REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 1851** **(CTA Case No. 9037)**
	Present:
-versus-	Del Rosario, *P.J.*, Castañeda, Jr., Uy, Fabon-Victorino, Mindaro-Grulla, Ringpis-Liban, Manahan, Bacorro-Villena, *and* Modesto-San Pedro, *JJ.*
NETREPRENEUR CONNECTIONS ENTERPRISES, INC., Respondent.	**Promulgated:** NOV 18 2019 2:25 p.m.

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DECISION

CASTAÑEDA, JR., J.:

Before the Court *En Banc* is a Petition for Review filed by the Commissioner of Internal Revenue (CIR) under Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) in relation to Rule 43 of the Rules of Court which prayed that the petition be given due course and the following be reversed:

1. November 21, 2017 Decision[1] of the CTA Third Division[2] the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **GRANTED**. Accordingly, respondent is **ORDERED TO REFUND OR TO ISSUE A TAX CREDIT CERTIFICATE** in the amount of ₱2,299,335.74 in favor of petitioner representing overpaid DST on the original issued shares to Intervision.
>
> **SO ORDERED**."

2. April 19, 2018 Resolution[3] denying herein petitioner CIR's Motion for Reconsideration for lack of merit.

THE FACTS

The facts are summarized from the November 21, 2017 Decision and the records of the case.

The Parties

Petitioner is the Commissioner of the Bureau of Internal Revenue (BIR), the government official charged with the administration and enforcement of national internal revenue laws, including the granting of refunds and tax credits of taxes erroneously or illegally collected. He holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.[4]

Respondent Netrepreneur Connections Enterprises, Inc. (Netrepreneur) is a duly registered corporation organized and existing under Philippine laws. It is primarily incorporated to develop and/or operate internet-based or online applications or systems which can be used for personal, entertainment, informational, communication or business purposes, which has ₱1,000,000.00 authorized capital stock divided into ten thousand (10,000) shares with par value of ₱100 per share. It is also a registered taxpayer with Certificate of Registration No. OCN 3RC0000637147.[5]

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[1] Annex A, Petition for Review, *Rollo*, pp. 12-24.
[2] Penned by Associate Justice Ma. Belen M. Ringpis-Liban with the concurrence of Associate Justices Lovell R. Bautista and Esperanza R. Fabon-Victorino.
[3] Annex B, Petition for Review, *Rollo*, pp. 25-29.
[4] Decision, *Rollo*, p. 13.
[5] Decision, *Rollo*, pp. 12-13.

Relevant Facts

On April 19, 2013, respondent Netrepreneur entered into a Subscription Agreement with Intervision (Services) Holdings B.V. (Intervision) and Ronald John R. David and Arianne Rose D.S. David (Management Shareholders). Under the Subscription Agreement, Intervision subscribed 1,831 common shares of Netrepreneur, with par value of ₱100 per share, out of Netrepreneur's unissued authorized capital stock, for a consideration of ₱251,256.28 per share:[6]

> "(I) For and in consideration of Intervision's agreement to pay an aggregate subscription price of ₱460,050,248.68 (the '*Subscription Price*'), or of ₱251,256.28 per share, and the receipt by the Company from Intervision on the date hereof of the amount of ₱115,012,562.17 in cash (being 25% of the Subscription Price), the Company hereby issues to Intervision 1,831 common shares of stock, with a par value of ₱100.00 per share, out of the Company's existing but unissued authorized capital stock. Any and all documentary stamp taxes that may arise in connection with the issuance of such shares shall be for the account of and paid by the Company."[7]

On May 6, 2013, Netrepreneur subsequently paid the corresponding DST of the subscription of shares of stock in the amount of ₱2,300,251.24.[8]

On January 6, 2015, Netrepreneur filed an administrative claim for refund in the amount of ₱2,299,335.74 for the erroneous overpayment of the DST previously paid on the subscription.[9]

CTA Third Division Proceedings

Petitioner CIR did not act on the administrative claim for refund. Consequently, Netrepreneur filed a Petition for Review on May 4, 2015 with the Court *a quo*.[10]

On July 6, 2015, petitioner filed his Answer, interposing as his defenses that the Court has no jurisdiction over the case; that respondent must prove compliance with the governing rules relative to tax recovery or refund as provided under Sections 204(C) and 229 of the National Internal Revenue Code of 1997 (NIRC), as amended; that respondent failed to sufficiently prove and demonstrate that the subject tax was erroneously or illegally collected, hence, not refundable; that the Petition for Review lacks proper verification

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[6] Subscription Agreement, Exhibit "P-4", Docket, p. 314; Judicial Affidavit of Atty. Carlos T. Carado II, Exhibit "P-11", Docket, pp.190-191.
[7] Exhibit "P-4-A", Docket, p. 314.
[8] Decision, *Rollo*, p. 13.
[9] *Id.*
[10] *Id.*

and a valid certification against forum shopping in accordance with the applicable rules; and that it was not signed by an authorized representative.[11]

On July 24, 2015, Netrepreneur filed a Reply/Comment to the Answer.[12]

The CIR's Pre-Trial Brief and Netrepreneur's Pre-Trial Brief were filed on September 4, 2015 and on September 3, 2015, respectively.[13]

Thereafter, on September 23, 2015, the parties submitted their Joint Stipulation of Facts and Issues. On October 28, 2015, the Court issued a Pre-Trial Order and terminated the pre-trial conference.[14]

During trial, Netrepreneur presented Ms. Niellen G. Obispo, Atty. Rowena S. Disini, and Atty. Carlos T. Carado II as its witnesses. Thereafter, petitioner formally offered its documentary evidence as well as its testimonial evidence, which were all admitted by the Court.[15]

On the other hand, respondent's counsel manifested during the September 19, 2016 hearing that he had no evidence to present since there was no report of investigation.[16]

On November 28, 2016, the case was submitted for decision, considering the filing of the Netrepreneur's Memorandum on October 19, 2016 and the November 22, 2016 Records Verification Report of the Judicial Records Division stating that no memorandum was filed by the CIR.[17]

On November 21, 2017, the Court *a quo* promulgated a decision which granted the petitioner and ordered the refund or issuance of tax credit certificate in favor of Netrepreneur.

On April 19, 2018, on the CIR's Motion for Reconsideration with Netrepreneur's Comment/Opposition (To the Motion for Reconsideration filed by Respondent Commissioner of Internal Revenue), the Court *a quo* denied the motion for lack of merit.[18] Je

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[11] *Id.*
[12] *Id.* at p. 14.
[13] *Id.*
[14] *Id.*
[15] *Id.*
[16] *Id.*
[17] *Id.*
[18] Docket, pp. 442-446.

CTA En Banc Proceedings

On May 8, 2018, the CIR filed a Motion for Extension of Time To File Petition for Review and prayed for an extension of fifteen (15) days from May 11, 2018, or until May 26, 2018, within which to file the petition.[19]

The Court *En Banc*, in a Minute Resolution dated May 9, 2018, granted petitioner CIR a final and non-extendible period of fifteen (15) days from May 11, 2018, or until May 26, 2018,[20] within which to file his Petition for Review.[21]

On May 28, 2018, the CIR filed the instant Petition for Review.[22]

In a June 28, 2018 Resolution, the Court *En Banc* ordered respondent Netrepreneur to file its comment.[23]

On September 10, 2018, respondent filed a Comment/Opposition (to the Petition for Review filed by the Commissioner of Internal Revenue).[24]

On September 19, 2018, the Court *En Banc* ordered the parties to file their memoranda within thirty (30) days from notice.[25]

On October 11, 2018, respondent Netrepreneur filed its Memorandum (of Respondent Netrepreneur Connections Enterprises, Inc.).[26]

In a February 7, 2019 Resolution, with the failure of petitioner to file his memorandum despite notice, the Court *En Banc* submitted the case for decision.[27]

THE ISSUES

In assailing the Decision and the Resolution of the CTA Third Division, the petitioner CIR raised the following issues:[28]

1. The Court had no jurisdiction over the Petition for Review filed by the Respondent; *gr*

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[19] *Rollo*, pp. 1-2.
[20] Fell on a Saturday.
[21] *Id.* at p. 3.
[22] *Rollo*, pp. 4-10.
[23] *Rollo*, pp. 35-36.
[24] *Rollo*, pp. 37-43.
[25] *Rollo*, pp. 45-46.
[26] *Rollo*, pp. 47-56.
[27] *Rollo*, pp. 59-60.
[28] Petition for Review, *Rollo*, p. 6.

2. The Petition for Review filed by the Respondent lacked proper verification and a valid certification against forum shopping;

3. Respondent correctly paid DST in the amount of ₱2,299,335.74; and,

4. Respondent was not entitled to a refund.

THIS COURT'S RULING

Upon a careful review of the case, the Court *En Banc* found no reason to disturb the findings of the Court *a quo*.

The arguments raised by petitioner CIR are a mere rehash of the same facts and issues which have already been duly considered and extensively discussed in the assailed Decision.[29]

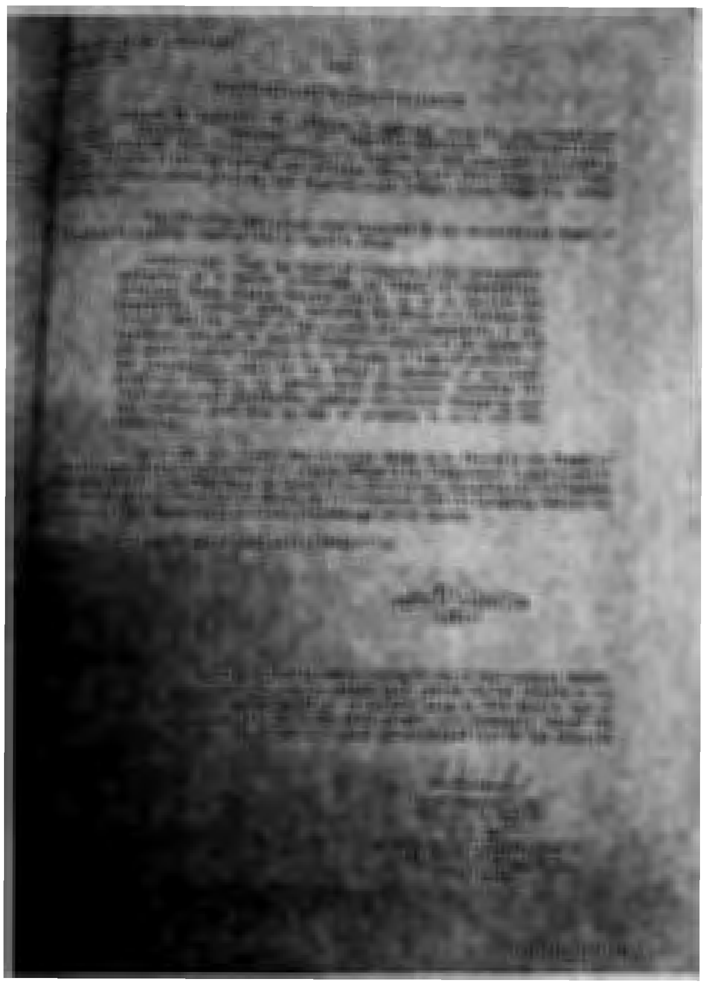
Petitioner CIR asserts that the CTA Third Division had no jurisdiction over the case because respondent Netrepreneur failed to comply with the requirements of a valid certification against forum shopping. Specifically, petitioner raised two defects in the certification:

- Ms. Arriane Rose Delos Santos David, Head of Operations, who signed the Verification and Certification of Non-Forum Shopping on April 7, 2015 was not authorized by the corporation since the Secretary's Certificate giving her the authority was executed only after said date, *i.e.* on April 8, 2015;[30] and,

- The same also allegedly failed to disclose that there was a pending administrative claim for refund with the BIR, which involved the same parties and the same cause.[31]

First, contrary to petitioner's statement, a review of the Secretary's Certificate shows it was actually dated April 6, 2015,[32] which was *prior* to the April 7, 2015 Verification and Certification of Non-Forum Shopping attached to the Petition for Review and the filing thereof on May 4, 2015. *gr*

[29] The Issues, November 21, 2017 Decision, *Rollo*, pp. 14-15; CIR's Answer, Docket, pp. 95-97.
[30] Par. 16, Petition for Review, *Rollo*, p. 7.
[31] Par. 14, Petition for Review, *Rollo*, p. 6.
[32] Docket, p. 21.



Clearly, as the document shows, at a special meeting on April 6, 2015, *prior* to the execution of the Verification and Certification of Non-Forum Shopping on April 7, 2015 and then the filing of the Petition for Review on May 4, 2015, Netrepreneur's Board of Directors had already delegated its authority to Ms. David in connection with the filing of this case.

The petitioner's contention is, therefore, not anchored on any fact on the record.

Second, in order for a Court to have authority to dispose of the case on the merits, it must acquire jurisdiction over the subject matter and over the parties. Jurisdiction over the subject matter, or the jurisdiction to hear and decide a case, is conferred by law. Jurisdiction over the person, on the other hand, is acquired by service of summons or by voluntary appearance.[33]

Jurisdiction by the Court *a quo* over the subject matter of this refund case was conferred through Section 7(a)(2) of R.A. 1125, as amended.[34] On

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[33] *Atty. Jesus F. Fernandez v. Hon. Court of Appeals and Concepcion Olivares*, G.R. No. 131094, May 16, 2005.

[34] "Sec. 7. Jurisdiction. - The CTA shall exercise:

a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

the other hand, jurisdiction over the parties was acquired when they were served summonses in the trial below and when the parties submitted voluntarily to the jurisdiction of the Court *a quo* by filing their pleadings which sought affirmative reliefs.[35] Accordingly, alleged defects in the Verification and Certification of Non-Forum Shopping does not result in the loss of jurisdiction, as petitioner CIR argues, but may only result in the dismissal of the case grounded on the court's discretion.[36]

Third, the rule on verification and certification against forum shopping is *not* strictly applied in the interest of substantial justice.

In *Great Southern Maritime Services Corporation, et al. v. Jennifer Anne B. Acuña*,[37] et al., the liberal interpretation of the rule was sustained by the Supreme Court:

> "As regards the verification signed only by respondents' counsel, this procedural lapse could have warranted the outright dismissal of respondents' petition for *certiorari* before the Court of Appeals. However, it must be remembered that the rules on forum shopping, which were precisely designed to promote and facilitate the orderly administration of justice, should not be interpreted with such absolute literalness as to subvert its own ultimate and legitimate objective which is the goal of all rules of procedure - that is, to achieve substantial justice as expeditiously as possible.
>
> Needless to stress, rules of procedure are merely tools designed to facilitate the attainment of justice. They were conceived and promulgated to effectively aid the court in the dispensation of justice. Courts are not slaves to or robots of technical rules, shorn of judicial discretion. In rendering justice, courts have always been, as they ought to be, conscientiously guided by the norm that on the balance, technicalities take a backseat against substantive rights, and not the other way around. Thus, if the application of the Rules would tend to frustrate rather than promote justice, it is always within our power to suspend the rules or except a particular case from its operation.

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1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue;

2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;

xxx xxx xxx"

[35] *Atty. Jesus F. Fernandez v. Hon. Court of Appeals and Concepcion Olivares*, G.R. No. 131094, May 16, 2005.
[36] Section 4, Rule 8 of the Revised Rules of the Court of Tax Appeals in relation to Section 3, Rule 42 of the Rules of Court.
[37] G.R. No. 140189, February 28, 2005.

> As the Court eloquently stated in the case of *Aguam vs. Court of Appeals*:
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> ...The court has the discretion to dismiss or not to dismiss an appellant's appeal. It is a power conferred on the court, not a duty. The 'discretion must be a sound one, to be exercised in accordance with the tenets of justice and fair play, having in mind the circumstances obtaining in each case.' Technicalities, however, must be avoided. The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice. 'A litigation is not a game of technicalities.' 'Lawsuits unlike duels are not to be won by a rapier's thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts.' Litigations must be decided on their merits and not on technicality. Every party litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the unacceptable plea of technicalities. Thus, dismissal of appeals purely on technical grounds is frowned upon where the policy of the court is to encourage hearings of appeals on their merits and the rules of procedure ought not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure, not override substantial justice. It is a far better and more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal to attain the ends of justice rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice. (Emphasis supplied)
>
> Thus, in *Sy Chin vs. Court of Appeals*, we held that the procedural lapse of a party's counsel in signing the certificate of non-forum shopping may be overlooked if the interests of substantial justice would thereby be served. Further, in *Damasco vs. NLRC*, we noted that the certificate of non-forum shopping was executed by the petitioners' counsel, but nevertheless resolved the case on its merits for the reason that 'technicality should not be allowed to stand in the way of equitably and completely resolving the equity and obligations of the parties to a labor case.'
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> Indeed, where a decision may be made to rest on informed judgment rather than rigid rules, the equities of the case must be accorded their due weight because labor determinations should not only be *secundum rationem* but also *secundum caritatem.*
>
> In this case, the Court of Appeals aptly found compelling reasons to disregard respondents' procedural lapses in order to obviate a patent injustice." (*Citations omitted and underscoring supplied*)

In *Spouses Eugene L. Lim and Constancia Lim v. The Court of Appeals, et al.*,[38] the Supreme Court held that the requirements of verification and certification against forum shopping are *not* jurisdictional and even considered as valid a corporation's ratification *subsequent* to the filing of a case by its officer:

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[38] G.R. No. 192615, January 30, 2013.

"A closer look into the SPA and the Corporate Secretary's Certificate submitted by BPI reveals that, at the time the subject complaint was filed on January 26, 1999, Ramos did not have the express authority to file and sign the verification and certification against forum shopping attached to BPI's complaint. The SPA, which appointed Ramos and/or Atty. Mateo G. Delegencia as BPI's attorneys-in-fact in the case against the petitioners, was executed only on July 8, 2008. Even the Corporate Secretary's Certificate that named the officers authorized by the BPI's Executive Committee to grant and extend a SPA to other officers of the bank was executed only on February 21, 2007. The Executive Committee is part of the bank's permanent organization and, in between meetings of BPI's Board of Directors, possesses and exercises all the powers of the board in the management and direction of the bank's affairs.

<u>BPI's subsequent execution of the SPA, however, constituted a ratification of Ramos' unauthorized representation in the collection case filed against the petitioners. A corporation can act only through natural persons duly authorized for the purpose or by a specific act of its board of directors, and can also ratify the unauthorized acts of its corporate officers. The act of ratification is confirmation of what its agent or delegate has done without or with insufficient authority.</u>

In *PNCC Skyway Traffic Management and Security Division Workers Organization (PSTMSDWO) v. PNCC Skyway Corporation*, we considered the subsequent execution of a board resolution authorizing the Union President to represent the union in a petition filed against PNCC Skyway Corporation as an act of ratification by the union that cured the defect in the petition's verification and certification against forum shopping. We held that 'assuming that Mr. Soriano (PSTMSDWO's President) has no authority to file the petition on February 27, 2006, the passing on June 30, 2006 of a Board Resolution authorizing him to represent the union is deemed a ratification of his prior execution, on February 27, 2006, of the verification and certification of non-forum shopping, thus curing defects thereof.

In *Cagayan Valley Drug Corporation v. Commissioner of Internal Revenue*, we likewise recognized that certain officials or employees of a company could sign the verification and certification without need of a board resolution, such as, but not limited to: the Chairperson of the Board of Directors, the President of a corporation, the General Manager or Acting General Manager, Personnel Officer, and an Employment Specialist in a labor case. For other corporate officials and employees, the determination of the sufficiency of their authority is done on a case-to-case basis.

We note that, at the time the complaint against the petitioners was filed, Ramos also held the position of Assistant Vice-President for BPI Northern Mindanao and was then the highest official representing the bank in the Northern Mindanao area. This position and his standing in the BPI hierarchy, to our mind, place him in a sufficiently high and authoritative position to verify the truthfulness and correctness of the allegations in the subject complaint, to justify his authority in filing the complaint and to sign the verification and certification against forum shopping. Whatever is lacking, from the strictly corporate point of view, was cured when BPI subsequently (although belatedly) issued the appropriate SPA. *gr*

> In any case, it is settled that the requirements of verification and certification against forum shopping are not jurisdictional. Verification is required to secure an assurance that the allegations in the petition have been made in good faith or are true and correct, and not merely speculative. Non-compliance with the verification requirement does not necessarily render the pleading fatally defective, and is substantially complied with when signed by one who has ample knowledge of the truth of the allegations in the complaint or petition, and when matters alleged in the petition have been made in good faith or are true and correct. On the other hand, the certification against forum shopping is required based on the principle that a party-litigant should not be allowed to pursue simultaneous remedies in different *fora*. While the certification requirement is obligatory, non-compliance or a defect in the certificate could be cured by its subsequent correction or submission under special circumstances or compelling reasons, or on the ground of "substantial compliance." (*Citations omitted and underscoring supplied*)

In line with the liberal application of the rules, in *Gliceria Sarmiento v. Emerita Zaratan*,[39] the Supreme Court also considered minor defects in the verification and certification as *insufficient* to override substantial compliance and explained the purpose of said requirement in the initiatory pleadings filed in court:

> "Petitioner avers that respondent by stating in the above-quoted certification that she was the respondent, while in truth she was the petitioner and by stating that respondent caused the preparation of the comment on the petition, instead of the petition itself, indicate that respondent did not understand what she was signing. The defect of the verification all renders the petition in the Court of Appeals without legal effect and constitutes ground for its dismissal.
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> The contention is baseless.
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> The purpose of requiring a verification is to secure an assurance that the allegations of the petition have been made in good faith, or are true and correct, not merely speculative. This requirement is simply a condition affecting the form of pleadings and non-compliance therewith does not necessarily render it fatally defective. Perusal of the verification in question shows there was sufficient compliance with the requirements of the Rules and the alleged defects are not so material as to justify the dismissal of the petition in the Court of Appeals. The defects are mere typographical errors. There appears to be no intention to circumvent the need for proper verification and certification, which are intended to assure the truthfulness and correctness of the allegations in the petition and to discourage forum shopping." (*Citations omitted and underscoring supplied*)

In this case, petitioner draws attention to Netrepreneur's failure to mention the administrative claim pending with the BIR in the certification. *ge*

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[39] G.R. No. 167471, February 5, 2007.

Nonetheless, good faith is presumed[40] and can be gleaned from respondent's full disclosure of said administrative claim in its Petition for Review in the allegations under the Statement of Facts[41] and from its appending of a copy of the same as Annex F.[42] Accordingly, the Court deems such omission an innocuous inadvertence that does not impair the truthfulness of its Verification and Certification of Non-Forum Shopping.

Finally, petitioner contends that, since Netrepreneur *correctly* paid the DST on the shares, said tax cannot be considered as erroneously and illegally collected, which can be the subject of a claim under Section 229 of the NIRC, as amended.[43]

Bare allegations which are not supported by any evidence, documentary or otherwise, fall short of the degree of proof needed to convince the Court[44] to overturn the findings of the Court *a quo*. In fact, these *conclusions of law* are controverted by the evidence on record where it is clearly shown that respondent Netrepreneur was able to fully establish its claim.

We quote the relevant parts of the assailed decision:

> "Pursuant to the subject Agreement, Intervision subscribed to 1,831 common shares of stock of petitioner, with a par value of P100.00 per share, from the latter's unissued authorized capital stock. In consideration thereof, the total subscription price to be paid by Intervision amounts to ₱460,050,248.68 (or ₱251,256.28 per share).
>
> Consequently, petitioner paid and remitted the amount of ₱2,300,251.24 as DST due on the issuance of such shares pursuant to Section 174 of the NIRC of 1997, as amended. Petitioner submitted its duly stamped Documentary Stamp Tax Declaration/Return (BIR Form No. 2000) and Unionbank's BTR-BIR Deposit Slip dated May 6, 2013 as proof of remittance and payment.
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> Section 174 of the NIRC of 1997, as amended, provides for the imposition of DST on original issue of shares of stock, to wit:
>
>> 'SEC. 174. *Stamp Tax on Original Issue of Shares of Stock.* — On every original issue, whether on organization, reorganization or for any lawful purpose, of shares of stock by any association, company or corporation, there shall be collected a documentary stamp tax of One peso (₱1.00) on each Two hundred pesos (₱200), or fractional part thereof, of the par value, of such shares of stock: *Provided*, That in the case of the original issue of shares of

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[40] *Eden Ballatan, et al. v. Court of Appeals, et al.*, G.R. No. 125683, March 2, 1999.
[41] Pars. 9-10 and 16-17, Petition for Review (of Netrepreneur Connections Enterprises, Inc.), Docket, pp. 14, 16-17.
[42] Docket, pp. 83-87.
[43] Petition for Review, *Rollo*, p. 8.
[44] *Carmela Cuizon Y Montalban v. Court of Appeals et al.*, G.R. No. 102096, August 22, 1996. In this case counsels for the CIR manifested that he had no evidence to present as there was not report of investigation (*please refer* to the Minutes of September 19, 2016 Hearing, Docket, p. 368.)

> stock without par value, the amount of the documentary stamp tax herein prescribed shall be based upon the actual consideration for the issuance of such shares of stock: *Provided, further,* That in the case of stock dividends, on the actual value represented by each share.'

According to the foregoing provision, a DST of ₱1.00 for every ₱200.00, or fractional part thereof shall be imposed on every original issuance of shares of stock based on either (a) the par value of such shares for shares with par value, (b) the actual consideration for such issuance of shares for shares without par value, or (c) the actual value represented by each share for shares without par value issued as stock dividends.

Documentary stamp taxes are levied on the exercise by persons of certain privileges conferred by law for the creation, revision or termination of specific legal relationships through the execution of specific instruments. Its imposition is essentially addressed and directly brought to bear upon the document evidencing the transaction of the parties which establishes its rights and obligations.

In the case at bench, the rights and obligations between petitioner and Intervision were established upon the execution of the Subscription Agreement, hence, the right to tax such document evidencing the transaction is in order.

As clearly shown in petitioner's Amended Articles of Incorporation, its authorized capital stock is ₱1 Million divided into 10,000 shares *with the par value of ₱100.00 per share*. It was also categorically stated in the Subscription Agreement that petitioner issued to Intervision 1,831 common shares of stock, *with a par value of ₱100.00 per share*.

Applying the provision of Section 174 of the NIRC of 1997, as amended, and considering that the issuance by petitioner of its shares of stock to Intervision involves 1,831 common shares of stock with a par value of ₱100.00 per share, the DST due thereon should be ₱915.50, computed as follows:

Common shares issued/subscribed	1,831 shares
Multiply by Par value per share	₱100.00
Par Value of common shares issued/subscribed	₱183,100.00
Multiply by DST rate	x 1.00/200.00
DST due	**₱915.50**

However, as mentioned earlier, petitioner paid and remitted DST in the amount of ₱2,300,251.24, based on the actual consideration of ₱460,050,248.68. Since petitioner erroneously used the actual consideration for the subscribed shares instead of the par value of such shares in computing the DST liability, petitioner, indeed, had an overpayment of ₱2,299,335.74 from what is actually due, as shown below:

DST Remitted	₱2,300,251.24
DST Due	915.50
Overpayment	**₱2,299,335.74**

In sum, the Court finds petitioner entitled to the refund or issuance of a TCC in the amount of ₱2,299,335.74." (*Citations omitted and underscoring supplied*) gr

The Court agrees with petitioner CIR that "tax refunds or tax credits — just like tax exemptions — are strictly construed against taxpayers, the latter having the burden to prove strict compliance with the conditions for the grant of the tax refund or credit."[45] This is the reason why a taxpayer must positively show compliance with the statutory requirements provided for under the NIRC in order to successfully pursue its claim.[46] However, in this case, once the taxpayer has sufficiently proven its entitlement, it is incumbent upon the government to refund what is warranted under the law.

WHEREFORE, premises considered, the Petition for Review is **DENIED** for lack of merit. The November 21, 2017 Decision and the April 19, 2018 Resolution are hereby **AFFIRMED**.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

[45] *Commissioner of Internal Revenue v. Mirant Pagbilao Corporation (now Team Energy Corporation)*, G.R. No. 180434, January 20, 2016.
[46] *Winebrenner & Iñigo Insurance Brokers, Inc. v. Commissioner of Internal Revenue*, G.R. No. 206526, January 28, 2015.

Cielito N. Mindaro-Grulla

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice