REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

MAXIMA MACHINERIES, INC., Petitioner,	**CTA CASE NO. 9598**
	Members:
- versus -	**CASTAÑEDA, JR.,** Chairperson **MINDARO-GRULLA,** *and* **BACORRO-VILLENA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUN 02 2020 4:30 p.m.

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RESOLUTION

CASTAÑEDA, JR., J.:

Submitted before this Court is petitioner's **Motion for Reconsideration and/or New Trial** filed on February 10, 2020, with respondent's **Opposition (Re: Motion for Reconsideration and/or New Trial)** filed on March 4, 2020.

On January 22, 2020, a Decision was promulgated by this Court, denying petitioner's claim for refund of unutilized input value-added tax (VAT) attributable to its zero-rated sales for failing to substantiate that it has sufficient input taxes to offset its output taxes covering the period October 1, 2014 to March 31, 2015, the dispositive portion of which reads as follows:

> **WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for lack of merit.
>
> **SO ORDERED.**

In his motion, petitioner assails the above Decision in finding that the official receipts (ORs) which prove that petitioner rendered services to Marubeni Corporation-Japan failed to qualify for VAT zero-rating since the ORs reveal that they were issued to Marubeni Corporation and not to Marubeni Corporation-Japan. Petitioner explains that it must be noted that the registered name of Marubeni under the laws of Japan is Marubeni Corporation and not Marubeni Corporation-Japan. In fact, the addresses indicated in the ORs which are 7-1 Nihonbashi 2-Chrome, Chuo-ku Tokyo, 103-6060, Japan, is the address of Marubeni Corporation in Japan.

More so, petitioner further assails the disallowances made in the Independent Certified Public Accountant (ICPA) report for failure to meet the substantiation requirements under Sections 110(A), 113(A) and (B), and 237 of the National Internal Revenue Code (NIRC) of 1997, as amended. Thus, petitioner prays that this Court allow the ICPA to continue his verification of the documents pertaining to the prior period excess input tax carry over and to allow reception of additional evidence in support of the input VAT that were carried forward from the Previous Periods.

On the other hand, in its comment, respondent vehemently objects to petitioner's Motion and insisting that it was given ample opportunity to properly ventilate its claim. Respondent asserts that partaking that nature of exemptions, claims for refund are strictly construed against the claimant and cannot be allowed unless the claimant sufficiently proves its entitlement to the claim and compliance with all the documentary and evidentiary requirements.

After consideration, this Court finds no merit in petitioner's Motion for Reconsideration and/or New Trial.

While petitioner may believe that it has a meritorious legal defense, this must be weighed against the need to halt an abuse of the flexibility of procedural rules. A motion for new trial may be granted only upon specific, well-defined grounds, as set forth under Sections 1[1] and 2[2] of Rule 37 of the Rules of Court. Relative to these

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[1] "**SECTION 1.** Grounds of and period for filing motion for new trial or reconsideration. — Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or provisions are Sections 5 and 6, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA), which respectfully reads as follows:

> **SEC. 5.** *Grounds of motion for new trial.* – A motion for new trial may be based on one or more of the following causes materially affecting the substantial rights of the movant:
>
> (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which the rights of such aggrieved party has probably been impaired in his rights; or
>
> (b) Newly discovered evidence, which the party could not, with reasonable diligence, have discovered and produced at the trial and, which, if presented, would probably alter the result.
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> A motion for new trial shall include all grounds then available and those not included shall be deemed waived.
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> **SEC. 6.** *Contents of motion for reconsideration or new trial and notice.* – The motion shall be in writing stating its grounds, a written notice of which shall be served by the movant on the adverse party. *gr*

(b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.

Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law."

[2] "**SEC. 2.** Contents of motion for new trial or reconsideration and notice thereof. — The motion shall be made in writing stating the ground or grounds therefor, a written notice of which shall be served by the movant on the adverse party.

A motion for new trial shall be proved in the manner provided for proof of motions. A motion for the cause mentioned in paragraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by affidavits. A motion for the cause mentioned in paragraph (b) shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.

A motion for reconsideration shall point out specifically the findings or conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions.

A *pro forma* motion for new trial or reconsideration shall not toll the reglementary period of appeal."

> A motion for new trial shall be proved in the manner provided for proof of motions. A motion for the cause mentioned in subparagraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by counter-affidavits. A motion for the cause mentioned in subparagraph (b) of the preceding section shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.
>
> A motion for reconsideration or new trial that does not comply with the foregoing provisions shall be deemed *pro forma,* which shall not toll the reglementary period for appeal.

Based above, a Motion for New Trial founded on fraud, accident, mistake or excusable negligence requires that it must be accompanied by affidavits of merit, *i.e.*, affidavits showing the facts (not mere conclusions or opinions) constituting the valid cause of action or defense which the movant may prove in case a new trial is granted, because a new trial would serve no purpose and would just waste the time of the court as well as the parties if the complaint is after all groundless or the defense is nil or ineffective.[3] While, on the other hand, a Motion for Reconsideration shall be based on the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law.

In the instant case, none of the above grounds is present. An examination of the petitioner's Motion reveals that it was neither based on fraud, accident, mistake or excusable negligence, nor based on newly discovered evidence. Equally important is that petitioner also failed to comply with the required affidavits of merit, *i.e.*, affidavits showing the facts (not mere conclusions or opinions) constituting the valid cause of action or defense which the movant may prove in case a new trial is granted. That being the case, petitioner failed to convince this Court that there is a valid ground for granting a new trial or to reconsider modification of the Decision being assailed.

[3] *Elpidio S. Uy v. First Metro Integrated Steel Corp., et al.*, G.R. No. 167245, September 27, 2006.

Perforce, in the case of *Lolita R. Alamayri vs. Rommel Pabale, et al.*,[4] the Supreme Court held that "parties must diligently and conscientiously present all arguments and available evidences in support of their respective positions to the court before the case is deemed submitted for judgment. Only under exceptional circumstances may the court receive new evidence after having rendered judgment; otherwise, its judgment may never attain finality since the parties may continually refute the findings therein with further evidence."

All told, to allow the presentation of petitioner's additional evidence without having complied with the requisites for the grant of a motion for new trial will set a dangerous precedent of never-ending suits. It is an accepted tenet that rules of procedure must be faithfully followed except only when, for persuasive and weighting reasons, they may be relaxed to relieve a litigant of an injustice commensurate with his failure to comply with the prescribed procedure.[5] In this case, petitioner has not demonstrated any cogent reason for this Court to take exception.

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

WHEREFORE, premises considered, petitioner's Motion for Reconsideration and/or New Trial is **DENIED** for lack of merit.

SO ORDERED.

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

We Concur:

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[4] G.R. No. 151243, April 30, 2008.
[5] *Ma. Rosario Suarez v. Judge Martin S. Villarama, Jr., et al.*, G.R. No. 124512, June 27, 2006.