**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

***THIRD DIVISION***

| | |
|---|---|
| **PPD PHARMACEUTICAL DEVELOPMENT PHILIPPINES CORP.,** *Petitioner,* | **CTA Case No. 10375** |
| | Members: |
| *-versus-* | **MANAHAN**, *Chairperson,* **REYES-FAJARDO**, *and* **ANGELES**, *JJ.* |
| **COMMISSIONER OF INTERNAL REVENUE,** *Respondent.* | Promulgated: OCT 30 2024 11:15 a.m. |

x- - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - x

# RESOLUTION

**MANAHAN, *J.*:**

This resolves petitioner's **Motion for Partial Reconsideration (Re: Decision dated 6 June 2024)** filed on July 5, 2024, seeking for partial reconsideration of this Court's Decision dated June 6, 2024 (Assailed Decision) and granting the refund of its excess and unutilized input value-added tax (VAT) in the amount of Php9,308,363.46.

Petitioner argues that the nature of services rendered and the payments received maybe found in the admitted evidence. Petitioner also submitted billing statements for the Court's consideration.

Petitioner insists that it accounted for Official Receipt (OR) No. 0000018 in the 2018 first quarter VAT Return. The Certificate of Inward Remittance allegedly shows that the amount was received on the 9th of March 2018.

Petitioner also argues that it properly substantiated its zero-rated sales for the second quarter of taxable year (TY) 2018.

On the other hand, respondent, in his **Comment Opposition (Re: Motion for Partial Reconsideration dated 5**

**July 2024)** filed on July 19, 2024, counters that this Court is correct in requiring petitioner to issue Bureau of Internal Revenue-registered VAT ORs for foreign currency proceeds of each sales transaction.

Respondent further argues that while petitioner has presented its inward remittances, the documents failed to show that the inward remittances were indeed made as payments for the petitioner's alleged zero-rated sales.

Respondent insists that this Court is correct in its finding that petitioner failed to substantiate its claim particularly the declared zero-rated sales for the months of April and May 2018.

Respondent states that petitioner's claim for refund must be substantiated by VAT invoices or ORs prescribed under Sections 110(A) and 113(A) and (B) of the 1997 National Internal Revenue Code (NIRC), as amended, in relation to Sections 4.110-1, 4-110-8 and 4.113-1 of Revenue Regulations (RR) No. 16-05, as amended.

**The Ruling**

This Court shall determine first whether the instant Motion was filed on time.

Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides that:

> "SECTION 1. *Who may and when to file motion.-* **Any aggrieved party may seek a reconsideration** or new trial **of any decision**, resolution, or order **of the Court**. He shall file a motion for reconsideration or new trial **within fifteen days from the date he received notice of the decision**, resolution or order of the Court in question." (*Emphasis supplied*)

The records of the instant case reveal that petitioner, through its counsel, received the copy of the Assailed Decision on June 20, 2024. In accordance with the abovementioned provision of the RRCTA, respondent had fifteen (15) days from receipt of notice of said decision from June 20, 2024 or until July 5, 2024 within which to file his motion for reconsideration. Thus, the filing of petitioner's *Motion for Partial Reconsideration (Re: Decision dated 6 June 2024)* on July 5, 2024 was on time.

At the outset, We would like to re-emphasize and highlight the factual findings of this Court as to the absence of some documentary requirements that may prove petitioner's claim for refund as discussed in the Assailed Decision, to wit:

> "Scrutiny of the ORs submitted by petitioner shows that the same were in payment for certain billing statements. Considering that there are unexplained differences, it is imperative for the Court to examine the nature of the service rendered and payments received by petitioner. Pursuant to the previously quoted Section 113(B)(3) of the 1997 NIRC, as amended, the following information, among others, are required to be indicated in the VAT invoice or VAT official receipt:
>
> a. Date of transaction;
> b. Quantity;
> c. Unit cost; **and**
> d. Description of the goods or **nature of the service**.
>
> In this case, petitioner indicated only the corresponding billing statement number in the official receipt, however, <u>petitioner did not submit the subject billing statements</u>. Consequently, the Court cannot ascertain whether the payments received are indeed for the agreed-upon services rendered by petitioner or for something else. The billing statements could also help to shed some light on the discrepancies between the amounts per VAT returns and ORs." (*Underscoring ours*)

Given the foregoing, petitioner is submitting belatedly the said billing statements through the instant motion.

After a thorough review of the case, We deny the said motion on the following grounds:

First, the trial of the case was terminated already and the case was already submitted for decision, hence, the Assailed Decision took into consideration all the evidence submitted by both parties during such trial. Hence, Section 34, Rule 132 of the Rules of Court, as amended, is controlling in this case, to wit:

> "Section 34. *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."

It is very clear from the abovementioned factual findings of this Court that petitioner failed to adduce and offer said billing statements during the trial of the case. Thus, this Court cannot consider the belated submission of such documents.

In *Republic of the Philippines v. Fe Roa Gimenez and Ignacio B. Gimenez,*[1] the Supreme Court ruled that:

> "More importantly, the Rules specifically provides that evidence must be formally offered to be considered by the court. Evidence not offered is excluded in the determination of the case. "Failure to make a formal offer within a considerable period of time shall be deemed a waiver to submit it."
>
> Rule 132, Section 34 provides:
>
> SEC. 34. *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.
>
> The rule on formal offer of evidence is intertwined with the constitutional guarantee of due process. Parties must be given the opportunity to review the evidence submitted against them and take the necessary actions to secure their case. Hence, any document or object that was marked for identification is not evidence unless it was "formally offered and the opposing counsel [was] given an opportunity to object to it or cross-examine the witness called upon to prove or identify it."
>
> This court explained further the reason for the rule:
>
> The Rules of Court provides that "the court shall consider no evidence which has not been formally offered." A formal offer is necessary because judges are mandated to rest their findings of facts and their judgment only and strictly upon the evidence offered by the parties at the trial. Its function is to enable the trial judge to know the purpose or purposes for which the proponent is presenting the evidence. *On the other hand, this allows opposing parties to examine the evidence and object to its admissibility.* Moreover, it facilitates review as the appellate court will not be required to review documents not previously scrutinized by the trial court. (Emphasis supplied, citations omitted)
>
> To consider a party's evidence which was not formally offered during trial would deprive the other party of due process. Evidence not formally offered has no probative value and must be excluded by the court."

Finally, petitioner filed a motion for reconsideration and not a motion for new trial where one of its grounds is the

---

[1] G.R. No. 174673, January 11, 2016.

introduction of a newly discovered evidence. Hence, the Court cannot consider such billings statements.

However, newly discovered evidence is one "which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result." Thus, such billing statements cannot qualify as newly discovered evidence considering that they exist already even during the trial but petitioner just failed to adduce and offer.

Petitioner also insists that it accounted for OR No. 0000018 in the first quarter VAT Return for 2018. The Certificate of Inward Remittance allegedly shows that the amount was received on the 9th of March of 2018.

However, it is very clear from the factual findings of the Court that petitioner failed to reflect it in its own VAT Return and Summary List of Sales as testified by the Independent Certified Public Accountant (ICPA), to wit:

> "With regard to OR No. 0000018 dated April 30, 2018 in the amount of $94,007.24 issued to *'PPD Global Limited'*, the ICPA found that this was not reported neither in the VAT Return nor in the Summary List of Sales (SLS) for the 2nd Quarter of 2018. Similarly, the amount of $94,007.24 was not reflected in the petitioner's HSBC US Dollar bank account. However, this transaction was included in the 2018 general ledger shown as a USD cash entry of $94,017.24 (₱4,888,837.81 in Philippine Local Currency). The ICPA purported the difference of $10.00 as flat fee bank charges."

Such assertion of petitioner cannot be considered sans any supporting evidence.

Petitioner also argues that it properly substantiated its zero-rated sales for the second quarter of TY 2018. However, such assertion was belied by the factual findings of this Court, to wit:

> "The Court likewise notes that petitioner's declared zero-rated sales for the months of April and May 2018 are not fully substantiated with the VAT ORs submitted. On the other hand, the OR for the month of May 2018 exceeded the amount declared by petitioner in its quarterly VAT return. Even so, the Court cannot be certain that the subject OR indeed pertains to the zero-rated sales declared by petitioner in its quarterly VAT return. *am*

> It bears stressing that petitioner only has one client and three (3) sales transactions for the second quarter of 2018. However, based on the foregoing, the amounts declared per petitioner's quarterly VAT return for the 2nd quarter of 2018 do not tally with the ORs issued by petitioner."

Petitioner should be aware that as a claimant for a refund of taxes paid, it must prove every aspect of its case as pronounced in the case of *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*,[2] to wit:

> "... First, a judicial claim for refund or tax credit in the CTA is by no means an original action but rather an *appeal* by way of petition for review of a previous, unsuccessful administrative claim. Therefore, as in every appeal or petition for review, a petitioner has to convince the appellate court that the quasi-judicial agency a *quo* did not have any reason to deny its claims. In this case, it was necessary for petitioner to show the CTA not only that it was entitled under substantive law to the grant of its claims but also that it satisfied all the documentary and evidentiary requirements for an administrative claim for refund or tax credit. Second, cases filed in the CTA are litigated *de novo*. Thus, a **petitioner should prove every minute aspect of its case by presenting, formally offering and submitting its evidence to the CTA**. ..." (*Emphasis supplied*)

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

**SO ORDERED.**

Catherine T. Manahan
**CATHERINE T. MANAHAN**
Associate Justice

**WE CONCUR:**

Marian Ivy F. Reyes-Fajardo
**MARIAN IVY F. REYES-FAJARDO**
Associate Justice

**HENRY S. ANGELES**
Associate Justice

---

[2] G.R. NO. 145526, March 16, 2007.