**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

## *EN BANC*

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| **COMMISSIONER OF INTERNAL REVENUE,**<br>Petitioner, | **CTA EB NO. 2913**<br>(CTA Case No. 10157) |
| | *Present:* |
| - versus - | **RINGPIS-LIBAN, *P.J.,***<br>**BACORRO-VILLENA,**<br>**MODESTO-SAN PEDRO,**<br>**REYES-FAJARDO,**<br>**CUI-DAVID,**<br>**FERRER-FLORES,** *and*<br>**ANGELES, *JJ.*** |
| **CBK POWER COMPANY LIMITED,**<br>Respondent. | Promulgated:<br>MAR 04 2026 4:12 PM |

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# RESOLUTION

***FERRER-FLORES, J.:***

For resolution is petitioner's **Motion for Reconsideration [re: Decision dated 02 September 2025**) filed on September 23, 2025,[1] with respondent's **Comment on Petitioner's Motion for Reconsideration (Re: Decision dated 01 September 2025**) filed on November 19, 2025.[2]

Petitioner seeks the reversal of the Decision promulgated on September 2 [sic], 2025 (assailed Decision), which reads as follows:

> **WHEREFORE**, in view of the foregoing, the **Petition for Review** filed on May 23, 2024 is **DENIED** for lack of merit. Accordingly, the assailed Amended Decision dated December 12, 2023 and the assailed Resolution dated April 16, 2024 in CTA Case No. 10157 are **AFFIRMED.**

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1 *Rollo* pp. 101 to 107.
2 *Id.* at 114 to 117.

**SO ORDERED.**

In the *Motion*, petitioner assailed the Decision of the Court *En Banc* in affirming the Amended Decision and the Resolution of the Court in Division ruling that respondent is entitled to the claim for refund alleged excess and unutilized input value-added tax (VAT) for calendar year (CY) 2017. Petitioner insists that the Certificates of Compliance (COCs) attached to respondent's *Motion for Reconsideration* filed before the Court in Division should not have been given probative value.

Respondent, on the other hand, points out that petitioner's assertion in the instant *Petition for Review* were the same grounds relied upon by him in his *Motion for Reconsideration* and are devoid of merit. Respondent emphasizes that it has complied with all the requisites in order to be entitled to refund of unutilized or excess creditable input taxes for the period April 1 to December 31, 2017; thus, it is entitled to its claim for refund.

Petitioner's *Motion* is bereft of merit.

A reading of petitioner's *Motion* shows that the arguments therein have already been considered by the Court in the assailed Decision.

As aptly discussed in the assailed Decision, while Section 34, Rule 132[3] of the Rules of Court provides that no evidence which has not been formally offered shall be considered, the Supreme Court in various cases has relaxed said application considering said evidence, i.e. the evidence must have been duly identified by testimony duly recorded and the evidence must have been incorporated in the records of the case.[4]

In affirming the findings of the Special Second Division, the Court *En Banc* held that the COCs are public documents issued by the Energy Regulatory Commission (ERC), made in the performance of official duty by a public officer, and is part of the records of the case submitted by the Bureau of Internal Revenue, hence, need not be identified and authenticated.

To reiterate, the Court of Tax Appeals (CTA) is not bound by technical rules of evidence, to wit:

3 SEC. 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.

4 *Herman Medina vs. People of the Philippines*, G.R. No. 182648, June 17, 2015.

> SEC. 8. *Court of record; seal; proceedings.* — The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such **proceedings shall not be governed strictly by technical rules of evidence.** (Emphasis supplied)

In the case of *Commissioner of Internal Revenue vs. De La Salle University, Inc.*[5] the Supreme Court affirmed that the CTA is not bound by the technical rules of evidence and reiterated that it has allowed the submission of documents as attachment to the motion for reconsideration:

> We uphold the CTA Division's admission of the supplemental evidence on distinct but mutually reinforcing grounds, to wit: (1) *the Commissioner failed to timely object to the formal offer of supplemental evidence*; and (2) *the CTA is not governed strictly by the technical rules of evidence.*
>
> First, the failure to object to the offered evidence renders it admissible, and the court cannot, on its own, disregard such evidence.
>
> The Court has held that if a party desires the court to reject the evidence offered, it must so state in the form of a timely objection and it cannot raise the objection to the evidence for the first time on appeal. Because of a party's failure to timely object, the evidence offered becomes part of the evidence in the case. As a consequence, all the parties are considered bound by any outcome arising from the offer of evidence properly presented.
>
> As disclosed by DLSU, the Commissioner did not oppose the supplemental formal offer of evidence despite notice. The Commissioner objected to the admission of the supplemental evidence only when the case was on appeal to the CTA En Banc. By the time the Commissioner raised her objection, it was too late; the **formal offer**, **admission** and **evaluation** of the supplemental evidence were all *fait accompli.*
>
> We clarify that while the Commissioner's failure to promptly object had no bearing on the materiality or sufficiency of the supplemental evidence admitted, she was bound by the outcome of the CTA Division's assessment of the evidence.
>
> Second, <u>**the CTA is not governed strictly by the technical rules of evidence**</u>. The CTA Division's admission of the formal offer of supplemental evidence, *without prompt objection* from the Commissioner, was thus justified.

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[5] G.R. Nos. 196596, 198841 & 198941, November 9, 2016.

> Notably, **this Court had in the past admitted and considered evidence attached to the taxpayers' motion for reconsideration**.
>
> In the case *of BPI-Family Savings Bank v. Court of Appeals*, the tax refund claimant attached to its motion for reconsideration with the CTA its *Final Adjustment Return*. The Commissioner, as in the present case, did not oppose the taxpayer's motion for reconsideration and the admission of the *Final Adjustment Return*. We thus admitted and gave weight to the *Final Adjustment Return* although it was only submitted upon motion for reconsideration.
>
> **We held that while it is true that strict procedural rules generally frown upon the submission of documents after the trial, the law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence and that the paramount consideration remains the ascertainment of truth. We ruled that procedural rules should not bar courts from considering *undisputed facts* to arrive at a just determination of a controversy**.
>
> **We applied the same reasoning in the subsequent cases of *Filinvest Development Corporation v. Commissioner of Internal Revenue* and *Commissioner of Internal Revenue v. PERF Realty Corporation*, where the taxpayers also submitted the supplemental supporting document only upon filing their motions for reconsideration**.
>
> **Although the cited cases involved claims for tax refunds, we also dispense with the strict application of the technical rules of evidence in the present tax assessment case.** If anything, the liberal application of the rules assumes greater force and significance in the case of a taxpayer who claims a constitutionally granted tax exemption. While the taxpayers in the cited cases claimed *refund* of excess tax payments based on the Tax Code, DLSU is claiming tax *exemption* based on the Constitution. If liberality is afforded to taxpayers who paid more than they should have under a statute, then with more reason that we should allow a taxpayer to prove its exemption from tax based on the Constitution.
>
> Hence, we sustain the CTA's admission of DLSU's supplemental offer of evidence not only because the Commissioner failed to promptly object, but more so because the strict application of the technical rules of evidence may defeat the intent of the Constitution. (Boldfacing and italics in the original, citations omitted and emphasis with underscoring supplied)

Here, the Court *En Banc* finds it compelling to affirm the assailed Amended Decision and assailed Resolution considering the COCs submitted by respondent with its *Motion for Reconsideration*.

Further, the Court *En Banc* likewise affirmed the ruling of the Special Second Division that the input taxes need not be directly attributable to the zero-rated sale. Citing the case of *Commissioner of Internal Revenue vs.*

*Cargill Philippines, Inc.*,[6] the Court a quo held that the law does not require direct attributability of the input VAT from the purchase of goods to the finished product whose sale is zero-rated.

In sum, there being no new issues or substantial arguments raised in the instant *Motion*, this Court finds no compelling reason to disturb or overturn the assailed Decision or rediscuss our ruling thereon.

**ACCORDINGLY**, petitioner's **Motion for Reconsideration [re: Decision dated 02 September 2025)** is **DENIED** for lack of merit.

**SO ORDERED.**

**CORAZON G. FERRER-FLORES**
Associate Justice

**WE CONCUR:**

**MA. BELEN M. RINGPIS-LIBAN**
Presiding Justice

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice

**MARIAN IVY F. REYES-FAJARDO**
Associate Justice

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6 G.R. No. 255470-71, January 30, 2023.

**LANEE S. CUI-DAVID**
Associate Justice

**HENRY S. ANGELES**
Associate Justice