REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	CTA EB No. 1536 (CTA CASE No. 8962)
	Present: DEL ROSARIO, P.J., CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, and MANAHAN, *JJ.*
-versus-	
PHIL. GOLD PROCESSING & REFINING CORP., *Respondent.*	Promulgated: MAY 21 2018 4:12 p.m.

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RESOLUTION

MINDARO-GRULLA, J.:

Submitted for resolution of this Court *En Banc* is the Commissioner of Internal Revenue's (CIR) Motion for Reconsideration filed on February 14, 2018 seeking to set aside the Decision[1] promulgated on January 17, 2018, the dispositive portion of which reads as follows:

> Decision dated January 17, 2018:
>
> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **DISMISSED** for lack of merit.
>
> **SO ORDERED.**"

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[1] En Banc Docket, pp. 61-81.

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After due consideration, this Court finds that the arguments proffered by petitioner CIR in the instant Motion are mere rehash of the same facts and issues which have already been analyzed and passed upon in the assailed Decision. Nonetheless, this Court shall expound the discussion of the issues reiterated herein for clarity and petitioner's better understanding.

The CIR's allegation of non-compliance with the NIRC by Phil. Gold is premised on the incomplete documents submitted by it to the CIR because of non-observance of RMO 53-98. Thus, in an attempt to bolster his contention and dissuade this Court of its ruling, petitioner CIR, in citing the case of *Pilipinas Total Gas Inc. vs. Commissioner of Internal Revenue*[2], insists that the assailed Decision was contrary to this prevailing jurisprudence.

The CIR's reliance on RMO No. 53-98 regarding the sufficiency of supporting documents submitted by Phil. Gold and interpretation of the case is misplaced.

The definition of the phrase "relevant supporting documents" is already well-settled. In the case of *Commissioner of Internal Revenue vs. First Express Pawnshop Company, Inc.,*[3] the Supreme Court ruled that *relevant supporting documents* are those documents necessary to support the legal basis in disputing a tax assessment as determined by the taxpayer.

Likewise, in the case of *Commissioner of Internal Revenue vs. Visayas Geothermal Power Company Inc.,* this Court ruled that the law does not require the taxpayer to submit the documents prescribed by RMO 53-98 as a pre-condition to the claim for refund of unutilized input VAT payments.[4]

Concomitantly, in the case of *Team Sual vs. Commissioner of Internal Revenue*, this Court also ruled that should the taxpayer decide to submit only certain documents, or should the taxpayer fail or opt not to submit any document at all in support of its application for refund or tax credit certificate under Section 112 of the NIRC, it is

[2] Pilipinas Total Gas Inc., vs. Commissioner of Internal Revenue[2], G.R. No. 207112, December 08, 2015.
[3] Commissioner of Internal Revenue vs. First Express Pawnshop Company, Inc, G.R. Nos. 172045-46, June 16, 2009.
[4] CTA EB No. 282, November 20, 2007.

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reasonable and logical to conclude that the 120-day period should be reckoned from the filing of the application.[5]

Notably, Courts have always been consistent in ruling that the BIR can only inform the taxpayer to submit additional documents[6]. The BIR cannot demand and determine what type of supporting documents should be submitted in order to prove its claim for tax refund. Otherwise, a taxpayer will be at the mercy of the BIR, which may require the production of documents that a taxpayer cannot submit.

Based on the foregoing, both the Court of Tax Appeals and the Supreme Court recognize that it is the taxpayer who ultimately determines what documents are necessary and when complete documents have been submitted for the purpose of reckoning the 120-day period. In other words, respondent has the liberality to present any evidence which, to its mind, would be sufficient to prove entitlement to its claim for refund.

In the cited case of *Pilipinas Total Gas Inc., vs. Commissioner of Internal Revenue*, let petitioner CIR be reminded that the Supreme Court pointed out that a taxpayer's failure to submit the requirements listed under RMO No. 53-98 is not fatal to its claim for tax credit or refund of excess unutilized VAT. Moreover, the Supreme Court also held that RMO No. 53-98 is addressed to internal revenue officers and employees, for purposes of equity and uniformity, to guide them as to what documents they may require taxpayers to present upon audit of their tax liabilities.[7] ***There is nothing stated in the issuance that would show that it was intended to be a benchmark in determining whether the documents submitted by a taxpayer are actually complete to support a claim for tax credit or refund of excess unutilized VAT***.[8]

In this regard, there is nothing in the assailed Decision that would contravene the prevailing ruling of the Supreme Court with regard to submission of the requirements listed

[5] Team Sual vs. Commissioner of Internal Revenue, CTA EB Nos. 649 and 651, March 21, 2012.
[6] Commissioner of Internal Revenue vs. Coral Bay Nickel Corporation, CTA EB No. 1133 (CTA Case No. 8252), January 7, 2015 *citing* Commissioner of Internal Revenue vs. First Express Pawnshop Company, Inc, G.R. Nos. 172045-46, June 16, 2009.
[7] Supra note 2.
[8] Ibid.

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under RMO No. 53-98 and its effect on the taxpayer's application for a tax refund.

Even assuming *arguendo* that Phil. Gold was not able to complete its documents before the office of the CIR, it will not bar this Court from receiving, evaluating and appreciating evidence submitted before it.[9] ***The submission of complete documents in the administrative level becomes inconsequential when the taxpayer elevates the claim for refund before this Court where cases of this nature are litigated de novo and the documents submitted in the administrative level bear no evidentiary value***.[10] (emphasis supplied)

In view of the foregoing, this Court finds no cogent reason to disturb the assailed Decision.

WHEREFORE, premises considered, the Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

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[9] Commissioner of Internal Revenue vs. Toledo Power Company, CTA EB Case No. 589, January 12, 2011.
[10] Ibid.

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice