REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

SANKYU-ATS CONSORTIUM-B,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10527

Members:

MANAHAN, *Chairperson,*
REYES-FAJARDO, *and*
ANGELES, *JJ.*

Promulgated:

AUG 08 2025

3:00 p.m.

x- x

RESOLUTION

MANAHAN, *J.*:

This resolves petitioner's **Motion for Reconsideration (To the Decision promulgated on 15 April 2025)**[1] filed on May 7, 2025, praying for the Court to reconsider its *Decision* promulgated on April 15, 2025 (Assailed Decision),[2] to annul, reverse and set aside respondent's decision in his letter dated April 14, 2021, and to grant petitioner's claim for refund.

Petitioner argues that the imperatives of justice, fairness, and equity necessitate the relaxation of technicalities, and the giving of primacy over the merits of its case.

On the other hand, respondent, in his **Comment (Re: Petitioner's Motion for Reconsideration of Decision dated April 15, 2025)**[3] filed on May 26, 2025, counter argues that this Court is bound to consider only evidence which were properly identified, marked as exhibits, and formally offered in evidence.

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[1] Docket, CTA Case No. 10527, Vol. II, pp. 1143-1158.
[2] *Id.*, Vol. II, pp. 1113-1134.
[3] *Id.*, Vol. II, pp. 1171-1178.

Before ruling on the merits of the motion, this Court shall determine first whether the same was filed on time.

Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides that:

> SECTION 1. *Who may and when to file motion.-* **Any aggrieved party may seek a reconsideration** or new trial **of any decision**, resolution, or order **of the Court**. He shall file a motion for reconsideration or new trial **within fifteen days from the date he received notice of the decision**, resolution or order of the Court in question. *(Emphasis supplied)*

The records of the instant case reveal that petitioner received the copy of the Assailed Decision on April 22, 2025.[4] In accordance with the abovementioned provision of the RRCTA, respondent has fifteen (15) days from receipt of notice of said decision from April 22, 2025 or until May 7, 2025 within which to file his motion for reconsideration. The filing of the instant motion on May 7, 2025, thus, was on time.

We resolve.

Petitioner asserts that to reject the subject Official Receipts (ORs) effectively nullifies the Court's earlier ruling which admitted the same.

It should be recalled that this Court denied petitioner's claim for refund for failure to prove its zero-rated sales. The scanned copies of the ORs were not formally offered although the USB containing the same was offered and admitted, to wit:[5]

> Meanwhile, the Php61,000,000.00 zero-rated sales to PSC as found by the ICPA were supported by scanned copies of ORs without exhibit markings, which can be found in the USB marked as Exhibit "P-21" under the "Billing Invoices and Official Receipts" folder.
>
> <u>While the said USB was offered to and admitted by this Court per the Resolution dated June 1, 2023</u>, the latter, in the same Resolution, <u>noted that the ICPA exhibits were not formally offered and the scanned copies of various documents supporting the ICPA Report saved in the USB were not</u>

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[4] Docket, Vol. II, Notice of Decision, p. 1112.
[5] *Id.*, Vol. II, Decision dated April 15, 2025, pp. 1132-1133.

individually marked. The pertinent portion of the said Resolution reads as follows:

> "In addition, the Court **NOTES** that the Independent Certified Public Accountant (ICPA) Exhibits **'P-1-ICPA', 'P-2-ICPA', 'P-3-ICPA', 'P-4-ICPA', 'P-5-ICPA', 'P-6-A-ICPA' to 'P-6-I-ICPA', 'P-7-ICPA', 'P-8-ICPA', 'P-9-ICPA', 'P-9.1-A-ICPA' to 'P-9.1-BL-ICPA', 'P-10.1-A-ICPA' to 'P-10.1-GVL-ICPA', 'P-16-A-ICPA' to 'P-16-C-ICPA', 'Annex A-ICPA', 'Annex A.1.3-ICPA', 'Annex A.1.6-ICPA', 'Annex B-ICPA', 'Annex B.1-ICPA', 'Annex B.2-ICPA', 'Annex B.3-ICPA',** and **'Annex C.1-ICPA' to 'Annex C.13-ICPA'** were not formally offered, hence, were not considered in resolving the instant Formal Offer of Evidence (Petitioner). Also, the scanned copies of various documents supporting the ICPA Report saved in the USB marked as Exhibit 'P-21', were not individually marked (no exhibit number markings). Hence, even if offered, the same will have to be denied for failure to mark the same. Even the ICPA Annexes/Schedules do not bear any exhibit number reference of the documents listed therein."

Since the said scanned ORs, together with other ICPA supporting documents, were not formally offered to and admitted as evidence by this Court, nor were duly identified and marked as exhibits, the same cannot be considered as valid proof or support for petitioner's alleged zero-rated sales.

In this regard, and considering that no other documents were submitted to substantiate its alleged zero-rated sales to PSC, petitioner has fallen short in establishing that it is engaged in zero-rated or effectively zero-rated sales for TY 2018. Hence, the *fourth* requisite was not fulfilled.

Needless to state, it is only when the sales of a VAT-registered person are zero-rated or effectively zero-rated that such person may have the option of applying for the issuance of a TCC or refund of creditable input tax due or paid attributable to such sales. Considering petitioner's failure to establish its zero-rated or effectively zero-rated sales for TY 2018, the instant *Petition for Review* must necessarily fail. *(Underline ours)*

Section 34, Rule 132 of the Rules of Court, as amended, provides:

> Section 34. *Offer of evidence.* – **The court shall consider no evidence which has not been formally offered.** The purpose for which the evidence is offered must be specified. *(Emphasis supplied)*

In *Republic of the Philippines v. Ramon Asuncion, et al.*,[6] the Supreme Court, citing *Republic of the Philippines v. Fe Roa Gimenez and Ignacio B. Gimenez*,[7] ruled that:

> In *Rep. of the Phils, v. Sps. Gimenez*, we clarified that the rules on the formal offer of evidence and objections to evidence are a manifestation of the right to due process:
>
> The rule on formal offer of evidence is intertwined with the constitutional guarantee of due process. Parties must be given the opportunity to review the evidence submitted against them and take the necessary actions to secure their case. Hence, any document or object that was marked for identification is not evidence unless it was "formally offered and the opposing counsel [was] given an opportunity to object to it or cross- examine the witness called upon to prove or identify it."
>
> This court explained further the reason for the rule:
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> The Rules of Court provides that "the court shall consider no evidence which has not been formally offered." A formal offer is necessary because judges are mandated to rest their findings of facts and their judgment only and strictly upon the evidence offered by the parties at the trial. Its function is to enable the trial judge to know the purpose or purposes for which the proponent is presenting the evidence. On the other hand, this allows opposing parties to examine the evidence and object to its admissibility. Moreover, it facilitates review as the appellate court will not be required to review documents not previously scrutinized by the trial court.
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> To consider a party's evidence which was not formally offered during trial would deprive the other party of due process. **Evidence not formally offered has no probative value and must be excluded by the court**. *(Emphasis supplied)*

These ORs were supposed to prove that petitioner has zero-rated or effectively zero-rated sales. However, in view of petitioner's failure to formally offer the scanned copies of said ORs, it gave the Court no choice but to exclude such evidence from being considered in the disposition of the case.

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[6] G.R. No. 200772, February 17, 2021.
[7] G.R. No. 174673, January 11, 2016.

There being no new and substantial arguments propounded by respondent in his motion, the Court finds no compelling reason to reverse the Assailed Decision.

WHEREFORE, petitioner's *Motion for Reconsideration (To the Decision promulgated on 15 April 2025)* is hereby **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice