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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER
INTERNAL REVENUE,

OF
Petitioner,

CTA EB NO. 1851
(CTA Case No. 9037)

Present:

Del Rosario, *P.J.*,
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Ringpis-Liban,
Manahan,
Bacorro-Villena, *and*
Modesto-San Pedro, *JJ.*

-versus-

NETREPRENEUR
CONNECTIONS
ENTERPRISES, INC.,

Respondent.

Promulgated:

JUN 26 2020

3:21 p.m.

X-----X

RESOLUTION

CASTAÑEDA, JR., J.:

This resolves petitioner's Motion for Reconsideration (Re: Decision dated 18 November 2019) with respondent's Comment/Opposition (of Respondent, Netrepreneur Connections Enterprises Inc., to the Motion for Reconsideration filed by Petitioner Commissioner of Internal Revenue). The motion seeks to reverse and set aside the November 18, 2019 Decision of the Court, the dispositive portion of which reads:

"The Court agrees with petitioner CIR that "tax refunds or tax credits — just like tax exemptions — are strictly construed against taxpayers, the latter having the burden to prove strict compliance with the conditions for the grant of the tax refund or credit." This is the reason why a taxpayer must positively show compliance with the statutory requirements provided for under the NIRC in order to successfully pursue its claim. However, in this case, once the taxpayer has sufficiently proven its entitlement, it is incumbent upon the government to refund what is warranted under the law. *JK*

WHEREFORE, premises considered, the Petition for Review is **DENIED** for lack of merit. The November 21, 2017 Decision and the April 19, 2018 Resolution are hereby **AFFIRMED**.

SO ORDERED." (*Citations omitted*)

In support of its motion, petitioner states that the taxpayer and respondent, Netrepreneur Connections Enterprises, Inc. (Netrepreneur), is not entitled to the claim for refund for failure to properly substantiate its claim.¹ Nonetheless, it will be recalled that petitioner, while maintaining its opposition to the claim, did not act on the same at the administrative level.² Its counsel also manifested during trial at the Court *a quo* that he had no evidence to present since there was no report of investigation on the claim³ and, finally, failed to raise this ground concerning substantiation in the instant petition.⁴

Bare allegations, unsubstantiated by evidence, are not equivalent to proof⁵ and, thus, fall short of the degree needed to convince the Court to overturn the findings of the Court *a quo*. In fact, petitioner's *conclusions of law* are controverted by the evidence on record where it is clearly shown that respondent Netrepreneur was able to fully establish its claim.⁶

The issue on substantiation is a question of fact that should have been raised by the petitioner during trial, but which it failed to do. Failure to assert a question within a reasonable time warrants a presumption that the party entitled to assert it either has abandoned or declined to assert it.⁷

In this case, petitioner has failed to highlight any set of facts that would justify the reversal or reconsideration of the Court's decision.

WHEREFORE, premises considered, the Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice

¹ Motion for Reconsideration (Re: Decision dated 18 November 2019), *Rollo*, pp. 85-86.

² November 21, 2017 Decision, *Rollo*, p. 13.

³ *Id.* at p. 14.

⁴ Petition for Review, *Rollo*, pp. 6-9.

⁵ *Rogelia R. Gatan, et al. v. Jesusa Vinarao, et al.*, G.R. No. 205912, October 18, 2017.

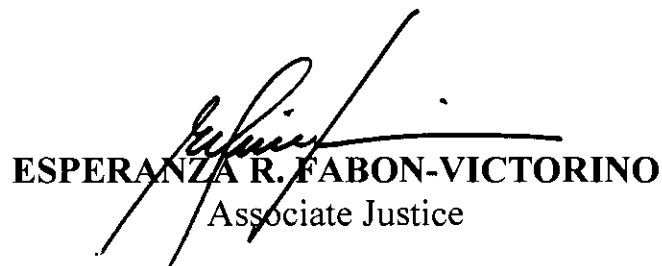
⁶ November 18, 2019 Decision, *Rollo*, pp. 76-78.

⁷ *Commissioner of Internal Revenue v. Mirant Pagbilao Corporation (formerly Southern Energy Quezon, Inc.)*, G.R. No. 159593, October 16, 2006.

WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice

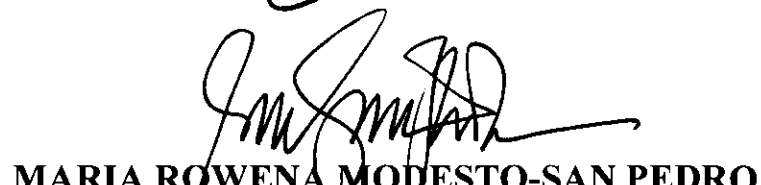

ERLINDA P. UY
Associate Justice


ESPERANZA R. FABON-VICTORINO
Associate Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice