REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PHILIPPINE GEOTHERMAL PRODUCTION COMPANY, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NOS. 9440, 9501, 9534 & 9588

Members:

CASTAÑEDA, JR., *Chairperson, and*
BACORRO-VILLENA, *JJ.*

Promulgated:
MAR 01 2021 2:47 pm

x- x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is the "Motion for Partial Consideration (Re: Decision promulgated 18 November 2020)"[1] filed by respondent Commissioner of Internal Revenue (**respondent/CIR**) with the "Comment and Opposition (to Respondent's Motion for Partial Reconsideration dated November 26, 2020)"[2] filed by petitioner Philippine Geothermal Production Company, Inc. (**petitioner/PGPCI**) on 22 December 2020. It seeks the reversal of this Court's 18 November 2020 Decision[3] in the above-captioned case. The dispositive portion of the assailed Decision reads:

---

[1] Filed on 26 November 2020, Division Docket, Volume VII, pp. 2896-2908.
[2] Id., pp. 2912-2915.
[3] Id., pp. 2859-2893.

> ...
>
> **WHEREFORE**, the foregoing considered, petitioner Philippine Geothermal Production Company, Inc.'s consolidated Petitions for Review in CTA Case No. 9440, CTA Case No. 9501, CTA Case No. 9534 and CTA Case No. 9588, all entitled *Philippine Geothermal Production Company, Inc. v. CIR*, are **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND or ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **₱4,243,727.50**, representing its excess and unutilized input VAT attributable to zero-rated sales for the four quarters of CY 2014.
>
> **SO ORDERED.**
>
> ...

In his motion, respondent points out that the Court erred in taking cognizance of documentary evidence not presented by petitioner to the Bureau of Internal Revenue (**BIR**) at the administrative level. He also maintains that the Court erred in granting petitioner's claim for tax refund.

We resolve.

Respondent argues that in *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*[4] (**Total**), the Supreme Court ruled that "a taxpayer cannot cure its failure to submit a document requested by the BIR at the administrative level by filing the said document before the CTA".

A perusal of the instant motion reveals that the CIR does not specify which pieces of documentary evidence he assails. Although there is no doubt that the principle established in *Total* remains good law, the CIR's arguments leave the Court guessing which pieces of evidence, from among petitioner's voluminous submitted documents, he interposes objection to for not having been presented at the administrative level.

In *Philippine National Bank v. Hon. Jose G. Paneda, et al.*[5] (**PNB**), the Supreme Court enumerated the circumstances where a motion for reconsideration was found to be *pro forma*, to wit:

---

[4] G.R. No. 207112, 08 December 2015.
[5] G.R. No. 149236, 14 February 2007.

...

... **(1) it was a second motion for reconsideration, or (2) <u>it did not comply with the rule that the motion must specify the findings and conclusions alleged to be contrary to law or not supported by the evidence</u>, or (3) it failed to substantiate the alleged errors, or (4) it merely alleged that the decision in question was contrary to law, or (5) the adverse party was not given notice thereof**...[6]

...

Such a general assignment of error without postulating the exact instances which gave rise thereto deserves no consideration from the Court. Although respondent cites jurisprudence in support of his claim, the vagueness of his allegations leaves much to be desired. Besides, it is too late in the day for respondent to contest pieces of evidence that petitioner has duly offered. Section 36 of Rule 132 of the Rules of Court provides:

...

C. OFFER AND OBJECTION

...

Section 36. *Objection.* — Objection to evidence offered orally must be made immediately after the offer is made.

Objection to a question propounded in the course of the oral examination of a witness shall be made as soon as the grounds therefor shall become reasonably apparent.

An offer of evidence in writing shall be objected to within three (3) days after notice of the unless a different period is allowed by the court.

In any case, the grounds for the objections must be specified.

...

A review of respondent's Comment[7] to petitioner's Formal Offer of Evidence (**FOE**) reveals that he did not object to any of petitioner's pieces of documentary evidence. We cite pertinent portions of respondent's Comment, to wit:

---

[6] Emphasis in the original text and underscoring supplied.

[7] Division Docket, Volume VI, p. 2480.

> ...
>
> Respondent, Commissioner of Internal Revenue... respectfully states that **he has no objection to the admission of petitioner's enumerated exhibits**, but only as to the manner they were identified in open court and subject to the condition that the same have faithfully complied with the necessity of comparison...[8]
>
> ...

As to his second assignment of error, respondent merely asserts that only creditable input taxes may be the subject of a claim for refund. However, he states this claim without reference to the specific error allegedly committed by the Court. The sheer absence of any allegation as regards the instances of these attributed errors prevents the Court from making any intelligible deliberation on the issues raised by respondent.

WHEREFORE, the foregoing considered, respondent's Motion for Partial Reconsideration (Re: Decision promulgated 18 November 2020) filed on 26 November 2020 is hereby **DENIED** for lack of merit. Accordingly, the assailed Decision dated 18 November 2020 is **AFFIRMED**.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

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

---

[8] Emphasis supplied.