REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE , Petitioner,	**CTA EB No. 1133 (CTA Case No. 8252)**
-versus-	Present: Del Rosario, *P.J.*, Castañeda, Jr., Bautista, Uy, Casanova, Fabon-Victorino, Mindaro-Grulla, Cotangco-Manalastas, and Ringpis-Liban, *JJ.*
CORAL BAY NICKEL CORPORATION, Respondent.	Promulgated: AUG 03 2015 3:20 p.m.

x---x

R E S O L U T I O N

CASTAÑEDA, JR., *J.*:

For resolution is petitioner's Motion for Reconsideration (Re; Decision dated 7 January 2015) which was posted on February 10, 2015 and received by the Court on February 23, 2015.

The dispositive portion of the assailed Decision states:

> **WHEREFORE,** the petition is **DENIED** for lack of merit. The September 12, 2013 Decision and February 14, 2014 Amended Decision of the Court in Division in CTA Case No. 8252 are **AFFIRMED.**
>
> **SO ORDERED.**

Respondent filed its Comment/Opposition on April 20, 2015. Subsequently, respondent amended its Comment/Opposition to correct the designation of parties which were inadvertently switched. On May 26, 2015, this Court admitted respondent's Amended Comment/Opposition (To Petitioner's Motion for Reconsideration Re: Decision dated January 7, 2015) and submitted petitioner's motion for resolution.

Hence, this resolution.

In her motion, petitioner submits that this Court erred in denying petitioner's petition for the reason that the submission of the necessary documents is indispensable before a claim for refund/credit may be acted upon. Petitioner implores this Court to reconsider its position that the submission of supporting document lies within the sound discretion of the taxpayer for it is in the best position, being the affected party –xxx- to determine which documents are necessary and essential to garner a favorable decision.

On the other hand, in its Comment/Opposition, respondent relied upon the ground that the term "relevant supporting documents" should be understood as those documents necessary to support the legal basis in disputing a tax assessment as determined by the taxpayer. The BIR will only inform the taxpayer to submit additional documents and cannot dictate what type of supporting documents should be submitted. Respondent submits that petitioner's contention is erroneous and simply a rehash of her arguments already and correctly settled by this Court in its 12 September 2013 Decision, 14 February 2014 Amended Decision, and 7 January 2015 Decision.

After a careful study of the grounds raised by the petitioner in her motion as well as the Comment of the respondent, the Court *en banc* finds no valid or cogent reason to deviate from our findings and conclusions reached in our Decision dated January 7, 2015, thus, the motion is denied.

We emphasize that in *Commissioner of Internal Revenue v. First Express Pawnshop Company, Inc. ("First Express Pawnshop case"),*[1] the Supreme Court categorically ruled that the BIR can only inform the taxpayer to submit additional documents and that it is the taxpayer who determines what documents are relevant to support the legal basis in disputing a tax assessment. This Court still finds that this doctrine about the phrase "relevant supporting documents" is applicable, by analogy, to the concept of "complete documents" in this refund case. Pertinent portions of the *First Express Pawnshop case* state:

[1] G.R. Nos. 172045-46, June 16, 2009, 589 SCRA 253.

> The term "relevant supporting documents" should be understood as those documents necessary to support the legal basis in disputing a tax assessment as determined by the taxpayer. The BIR can only inform the taxpayer to submit additional documents. The BIR cannot demand what type of supporting documents should be submitted. Otherwise, a taxpayer will be at the mercy of the BIR, which may require the production of documents that a taxpayer cannot submit.

This Court reiterates that petitioner never requested for submission of additional documents, thus, the presumption is that complete documents had been submitted when it filed its administrative claim for tax refund. Section 112 of the 1997 NIRC, as amended, is clear that petitioner has 120 days from submission of complete documents in support of application for refund or tax credit of input tax within which to grant or deny the claim. Consequently, the 120-day period provided in Section 112 (C) of the 1997 NIRC, as amended, started and continued to run from the filing of the administrative claim which is November 26, 2010 and ended on March 26, 2011. Considering that petitioner failed to act on the application for tax credit/refund within the 120-day period, taxpayer's remedy is to appeal the inaction of the CIR to the Court of Tax Appeals within 30 days from such inaction. Counting 30 days from March 26, 2011, respondent has until April 25, 2011 within which to file its judicial claim. Thus, respondent timely filed its judicial claim on March 31, 2011.

Moreover, "[t]here is nothing in Section 112 of the NIRC, RR 3-88 or RMO 53-98 itself that requires submission of the complete documents enumerated in RMO 53-98 for a grant of a refund or credit of input VAT. The subject of RMO 53-98 states that it is a 'Checklist of Documents to be Submitted by a Taxpayer upon **Audit** of his Tax Liabilities . . .'"[2]

WHEREFORE, premises considered, the motion is hereby **DENIED** for lack of merit.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

[2] *Commissioner of Internal Revenue v. Team Sual Corporation (formerly Mirant Sual Corporation),* G.R. No. 205055, July 18, 2014.

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

(On Leave)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice