REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

HITACHI COMPUTER PRODUCTS (ASIA) CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 5472

Promulgated:
JUN 26 1998

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D E C I S I O N

This case involves a claim for refund or issuance of a tax credit certificate in the amount of ₱4,751,265.55 representing excess creditable input VAT paid during the first quarter of 1995.

Petitioner is a domestic corporation organized and existing under the laws of the Republic of the Philippines.

Records show that petitioner is a registered VAT taxpayer with VAT Certificate of Registration No. 94-570-000298 (Annex A of the Petitioner, CTA records p. 6). It is likewise registered with the Export Processing Zone Authority pursuant to the provisions of the Omnibus Investments Code of 1987 per Certificate of Registration No. 94-28 (Annex B, p. 7, CTA records).

Petitioner alleges that it filed its quarterly VAT return for the period January to March, 1995 on April 20, 1995, showing a total net creditable input tax of ₱4,751,265.55 from its domestic purchases of services.

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On February 20, 1997, petitioner filed its application for tax credit/refund of the aforestated net value-added tax input payments for the period January to March in the amount of ₱4,751,265.55 with the Tax and Revenue Group of the One-Stop-Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance.

As the application for tax credit/refund has not been acted upon by the respondent to date, petitioner elevated its case before this Court by way of Petition for Review on March 25, 1997.

It appears from the records of this case that on November 13, 1997, petitioner asked for fifteen (15) days within which to file its formal offer of evidence. However, the 15-day period expired without petitioner having filed the said formal offer of evidence (see page 38, CTA records), without any evidence to substantiate the claim for refund, this Court has no other alternative but to deny this petition for review. Well-settled is the rule that evidence not formally offered although identified during the trial are of no value and cannot be considered by the Court. This has been our ruling in a number of cases, particularly in the case of ***TMX Philippines vs. Commissioner of Internal Revenue; CTA Case No. 4297, March 29, 1993***, wherein We ruled thus:

> "The sales taxes paid through Treasure Island Industrial Corp. on the other hand,

simply cannot be considered credited since the evidence particularly the sales invoices were not formally offered by the counsel of the Petitioner for sheer neglect. Such evidence, therefore, although identified during the trial are of no value and cannot be considered by the Court. Section 35, Rule 132 of the Rules of Court is categorically clear on this matter, thus:

Section 35. ***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." (Emphasis supplied)

Justice Ricardo Francisco in his book, "*Rules on Evidence*", (1996, Third Edition, pages 537-538), discussed the importance of the formal offer of evidence in this manner:

"Any evidence which a party desires to submit for the consideration of the Court must formally be offered by him. Such a formal offer is necessary because it is the duty of the Court to rest its findings of facts and his judgment only and strictly upon the evidence offered by the parties of the trial. The offer may be made in any form sufficient to show that the party is ready and willing to submit the evidence to the Court".

In the instant case, petitioner seemed to have been satisfied with its allegations found in the petition for review because it did not bother to formally offer any evidence to support its claim, nor did it submit a memorandum.

WHEREFORE, in view the foregoing, petitioner's claim for refund is hereby **DENIED** for lack of merit.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

WE CONCUR:

RAMON O. DE VEYRA
Associate Judge

AMANCIO Q. SAGA
Associate Judge

CERTIFICATION

I hereby certify that the above decision was reached after due consultation with the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Judge

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