CTA Form No. 8 (For DCC)

20-000380-0063

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10394

PROVINCIAL GOVERNMENT OF BOHOL, represented by the Provincial Governor and the Provincial Treasurer,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF RESOLUTION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. MICHAEL KEVIN P. BAYONA
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
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ATTY. HANDEL T. LAGUNAY
Office of the Provincial Legal Officer
Province of Bohol
2nd Floor, New Provincial Capitol
New Capitol Site, Cogon District
Tagbilaran City, 6300 Bohol

GREETINGS:

You are hereby notified by these presents that on **September 24, 2024**, a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **September 25, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
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PROVINCIAL GOVERNMENT OF BOHOL, represented by the Provincial Governor and the Provincial Treasurer,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10394

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, *and*
REYES-FAJARDO, *JJ.*

Promulgated:

SEP 24 2024 3:10 PM

x - x

RESOLUTION

MANAHAN, *J.:*

This resolves petitioner's **Motion for Reconsideration (on the Decision promulgated on March 26, 2024)**[1] posted on April 22, 2024 without[2] respondent's comment despite due notice,[3] praying for the reversal and setting aside of the Court's *Decision* dated March 26, 2024 (Assailed Decision),[4] to declare that petitioner is entitled to the issuance of tax credit certificate in the amount of Php2,447,669.00, and to order respondent to grant petitioner such tax credit.

Petitioner admits that it was its oversight for failing to submit the source documents supporting the tax base of BIR Forms 1601E and 1600.

However, petitioner insists that respondent is estopped from denying the tax credit by reason of its issuances/ correspondence.

Lastly, petitioner argues that dismissing the case on technicalities would unnecessarily put a strain on petitioner's

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[1] Docket, CTA Case No. 10394, Vol. II, pp. 713-720.
[2] *Id.*, Records Verification dated June 13, 2024, p. 758.
[3] *Id.*, Resolution dated May 27, 2024, p. 756.
[4] *Id.*, Vol. II, pp. 695-712.

financial position that would hamper the efficient and effective delivery of essential services to its constituents.

We resolve.

The Court finds that the instant Motion was timely filed pursuant to Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA).[5]

Based on the records of the case and as admitted by petitioner, it received the copy of the Assailed Decision on April 5, 2024.[6] In accordance with the abovementioned provision of the RRCTA, petitioner had fifteen (15) days from receipt of notice of said decision from April 5, 2024 or until April 20, 2024 within which to file its motion for reconsideration. However, April 20, 2024 fell on a Saturday and so the next working day was on April 22, 2024. Thus, the filing of respondent's *Motion for Reconsideration (on the Decision promulgated on March 26, 2024)* on April 22, 2024 was on time.

Going now to the merits of the motion, We find no compelling reason to grant the same.

Petitioner explains that its failure to submit the source documents that would support BIR Forms 1601E and 1600 was due to its mistaken belief that the submission of the Alphalist and relevant BIR tax returns would suffice to support the claim for tax credit.

Thus, in compliance, petitioner, through the instant motion, is now submitting the Journal Entry Voucher (JEV) as well as the supporting documents of the remittance of the subject creditable withholding tax (CWT), value-added tax (VAT), and other percentage taxes in the amount of Php4,776,667.11 instead of the correct amount of Php2,328,997.72.

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[5] SECTION 1. *Who may and when to file motion.*- Any aggrieved party may seek a reconsideration or new trial of any decision, resolution, or order of the Court. He shall file a motion for reconsideration or new trial within fifteen days from the date he received notice of the decision, resolution or order of the Court in question.

[6] Docket, Vol. II, petitioner's Motion for Reconsideration (on the Decision promulgated on March 26, 2024), p. 713.

Section 34, Rule 132 of the Rules of Court, as amended, provides:

> "SEC. 34. *Offer of evidence.* — The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified."

In *Commissioner of Internal Revenue v. Jerry Ocier*,[7] the Supreme Court ruled that:

> "In our view, the CTA *En Banc* thereby correctly ruled that the petitioner did not establish that an actual sale of the shares of stocks from the respondent to Tan had occurred because it had not formally offered its evidence. Such offer of evidence was indispensable to the consideration of the evidence by the trial court. The necessity of the formal offer of evidence has been suitably stressed in *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.* thusly:
>
> Under Section 8 of Republic Act (R.A.) No. 1125, the CTA is categorically described as a court of record. As such, it shall have the power to promulgate rules and regulations for the conduct of its business, and as may be needed, for the uniformity of decisions within its jurisdiction. Moreover, as cases filed before it are litigated de novo, party-litigants shall prove every minute aspect of their cases. Thus, no evidentiary value can be given the pieces of evidence submitted by the BIR, as the rules on documentary evidence require that these documents must be formally offered before the CTA. Pertinent is Section 34, Rule 132 of the Revised Rules on Evidence which reads:
>
>> SEC. 34. Offer of evidence. - The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.
>
> Although in a long line of cases, we have relaxed the foregoing rule and allowed evidence not formally offered to be admitted and considered by the trial court, we exercised extreme caution in applying the exceptions to the rule, as pronounced in Vda. de Oñate v. Court of Appeals, thus:
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>> From the foregoing provision, **it is clear that for evidence to be considered, the same must be formally offered**. Corollarily, the mere fact that a particular document is identified and marked as an exhibit does not mean that it has already been offered as part of the evidence of a party. In Interpacific Transit, Inc. v. Aviles [186

[7] G.R. No. 192023, November 21, 2018.

> SCRA 385, 388-389 (1990)], we had the occasion to make a distinction between identification of documentary evidence and its formal offer as an exhibit. We said that the first is done in the course of the trial and is accompanied by the marking of the evidence as an exhibit while the second is done only when the party rests its case and not before. A party, therefore, may opt to formally offer his evidence if he believes that it will advance his cause or not to do so at all. In the event he chooses to do the latter, the trial court is not authorized by the Rules to consider the same.

However, in People v. Napat-a [179 SCRA 403 (1989)] citing People v. Mate [103 SCRA 484 (1980)], **we relaxed the foregoing rule and allowed evidence not formally offered to be admitted and considered by the trial court provided the following requirements are present, viz.: first, the same must have been duly identified by testimony duly recorded and, second, the same must have been incorporated in the records of the case**.

The evidence may, therefore, be admitted provided the following requirements are present: (1) the same must have been duly identified by testimony duly recorded; and (2) the same must have been incorporated in the records of the case. Being an exception, the same may only be applied when there is strict compliance with the requisites mentioned above; otherwise, the general rule in Section 34 of Rule 132 of the Rules of Court should prevail.

xxx xxx xxx

While we concur with petitioner that the CTA is not governed strictly by technical rules of evidence, as rules of procedure are not ends in themselves but are primarily intended as tools in the administration of justice, the presentation of PANs as evidence of the taxpayer's liability is not mere procedural technicality. It is a means by which a taxpayer is informed of his liability for deficiency taxes. It serves as basis for the taxpayer to answer the notices, present his case and adduce supporting evidence. More so, the same is the only means by which the CTA may ascertain and verify the truth of respondent's claims. We are, therefore, constrained to apply our ruling in *Heirs of Pedro Pasag v. Spouses Parocha*, viz.:

> x x x. **A formal offer is necessary because judges are mandated to rest their findings of facts and their judgment only and strictly upon the evidence offered by the parties at the trial**. Its function is to enable the trial judge to know the purpose or purposes for which the proponent is presenting the evidence. On the other hand, **this allows opposing parties to** an

> **examine the evidence and object to its admissibility**. Moreover, it facilitates review as the appellate court will not be required to review documents not previously scrutinized by the trial court.
>
> Strict adherence to the said rule is not a trivial matter. The Court in *Constantino v. Court of Appeals* ruled that the formal offer of one's evidence is deemed waived after failing to submit it within a considerable period of time. It explained that the court cannot admit an offer of evidence made after a lapse of three (3) months because to do so would "condone an inexcusable laxity if not non-compliance with a court order which, in effect, would encourage needless delays and derail the speedy administration of justice.""

The belated submission of the said JEV and supporting documents through the instant motion, to prove the remittance of the subject CWT, VAT, and other percentage taxes, cannot be admitted by the Court considering that these documents were not formally offered during the trial of the case.

Further, the exceptions to Section 34, Rule 132 of the Rules of Court, as amended, cannot be applied in the instant motion because the mere fact that these documents are only submitted now to this Court shows that the same were not incorporated in the records of the case nor were they identified by the testimony of petitioner's witness in the course of trial.

Petitioner also insists that respondent is estopped from denying the tax credit by reason of its issuances/ correspondence.

Petitioner should be aware that it is not the respondent being estopped that will be the basis for the approval of its judicial claim for refund but rather whether it was able to prove every minute aspect of its claim for refund as held in *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue* (*Atlas* case),[8] to wit:

> "... Therefore, as in every appeal or petition for review, a petitioner has to convince the appellate court that the quasi-judicial agency *a quo* did not have any reason to deny its claims. In this case, it was necessary for petitioner to show the CTA not only that it was entitled under substantive law to the grant of its claims but also that it satisfied all the documentary and evidentiary requirements for an

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[8] G.R. No. 145526, March 16, 2007.

> administrative claim for refund or tax credit. Second, cases filed in the CTA are litigated *de novo*. Thus, a petitioner should prove every minute aspect of its case by presenting, formally offering and submitting its evidence to the CTA..."

Lastly, petitioner argues that dismissing the case based on technicalities would unnecessarily put a strain on petitioner's financial position that would hamper the efficient and effective delivery of essential services to its constituents.

On the contrary, the dismissal of the instant claim for refund was grounded on the insufficiency of the documentary evidence and not on mere technicality. It is based on the merits of petitioner's evidence as the cases filed in this Court are litigated *de novo* as ruled in the abovementioned *Atlas* case.

Hence, there being no new and substantial arguments propounded by respondent in its Motion, the Court finds no compelling reason to reverse the Assailed Decision.

WHEREFORE, petitioner's *Motion for Reconsideration (on the Decision promulgated on March 26, 2024)* is hereby **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice