REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

CHEVRON HOLDINGS, INC., Petitioner,	**CTA EB No. 1895** (CTA Case Nos. 8790 & 8835)
- **versus** -	
COMMISSIONER OF INTERNAL REVENUE, Respondent.	

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COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 1896** (CTA Case Nos. 8790 & 8835)
	Present:
- **versus** -	Del Rosario, *PJ*, Castañeda, Jr., Uy, Ringpis-Liban, Manahan, Bacorro-Villena, and Modesto-San Pedro, *JJ.*
CHEVRON HOLDINGS, INC., Respondent.	Promulgated: DEC 01 2020 3:59 p.m.

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RESOLUTION

CASTAÑEDA, JR., *J.*:

For resolution of the Court *En Banc* are the following incidents:

1. Commissioner of Internal Revenue's (CIR) Motion for Reconsideration (Re: Decision promulgated 5 February 2020) filed on

June 19, 2020, with Chevron Holdings, Inc.'s (Chevron) Comment (Re: Respondent's Motion for Reconsideration dated June 17, 2020) filed through registered mail on August 3, 2020; and

2. Chevron's Motion for Reconsideration (Re: Decision dated March 9, 2020) filed on June 26, 2020, with the CIR's Opposition (Re: Motion for Partial Reconsideration) filed through registered mail on August 18, 2020.

In his motion, the CIR argues that Chevron failed to prove its partial entitlement to refund. On the other hand, Chevron pertinently argues in its motion that: (1) The CTA-Division has jurisdiction over the claim for refund for the 1st quarter of Calendar Year (CY) 2012; (2) Petitioner's clients are non-resident foreign corporations doing business outside the Philippines; (3) Petitioner is entitled to its total claim for refund.

After careful evaluation of the parties' arguments, the Court *En Banc* resolves to deny both motions.

The CTA has no jurisdiction to rule upon Chevron's claim for refund for the 1st quarter of CY 2012

Chevron rehashed its argument that the CTA has jurisdiction over its claim for refund for the first quarter of CY 2012 as per Revenue Memorandum Circular (RMC) No. 29-09.

However, this issue was already squarely addressed by the Court *En Banc* in the assailed Decision, as follows:

> "In this case, a review of the records shows that Chevron filed its administrative claim on October 31, 2013. Thereafter, Chevron received from the BIR a Letter of Authority dated November 28, 2013, with attached First Notice dated February 7, 2014. It required Chevron to submit additional documents in support of its administrative claim. Later, Petitioner submitted said additional documents on February 17, 2014 and February 27, 2014 or in two batches, respectively.
>
> Verily, Chevron was afforded a meaningful opportunity to present supporting documents to its claim. It also complied with the thirty (30) day period from the request of the BIR dated February 7, 2014 when it submitted its last batch of supporting documents on February 27, 2014. Obviously,

Chevron completed the submission of its supporting documents on said date, or on February 27, 2014.

Now, as for the BIR, the *San Roque* case requires Chevron to observe the 120-day waiting period from the date it completely submitted its supporting documents on February 27, 2014, so that the BIR may have ample time to evaluate the same. Said jurisprudence dictates that non-observance of this 120-day waiting period is **mandatory and jurisdictional.**

Interestingly, the governing law which is the above-quoted Section 112(C) of the NIRC of 1997, as amended, the *San Roque* case and the *Total* case, are all in unison that **the CIR has 120 days from the submission of complete documents** within which to decide on the claim. The law and jurisprudence made no qualification. The subject law and pronouncements by the Supreme Court plainly provides that the 120-day period commences from the taxpayer's submission of complete documents.

Here, records show that Chevron failed to observe this unqualified provision of the law regarding the 120-day period which, again, commences from the taxpayer's submission of complete documents. In other words, while Chevron's due process rights were observed following the pronouncement of the Supreme Court in the *Total* case, Chevron completely disregarded the BIR's right to be afforded ample opportunity to review its claim. Thus, Chevron's haste in elevating the instant case to the CTA is a blatant violation of the doctrine of exhaustion of administrative remedies as pronounced in the *San Roque* case."[1]

Again, Section 112(C) of the NIRC of 1997, as amended, in relation to the *San Roque* and *Total* case, categorically provides that **the CIR has 120 days from the submission of complete documents** within which to decide on the claim. Considering that Chevron prematurely filed its judicial action, the Court *En Banc* sees no reason to deviate from its previous ruling.

Chevron failed to sufficiently prove that its other clients are nonresident foreign corporations doing business outside the Philippines

[1] Decision, Court *En Banc* Docket, pp. 292-293.

In this regard, Chevron insists that the pieces of evidence, *i.e.*, service agreements and screenshots of Chevron Subsidiary governance website, prove that the concerned entities are doing business outside the Philippines.

Again, said pieces of evidence do not prove that Chevron's clients are doing business outside the Philippines. Specifically, the service agreements merely show the existence of the subject agreements. On the other hand, the screenshots of Chevron Subsidiary governance website likewise merely show that said clients are foreign corporations. Simply put, none of these pieces of evidence can support a conclusion that Chevron's clients are doing business outside the Philippines.

Hence, the Court *En Banc* finds no merit to Chevron's arguments.

Chevron failed to strictly comply with the requirements surrounding its VAT refund claim

In this regard, Chevron raises the following arguments: (1) It is entitled to the refund of input VAT supported by documents dated outside the quarter of claim but within the period of claim; (2) It duly substantiated its input VAT on purchases of capital goods exceeding Php1 million; and (3) It sufficiently proved the existence of its reported input VAT carry-over from previous year.

As to Chevron's out-of-period claims, including its input VAT on purchases of capital goods exceeding Php1 million, the Court *En Banc* sustained the correct ruling of the Court in Division, as follows:

> "Even if RMC No. 42-03 allows out-of-period claims of input VAT, the same cannot be adhered to, as it contravenes Section 110(A)(2) of the NIRC of 1997, as amended, to wit:
>
> 'SEC. 110. *Tax Credits.* -
>
> (A) *Creditable Input Tax.* -
>
> xxx xxx xxx
>
> (2) The input tax on domestic purchase or importation of goods or properties by a VAT-registered person shall be creditable:
>
> (a) To the purchaser upon consummation of sale and on importation of goods or properties; and

> (b) To the importer upon payment of the value added tax prior to the release of the goods from the custody of the Bureau of Customs.
>
> xxx That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or fee.'
>
> It is clear from the foregoing provision that for purchases of goods, the corresponding input value added taxes of which is creditable to the purchaser upon consummation of sale, that is, upon the issuance of the corresponding invoice. On the other hand, for purchases of services, the corresponding input value added taxes of which is creditable to the purchaser upon payment of compensation, rental, royalty or fee, that is, upon the date of official receipt. Section 110 (A) is explicit — upon consummation, in the case of domestic purchases of goods, and upon payment, in the case of purchases of services. It does not provide any qualification."

As to Chevron's input VAT carry-over, the CTA 1st Division listed the documentary evidence offered by Chevron and admitted by the Court,[2] and found that Chevron did not submit VAT invoices/receipts to prove the existence of its reported input tax carry-over from the previous quarter in the amount of ₱154,534,947.94. Hence, its output VAT liability for the 2nd quarter of CY 2012 in the amount of ₱3,023,241.48 was offset against its valid input VAT.[3]

Chevron indirectly admitted the finding of the CTA 1st Division and posits that its Quarterly VAT Returns for the 4th Quarter of CY 2011 and the 1st Quarter of CY 2012, as verified by the ICPA, sufficiently prove the existence of its reported input tax carry-over from the previous taxable period. Further, it argues that submission of VAT invoices/receipts to prove the existence of reported input tax carry-over from the previous quarter is not among the requirements to prove entitlement to a claim for refund.[4]

The Court *En Banc* disagrees. The importance of submitting supporting documents in a claim for refund is emphasized by the Supreme Court, thus:[5]

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[2] Rollo, pp. 71-80.
[3] Rollo, p. 102.
[4] Motion for Reconsideration, Rollo, p. 369.
[5] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007.

> "x x x First, a judicial claim for refund or tax credit in the CTA is by no means an original action but rather an *appeal* by way of petition for review of a previous, unsuccessful administrative claim. Therefore, as in every appeal or petition for review, a **petitioner has to convince the appellate court that the quasi-judicial agency *a quo* did not have any reason to deny its claims. In this case, it was necessary for petitioner to show the CTA not only that it was entitled under substantive law to the grant of its claims but also that it satisfied all the documentary and evidentiary requirements for an administrative claim for refund or tax credit**. Second, cases filed in the CTA are litigated *de novo*. Thus, a **petitioner should prove every minute aspect of its case by presenting, formally offering and submitting its evidence to the CTA**. Since it is crucial for a petitioner in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first place, part of the evidence to be submitted to the CTA must necessarily include whatever is required for the successful prosecution of an administrative claim." *(Emphasis supplied.)*

Contrary to Chevron's assertion, the aspects that must be substantiated by Chevron include its input tax carry-over from the previous taxable period especially that its output tax liability is offset against the said carried-over input tax.

Considering the foregoing, the Court *En Banc* finds no merit to Chevron's argument.

Chevron is entitled to claim partial refund

Finally, the CIR maintains that Chevron is not entitled even to a partial refund.

However, this issue has been addressed by the assailed Decision, as follows:

> "Thus, the Court in Division arrived at the following conclusion, contrary to the CIR's assertion:
>
> > 'Since petitioner did not submit VAT invoices/receipts proving the existence of its reported input VAT carry-over from previous quarter in the

amount of ₱154,534,947.94, its output VAT liability for the second quarter of CY 2012 in the amount of P3,023,241.48 shall be offset against the valid input VAT of ₱14,479,487.55, resulting in an excess input VAT of ₱11,456,246.07, computed as follows:

xxx xxx xxx

The total excess input VAT of ₱11,456,246.07 can be attributed to the entire zero-rated receipts declared by petitioner in the amount of ₱762,320,083.93; however, only the input VAT of ₱3,806,549.13 is attributable to the valid zero-rated receipts of ₱253,294,912.75, computed as follows:

Excess Input VAT	₱ 11,456,246.07
Multiply by Valid Zero-Rated Sales/Receipts	x 253,294,912.75
Divide by Total Declared Zero-Rated Sales/Receipts	÷ 762,320,083.93
Input VAT Attributable to Valid Zero-Rated Sales/Receipts	**₱ 3,806,549.13"**

Considering the foregoing, the Court *En Banc* finds that the CIR's arguments in CTA EB No. 1896 are unmeritorious.'"

Thus, the Court *En Banc* finds that Chevron is entitled to its claim for partial refund. Hence, there being no meritorious argument raised in both motions, the denial of the same is in order.

WHEREFORE, the Commissioner of Internal Revenue's Motion for Reconsideration (Re: Decision promulgated 5 February 2020) and Chevron's Motion for Reconsideration (Re: Decision dated March 9, 2020) are both **DENIED**, for lack of merit.

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
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