REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PILIPINAS SHELL PETROLEUM CORPORATION, Petitioner,	**CTA CASE NO. 10241**
	Members:
- versus -	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** and **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: APR 08 2025 2:46 p.m.

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RESOLUTION

MANAHAN, J.:

Before the Court is petitioner's *Motion for Reconsideration (of the Decision dated October 29, 2024) with Motion for Re-Marking* filed on November 27, 2024, with respondent's *Opposition (Re: Motion for Reconsideration of the Decision dated 29 October 2024)* filed on January 2, 2025.

On October 29, 2024, the Court promulgated a Decision denying petitioner's claim for refund of excise taxes on the importation of Jet A-1 fuel during the period January to September 2018 in the amount of ₱43,844,524.00, for failure to present supporting documents showing the actual payment of said excise taxes, the dispositive portion of which reads as follows:

> "**WHEREFORE**, in light of the foregoing considerations, the present *Amended Petition for Review* is **DENIED** for insufficiency of evidence.
>
> **SO ORDERED.**"

In its Motion, petitioner primarily assails the Court's denial for admission of its supporting documents due to failure to present the originals for comparison, particularly, Exhibits "P-34", "P-35", "P-36", "P-102-18" to "P-102-26, and "P-102-27" to "P-102-36". Petitioner argues that the said exhibits, which show payment of the claimed excise taxes, fall under the term "duplicate" since the scanned copies thereof are produced through photographic processes that accurately reproduced the original, as provided under Section 4, Rule 130 of the Revised Rules on Evidence.[1] Nonetheless, petitioner points out that considering *i.* that there was no genuine question as to the authenticity of the originals and *ii.* there is no showing that the admission of the said exhibits would be unjust or inequitable to respondent, the subject exhibits should be admitted to the extent as the originals.

Petitioner also insists that the Statements of Settlement of Duties and Taxes (SSDTs) marked as Exhibits "P-35" and "P-102-18" to "P-102-26" in the Independent Certified Public Accountant (ICPA) report, are original electronic documents pursuant to the Rules on Electronic Evidence.[2] As such, petitioner moves for the remarking of the said exhibits as original computer print-outs (OCPOs) and further attached in its Motion, the judicial affidavit of Merrie Marriel V. Cantor dated November 27, 2024 to narrate how the SSDT is generated from the Electronic-to-Mobile System (E2M System) of the Bureau of Customs.

Thus, petitioner prays that it be declared entitled to the refund of the amount of ₱43,844,524.00 representing excise taxes paid on Jet A-1 fuel that were sold to tax-exempt international air carriers during the period January to September 2018.

On the other hand, in his comment, respondent opposes petitioner's Motion and insists that it should be denied for lack of merit as the burden of proof to establish the factual basis of a claim for tax credit or refund lies with the claimant. Respondent maintains that claims for refund are strictly construed against the claimant and cannot be allowed unless granted in the most explicit and categorical language.

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1 A.M. No. 19-08-15-SC, took effect on May 1, 2020.
2 A.M. No. 01-7-01-SC, took effect on August 1, 2001.

RULING OF THE COURT

After due consideration, the Court finds petitioner's *Motion for Reconsideration with Motion for Re-Marking* bereft of merit.

Notably, the arguments proffered by petitioner in its Motion are essentially rehashes of what have already been considered, weighed, and resolved by the Court in the Resolution dated February 3, 2023.[3]

To reiterate, under the original document rule of the Revised Rules on Evidence, when the subject of inquiry is the contents of a document, no evidence is admissible other than the original document itself, except in certain instances. Equally important, an original document may either be an original or duplicate, provided, however, no timely objection was made by the opposing party against the introduction of photocopies. Evidence not objected to shall be deemed admitted and may be validly considered by the court in arriving at its judgment since courts are not precluded from accepting in evidence a mere photocopy of a document if no objection is raised during its formal offer.[4] Simply put, a photocopy of an original may consist of a "duplicate" as long as there is no question that it is an accurate reproduction of the original.[5]

Herein, respondent has timely objected to the admission of the aforementioned exhibits when he stated in his Comment (Re: Formal Offer of Evidence) filed on July 15, 2022,[6] that "he has no objection to the admission of petitioner's enumerated exhibits, but only as to the manner they were identified in open court and subject to the condition that the same have faithfully complied with the necessity of comparison with the original documents as required under Section 4, Rule 12 of the Revised Rules of the Court of Tax Appeals". With that, respondent has not foregone the comparison of petitioner's exhibits with their originals which is tantamount to raising a genuine question as to their authenticity. For the said reason, the Court cannot

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[3] Resolution of the Court on petitioner's Motion for Reconsideration on Court Resolution dated February 3, 2024, Docket – Vol. II, pp. 1183 to 1195.

[4] *Malate Construction Development Corporation, et al. v. Extraordinary Realty Agents & Brokers Cooperative*, G.R. No. 243765, January 5, 2022.

[5] *Kuwait Airways Corporation v. The Tokio Marine and Fire Insurance Co., Ltd., et al.*, G.R. No. 213931, November 17, 2021.

[6] Docket – Vol. II, pp. 1120 to 1122.

consider such photocopies as falling under "duplicate" or an accurate reproduction of the original.

Verily, a photocopy of a document has no probative value and is inadmissible in evidence.[7] The Court consistently requires some proof of authenticity or reliability as a condition for the admission of documents. Absent such proof of authenticity, the photocopy of the original duplicate should be considered inadmissible and, hence, without probative value.[8]

In the same vein, the Court cannot likewise subscribe to petitioner's assertion that the SSDTs marked as Exhibits "P-35" and "P-102-18" to "P-102-26" in the ICPA exhibits, can be considered as original electronic documents pursuant to the rules on electronic evidence.

Thorough scrutiny of the above-mentioned exhibits readily reveals that they are not OCPOs, but merely photocopies of said documents. This fact is even supported by the court-commissioned ICPA, Ms. Maddona Mia S. Dayego, when she categorically stated in her Report that she *relied upon the photocopies presented by Petitioner subject to the Honorable Court's resolution of their admissibility as evidence.*[9]

Furthermore, the fact that petitioner invokes for the first time the rules on electronic evidence to justify the admission of Exhibits "P-35" and "P-102-18" to "P-102-26", casts doubt to its intention considering that it appears to be a mere afterthought in an attempt to suddenly change its position or theory. Petitioner had never previously communicated in its pleadings or arguments that it intends the said exhibits to be considered as electronic documents. Otherwise, petitioner would have then laid down from the very beginning the basis for their introduction and admission as electronic documents. Unfortunately, it is too late for petitioner to change its theory, especially since the said exhibits have already been tendered by petitioner as excluded evidence and, thus, made part of the records of the case.[10]

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[7] *Tee Ling Kiat v. Ayala Corporation, etc.*, G.R. No. 192530, March 7, 2018.

[8] *Office of the Ombudsman, et al. v. Carmencita D. Coronel*, G.R. No. 164460, June 27, 2006.

[9] Page 17 of Exhibit "P-42", Docket – Vol. II, p. 833.

[10] *Order* dated April 27, 2023, Docket – Vol. II, pp. 1202 to 1203.

It further bears noting that this Court cannot also consider the attached judicial affidavit of Ms. Merrie Marriel V. Cantor as she was not included in the list of petitioner's witnesses enumerated in the Pre-Trial Order dated December 13, 2021,[11] nor was the said judicial affidavit properly offered in accordance with the Judicial Affidavit Rule.[12] To recall, petitioner offered to present only five witnesses, as follows:

Name of Witness/es	Schedule of Continuous Trial Dates
1. Ms. Berenice Angelique L. Flores	October 26, 2021 at 9:00 a.m.
2. Ms. Carla Angelica T. Peralta	October 26, 2021 at 9:00 a.m.
3. Mr. Matias D. Aquiatan, Jr.	January 27, 2022 at 9:00 a.m.
4. Atty. Farida Nimfa Guyala-Dimalig	January 27, 2022 at 9:00 a.m.
5. Court Commissioned IPCA	To be agreed upon

Correspondingly, there is no reason for the Court to grant the remarking of Exhibits "P-35" and "P-102-18" to "P-102-26" as OCPOs.

At the risk of sounding repetitive, the Court consistently ruled that actions for tax refund or credit are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven. The burden is on the taxpayer to show that it has strictly complied with the conditions for the grant of the tax refund or credit. Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented as they are not intended to be liberally construed.[13]

In view of the foregoing disquisitions, the Court finds no compelling reason to reverse or modify the Decision promulgated on October 29, 2024.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration (of the Decision dated October 29, 2024) with Motion for Re-Marking* is **DENIED** for lack of merit.

SO ORDERED.

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11 Docket – Vol. II, pp. 767 to 781.
12 A.M. No. 12-8-8-SC, took effect on January 1, 2013.
13 *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222428, February 19, 2018.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

We Concur:

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice