REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PPD PHARMACEUTICAL DEVELOPMENT PHILIPPINES CORP., Petitioner,	**CTA CASE NO. 10348**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JAN 07 2025 9:53 am

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RESOLUTION

RINGPIS-LIBAN, J.:

Submitted before this Court is petitioner's *Motion for Partial Reconsideration (Re: Decision dated 6 August 2024)* filed on August 27, 2024, without respondent's comment as per *Records Verification* dated October 9, 2024.

On August 6, 2024, the Court promulgated a Decision denying petitioner's claim for refund of excess and/or unutilized creditable input value-added tax (VAT) in the amount of ₱5,584,123.50, attributable to its zero-rated sales for the first (1st) quarter of 2018, for failure to fully substantiate its zero-rated sales of service, the dispositive portion of which reads as follows:

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

Petitioner argues that the Court erred in denying its claim for refund mainly because it could *not* ascertain the nature of the services and payments that are attributable to zero-rated sales based on the VAT official receipts. Petitioner prays that the Court partially reconsider said finding and order respondent to refund petitioner's excess and/or unutilized input VAT credits, based on the following grounds, *viz.*:

1. The nature of the services rendered and the payments received may be found from the admitted evidence. In any case, petitioner submits the corresponding billing statements for the Court's consideration.

2. This Court should consider the payment received for March 2018 amounting to USD 1,999,990.00 which included both Official Receipt No. 0000017 and Official Receipt No. 0000018. The Certificate of Inward Remittance dated March 12, 2018 duly supports such receipt.

3. The discrepancy caused by Official Receipt No. 0000014 was sufficiently explained by petitioner and the Independent Certified Public Accountant Report.

4. The Court failed to consider the amendment in the January return made by petitioner from zero-rated sales amounting to ₱102,807,279.00 down to ₱24,050,014.76.

5. Petitioner properly substantiated its zero-rated sales for the first quarter of 2018.

Furthermore, petitioner likewise attached in its Motion the Judicial Affidavit of its tax accountant, Ms. Carol Joy G. Tordecilla, in support of its arguments.

After due consideration, the Court finds petitioner's motion *bereft of merit.* The Court shall discuss petitioner's arguments in seriatim.

The nature of the services rendered and the payments received from recipient cannot be presumed but must be proven with certainty.

As to the first ground, petitioner argues that the nature of the services and payments need *not* be reflected in the official receipt. While Section 113 of the National Internal Revenue Code (NIRC) enumerates invoicing requirements, petitioner asserts that the law does *not* state that failure to comply with the requirements will result in the disqualification of the sales from zero-rating and, consequently, result in their disallowance from the refund claim.

Petitioner further contends that the evidence admitted by the Court can be used as basis to determine the nature of the services rendered and payments received. It explains that in the Decision, the Court recognized that its *only client is PPD Global Limited (PPD Global)* and there were only three sales transactions in the second *[sic]* quarter of 2018.[1] Thus, the VAT official receipts (ORs) would necessarily only pertain to the services rendered by petitioner to PPD Global, as its sole client, for the services rendered under the Affiliate Service Agreement.

[1] The present *Petition for Review* actually pertains to the first quarter of CY 2018.

The Court disagrees.

The Court cannot simply assume that, since PPD Global is petitioner's only client, then all the payments it received from PPD Global automatically pertain to services rendered under the Affiliate Service Agreement.

Again, pursuant to Section 113(B)(3) of the NIRC of 1997, as amended, the nature of the service, among others, is **expected** to be indicated in the VAT ORs. In this case, petitioner did *not* indicate the nature of the services in the ORs but indicated only the corresponding billing statement numbers. However, petitioner *failed* to provide the Court with these billing statements during trial, which could have been cross-referenced with the ORs to prove the accuracy of its claim. At this juncture, it is worth emphasizing that the invoicing and substantiation requirements should be followed because it is the only way to check the veracity of the taxpayer's claims.[2] Finally, it must be pointed out that compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.[3]

Petitioner, in its bid for reconsideration, attached to the motion the three (3) billing statements to support of its claim and prove that the payments received by petitioner from PPD Global indeed pertain to the agreed-upon services in the Affiliate Services Agreement. According to petitioner, these subject billing statements all describe the services rendered as "Personnel Revenue" and "Investigator Revenue," which pertain to the clinical research services as described in the Agreement rendered by (1) Clinical Operators as employees; and (2) Investigators as independent contractors performing the clinical investigations.

To emphasize, it is essential for all the parties to present all arguments and available evidence in support of their respective positions to the court **before** the case is deemed submitted for judgment save only under exceptional circumstances, as held in the case of *Lolita R. Alamayri v. Rommel Pabale, et al.,*[4] to wit:

> **"The parties must diligently and conscientiously present all arguments and available evidences in support of their respective positions to the court <u>before</u> the case is deemed submitted for judgment. <u>Only under exceptional circumstances may the court receive new evidence after having rendered judgment</u>; otherwise, its judgment may never attain finality since the parties may continually refute the findings therein with further evidence. Alamayri failed to provide any explanation why she did not present her evidence earlier.** Merely invoking that the ends of justice would have been best served if she was allowed to present additional

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[2] *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018.
[3] *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.
[4] G.R. No. 151243, April 30, 2008.

> evidence is not sufficient to justify deviation from the general rules of procedure. Obedience to the requirements of procedural rules is needed if the parties are to expect fair results therefrom, and utter disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction. Procedural rules are tools designed to facilitate the adjudication of cases. Courts and litigants alike are thus enjoined to abide strictly by the rules. And while the Court, in some instances, allows a relaxation in the application of the rules, this, we stress, was never intended to forge a bastion for erring litigants to violate the rules with impunity. The liberality in the interpretation and application of the rules applies only to proper cases and under justifiable causes and circumstances. While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to insure an orderly and speedy administration of justice." *(Emphasis supplied)*

Presentation of additional evidence is generally allowed when it is newly discovered, or where it has been omitted through inadvertence or mistake, or where the purpose of the evidence is to correct evidence previously offered.[5]

Here, petitioner did *not* give any cogent reason to justify the belated submission of additional evidence. The documents that petitioner also would like to present are *not newly discovered evidence.* They are readily available and already in existence even before or during trial and could have been presented and offered seasonably, were it not for the sheer oversight by petitioner. Clearly, the additional evidence sought to be presented by petitioner falls squarely as forgotten evidence.

"Forgotten evidence" refers to evidence already in existence or available before or during a trial; known to and obtainable by the party offering it; and could have been presented and offered in a seasonable manner, were it not for the sheer oversight or forgetfulness of the party or the counsel. Presentation of forgotten evidence is disallowed, because it results in a piecemeal presentation of evidence, a procedure that is not in accord with orderly justice and serves only to delay the proceedings. A contrary ruling may open the floodgates to an endless review of decisions, whether through a motion for reconsideration or for a new trial, in the guise of newly discovered evidence.[6] Consequently, the presentation of the subject billing statements at this stage *cannot* be allowed.

Even, assuming arguendo, if the Court were to admit said billing statements, the same still lacks evidentiary weight to sway the Court. An inspection of the attached billing statement nos. 0000024, 0000025, and 0000026 reveal that they are *not* the complete billing statements indicated on the subject VAT ORs, to wit:

5 *Republic of the Philippines v. The Hon. Sandiganbayan (Second Division), et al.,* G.R. No. 159275, August 25, 2010.
6 *Office of the Ombudsman, et al. v. Carmencita D. Coronel,* G.R. No. 164460, June 27, 2006.

Exhibit	OR No.	Date	Billing Statement Nos. indicated in the OR
"ICPA-36-2"	0000015	31 January 2018	C-0024, C-APPPHI0023-1, C-APPPHI0024, I-0022, I-0023, I-0024
"ICPA-36-3"	0000016	28 February 2018	C-APPPHI0025, I-0025
"ICPA-36-4"	0000017	31 March 2018	C-0026, C-APPPHI0026, I-0025, I-0026

There are also discrepancies in the amount in USD per billing statement and per OR, as follows:

OR No.	Amount in USD per OR	Billing Statement No.	Amount in USD per Billing Statement	Difference
0000015	2,040,624.25	0000024	249,997.96	1,790,626.29
0000016	499,990.00	0000025	1,580,484.76	(1,080,494.76)
0000017	1,905,982.76	0000026	944,163.31	961,819.45

Again, these discrepancies were not satisfactorily explained or accounted for. The description of services indicated in the subject billing statements are "Personnel Revenue True-up", "Investigator Revenue True-up", "Pass Through Revenue True-up", "Personnel Revenue", "Investigator Revenue" and "Pass Through Revenue". Although petitioner claims that the "Personnel Revenue" and "Investigator Revenue" pertain to the clinical research services as described in the Agreement, it was however silent as to the nature of the "Pass Through Revenue". For said reasons, the disallowance of petitioner's claim for its failure to satisfy the substantiation and invoicing requirements is upheld.

The Court cannot consider payments, including Official Receipt Nos. 0000017 and 0000018, not duly supported by evidence.

To recall, the Court excluded OR No. 0000018 as it was dated April 30, 2018 and was therefore considered *outside* the period of claim. Petitioner now argues that despite being dated as such, the records of the case would show that the payment in the amount of USD 94,017.00 was received in March of 2018 – within the 1st quarter of 2018, which is the period of the refund claim.

Moreover, petitioner explains that the Certificate of Inward Remittance shows the receipt of USD 2,000,000.00 for the month of March 2018. Petitioner continues that net of charges, the actual amount received is USD 1,999,990.00. In this regard, OR No. 000017 covered the receipt of said payment to the extent of USD 1,905,982.76. Adding OR No. 0000018 thereto in the amount of USD 94,017.00, the total amount, therefore, fully supports the receipt of USD 1,999,990.00 for March of 2018.

However, petitioner points out that its current finance and accounting team could *no longer* ascertain from the company records the reason for the belated issuance of OR No. 0000018, considering that the recording and preparation of the corresponding receipts took place in 2018, or more than six (6) years ago and was undertaken by employees no longer connected with petitioner. Thus, petitioner prays that the aggregate amount of USD 1,999,990.00, which comprises PHP 98,512,485.53 in zero-rated sales be considered part of its claim for the 1st quarter of 2018.

Unfortunately, the Court is not persuaded.

The Court cannot just simply accept petitioner's explanation without any convincing proof to support the same. It is also worthy to note that the Independent Certified Public Accountant (ICPA) did not mention petitioner's explanation in its ICPA Report. Furthermore, Billing Statement No. 0027 indicated on OR No. 0000018[7] dated April 30, 2018 was likewise not submitted in evidence which could have supported petitioner's contention. Thus, the disallowance is upheld.

The discrepancy caused by Official Receipt No. 0000014 was not sufficiently explained.

Petitioner asserts that the Court erroneously found that it failed to report the amount of ₱9,800.00. Petitioner explains that the amount pertains to the refund received from *Treston International College, Inc.* which does not constitute services performed by petitioner that is subject to zero-rating. As such, petitioner submits that there was no unreported zero-rated sale in the amount of ₱9,800.00.

To clarify, in the assailed Decision, the Court merely pointed out that it is the ICPA who noted that petitioner failed to report the amount of ₱9,800.00, which relates to a prior period amount booked as a refund received from *Treston International College, Inc.* but was however erroneously identified as VAT zero-rated sale in the official receipt.[8] Unfortunately, the Court cannot ascertain the nature of this receipt as the OR which supports the same (OR No. 0000014[9] dated February 2, 2018) did not indicate any particulars whatsoever. Moreover, the ICPA further noted that, a review of petitioner's general ledger reveals that it merely recorded this ₱9,800.00 as "Refund-Treston College," debit cash for ₱9,800.00.[10]

7 Exhibit "ICPA-36-5", USB marked as Exhibit "P-59"
8 Paragraph 3.6, Exhibit "P-54", p. 8.
9 Exhibit "ICPA-36-4", USB marked as Exhibit "P-59"
10 Paragraph 3.6, Exhibit "P-54", p. 8.

The amendment in the January return made by petitioner in its zero-rated sales was already considered by the Court; and,

All told, petitioner failed to sufficiently substantiate its zero-rated sales for the first quarter of 2018.

Again, the assailed Decision found that petitioner *understated* its 1st quarter VAT return. Petitioner now argues that the Court failed to consider the amendment it made in its zero-rated sales in the January return from ₱102,807,279.00 down to ₱24,050,014.76. Petitioner expounds that on February 20, 2018, it filed its Monthly VAT Tax Declaration (BIR Form No. 2550-M) and declared zero-rated sales amounting to ₱102,807,279.00.[11] The declaration in the return, however, included zero-rated sales already reported in the last quarter of 2017 amounting to USD 1,570,203.17. As such, to reflect the correct zero-rated sale in January of 2018 and the fourth quarter of 2017, petitioner admits to have amended both its Quarterly VAT Return for the fourth quarter of 2017 and declaration for January 2018 on April 26, 2018 as follows:

VAT Period	Amount in Original Return	Amount in Amended Return
Fourth quarter of 2017	209,981,006.81	289,249,339.59
January of 2018	102,807,279.00	24,050,014.76

The Court finds the petitioner's arguments untenable.

Contrary to petitioner's claim, the Court already considered the amount of ₱24,050,014.76 as the zero-rated sales declared in the VAT Return and Summary List of Sales (SLS) for the month of January 2018, as seen in the tables on page 18 of the assailed Decision,[12] to wit:

Date	Customer	Amount
1/31/2018	PPD Global Limited	***₱ 24,050,014.76***
2/28/2018	PPD Global Limited	29,274,524.02
3/31/2018	PPD Global Limited	98,512,485.53
Total		**₱ 151,837,024.31**

Date	OR No.	OR Amount in Peso	Per SLS	Difference
01/31/2018	0000015	₱ 101,705,754.09	***₱ 24,050,014.76***	₱ 77,655,739.33
02/28/2018	0000016	25,702,976.40	29,274,524.02	(3,571,547.62)
03/31/2018	0000017	99,104,760.82	98,512,485.53	592,275.29
	TOTAL	**₱226,513,491.31**	**₱151,837,024.31**	**₱74,676,467.00**

[11] The amount indicated reflected in OR No. 0000015 is USD 2,040,624.25.
[12] Docket – Vol. IV, p. 1364.

As to the total difference of ₱74,676,467.00 for the 1st quarter of 2018, the ICPA concluded that the amount pertains to petitioner's *"unreported but inwardly remitted US Dollars from its non-resident foreign client, PPD Global".*[13]

However, the ICPA still failed to account for the reason why petitioner's 1st quarter VAT return is understated.[14] To repeat, the Court cannot simply believe the foregoing statement without any detailed explanation on how to reconcile the discrepancy between the ORs and Returns/SLS considering that petitioner only has three (3) transactions for the entire 1st quarter with one client.

With regard to petitioner's assertion that OR No. 0000015 in the amount of USD 2,040,624.25, included zero-rated sales, which was already reported in the last quarter of 2017 amounting to USD 1,570,203.17, the Court points out that the ICPA did *not* mention this explanation in its Report. The ICPA only stated that the difference of ₱74,676,467.00 pertains to petitioner's *"unreported but inwardly remitted US Dollars from its non-resident foreign client, PPD Global".* Again, an explanation needs a convincing proof to support the same.

Lastly, petitioner insists that the Court erroneously found that the declared zero-rated sales for the month of February 2018 were *not* fully substantiated with the subject VAT ORs; and, that the ORs for the month of January and March 2018 exceeded the amount declared by petitioner in its quarterly VAT return. Petitioner also contends that the finding of underdeclaration of zero-rated sales finds no relevance in this particular claim for refund and should have been brushed aside by this Court because assuming, but without conceding, that there was underdeclaration of zero-rated sales, the same would not change the amount of excess and unutilized input VAT as the output VAT would remain zero.

Petitioner's argument is untenable.

As discussed in the Decision, the Court cannot ascertain whether the subject VAT ORs indeed pertains to the zero-rated sales declared by petitioner in its quarterly VAT return. The Court reiterates that petitioner's pieces of documentary evidence are conflicting, or do *not* match up, and contain discrepancies which were not satisfactorily explained or not properly accounted for.

At the risk of sounding repetitive, the Court say again its consistent ruling that actions for tax refund or credit, as in the instant case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also **the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven. The**

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[13] Paragraph 3.13, Exhibit "P-54", p. 10.
[14] Paragraph 3.7, Exhibit "P-54", p. 8.

burden is on the taxpayer to show that he (or she) has strictly complied with the conditions for the grant of the tax refund or credit. Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented as they are not intended to be liberally construed.[15]

In view of the foregoing disquisitions, the Court finds no compelling reason to reverse or modify the Decision promulgated on August 6, 2024.

WHEREFORE, premises considered, petitioner's *Motion for Partial Reconsideration (Re: Decision dated 6 August 2024)* is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

We Concur:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

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15 *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222428, February 19, 2018.