REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

HONDA CARS MAKATI, INC., *Petitioner,*	**CTA CASE NO. 8638**
-versus-	Members: **CASTAÑEDA, JR.,** *Chairperson* **CASANOVA, and** **COTANGCO-MANALASTAS,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	**Promulgated:** MAY 1 1 2018 2:47 pm

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RESOLUTION

Brought before this Court is a *Motion for Partial Reconsideration (Re: Decision Promulgated 14 January 2016)*[1] filed by respondent, through counsel, on February 1, 2016, praying for the recall of the Decision[2] of this Court promulgated on January 14, 2016 and the issuance of a new one denying petitioner's claim for refund of its excess and unutilized creditable withholding tax (CWT) for calendar year 2010.

In the subject *Motion*, respondent alleges that: petitioner's claim must be denied as it failed to substantiate its administrative claim with documents that will prove its entitlement to refund/credit, and thus, failed to dispense its duty to exhaust administrative remedies; a party must not merely initiate the prescribed administrative procedure but must pursue this relief until the appropriate conclusion takes place before seeking judicial intervention; and that claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation and as such they are looked upon with disfavor.

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[1] Rollo, pp. 669-674.
[2] Rollo, pp. 631-667.

In a Resolution issued on February 16, 2016, petitioner was ordered to comment on respondent's *Motion for Partial Reconsideration (Re: Decision Promulgated 14 January 2016)* within ten (10) days from notice.

On March 21, 2016, a *Comment (Re: Respondent's Motion for Partial Reconsideration)* was filed by petitioner. Petitioner submits that: there is no basis for respondent's arguments that petitioner failed to exhaust administrative remedies by failing to submit complete documents before the Bureau of Internal Revenue (BIR); compliance with RMO No. 53-98 and RR No. 2-2006 is not a pre-requisite to the entitlement to a claim for refund of excess and unutilized CWT; and that the submission of complete documents under RMO No. 53-98 is not a pre-condition for the filing of a judicial claim for refund as held in several cases by this Court.

In the subject *Motion*, respondent merely reiterates the contentions expressed in her Answer, *i.e.*, petitioner failed to submit complete documents pursuant to Revenue Memorandum Order (RMO) No. 53-98 and Revenue Regulation (RR) No. 2-2006, and thus, consequently failed to exhaust administrative remedies.

Respondent's *Motion for Partial Reconsideration (Re: Decision Promulgated 14 January 2016)* is bereft of merit. The submission of complete documents enumerated in RMO No. 53-98 is not a requirement for a grant of tax refund.[3]

The Supreme Court already clarified and ruled in the case of *Commissioner of Internal Revenue vs. Team Sual Corporation*[4], that respondent's reliance on RMO 53-98, as regards the submission of complete documents, is misplaced, to wit:

> "'The CIR's reliance on RMO 53-98 is misplaced. There 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

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[3] *Commissioner of Internal Revenue vs. Team Sual Corporation,* G.R. No. 205055, July 18, 2014.
[4] G.R. No. 205055, July 18, 2014.

> upon Auditof his Tax Liabilities x x x." In this case, TSC was applying for a grant of refund or credit of its input tax. There was no allegation of an audit being conducted by the CIR. Even assuming that RMO 53-98 applies, it specifically states that some documents are required to be submitted by the taxpayer "if applicable."'

Further, it is important to note that "the term "complete documents" should pertain to those documents that are necessary to support the application for refund or tax credit certificate, as determined by the taxpayer. The BIR examiner can require the taxpayer to submit additional documents but the examiner cannot demand what type of supporting documents should be submitted. Otherwise, the taxpayer will be at the mercy of the examiner, who may require the production of documents that the taxpayer cannot submit. In addition, the BIR ought to know the tax records of all taxpayers."[5]

In this case, there is nothing in the Sections 76, 204 and 209 of the NIRC of 1997 – which are the basis of the present claim for refund – or in RMO 53-98 itself which requires the submission of complete documents enumerated in RMO 53-98 for a grant of refund of unutilized CWT. Also, as discussed in the assailed Decision, petitioner has adequately proven compliance with the requisites for the refund of unutilized CWT, albeit only to the extent of P21,389,498.56.

WHEREFORE, premises considered, respondent's *Motion for Partial Reconsideration (Re: Decision Promulgated 14 January 2016)* is **DENIED** for lack of merit.

SO ORDERED.

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice

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[5] Consolidated cases of *Commissioner of Internal Revenue vs. Deutsche Knowledge Services Pte. Ltd.*, and *Deutsche Knowledge Services Pte. Ltd. vs. Commissioner of Internal Revenue*, CTA EB Case Nos. 1266 & 1267, dated February 17, 2016.