REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

CARMEN COPPER CORPORATION, Petitioner, - versus - **COMMISSIONER OF INTERNAL REVENUE,** Respondent.	**CTA EB NO. 2018** (CTA Case Nos. 9124 & 9200) Present: **DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR.,** **UY,** **FABON-VICTORINO,** **MINDARO-GRULLA,** **RINGPIS-LIBAN,** **MANAHAN,** **BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.* Promulgated: MAR 0 9 2020 3:38 p.m.

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DECISION

RINGPIS-LIBAN, *J.*:

The Case

Before the Court is a Petition for Review seeking the nullification of the Decision[1] ("Assailed Decision") dated October 01, 2018 and Resolution[2] ("Assailed Resolution") dated January 29, 2019 of the Court of Tax Appeals Special Second Division ("Second Division"), denying Petitioner's claim for refund or issuance of a Tax Credit Certificate ("TCC") amounting to Php49,389,885.74, representing its alleged excess and unutilized input value-added tax ("VAT") attributable to its zero-rated sales for the first and second quarters of taxable year 2013.

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1 Penned by Associate Justice Catherine T. Manahan, with Associate Justice Juanito C. Castañeda, Jr. concurring. Docket, pp. 1300-1325.

2 *Id.*, pp. 1404-1420.

The dispositive portion of the Assailed Decision reads:

> "**WHEREFORE**, premises considered, the instant Petitions for Review are **DENIED** for lack of merit.
>
> **SO ORDERED.**"[3]

Meanwhile, the Assailed Resolution provides:

> "**WHEREFORE**, premises considered, petitioner's *Motion for Reconsideration (with Motion to Re-Open Case for the Presentation of Additional Evidence)* posted on October 17, 2018, is **DENIED** for lack of merit.
>
> **SO ORDERED.**"[4]

The Parties

Petitioner Carmen Copper Corporation is a corporation duly organized and existing under the laws of the Republic of the Philippines with Securities and Exchange Commission (SEC) Registration No. CS200414509. Petitioner's office address is located at the 7th Floor, Quad Alpha Centrum Building, 125 Pioneer Street, Mandaluyong City. It is engaged in the business of mining ores and other mineral resources. It is registered with the Bureau of Internal Revenue ("BIR") as a VAT taxpayer under Certificate of Registration No. OCN8RC0000048993 dated October 05, 2004. It is also registered with the Board of Investments (BOI) as a "New Producer of Copper Concentrate" with non-pioneer status under Certificate of Registration No. 2006-158.[5]

Respondent is the duly appointed Commissioner of the BIR who has the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the National Internal Revenue Code ("NIRC") of 1997, as amended, or other laws or portions thereof administered by the BIR. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.[6]

The Facts

The facts as found by the Second Division are as follows:

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[3] *Id.*, p. 1324.
[4] *Id.*, p. 1420.
[5] *Id.*, Decision, The Facts, p. 1301.
[6] *Id.*

"Petitioner filed its Quarterly VAT Returns for the first and second quarters of TY 2013 on April 25, 2013 and on July 25, 2013, respectively.

Thereafter, petitioner filed with the BIR Large Taxpayers Services — Excise Tax Division administrative claims for refund of its alleged excess and unutilized input VAT payments for the first and second quarters of TY 2013 in the total amount of [Php]135,859,423.45, broken down as follows:

PERIOD COVERED (TY 2013)	**DATE OF FILING**	**AMOUNT OF CLAIM**
First Quarter	March 24, 2015	[Php]56,789,119.62
Second Quarter	June 18, 2015	[Php]79,070,303.83
TOTAL		**[Php]135,859,423.45**

On July 23, 2015, petitioner received a letter partially denying petitioner's claim for refund of its accumulated and unutilized input VAT for the first quarter of TY 2013. In the said letter, respondent informed petitioner that only the amount of [Php]18,134,359.85 was recommended for the issuance of tax credit certificate.

On October 20, 2015, petitioner received another letter from respondent, this time, partially denying its claim for refund of its accumulated and unutilized input VAT for the second quarter of TY 2013. In the said letter, respondent informed petitioner that only the amount of [Php]68,335,177.86 was recommended for the issuance of a tax credit certificate.

In view of the lapse of the 120-day period and the partial denial of its administrative claims for refund, petitioner filed separate Petitions for Review with this Court for the refund or issuance of TCC for its alleged excess and unutilized input VAT for the first and second quarters of TY 2013, the details of which are as follows:

CTA CASE NO.	**TAXABLE PERIOD (TY 2013)**	**DATE FILED**
9124	First Quarter	August 24, 2015
9200	Second Quarter	November 16, 2015

On November 11, 2015, within the extended period granted by the Court, respondent filed his Answer for CTA Case No. 9124 and on February 12, 2016, he likewise filed his Answer for CTA Case No. 9200."[7]

The Ruling of the Second Division

On October 01, 2018, the Second Division promulgated the Assailed Decision denying the Petition for Review. The court *a quo* ruled that the documents submitted by Petitioner as well as the Independent Certified Public Accountant ("ICPA") report were inadequate to prove that Petitioner has export sales during the first and second quarters of taxable year 2013 which qualify as zero-rated sales under Section 106(A)(2)(a)(1)[8] of the NIRC of 1997, as amended.

The Court in Division declared that it was unable to trace the amounts recorded in the sales invoices to the certification of inward remittance. As a result, it cannot be ascertained whether or not the said remittances pertain to the same sales transactions included in the Schedule of Export Sales for the first and second quarters of taxable year 2013.

Aggrieved, Petitioner filed *via* a registered mail a "Motion for Reconsideration (with Motion to Re-open Case for the Presentation of Additional Evidence)"[9] on October 17, 2018, which the Second Division denied in the Assailed Resolution on January 29, 2019.

In the Assailed Resolution, the previously submitted evidence was reconsidered which led to the finding that Petitioner has valid zero-rated sales amounting to Php659,372,983.73. However, as per final determination by the court *a quo*, Petitioner was no longer entitled to the amount claimed in the judicial level (*i.e.*, the Php49,389,885.74, which pertains to the disallowances made by Respondent in the administrative level) for the computed amount of input VAT disallowed for refund was considerably higher than the appealed amount.

Moreover, the Second Division found Petitioner's motion to re-open the case for submission of additional evidence to be lacking in merit, Petitioner having failed to establish the cause or ground to re-open the case as set forth in the Rules of Court.

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7 *Id.*, pp. 1301-1303.

8 (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

(a) Export Sales. - The term "export sales" means:

(1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP).

9 Docket, pp. 1291-1307.

The Proceedings in the Court of Tax Appeals En Banc

On February 21, 2019, Petitioner filed *via* registered mail the present "Petition for Review" [10].

On March 14, 2019, the Court issued a Resolution[11] which ordered Respondent to comment on the Petition for Review within ten (10) days from receipt.

On April 08, 2019, Respondent filed his "Comment (on Petition for Review dated 19 February 2019)"[12]. Thus, on May 02, 2019, a Resolution[13] was issued giving due course to the Petition for Review, and submitting the instant case for decision.

Assignment of Errors

Petitioner raises the following grounds in support of its petition:

1. Petitioner's export sales can be properly traced to the relevant sales invoice;

2. Petitioner's export sales can be traced to its Certificate of Inward Remittance; and

3. Petitioner's Motion for Reconsideration need not be accompanied by the formal requirements of a motion for new trial.[14]

The Arguments of Parties

First, Petitioner argues that using the "Reconciliation Schedule of Zero-Rated Sales vs. Sales Invoices" attached as "Annex A" in the Motion for Reconsideration filed with the court *a quo*, the export sales amounting to Php16,709,417.72 matches with the relevant sales invoices for the first and second quarters of taxable year 2013. However, there is a variance in amounts indicated in the export sales schedule vis-à-vis the relevant sales invoice due to Petitioner's system of pricing. In the same way, the total amount remitted as per

[10] Rollo, pp. 1-18. Record shows that Petitioner received the Assailed Resolution on February 06, 2019; Docket, p. 1403.
[11] *Id.*, pp. 106-107.
[12] *Id.*, pp. 108-117.
[13] *Id.*, pp. 119-120.
[14] *Id.*, pp. 4-5.

the sales invoice matches with what is provided for in the Certificate of Inward Remittance, save for some discrepancy as a result of adjustment in prices.

Consequently, an examination of the documents in an individual basis will definitely show variances. According to Petitioner, the Court should have traced the sales to the relevant invoice and entries in the Certificate of Inward Remittance on a cumulative basis, not on a peso-for-peso basis.

Moreover, even though the sales invoices and the amounts indicated in the Certificate of Inward Remittance will never match singularly, the same does not negate the fact that Petitioner was paid in foreign currency for the first and second quarters of taxable year 2013 in the amount of US$217,257,526.00 compared to the reported sales for the same period of US$146,316,266.35.

Second, Petitioner avers that the readable copies of the invoices match the amounts on the export sales schedule. The amount as stated in the sales invoices reflects the total amount due less the advance payment made, taking into account pricing discrepancies.

Lastly, Petitioner states that the reopening of the case is not merely for the submission of additional documentary evidence but is likewise for the purpose of correcting evidence previously submitted (*i.e.*, the analysis contained in the ICPA report based on existing documentary evidence), in order to aid the Court in its evaluation of the merits of the claim. Petitioner asserts that the filing of a motion for reopening of the case is not governed by any controlling guideline other than the paramount interest of justice.

On the other hand, Respondent vehemently opposes Petitioner's prayer to reopen the case. Respondent stresses that Petitioner was given every opportunity to present the documents necessary to its claim, and yet it failed to do so. To allow the reopening of the case, according to Respondent, is tantamount to sanctioning the presentation of piece-meal evidence which is repugnant to orderly justice.

The Ruling of the Court

Timeliness of Petition

The Court in Division issued the Assailed Resolution, denying Petitioner's "Motion for Reconsideration (with Motion to Re-Open Case for the Presentation of Additional Evidence)", on January 29, 2019. Petitioner received said Resolution on February 06, 2019. Pursuant to Rule 4, Section 2(a)(1)[15] in

[15] **Sec. 2.** *Cases within the jurisdiction of the Court en banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

relation to Rule 8, Section 3(b)[16] of the Revised Rules of the Court of Tax Appeals[17] ("RRCTA"), Petitioner had fifteen (15) days from date of receipt of the resolution or until February 21, 2019 within which to file its petition for review.

On February 21, 2019, Petitioner timely filed *via* registered mail the present "Petition for Review". Hence, the Court *En Banc* validly acquired jurisdiction.

We now proceed to the merits of the case.

Petitioner is no longer entitled to the amount claimed in the judicial level

The claim for refund of excess and unutilized input VAT is governed by Section 112[18] of NIRC of 1997, as amended, and this Court has time and again followed the criteria contained therein as its basis for its conclusion on whether

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(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:

xxx xxx xxx

(1) Cases arising from administrative agencies – Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture; x x x

[16] **Sec. 3.** *Who may appeal; period to file petition.* — x x x

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (Rules of Court, Rule 42, sec. 1a)

[17] A.M. No. 05-11-07-CTA, November 22, 2005.

[18] SEC. 112. *Refunds or Tax Credits of Input Tax.* –

(A) *Zero-Rated or Effectively Zero-Rated Sales.* – Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: Provided, however, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108 (B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): Provided, further, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: Provided, finally, That for a person making sales that are zero-rated under Section 108 (B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.

to grant or deny claims for refund of the same nature. We reiterate the requisites as follows:

1) That the claim for refund was filed within the prescriptive period;
2) The taxpayer is VAT registered;
3) That there must be zero-rated or effectively zero-rated sales;
4) That input taxes were incurred or paid;
5) That such input taxes are attributable to zero-rated or effectively zero-rated sales; and
6) That the input taxes have not been applied against the output tax.

The Second Division found that Petitioner complied both with the first and second requisites (*i.e.*, claim was filed within the prescriptive period both in the administrative and judicial levels and the taxpayer is VAT registered). The court *a quo* also ruled that Petitioner was able to satisfy the third, fourth, fifth and sixth requirement, but only the amount of Php14,227,932.83 represents the excess input VAT attributable to valid zero-rated sales. Notwithstanding this, Petitioner's appeal to this Court cannot be granted since in the administrative level, the BIR already issued a TCC in favor Petitioner amounting to Php86,469,537.71 which is way higher than that computed by the Court as the amount that can be refunded.

Conversely, Petitioner posits that it is entitled to a tax refund or issuance of a TCC amounting to a total of Php49,389,885.74 representing the alleged excess input VAT attributable to valid zero-rated sales which the BIR disallowed in the administrative level. This is because its export sales amounting to Php6,100,204,231.39 or US$147,141,930.20 are all valid zero-rated sales, and the Second Division improperly disallowed its sales amounting to Php5,440,831,247.66.

We analyze Petitioner's allegations one by one, as well as the propriety of the Second Division's disallowances.

To start with, the following sales were disallowed by the court *a quo* in the Assailed Resolution[19] (*i.e.*, invalid export sales) due to the fact that the amount of sales per schedule cannot be traced to the supporting sales invoice:

	Amount in US$	**Amount in Php**
Sales to MRI Trading AG	10,112,621.49	415,285,382.64
Sales to Philippine Associated Smelting & Refining Corporation	406,772.67	16,709,417.72

[19] Docket, pp. 1404-1420.

To address the variance in the amounts (per schedule vis-à-vis sales invoice), Petitioner presented a "Reconciliation Schedule of Zero-Rated Sales vs. Sales Invoices" as "Annex A".

However, a perusal of said document shows that the difference in the amounts were attributed to the recording of sales transaction for 2012. As it is, there is no way for the Court to verify the truthfulness and accuracy of Petitioner's assertion without any supporting document to substantiate that indeed the sales happened during 2012 (*i.e.*, sales schedule, sales invoices, provisional invoices, etc.). Hence, We are not able to account for the validity of the alleged zero-rated sales above.

In the same way, the Court cannot accept without any substantiation Petitioner's contention that the discrepancy for the following sales invoices were reported for the third quarter of taxable year 2013:

Exhibit Number	**Customer**	**Invoice Number**	**Invoice Date**	**Amount in US$**	**Amount in Php**
P-51-0-9	MRI Trading AG	5009P	7/10/2013	8,990,235.80	369,678,496.09
P-51-0-10		5010P	7/12/2013	9,394,276.99	397,002,145.39
P-51-0-17		5014P	8/1/2013	8,652,442.55	376,035,153.02
P-51-0-18		2015P	8/14/2013	8,609,469.74	371,929,092.63
			TOTAL	35,646,425.08	1,514,644,887.13

In the absence of corroborating evidence, there is no way for this Court to check whether or not said transactions happened in the third quarter of taxable year 2013.

As for Petitioner's assertion that its export sales amounting to Php6,066,322,11.21 were supported by its Certificate of Inward Remittance, We are one with the Court in Division in the following ruling, to wit:

> "This Court is well aware of the possibility of staggered dollar remittances for a particular invoice. However, this Court, after taking a second look at the evidence, still could not find any combination which would equal the invoice price. Thus, we are constrained to disallow the corresponding zero-rated sales.
>
> An examination of the Reconciliations submitted by petitioner in its Motion for Reconsideration shows that there were various Customer's Charges which were deducted from the invoice price before arriving at the net remittances made on various dates as indicated in the Certificate of Inward Remittance from MRI Trading AG.

> **Without such reconciliation, the undersigned cannot possibly find an exact combination of remittances on various dates to account for a particular invoice, especially considering that there were deductions by way of Customer's Charges from the invoice price to arrive at the net remittance.**
>
> These deductions were not explained by petitioner during trial, hence, were not factored in by the Court in its analysis of the evidence submitted. This notwithstanding, petitioner still failed to present evidence to support the Customer's Charges which were deducted from the invoice price before arriving at the net remittance. The Certificates of Inward Remittance do not even show the details of these Customer's Charges. It merely enumerated the net remittances on various dates during 2013 thus preventing this Court to verify the veracity of such deductions. As such, we uphold our ruling on this particular disallowance on the ground that the proceeds from zero-rated sales cannot be traced with certainty to the Certificates of Inward Remittance."[20]

From all of the foregoing, We agree with the Second Division that Petitioner was able to satisfy the third requisite but only the amount of Php659,372,983.73 represents its valid zero-rated sales for the first and second quarters of taxable year 2013.

As such, only the input VAT of Php14,227,932.83[21] is attributable to the valid zero-rated sales of Php659,372,983.73, computed by the Court in Division as follows:

Allowable Input VAT		**Php132,625,151.21**
Less: Output VAT		995,105.63
Excess Input VAT Available for Refund		**Php131,630,045.58**
Multiply by Percentage of Valid Zero-Rated Sales over Total Zero-Rated Sales:		
Valid Zero-Rated Sales	Php659,372,983.73	
Divided by Total Reported Zero-Rated Sales	6,100,204,231.39	10.81%
Excess Input VAT Attributable to the Valid Zero-Rated Sales		**Php14,227,932.83**

In other words, based on the supporting documents submitted, Petitioner was able to prove that its excess and unutilized input VAT attributable to its zero-rated sales for the first and second quarters of taxable year 2013 only amounts to Php14,227,932.83.

[20] *Id.*, Resolution dated January 29, 2019, p. 1411; *emphasis supplied.*
[21] *Id.*, Resolution dated January 29, 2019, pp. 1416-1418.

It must be emphasized however that out of Petitioner's administrative claim of Php135,859,423.45[22], the BIR already recommended the issuance of a TCC for a total amount of Php86,469,537.71[23].

Thus, for all intents and purposes, the said Php14,227,932.83 was already included in the Php86,469,537.71 granted in the administrative level. Petitioner is no longer entitled to an additional refund in the judicial level. Its input VAT claim amounting to Php49,389,885.74 must be denied.

The Second Division did not err in its refusal to reopen the case and allow Petitioner to submit supplemental evidence

We agree with the Second Division when it ruled that Petitioner's Motion to Re-Open Case for the Presentation of Additional Evidence, which prayed for the reopening of the case for reception of additional evidence, is untenable.

This is owing to the fact that the motion was only filed after the court *a quo* had already rendered judgment. **A motion to reopen should be filed before judgment is made.** A motion to reopen may properly be presented only after either or both parties have formally offered, and closed their evidence, but before judgment.[24] Petitioner cannot avail the said remedy in view of the fact that it seeks to reopen the trial of the case only after the Court has already rendered its judgment.

Even if this Court treats Petitioner's motion as a motion for new trial (which can be filed after promulgation of judgment), the same must still be dismissed for lack of due merit. A motion for new trial under Section 1[25], Rule 37 of the Rules of Court and Section 5[26], Rule 15 of the RRCTA may only be

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22 *Id.*, Decision dated October 01, 2018, pp. 1301-1302.

23 Php18,134,359.85 (Letter dated July 23, 2015) + Php68,335,177.86 (Letter dated October 20, 2015).

24 Ramon J. Alegre v. Hon. Manuel T. Reyes, etc., and the People of the Philippines, G.R. No. L-56923 May 09, 1988.

25 **SECTION 1.** *Grounds of and period for filing motion for new trial or reconsideration.* - Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or

(b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.

26 **SEC. 5.** *Grounds of motion for new trial.* – A motion for new trial may be based on one or more of the following causes materially affecting the substantial rights of the movant:

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or granted upon specific well-defined grounds, namely, fraud, accident, mistake, excusable negligence or newly discovered evidence.

Lamentably, an examination of Petitioner's motion shows that it does not fall under any of the grounds enumerated. It was neither based on fraud, accident, mistake or excusable negligence that would need affidavits of merit, nor based on newly discovered evidence which would require affidavits of witnesses. Notably, no affidavits were filed in support of the motion. Moreover, the documents sought to be presented do not come within the purview of newly discovered evidence.

To admit Petitioner's additional documentary evidence without having complied with the requisites for the grant of a motion to reopen and/or motion for new trial is a dangerous proposition and one which the Court refuses to countenance. Courts and litigants alike should abide by the rules to ensure an orderly administration of justice. Merely invoking that the ends of justice would be served if a party was allowed to present additional evidence is not sufficient to justify deviation from the general rules of procedure.[27]

Moreover, the mere invocation by Petitioner of substantial justice will not automatically justify the liberal application of procedural rules. As held in *G.D.L. Marketing v. Hercules Agro Industrial Corporation*[28]:

> "**the bare invocation of 'the interest of substantial justice' line is not some magic wand that will automatically compel this Court to suspend procedural rules**. Procedural rules are not to be belittled, let alone dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights. Utter disregard of the rules cannot be justly rationalized by harping on the policy of liberal construction."[29]

In the case at bar, Petitioner was given the opportunity to submit necessary evidence to support its allegations in its original petition before the case was submitted for decision. In fact, it was given another chance to prove its claim and file evidence in addition to those filed in the administrative level, since refund cases filed in the Court of Tax Appeals are litigated *de novo*. Now that it obtained an unfavorable decision, Petitioner again prays that it be allowed to present additional evidence to justify its claim.

(b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial and, which, if presented, would probably alter the result.

A motion for new trial shall include all grounds then available and those not included shall be deemed waived.

27 Lolita R. Alamayri v. Rommel, Elmer, Erwin, Roiler and Amanda, all surnamed Pabale, G.R. No. 151243, April 30, 2008.

28 G.R. No. 183239, June 02, 2014.

29 *Emphasis supplied.*

This is too much. A liberal application of the rules of procedure to suit Petitioner's purpose would clearly pave the way for injustice as it would be rewarding an act of negligence with undeserved tolerance.[30]

Considering all these pronouncements, We find that the court *a quo* properly exercised its discretion in ruling that there is no sufficient basis for the reopening of the case.

WHEREFORE, premises considered, the instant Petition for Review is **DENIED**. The Decision dated October 01, 2018 and the Resolution dated January 29, 2019 of the Special Second Division in the consolidated cases docketed as CTA Case Nos. 9124 and 9200 are **AFFIRMED**.

SO ORDERED.

Ma. Belen Ringpis-Liban

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda Jr.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla

CIELITO N. MINDARO-GRULLA
Associate Justice

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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[30] Commissioner of Internal Revenue v. A. Soriano Corporation, Court of Tax Appeals and Court of Appeals, G.R. No. 113703, January 31, 1997.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice