REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COCA-COLA BOTTLERS PHILIPPINES, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 1111
(CTA Case No. 8099)

Present:
Del Rosario, *PJ,*
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Cotangco-Manalastas,and
Ringpis-Liban, *JJ.*

Promulgated:

JAN 14 2016 4:15 p.m.

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RESOLUTION

CASTAÑEDA, JR., *J.*:

This resolves petitioner's Motion for Reconsideration of the August 12, 2015 Decision filed on September 9, 2015 with respondent's Comment (Re: Motion for Reconsideration dated 9 September 2015) filed on October 15, 2015. Petitioner prays that this Court reconsider and set aside its Decision and petitioner's claim for refund be granted in the amount of at least P48,509,474.01 as substantiated and recommended by the court-commissioned independent CPA.

The dispositive portion of the August 12, 2015 Decision states:

> **WHEREFORE,** premises considered, the petition for review is hereby **DENIED** for lack of merit. Accordingly, We **AFFIRM** the Decision and the Resolution of the CTA Special

First Division dated September 16, 2013 and December 4, 2013, respectively.

SO ORDERED.

Hence, this resolution.

Petitioner's grounds for the reconsideration are, as follows:[1]

I. Section 229 of the National Internal Revenue Code (NIRC) of 1997, as amended, applies to petitioner's claim for refund.

II. The subject matter of the claim for refund or tax credit is the inadvertent omission/under-declaration of input VAT amounting to P123,459,647.70 in computing excess allowable input VAT for the quarter ended March 31, 2008. Necessarily, the substantiation procedures performed by the independent CPA were concentrated on the portion of input taxes inadvertently omitted for the said quarter rather than the whole or total input taxes deducted from the total output VAT for the said quarter. The ultimate legal issue involved is whether the amount to be substantiated is the input taxes omitted which is the subject of the claim or is it the whole input taxes for the quarter.

III. As ruled by the Supreme Court in BPI-Family Savings Bank case, (G.R. 122480, April 12, 200[0]) substantial justice, equity and fair play prevail over technicalities and legalism.

Respondent, in her Comment, states that Sec. 229 of the Tax Code is clear that it applies only to recovery of taxes that were erroneously paid or illegally collected; that for input VAT to be available as tax credits, they must be substantiated and reported in the VAT returns of the taxpayer; and that tax refunds are in the nature of tax exemptions, and are to be construed *strictissimi juris* against the entity claiming the same. Thus, the burden of proof rests upon the taxpayer to establish by sufficient and competent evidence, its entitlement to a claim for refund.

Petitioner's motion for reconsideration is denied.

After a careful study of the grounds raised by the petitioner in its motion as well as the Comment of the respondent, the Court *En Banc* finds

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[1] *Rollo*, pp. 176-177.

no new matters or arguments which have not been considered in the August 12, 2015 Decision.

We reiterate that "[p]etitioner simply failed to discharge the burden of proving the factual and legal bases of its claim."[2] Moreover, "the substantiated amount is not even enough to offset petitioner's output tax liabilities for the same period leaving no balance that may be refunded."[3]

WHEREFORE, premises considered, petitioner's Motion for Reconsideration of the August 12, 2015 Decision is **DENIED** for lack of merit.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

(I maintain my Separate Concurring Opinion.)
ROMAN G. DEL ROSARIO
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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[2] *Rollo*, p. 167.
[3] *Rollo*, p. 166.

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

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice