REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

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COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 2059** (CTA Case No. 9442)
	Present:
- versus -	**DEL ROSARIO,** P.J., **CASTAÑEDA, JR.,** **UY,** **RINGPIS-LIBAN,** **MANAHAN,** **BACORRO-VILLENA,** and **MODESTO-SAN PEDRO**, JJ.
ONCHO PHILIPPINES, INCORPORATED, Respondent.	***Promulgated:*** JUN 10 2021 3:59 p.m.

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RESOLUTION

UY, J.:

For resolution is the ***MOTION FOR RECONSIDERATION (of the Decision dated 30 October 2020)***[1] filed by petitioner Commissioner Internal Revenue (CIR) on December 1, 2020 *via* registered mail and received by the Court on December 15, 2020, with the ***COMMENT/OPPOSITION (To: Petitioner's Motion for Reconsideration dated 01 December 2020)***[2] filed by respondent Oncho Philippines Incorporated (or Oncho) on March 8, 2021, praying for the reconsideration of the Court *En Banc's* Decision[3] dated October 30, 2020. The dispositive portion of the assailed Decision reads:

> "**WHEREFORE,** in light of the foregoing considerations, the *Petition for Review* is **DENIED** for lack

[1] EB Docket, pp. 135 to 141.
[2] EB Docket, pp. 158 to 166.
[3] EB Docket, pp. 100 to 114.

of merit. Accordingly, the assailed Decision dated January 14, 2019 and Resolution dated April 5, 2019, both rendered by the Court in Division in CTA Case No. 9442 are **AFFIRMED**.

SO ORDERED."

CIR's arguments:

The CIR argues that Oncho's documentary exhibits (i.e., invoices and official receipts and Philippine Economic Zone Authority (PEZA) Certificates of Registration of Oncho's clients) presented as evidence in support of its judicial claim for input value-added tax (VAT) refund are hearsay evidence, hence, inadmissible and have no probative value. Allegedly, the witnesses presented by Oncho have no personal knowledge on the fact of issuance and contents of its documents exhibits.

In addition, the CIR claims that the PEZA *Certificates of Registration* of Belton Totoku Philippines, Inc. and Hadoron Studio, Inc. were not submitted during the administrative claim for refund; and that the same cannot be raised for the first time on appeals. Thus, Oncho's sales to said clients should not be considered as zero-rated sales.

The CIR further insists that the instant claim for refund should be construed *strictissimi juris*; and that the burden of proof is upon the taxpayer who claims the exemption in its favor.

Oncho's counter-arguments:

In its *Comment/Opposition*, Oncho contends that there is no new issue raised by the CIR in the instant *Motion* and the same must be denied outright.

Further, Oncho maintains that all the documentary requirements supporting the case were duly marked, presented, shown, identified and formally offered during the proceedings; and that the CIR had ample opportunity to scrutinize, examine, and question these documents during trial.

As regards the PEZA *Certificates of Registration* of Belton Totoku Philippines, Inc. and Hadoron Studio, Inc., Oncho posits that these documents were included in the voluminous documents reviewed and examined by the Court-commissioned Independent Certified Public Accountant (ICPA).

Oncho likewise submits that it had sufficiently included and submitted all the supporting documents and that it had clearly complied with the provisions of Section 113(A) of the National Internal Revenue Code (NIRC) of 1997, as amended; and existing rules on the prescriptive period for claiming tax refund/credit.

THE COURT *EN BANC'S* RULING

The instant *Motion for Reconsideration* lacks merit.

After a careful examination and consideration of the instant *Motion*, it is noted that the arguments raised therein are mere reiteration of matters which have already been considered, weighed and resolved in the assailed Decision.

As regards the CIR's allegations that the documentary exhibits (*i.e.,* invoices and official receipts and PEZA certificates) are hearsay evidence since the witnesses presented by Oncho have no personal knowledge on the fact of issuance and contents of these documents, the same is untenable.

It is basic in the rule of evidence that objection to evidence must be made when the evidence is formally offered. In case of documentary evidence, offer is made after all the witnesses of the party making the offer have testified, specifying the purpose for which the evidence is being offered. It is only at this time, and not at any other, that objection to the documentary evidence may be made.[4]

In the instant case, it is noted that the CIR did not file his objection to the admission of subject documentary evidence of Oncho when the latter filed its Formal Offer of Evidence in CTA Case No. 9442. Neither did he file a motion for reconsideration of the admission of said documentary evidence before the Court in Division. As such, he has effectively waived his right to do so and cannot now question the admissibility of the subject evidence on appeal.

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[4] *Westmont Investment Corporation vs. Amos P. Francia, Jr., et al.*, G.R. No. 194128, December 7, 2011.

Further, with respect to the probative value of the invoices and other commercial documents, the Supreme Court in the case of *Seaoil Petroleum Corporation vs. Autocorp Group and Paul Y. Rodriguez*[5], held as follows:

> "A sales invoice is a commercial document. **Commercial documents or papers** are those used by merchants or businessmen to promote or facilitate trade or credit transactions. Business forms, e.g., order slip, delivery charge invoice and the like, are commonly recognized in ordinary commercial transactions as valid between the parties and, at the very least, they serve as an acknowledgment that a business transaction has in fact transpired. **These documents are not mere scraps of paper bereft of probative value, but vital pieces of evidence of commercial transactions. They are written memorials of the details of the consummation of contracts**."

As held by the Supreme Court in the aforequoted case, commercial documents such as official receipts and sales invoices, are recognized as vital pieces of evidence of commercial transactions and thereby, given probative value without need of identification by the person/s who prepared said documents.

As regards the CIR's assertion that the PEZA Certificates of Registration of Belton Totoku and Hadoron Studio, Inc. should not be admitted as evidence as the same were not submitted during the administrative claim, the same deserves scant consideration.

We reiterate our pronouncements in the assailed Decision as follows:

> "It must be emphasized that the submission of complete supporting documents by the taxpayer-claimant in the administrative level is presumed, in the absence of contrary evidence, as held in the case of *CBK Power Company Limited vs. Commissioner of Internal Revenue*,[6] to wit:
>
> > 'Bearing in mind that the burden to prove entitlement to a tax refund is on the taxpayer, **it is presumed that in order to discharge its burden,**

[5] G.R. No. 164326, October 17, 2008.
[6] G.R. Nos. 198729-30, January 15, 2014.

> **petitioner had attached complete supporting documents necessary to prove its entitlement to a refund in its application, absent any evidence to the contrary**."
>
> In view of this presumption and there being no evidence to the contrary, the documents attached to Oncho's administrative claim for refund filed on March 31, 2016[7] are deemed complete documents.
>
> More importantly, the CTA being a court of record, the cases filed before it are litigated *de novo* and party litigants should prove every minute aspect of its case.[8] It is not precluded from accepting Oncho's evidence assuming these were not presented at the administrative level.[9] The question of whether the evidence submitted by a party is sufficient to warrant the granting of its prayer lies within the sound discretion and judgment of the Court.[10]"

In sum, the Court finds no compelling reason to reconsider, modify or reverse the assailed Decision.

WHEREFORE, in light of the foregoing considerations, the instant *Motion for Reconsideration* is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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[7] Exhibit "P-3", Division Docket (CTA Case No. 9442) - Vol. III, pp. 503 to 519.
[8] *Commissioner of Internal Revenue vs. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.
[9] *Commissioner of Internal Revenue vs. Philippine National Bank,* G.R. No. 180290, September 29, 2014.
[10] *Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 207112, December 8, 2015.

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