REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

WILLIAMS-SONOMA PHILIPPINES, INC., *Petitioner,*	**CTA CASE NO. 10325**
	Members:
- versus -	**RINGPIS-LIBAN**, *Chairperson,* **MODESTO-SAN PEDRO**, *and* **FERRER-FLORES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUL 29 2024 9:20 p.m.

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RESOLUTION

***MODESTO-SAN PEDRO, J.*:**

For the Court's resolution is petitioner's *Motion for Reconsideration (Re: Decision dated [14] March 2024)*, filed on April 2, 2024,[1] with respondent's *Opposition (Re: Motion for Partial Reconsideration of the Decision dated March [14], 2024)* filed on April 26, 2024.[2]

Against this Court's *Decision* dated March 14, 2024 ("Assailed Decision"), which denied petitioner's claim for refund of its unutilized input value-added tax ("VAT") for the 1st through 4th quarters of fiscal year ("FY") 2019 (covering the period February 2018 to January 2019) on the ground that petitioner failed to establish that it is engaged in zero-rated sales, particularly on its failure to prove that the zero-rated services were performed in the Philippines, petitioner asserts that while the Service Agreement[3] does not expressly state that the services covered thereby shall be performed in the Philippines, there are multiple indications across petitioner's submissions that point to the contrary conclusion: *1)* Exhibit I of the Service Agreement provides that among the services provided by petitioner is franchisee support,

[1] Docket – Vol. III, pp. 1171 to 1180.
[2] *Id.* at 1184 to 1187.
[3] Exhibit "P-377-e". USB marked as Exhibit "P-378".

services to WSSPL's franchisee in the Philippines; *2)* petitioner's principal office address per Articles of Incorporation and its other BIR-registered address are both in the Philippines; and *3)* petitioner was incorporated in the Philippines in view of the lower or reduced cost of operating in this country, and it would run counter to such intention if the services are to be performed outside the Philippines. Given the foregoing, the Court should deem petitioner to have complied with the requirement that it conducted its business and performed its services in the Philippines.

On the other hand, respondent argues that petitioner has burden of proof to establish the factual basis of its claim for tax credit or refund as such claims, partaking in the nature of a tax exemption, are construed strictly against claimants.

The motion is bereft of merit.

Again, We reiterate that actions for tax refund or credit are in the nature of tax exemptions. As such, they are regarded as a derogation of sovereign authority and to be construed *strictissimi juris* against the person or entity claiming the refund. The pieces of evidence presented entitling a taxpayer to an exemption are also *strictissimi* scrutinized and must be duly proven. Hence, an applicant for a claim for tax refund or tax credit must not only prove entitlement to the claim but also compliance with all the documentary and evidentiary requirements.

The evidence demanded by proof of strict and full compliance with the requisites for entitlement to tax refund must be direct, not circumstantial. It must be categorical, not merely surmised. Most importantly, compliance with the requisites must be complete, not merely substantial.

The alleged performance of franchisee support services by petitioner to WSSPL's "franchisee in the Philippines" as stated in Exhibit I of the Service Agreement and mere registration of a Philippine business address neither clearly state nor categorically determine that the services are indeed being performed in the Philippines. At most, these pieces of evidence petitioner offers merely surmise that the alleged zero-rated services are performed in the Philippines.

Further, the intention of establishing a business in the Philippines in view of the lower or reduced cost of operating in this country is but an allegation which fails to convince the court, unless supported by evidence.

One who alleges a fact has the burden of proving it and the proof should be clear, positive and convincing. Mere allegation is not evidence.[4] However, judgment has to be based on facts, and conjectures and surmises cannot substitute for the facts: "[a] conjecture is always a conjecture; it can never be admitted as evidence."[5] In the present case, no direct evidence was offered by petitioner that would show that the subject services were performed in the Philippines.

Verily, petitioner failed to impress the Court with cogent arguments to justify the reversal, amendment, or modification of the Assailed Decision. The same shall therefore not be disturbed.

ACCORDINGLY, in light of the foregoing considerations, petitioner's *Motion for Reconsideration (Re: Decision dated [14] March 2024)* is **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(On Leave)

CORAZON G. FERRER-FLORES
Associate Justice

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4 *Noblejas v. Italian Maritime Academy Phil., Inc., et al.*, G.R. No. 207888, June 9, 2014.
5 *Spouses Guidangen v. Wooden*, G.R. No. 174445, February 15, 2012.