REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PHILIPPINE MINING SERVICE CORPORATION, Petitioner,	**CTA CASE NO. 9763** Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson,* **BACORRO-VILLENA,** *and* **CUI-DAVID,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: FEB 22 2022 4:02 pm

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RESOLUTION

CASTAÑEDA, JR., J.:

Before this Court is respondent's **Motion for Reconsideration (Re: Decision promulgated 29 October 2021)** filed on November 12, 2021, with petitioner's **Comment/Opposition (to Respondent's Motion for Reconsideration dated 09 November 2021)** filed on December 20, 2021.

On October 29, 2021, the Court promulgated a Decision granting petitioner's claim for refund of its unutilized input value-added tax (VAT), the dispositive portion of which is quoted as follows:

> "**WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **GRANTED.** Accordingly, respondent is **ORDERED TO REFUND or ISSUE A TAX CREDIT CERTIFICATE,** in favor of petitioner, the amount of **₱19,802,406.57**, representing part of petitioner's unutilized and/or unapplied and excess input VAT attributable to its zero-rated sales for the period covering the 3rd and 4th quarters of 2016.

SO ORDERED."

In his Motion, respondent maintains that the Court erred when it granted petitioner's claim for refund. He claims that since he already rendered a decision in the administrative level, the Court's jurisdiction becomes strictly appellate in nature – in the sense that the Court should confine itself as to whether the findings of respondent are consistent with law. Respondent continues that petitioner also cannot submit documents it did not submit at the administrative level; that this Court is confined to a more limited issue of whether respondent's denial was proper given the evidence submitted at the administrative level.

Lastly, respondent insists 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.

On the other hand, in its comment, petitioner reiterates that it sufficiently substantiated and duly proved its entitlement for tax refund having complied with all the requirements under the governing law and regulations. It points out that the arguments raised by respondent in his Motion has already been settled by the Court in the Decision promulgated on October 29, 2021. Petitioner also claims that respondent cannot seek to have this Court further disallow any tax refund deductions, which respondent already made to petitioner's initial claim and were no longer subject of this case. Lastly, petitioner prays that the Court enjoin respondent to desist from resorting to pro forma remedies that unduly delay its refund case.

The Court finds respondent's Motion for Reconsideration bereft of merit.

Notably, an examination of the arguments raised in the present Motion reveals that the same are mere rehash of respondent's arguments raised in his previous pleadings which were already exhaustively passed upon, duly considered, and resolved in the Decision he assails.

Verily, it must be stressed that in every appeal or petition for review of an unsuccessful administrative claim, petitioner has to convince the appellate court that the respondent did not have any reason to deny its claim. In this regard, it is necessary for a petitioner to show this Court that: (1) it was entitled under substantive law to the grant of its claims; and (2) it satisfied all the documentary and evidentiary requirements for an administrative claim for refund or tax credit.

The first requisite is in line with the principle that cases filed in this Court are litigated *de novo*; while the second requisite is concerned with the exercise of this Court's appellate jurisdiction as conferred by law.

As cases filed before this Court are litigated *de novo*, party-litigants shall prove every minute aspect of their cases.[1] The power of the Court of Tax Appeals to exercise its appellate jurisdiction does not preclude it from considering evidence that was not presented in the administrative claim in the Bureau of Internal Revenue (BIR).[2] The question of whether the evidence submitted by a party is sufficient to warrant the granting of its prayer lies within the sound discretion and judgment of the Court.[3]

More so, this Court, being a court of record, is not governed strictly by technical rules of evidence, thus, is not precluded from considering evidence not presented at the administrative level.

As consistently held by this Court, once the minimum statutory requirements have been complied with, the claimant should be considered to have successfully discharged its burden to prove its entitlement to the refund. After the claimant has successfully established a *prima facie* right to the refund by complying with the requirements laid down by law, the burden is shifted to the opposing party, *i.e.*, the BIR, to disprove such claim. To rule otherwise would be to unduly burden the claimant with additional requirements which has no statutory nor jurisprudential basis.[4] *gr*

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[1] *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014.

[2] *Philippine Airlines, Inc. v. Commissioner of Internal Revenue* and *Commissioner of Internal Revenue v. Philippine Airlines, Inc.*, G.R. Nos. 206079-80 and 206309, January 17, 2018.

[3] *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*, G.R. No. 207112, December 8, 2015.

[4] *Commissioner of Internal Revenue v. Philippine National Bank*, G.R. No. 212699, March 13, 2019.

In the present case, the Court finds that petitioner sufficiently proved its claim for tax refund. As such, there is nothing more to left to discuss but to give what is rightfully owed to petitioner. At this juncture, the Court emphasizes that while tax refunds are strictly construed against the taxpayer, the Government should not resort to technicalities and legalisms, much less frivolous appeals, to keep the money it is not entitled to at the expense of the taxpayers. Substantial justice, equity and fair play are on the side of [petitioner]. Technicalities and legalisms, however exalted, should not be misused by the government to keep money not belonging to it and thereby enrich itself at the expense of its law-abiding citizens. If the State expects its taxpayers to observe fairness and honesty in paying their taxes, so must it apply the same standard against itself in refunding excess payments of such taxes. Indeed, the State must lead by its own example of honor, dignity and uprightness.[5]

In view of the foregoing disquisitions, there being no new matter or substantial issue raised in respondent's Motion for Reconsideration, the Court finds no compelling reason to reverse, amend, or modify the Decision promulgated on October 29, 2021.

WHEREFORE, premises considered, respondent's Motion for Reconsideration (Re: Decision promulgated 29 October 2021) is **DENIED** for lack of merit.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

We Concur:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

[5] *Commissioner of Internal Revenue v. Lucio L. Co, et al.*, G.R. No. 241424, February 26, 2020.