REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

MAITLAND-SMITH CEBU, INC.
(formerly MAITLAND-SMITH
LIMITED-PHILIPPINE BRANCH),
Petitioner,

- versus -

C.T.A. CASE NO. 5476

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

Promulgated:
SEP 23 1998

x - x

DECISION

This case involves a claim for refund or issuance of a tax credit certificate in the amount of P1,143,915.49 allegedly representing excess creditable input VAT paid during the first quarter of 1995.

Petitioner is a domestic corporation organized and existing under the laws of the Republic of the Philippines, with principal office at Mactan Export Processing Zone, Lapu-lapu City.

It appears from the records that petitioner is a registered VAT taxpayer with VAT Certificate of Registration No. 096145 and has been issued Registration No. 59-9-000993 on its sale of goods. (Annex A of the Petition, p. 6, CTA records). It is likewise registered with the Export Processing Zone Authority pursuant to the provisions of the Omnibus Investments Code of 1987 per Certificate of Registration No. 88-01. (Annex B of the Petition, p. 7, CTA records).

Petitioner alleges that it filed its quarterly VAT return for the period January 1, 1995 to March 31, 1995, showing a total net creditable input tax of ₱1,773,227.00 from its domestic purchases of services and importation of goods.

On March 25, 1997, petitioner filed its application for tax credit/refund of the aforestated net value-added tax payments for the period January to March in the amount of ₱1,143,915.49 with the Tax and Revenue Group of the One-Stop-Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance.

As the application for tax credit/refund has not been acted upon by the respondent to date, petitioner elevated its case before this Court by way of Petition for Review on March 26, 1997.

Records show that on October 3, 1997, petitioner asked for thirty (30) days within which to file its formal offer of evidence. However, the 30-day period was shortened by this Court to fifteen (15) days. This 15-day period expired without petitioner having filed the said formal offer of evidence (see page 38, CTA records). Without any evidence to substantiate the claim for refund, this Court has no other alternative but to deny this petition for review. Well-settled is the rule that evidence not formally offered although identified during the trial are of no value and cannot be considered by the Court. So fundamental is this injunction that litigants alike are corollarily enjoined to formally offer any evidence which they desire the Court to consider. This has been our ruling in a number of cases, particularly in the case of **TMX Philippines vs. Commissioner of Internal Revenue**, CTA Case No. 4297, March 29, 1993, wherein We ruled thus:

> "The sales taxes paid through Treasure Island Industrial Corp. on the other hand, simply cannot be considered credited since the evidence particularly the sales invoices, were not formally offered by the counsel of the Petitioner for sheer neglect. Such evidence, therefore, although identified during the trial are of no value and cannot be considered by the Court. Section 35, Rule 132 of the Rules of Court is categorically clear on this matter, thus:
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> > **Section 35.** ***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)

Mr. Justice Ricardo Francisco in his book, "Rules on Evidence" (1996, Third Edition, pages 537-538), discussed the rationale behind the rule in this wise:

> "Any evidence which a party desires to submit for the consideration of the Court must formally be offered by him. Such a formal offer is necessary because it is the duty of the Court to rest its findings of facts and his judgment only and strictly upon the evidence offered by the parties on the trial. The offer may be made in any form sufficient to show that the party is ready and willing to submit the evidence to the Court."

In the instant case, petitioner seemed to have been satisfied with its allegations found in the petition for review because it did not bother to formally offer any evidence to support its claim, nor did it submit a memorandum. Moreover, when this Court issued a Resolution dated November 21, 1997, inviting the attention of the petitioner on its failure to file its formal offer of evidence, petitioner's counsel did not bother to request for reconsideration ,nor even to ask that it be given the chance to present formally its evidence. Petitioner cannot argue either that since its pieces of evidence have been identified and marked during the trial, then they may now be validly considered by this Court. Indeed, it should be stressed that there is a significant distinction between identification of documentary evidence and its formal offer. The former is done in the course of the trial and is accompanied by the marking of the evidence as an exhibit, while the latter is done when the party rests its case. The settled rule incidentally is that the mere fact that a particular document is identified and marked as an exhibit does not mean that it has already been offered as part of the evidence of a party (**People vs. Santito, Jr.,201 SCRA 87; People vs. Sayat, 223 SCRA 285; People vs. Gecomo, 254 SCRA 82; Tabuena vs. Court of Appeals, 196 SCRA 650**)

WHEREFORE, in view of the foregoing, petitioner's claim for refund is hereby **DENIED** for lack of merit.

SO ORDERED.

AMANCIO Q. SAGA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

RAMON O. DE VEYRA
Associate Judge

CERTIFICATION

I hereby certify that this decision was reached after due consultation with the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals