REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

FIRST GEN HYDRO POWER CORPORATION, *Petitioner,*	**CTA EB No. 2456** (CTA Case No. 9889)
	Present:
-versus-	**DEL ROSARIO,** *P.J.,* **UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID,** and **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	
	Promulgated: FEB 08 2023 4:12 p.m.

x- -x

RESOLUTION

REYES-FAJARDO, J.:

For the Court's resolution is petitioner's Motion for Reconsideration (Re: Decision dated August 18, 2022), dated and filed on September 7, 2022,[1] taking into consideration respondent's Opposition (Re: Motion for Reconsideration), dated November 14, 2022 and filed on November 15, 2022.[2]

On August 18, 2022, the Court En Banc promulgated a Decision affirming the Decision and Resolution of the Second Division of this Court (the "Court in Division"), thereby denying petitioner's claim

---

1 Motion for Reconsideration, Docket – Vol. II, pp. 694 to 733.

2 Opposition (Re: Motion for Reconsideration), Docket – Vol. II, pp. 739 to 750.

for refund amounting to Fifteen Million Nine Hundred Fifty Thousand Seven Hundred Twenty and 98/100 Pesos (₱15,950,720.98), allegedly representing petitioner's unutilized input value-added tax (VAT) attributable to zero-rated sales for the four (4) quarters of calendar year (CY) 2016, and the Motion for Admission of Supplemental Evidence for lack of merit. The dispositive portion reads:

> "**WHEREFORE**, in light of the foregoing considerations, the Petition for Review and the Motion for Admission of Supplemental Evidence are **DENIED** for lack of merit. Accordingly, the Decision dated October 29, 2020 and Resolution dated March 5, 2021 of the Second Division of this Court in CTA Case No. 9889 are **AFFIRMED.**
>
> **SO ORDERED.**"

In the Motion for Reconsideration, petitioner submits that it is entitled to the refund of the total amount of ₱15,950,720.98, representing alleged excess and unutilized input VAT attributable to its zero-rated sales for CY 2016 and asserts the following:

1. The paramount interest of substantive justice dictates that petitioner's claim for refund should not be denied outright without allowing petitioner to fully present all relevant evidence to substantiate its claim for VAT refund for the entire period of claim.[3]

2. Petitioner has adequately established that the denial of its administrative claim for refund had no factual and legal basis.[4]

3. Petitioner was able to prove that its sales for the entire period of claim are zero-rated.[5]

4. Petitioner has established that its declared sales for the entire period of claim qualify for VAT zero-rating. Thus, the Government is duty-bound to grant the refund or tax credit

---

[3] Motion for Reconsideration, Docket – Vol. II, pp. 695 - 705.
[4] Motion for Reconsideration, Docket – Vol. II, pp. 706 - 709.
[5] Motion for Reconsideration, Docket – Vol. II, pp. 709 - 717.

for the entire amount claimed based on the ground of unjust enrichment.[6]

Thereafter, petitioner reiterates its prayer to reconsider the denial of its claim for refund and order respondent to issue in its favor a tax credit certificate in the amount of ₱15,950,720.98, or remand the case to the Court in Division for presentation of supplemental evidence, recall of witnesses, order the Court-commissioned Independent Certified Public Accountant (ICPA) to present supplemental reports, and set commissioner's hearing for the marking of its supplemental documentary evidence.[7]

Respondent, on the other hand, maintains that petitioner's contention is utterly bereft of merit and that petitioner failed to discharge its burden of establishing its claim for a tax refund or credit.[8]

After a careful review of the records of this case and the arguments of both parties, the Court finds no compelling reason to reverse or modify the assailed Decision dated August 18, 2022. The arguments raised by petitioner are mere reiteration of its previous arguments which had been fully addressed and discussed at length by both the Court in Division and the Court en Banc in each respective Decision. Any further discussion will only be unnecessarily repetitive. Nonetheless, the Court stresses its reason for the denial of petitioner's alternative prayer to present supplemental evidence below.

In its Motion for Reconsideration, petitioner emphasized that it did not file a motion for new trial based on newly discovered evidence but rather, an alternative prayer to present supplemental evidence anchored on the Court's judicious and benevolent power to accept and consider documents by way of reopening the case to facilitate a complete and equitable ascertainment of petitioner's right to the refund of input VAT.[9] Petitioner insists that broader interest of

---

6 Motion for Reconsideration, Docket - Vol. II, pp. 717 - 730.
7 Motion for Reconsideration, Docket - Vol. II, pp. 730- 731
8 Opposition (Re: Motion for Reconsideration), Docket - Vol. II, pp. 739 - 750.
9 Motion for Reconsideration, Docket - Vol. II, pp. 696 - 697.

substantive justice impels the Court to give it the fullest opportunity to establish the merits of its case.[10]

The Court disagrees with petitioner.

The Court finds that none of the grounds for reopening of a case is present herein. Petitioner's contention that paramount interest of justice requires the remand of the case lacks merit. Petitioner had the opportunity to present any documentary evidence in support of its defense during trial before the Court in Division. As a matter of fact, petitioner itself admitted that the intended presentation of supplemental evidence covers documents which respondent himself issued or should have necessarily considered when he evaluated petitioner's administrative claim for refund, and those which the ICPA had already looked into in the conduct of his verification process. Being contained in the records of the Bureau of Internal Revenue or the ICPA's working papers, these documents have already been passed upon by the Court in Division in rendering its Decision and Resolution. Therefore, an examination of the additional documents sought to be presented will not merit a modification of the Court's judgment.

To reiterate, petitioner's prayer to present supplemental evidence partakes of the nature of a motion for new trial,[11] and under such rule, failure to present evidence already existing at the time of trial does not warrant the grant of a new trial because such evidence is not newly discovered but is more in the nature of forgotten evidence. To admit petitioner's additional documentary evidence without having complied with the requisites for the grant of a motion for new trial is a dangerous proposition and one which the Court should refuse to countenance. Courts and litigants alike should abide by the rules to ensure an orderly administration of justice.[12]

While it is true that in *BPI-Family Savings Bank v. Commissioner of Internal Revenue*,[13] the Supreme Court relaxed the procedural rule with respect to the grant of a new trial and gave due course to the

---

10 Motion for Reconsideration, Docket - Vol. II, p. 698.
11 *Cumigad v. People*, G.R. No. 245238, August 27, 2020.
12 *Chevron Holdings, Inc. v. Commissioner of Internal Revenue*, C.T.A. EB Nos. 1508 & 1509 (C.T.A. Case No. 8621), March 21, 2018.
13 G.R. No. 122480, April 12, 2000.

1990 Final Adjustment Return attached to petitioner's Motion for Reconsideration, it did so upon its finding that the appellate court's judgment is premised on a misapprehension of facts. In said case, it is undisputed that petitioner had refundable excess withholding taxes for the year 1989. The 1990 Final Adjustment Return clearly showed that petitioner incurred a net loss in 1990 and that it could not have applied the amount in dispute as a tax credit; hence, entitling it to its refund claim. This case does not fall squarely to the present case.

In the present case, it cannot be said that the Court in Division's Decision and Resolution were premised on misapprehension of facts as the same were arrived at based on the Court's judicious scrutiny and careful evaluation of the evidence presented by both parties, including those which petitioner intends to present as supplemental evidence though already forming part of the records of this case.

While the Court, in some instances, allowed relaxation in the application of the rules, this was never intended to forge a bastion for erring litigants to violate the rules with impunity. The liberality in the interpretation and application of the rules applies only to proper cases and under justifiable causes and circumstances. While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to insure an orderly and speedy administration of justice.[14]

Lastly, the bare invocation of "*the interest of substantial justice*" line is not some magic wand that will automatically compel the Court to suspend procedural rules. Procedural rules are not to be belittled, let alone dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights.[15]

WHEREFORE, in light of the foregoing considerations, the Court finds no compelling reason to reconsider or modify the assailed Decision. Petitioner's Motion for Reconsideration (Re: Decision dated August 18, 2022) is **DENIED** for lack of merit.

SO ORDERED.

---

14 *Commissioner of Internal Revenue v. Spouses Magaan*, G.R. No. 232663, May 3, 2021.
15 *Ordoña v. Local Civil Registrar of Pasig City*, G.R. No. 215370, November 9, 2021.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

(With due respect, I reiterate my Dissenting Opinion)
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

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice