner prays for the reconsideration of the portion of input taxes amounting to ₱5,332,861.75 that was disallowed by this Court in the Decision, for failing to meet the substantiation requirements under Sections 110(A) and 113(A) and (B) of the NIRC of 1997, as amended. Petitioner claims that the values it gave in its claim for refund was categorically verified as accurate by the Independent Certified Public Accountant (ICPA), Mr. Abbet R. Barce, thereby satisfactorily supplying the information required to determine the tax liabilities due and input value-added tax (VAT) to be credited. Petitioner invokes the principle of *solutio indebiti* in support of its claim and beseeches the indulgence of this Court in considering that technicalities should not override substantial justice.

After due considerations, this Court finds no merit in both Motions for Partial Reconsideration.

Anent respondent's assertions, perusal of her Motion shows that the issues raised therein have already been analyzed and passed upon extensively in the assailed Decision, including the jurisprudence cited therein. Respondent did not raise anything new to merit reconsideration or reversal of the said Decision.

With regard to petitioner's claims, the Supreme Court in the case of *Commissioner of Internal Revenue vs. Manila Mining Corporation*[1] emphasized the importance of complying with the substantiation requirements for claiming refund/credit of input VAT on zero-rated sales, to wit:

> "For a judicial claim for refund to prosper, however, respondent must not only prove that it is a VAT registered entity and that it filed its claims within the prescriptive period. It must substantiate the input VAT paid by purchase invoices or official receipts."

As to the report and testimony given by the ICPA, the Court is not bound by the findings of the ICPA. The report submitted by the ICPA is but a tool or guide to aid the Court in the resolution of the case. The determination of the merit or the probative value of such report is still within the province of the Court. The Court is free to adopt or disregard, completely or partially, the findings of the ICPA. It can even make its own audit and evaluation of the documents pertinent to the case presented during the trial in order to intelligently resolve the conflict brought before it.[2]

Suffice it to say that tax credit or refund, like tax exemption, is strictly construed against the taxpayer. The taxpayer claiming the tax credit or refund has the burden of proving that he is entitled to the refund or credit, by submitting evidence that he has complied with the requirements laid down in the Tax Code and the Bureau of Internal Revenue's revenue regulations under which such privilege of credit or refund is accorded.[3] Procedural rules should not be so easily brushed aside with the mere averment of the "higher interest of justice".[4] Parties praying for the liberal interpretation of the rules must be able to hurdle that heavy burden of proving that they deserve an exceptional treatment.

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[1] G.R. No. 153204, August 31, 2005 *citing* Commissioner of Internal Revenue vs. Seagate Technology (Philippines), G.R. No. 153866, February 11, 2005
[2] First Lepanto Taisho Insurance Corporation vs. CIR, CTA *En Banc* Case No. 563, March 1, 2011
[3] Microsoft Philippines vs. CIR, G.R. No. 180173, April 6, 2011
[4] Rhodora Prieto vs. Alpadi Development Corporation, G.R. No. 191025, July 31, 2013

WHEREFORE, premises considered, both Motions for Partial Reconsideration are **DENIED** for lack of merit.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

We Concur:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice