REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

RIOFIL CORPORATION
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9344

Members:

CASTAÑEDA, JR., *Chairperson, and*
MANAHAN, JJ.

Promulgated:

NOV 23 2018 10:42 am

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RESOLUTION

MANAHAN, *J.*:

For this Court's resolution is petitioner's *Motion for Reconsideration with Motion for New Trial* filed on September 4, 2018, without respondent's Comment, seeking the reversal and setting aside of this Court's Decision promulgated on August 17, 2018, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review filed by Riofil Corporation is **DENIED** for lack of merit.
>
> Conversely, the claim for refund in the amount of Php34,491,953.38 representing alleged unutilized and/or unapplied input VAT for taxable year 2014 is hereby **DENIED."**
>
> **SO ORDERED.**

In its Motion for Reconsideration, petitioner raises the following issues for the resolution of the Court, thus:

1. Whether the Court erred in holding that Riofil's accumulated "input tax carry-over" from previous

taxable quarters could not be credited against its output tax liabilities for the year 2014 because Riofil failed to substantiate the same.

2. Whether the Court erred in applying the valid and substantiated excess input tax of Php17,648,467.72 for year 2014 against Riofil's Php79,430,473.89 output tax liabilities for the same year.
3. Whether the Court erred in finding additional disallowance of input VAT amounting to Php1,520,258.56.

Petitioner's main contention is that the requirements for the grant of refund under Section 112 (A) of the 1997 National Internal Revenue Code (NIRC) are clear and unequivocal and the additional requirement imposed by the Court of substantiating the input tax carried over, amounts to judicial legislation.

Petitioner challenges the rationale of the Court in denying its claim for refund when it mandated that "the taxpayer must prove validity of carried-over input taxes credited against the current year's output tax liability." Petitioner tries to show the erroneous interpretation by this Court of the relevant law when, "aside from proving that no part of the input tax claimed was used to pay for output tax liability for the given period and subsequent quarters, the taxpayer must also establish the full payment of the taxpayer's output tax liability or, as applied in this case, the legitimacy of the input tax from previous quarters carried over to pay for output tax liability in the year claimed." Petitioner claims that such additional requirement imposed by the Court has no legal basis.

Petitioner then asks the Court to grant the re-opening of this case for purposes of substantiating the input taxes that were carried over to subsequent quarters of the given year. It submits that the presentation of said additional documentary and testimonial evidence will substantially alter the outcome of the case, considering that it is an additional requirement mandated by this Court in the assailed Decision.

Respondent no longer filed his Comment/Opposition to the motion filed by petitioner.

THE COURT'S RULING

The instant *Motion for Reconsideration with Motion for New Trial* filed by petitioner lacks merit.

Petitioner's contention that the Court mandated an additional requirement not provided under Section 112 (A) of the 1997 NIRC cannot be given credence as it is clear from the provisions of Section 110 (A) (1) and (B) and Section 112 (A) that claims for refund of excess and unapplied input value-added taxes (VAT), are anchored on the fact that there is indeed excess input VAT (to be claimed as refund) therefore, it is imperative for the claimant to submit evidence to support said fact. Apart from applying the relevant provisions of the law, the Court did not add nor supplant any other requirements other than what is written in the law.

We explain.

Section 110 (A) (1) and (B) of the 1997 NIRC, as amended provides as follows:

> Section 110. *Tax Credits.-*
>
> *(A) Creditable input tax.-*
>
> (1) **Any input tax evidenced by a VAT invoice or official receipt** issued in accordance with Section 113 hereof on the following transactions **shall be creditable against the output tax**: xxx xxx
>
> (B)*Excess Output or Input Tax.* – If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters: **Provided, however, That any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.** (emphasis supplied)

Section 112 (A) of the 1997 NIRC provides as follows:

"Section 112. *Refunds of Tax Credits of Input Tax.*

> (A) *Zero-rated or Effectively Zero-Rated Sales.* – Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, **to the extent that such input tax has not been applied against output tax**. xxx xxx" (emphasis supplied)

Section 110 (B) of the 1997 NIRC, as amended, is clear when its states that "if at the end of any taxable quarter, the output tax exceeds the input tax, the excess shall be paid by the VAT registered person" so it is logical to conclude that it is only when there is excess input VAT over the output VAT that the claim for refund may prosper. The declared input tax carried over from the previous quarter is part of the equation of computing or determining the excess input taxes.

As regards the substantiation of input taxes, Section 110 (A) (1) and (B) of the 1997 NIRC, as amended, provides that these (including the input taxes carried over from the previous quarter) shall be credited against the output taxes only if the same are supported by VAT invoices or VAT official receipts, as the case may be. If the claimant failed to prove by sufficient evidence the existence of the declared input tax carried over from previous quarter, said amount of input tax carried over cannot be credited against the claimant's output tax for the year.

This is what happened in the instant case as detailed in the assailed Decision, and we quote:

> "Petitioner should be mindful that in claiming excess/unutilized input tax from zero-rated transactions, it is the excess over the output taxes which should be refunded to the taxpayer or credited against the internal revenue taxes. Hence, it is important for the taxpayer to prove that it has enough prior year's excess input tax credits to cover its output tax liability for the current year."

Tax refunds or tax credits for that matter, are in the nature of a claim for exemption and the law is not only construed in *strictissimi* juris against the taxpayer, but also the pieces of evidence presented entitling a taxpayer is *strictissimi* scrutinized and must be duly proven.[1]

Petitioner also requests for a re-opening of the case or new trial to be able to prove the validity of these input taxes, i.e., those carried over from previous quarters, in the interest of substantial justice.

We cannot grant petitioner's motion for new trial.

It is well-established that a motion for new trial may be granted only upon specific, well-defined grounds, set forth in the Rules.[2] Other than reasons of substantial justice, petitioner did not mention any circumstance that would justify the grant of a new trial for reception of additional evidence. Neither did petitioner attach any document required under the Rules of Court that is inherent in a motion for new trial.

We quote Sections 1 and 2 of Rule 37 of the Rules of Court to illustrate our point:

> Section 1. *Grounds of and period for filing a motion for new trial or reconsideration.* – Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes, materially affecting the substantial rights of said party:
>
> (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or
> (b) Newly discovered evidence, which he could not, with reasonable diligence have discovered and produced at the trial, and which if presented would probably alter the result.
>
> xxx xxx xxx
>
> Section 2. *Contents of motion for new trial or reconsideration and notice thereof.* - xxx xxx
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> A motion for new trial shall be proved in the manner provided for proof of motions. **A motion for the cause mentioned in paragraph (a) of the preceding section shall be supported by**

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[1] Atlas Consolidated Mining and Development Corporation vs. CIR, G.R. No. 159490, February 18, 2008.
[2] Ramon Alegre vs. Manuel Reyes, G.R. No. L-56923, May 9, 1988.

affidavits of merits which may be rebutted by affidavits. A motion for the cause mentioned in paragraph (b) shall be supported by affidavits of witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence." (emphasis supplied)

xxx xxx xxx

Based on the foregoing provisions of the Rules of Court, petitioner failed to comply with the requirements for establishing its cause that would enable this Court to determine the merits of its motion for new trial. Additionally, no affidavits were attached to the motion as required by the aforequoted provisions.

In conclusion, the Court finds no cogent and justifiable reason to modify the assailed Decision dated August 17, 2018.

WHEREFORE, in the light of the foregoing, petitioner's *Motion for Reconsideration with Motion for New Trial* is hereby **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

I CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice