REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

MANULIFE DATA SERVICES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8878

Members:

FABON-VICTORINO, *and*
RINGPIS-LIBAN, ***JJ.***

Promulgated:

APR 2 2 2019 3:48 p.m.

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RESOLUTION

RINGPIS-LIBAN, *J.*:

This resolves:

1. respondent's **Motion for Partial Reconsideration**, filed on December 6, 2018, with petitioner's **Comment/Opposition (Re: BIR's Motion for Partial Reconsideration dated 05 December 2018)**, filed on January 17, 2019; and

2. petitioner's **Motion for Reconsideration (Re: Decision dated 14 November 2018)**, filed on December 4, 2018 and received by the Court on December 12, 2018, without respondent's comment as per Records Verification Report dated January 25, 2019.

Both parties seek reconsideration of the Court's Decision dated November 14, 2018 (assailed Decision), the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount

of **EIGHT MILLION FOUR HUNDRED SIXTY THOUSAND TWO HUNDRED TWENTY-FIVE PESOS AND TWENTY-FOUR CENTAVOS (₱8,460,225.24)**, representing its excess input VAT attributable to its zero-rated sales/receipts for the four quarters of CY 2012.

SO ORDERED."

In his motion for partial reconsideration, respondent argues that petitioner did not submit complete documents in support of its administrative claim for refund/tax credit, pursuant to Section 112(C) of the National Internal Revenue Code (NIRC) of 1997, as amended. Respondent reiterates that during cross-examination, petitioner's witness, Ms. Lourdes Rosario Mantaring, testified that most, if not all, Service Agreement of petitioner with different companies were not submitted at the administrative level and were not yet available when petitioner filed its judicial claim with this Court. Considering that petitioner failed to submit the complete supporting documents upon submission of its administrative claim for value-added tax (VAT) refund, respondent contends that petitioner's application for tax credit or refund should be denied.

On the other hand, petitioner counters that all cases before this Court are tried *de novo*, hence, the non-submission of documents in the administrative claim will not immediately result in the denial of the judicial claim. Petitioner contends that Section 8 of Republic Act No. 1125 states that this Court is a court of record, as such, "it is required to conduct a formal trial (*trial de novo*) where the parties must present their evidence accordingly if they desire the Court to take such evidence into consideration." Accordingly, petitioner avers that only the evidence presented and formally offered will be considered, hence, evidence submitted by petitioner in its administrative claim will not be considered by the Court if it was not formally offered. Petitioner argues that while respondent may claim the petitioner did not submit the Service Agreements in its administrative claim, these agreements were properly presented and offered in Court.

The Court finds respondent's motion unmeritorious.

In the case of *Philippine Airlines, Inc. vs. Commissioner of Internal Revenue*[1], the Supreme Court held that:

> "The Commissioner contends that PAL failed to present several of its documentary evidence before the Bureau of Internal Revenue during the administrative level. Thus, she claims that the new evidence that petitioner presented in the Court of Tax

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[1] G.R. Nos. 206079-80 and 206309, January 17, 2018.

Appeals should not have been considered because trial *de novo* in the Court of Tax Appeals must be limited to the evidence shown in the administrative claim.

This Court rules that the Court of Tax Appeals is not limited by the evidence presented in the administrative claim in the Bureau of Internal Revenue. The claimant may present new and additional evidence to the Court of Tax Appeals to support its case for tax refund.

Section 4 of the National Internal Revenue Code states that the Commissioner has the power to decide on tax refunds, but his or her decision is subject to the exclusive appellate jurisdiction of the Court of Tax Appeals:

x x x x

Republic Act No. 9282, amending Republic Act No. 1125, is the governing law on the jurisdiction of the Court of Tax Appeals. Section 7 provides that the Court of Tax Appeals has exclusive appellate jurisdiction over tax refund claims in case the Commissioner fails to act on them:

x x x x

This means that while the Commissioner has the right to hear a refund claim first, if he or she fails to act on it, it will be treated as denial of the refund, and the Court of Tax Appeals is the only entity that may review this ruling.

The power of the Court of Tax Appeals to exercise its appellate jurisdiction does not preclude it from considering evidence that was not presented in the administrative claim in the Bureau of Internal Revenue. Republic Act No. 1125 states that the Court of Tax Appeals is a court of record:

x x x x

As such, parties are expected to litigate and prove every aspect of their case anew and formally offer all their evidence. No value is given to documentary evidence submitted to the Bureau of Internal Revenue unless it is formally offered in the Court of Tax Appeals. Thus, the review of the Court of Tax Appeals is not limited to whether or not the Commissioner committed gross abuse of discretion, fraud or error of law, as contended by the Commissioner. As evidence is considered and evaluated again, the scope of the Court of Tax Appeals' review covers factual findings."

Considering the foregoing, and in view of the fact that respondent did not raise any new argument, his Motion for Partial Reconsideration is denied for lack of merit.

As regards petitioner's motion for reconsideration, petitioner argues the Court-commissioned Independent Certified Public Accountant (ICPA) examined, verified and evaluated documents that petitioner presented in support of its claim for refund and based on the ICPA's verification and review, the amount of properly substantiated input VAT is ₱29,775,036.85. However, petitioner avers that, in the assailed Decision, the Court only partially granted its claim for refund in the amount of ₱8,460,225.24. Petitioner maintains that it presented evidence over and above that required by the Bureau of Internal Revenue regulations and therefore it has discharged its burden of proving entitlement to the refund/tax credit it seeks by providing this Court with evidence that fully support its claim for refund/tax credit. Accordingly, petitioner requests that the Court take a second look at the evidence on record.

The Court disagrees with petitioner's arguments.

We are not bound by the findings of the ICPA. The report submitted by the ICPA is but a tool or guide to aid the Court in the resolution of the case. The determination of the merit or the probative value of such report is still within the province of the Court. In addition, the Court is free to adapt or disregard, completely or partially, the findings of the ICPA. It can even make its own audit and evaluation of the documents pertinent to the case presented during the trial in order to intelligently resolve the conflict before it.[2] Thus, the Court maintains its findings relative to this matter.

We reiterate that this Court is well capable of deciding cases elevated to it within its jurisdiction. The Supreme Court, in the case of *Kepco Philippines Corporation vs. Commissioner of Internal Revenue*[3], held that "by the very nature of its functions, the CTA is dedicated exclusively to the resolution of tax problems and has consequently developed an expertise on the subject". Hence, the question of whether or not the evidence submitted by a party is sufficient to warrant the granting of a claim for refund, absent showing of abuse or reckless exercise of authority, lies within the sound discretion and judgment of the Court in Division.[4]

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[2] *First Lepanto Taisho Insurance Corporation vs. Commissioner of Internal Revenue*, CTA E.B. Case No. 563, March 1, 2011.
[3] G.R. No. 179356, December 14, 2009.
[4] *Philippine Associated Smelting and Refining (PASAR) Corporation vs. Commissioner of Customs and the Bureau of Customs*, CTA EB Case No. 1172, September 4, 2015.

Accordingly, petitioner's motion is likewise denied for lack of merit.

Consequently, the Court finds no cogent reason to reverse or modify the assailed Decision promulgated on November 14, 2018.

WHEREFORE, premises considered, respondent's **Motion for Partial Reconsideration** and petitioner's **Motion for Reconsideration (Re: Decision dated 14 November 2018)** are **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

I CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice