REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

<u>SECOND DIVISION</u>

PHIL. GOLD PROCESSING & REFINING CORP.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8669

Members:

CASTAÑEDA, JR., *Chairperson,*
CASANOVA, *and*
COTANGCO-MANALASTAS, *JJ.*

Promulgated:

~~MAY 2 6 2015~~ 8:25 AM

x- x

RESOLUTION

CASANOVA, *J.*:

For this Court's resolution is respondent's **Motion for Partial Reconsideration**, filed on April 13, 2015, with petitioner's **Comment (On Respondent CIR's Motion for Partial Reconsideration)**, filed on April 24, 2015.

Respondent assails the Decision promulgated on March 26, 2015, the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the instant Petition for Review is **PARTIALLY GRANTED** in the reduced amount of **₱71,347,100.87** representing petitioner's unutilized or unapplied creditable input taxes for the period July 1 to December 31, 2010.

SO ORDERED."[1]

In her Motion for Partial Reconsideration, respondent argues that petitioner is not entitled to claim for refund or tax credit for failure to file a written claim for refund categorically demanding recovery of taxes with the Commissioner of Internal Revenue (CIR). She contends that the filing made by petitioner on September 25, 2012, is a *pro-forma* claim for refund.

Petitioner, on the other hand, asserts that respondent raises one ground: that the claim for refund/tax credit was unaccompanied by "a written claim for refund categorically demanding recovery of taxes with the CIR". Accordingly, respondent merely reiterated verbatim one of the defenses invoked in her Answer which already been adequately addressed, evaluated, and rejected by the Court in the assailed Decision. Thus, petitioner claims that the Motion for Partial Reconsideration is *pro-forma*.

After a careful study of the arguments proffered by both parties, the Court finds no compelling reason to reconsider or set aside the assailed Decision dated March 26, 2015. Respondent's arguments are mere rehash of the arguments raised in her Answer[2] and Memorandum[3] which were already considered and thoroughly threshed out by the Court in the assailed Decision.

Moreover, respondent's allegation that petitioner has no written claim for refund is belied by the evidence on record. Petitioner was able to establish compliance with the requirements on administrative claim for refund when it filed the Application for Tax Credits/Refunds (BIR Form No. 1914)[4] on September 25, 2012. Thus, we reiterate our ruling, the pertinent portion of which reads:

> "Respondent, however argues that the two (2) year prescriptive period within which to file a claim has already prescribed. She cited the case of *Commissioner of Internal Revenue vs. Rosemarie Acosta*, wherein the Supreme Court held that a taxpayer claiming a tax refund must first file a written claim for refund categorically demanding recovery of overpaid taxes with the

---

[1] Docket, p. 427.
[2] Docket, pp. 142-155.
[3] Docket, pp. 363-383.
[4] Exhibits "P-11" and "P-12".

Commissioner of Internal Revenue. Respondent contends that since petitioner submitted only BIR Form No. 1914 which cannot be considered a written claim categorically demanding a refund, it is therefore not entitled to claim for refund or tax credit.

The Court finds this argument bereft of merit.

The facts in the present petition and those in the case of *Commissioner of Internal Revenue vs. Rosemarie Acosta* differ. The respondent in the latter case immediately filed a petition for review with the Court of Tax Appeals without filing any written claim before the Commissioner of Internal Revenue. In this case, petitioner filed two (2) Applications for Tax Credits/Refunds (BIR Form No. 1914) with the DOF One-Stop-Shop.

It must be noted that Section 112(A) of the NIRC of 1997, as amended, does not require a specific form of the application for refund/tax credit certificate. The Applications for Tax Credits/Refunds (BIR Form No. 1914) filed by petitioner on September 25, 2012, show, among others, the name of the taxpayer, the amount being claimed for tax credit/refund, tax type, period covered, the reason for filing the claim, the printed name and signature of petitioner's representative and the receiving stamp of DOF One-Stop-Shop. This constitutes sufficient compliance the application for refund/tax credit certificate required under Section 112(A) of the NIRC of 1997, as amended because petitioner's intention to effect a claim for refund/tax credit certificate is clearly indicated therein."

Meanwhile, the issue on respondent's reliance on Revenue Memorandum Order (RMO) No. 53-98, as regards the submission of complete documents, has already been settled by the Supreme Court in the recent case of *Commissioner of Internal Revenue vs. Team Sual Corporation (formerly Mirant Sual Corporation)*[5] (*Team Sual* case). The *Team Sual* case was cited in the assailed Decision, to wit:

---

[5] G.R. No. 205055, July 18, 2014.

"Respondent, in her Memorandum, contends that petitioner failed to submit complete documents as required under Revenue Memorandum Order (RMO) No. 53-98 dated June 1, 1998, in relation to Section 112(C) of the NIRC of 1997, as amended. Respondent further states that petitioner submitted with the DOF One-Stop-Shop, merely five (5) documents in support of its application for tax refund, way far from the requirements of the law. Petitioner's alleged failure to adduce evidence in the administrative claim justifies the denial thereof by respondent's inaction and it must allegedly be sustained on judicial appeal.

The Court disagrees with respondent.

There is no need for petitioner to submit the complete documents required under RMO No. 53-98 in relation to Section 112(C) of the NIRC of 1997, as amended. In the case of *Commissioner of Internal Revenue vs. Team Sual Corporation (formerly Mirant Sual Corporation),* the Supreme Court held:

> 'The CIR's reliance on RMO 53-98 is misplaced. **There is nothing in Section 112 of the NIRC**, RR 3-88 **or RMO 53-98 itself that requires submission of the complete documents enumerated in RMO 53-98 for a grant of a refund or credit of input VAT**. The subject of RMO 53-98 states that it is a 'Checklist of Documents to be Submitted by a Taxpayer upon **Audit** of his Tax Liabilities x x x.' In this case, TSC was applying for a grant of refund or credit of its input tax. There was no allegation of an audit being conducted by the CIR. Even assuming that RMO 53-98 applies, it specifically states that some documents are required to be submitted by the taxpayer 'if applicable'.' (*Emphasis supplied*)

Furthermore, it is well-settled that in claims for VAT refund, the non-submission of complete supporting documents in the administrative level is NOT fatal to petitioner's judicial claim. This Court is not barred from receiving, evaluating and appreciating evidence submitted before it. Once the claim for refund has been elevated to

> the Court, the admissibility, materiality, relevancy, probative value and weight of evidence presented therein become subject to the Rules of Court. The question of whether or not the evidence submitted by a party is sufficient to warrant the granting of a claim for refund lies within the sound discretion and judgment of the Court."[6]

In addition, the purposes of the written claim requirement are "to afford the CIR an opportunity to correct the action of subordinate officers; and second, to notify the government that such taxes have been questioned, and the notice should then be borne in mind in estimating the revenue available for expenditure"[7]. These purposes were satisfied with the filing of petitioner's two (2) Applications for Tax Credits/Refunds (BIR Forms 1914) with the One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance (DOF One-Stop Shop) on September 25, 2012.

WHEREFORE, finding no compelling reason to reverse the ruling of this Court in the assailed Decision, respondent's Motion for Partial Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

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

(On Leave)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice

---

[6] Docket, pp. 411-414.
[7] *Commissioner of Internal Revenue vs. Rosemarie Acosta, as represented by Virgilio A. Abogado,* G.R. No. 154068, August 3, 2007.