REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
****

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 1862** (CTA Case No. 8633)
	Present:
- versus -	**DEL ROSARIO,** P.J., **CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** and **MODESTO-SAN PEDRO,** JJ.
STATELAND, INC., Respondent.	***Promulgated:*** SEP 04 2020 11:40 a

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RESOLUTION

UY, J.:

For resolution is petitioner's ***MOTION FOR RECONSIDERATION [Decision dated 05 February 2020)***[1] filed on February 26, 2020, with respondent's ***COMMENT/OPPOSITION [To Petitioner's Motion for Reconsideration dated 26 February 2020]***[2] filed on June 22, 2020, praying for the setting aside of the Court *En Banc's* Decision dated February 5, 2020. The dispositive portion of the assailed Decision reads:

> "**WHEREFORE,** in light of the foregoing considerations, the *Petition for Review* is **DENIED** for lack

[1] EB Docket, pp. 175 to 189.
[2] EB Docket, pp. 197 to 207.

of merit. Accordingly, the assailed Amended Decision dated January 10, 2018 and the Resolution dated May 7, 2018, both rendered by the Court in Division in CTA Case No. 8633, are **AFFIRMED**.

SO ORDERED."

Petitioner's arguments:

In support of his *Motion*, petitioner, Commissioner of Internal Revenue, argues that the Court *En Banc* erred in affirming the admission of the additional evidence of respondent. According to the CIR, contrary to the ruling in the assailed Decision, he raised his objection to the admission of the additional evidence.

While technical rules are not strictly implemented in this Court, the same should only be set aside upon showing that there is reasonable justification for non-compliance with the rules.

Allegedly, the additional pieces of evidence submitted by respondent should not have been considered by the Court in Division since these are not newly discovered evidence but are forgotten evidence.

In allowing respondent to present additional evidence after a decision has been rendered, is not merely setting aside technical rules but a grant of a motion for new trial or motion for reconsideration.

Further, petitioner reiterates that respondent is not entitled to the refund or issuance of tax credit certificate. According to petitioner, in an action for refund, the burden of proof is on the taxpayer to establish its right to refund and failure to sustain such burden is fatal to its claim.

In this case, respondent allegedly failed (1) to present evidence of actual remittance of the taxes claimed to have been withheld; and (2) to submit complete documents provided under RMO No. 53-98[3]

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[3] *Checklist of Documents to be Submitted by a Taxpayer upon Audit of his Tax Liabilities as well as of the Mandatory Reporting Requirements to be Prepared by a Revenue Officer, all of which Comprise a Complete Tax Docket.*

and RR No. 2-2006[4]. As such, respondent's claim for refund or issuance of tax credit certificate cannot allegedly prosper.

Respondent's counter-arguments:

Respondent counter-argues that its clarificatory evidence was rightfully allowed admission.

As regards petitioner's allegation that the additional evidence are forgotten evidence, respondent maintains that the evidence are mere clarificatory evidence to explain the documents already adduced during trial. In addition, it is respondent's position that judicial claims should not be denied on the sole ground that the taxpayer failed to submit complete documents before the BIR.

Respondent likewise asserts that petitioner was not denied due process as he was actively participating in the proceedings in the Court *a quo*.

Contrary to petitioner's allegation, there was actual remittance to the BIR of the taxes claimed; and that even granting arguendo that proof of actual remittance has not been proven, the same is not indispensable in a claim for tax refund.

Finally, respondent maintains that its compliance with the requisites for the refund of CWT as established by jurisprudence must be sustained.

THE COURT *EN BANC*'S RULING

The CIR's *Motion for Reconsideration* lacks merit.

A perusal of the arguments raised in the instant *Motion for Reconsideration* show that the grounds invoked by petitioner are mere reiteration of matters which have already been considered, weighed and resolved in the assailed Decision.

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[4] *Mandatory Attachments of the Summary Alphalist of Withholding Agents of Income Payments Subjected to Tax Withheld at Source (SAWT) to Tax Returns With Claimed Tax Credits due to Creditable Tax Withheld At Source and of the Monthly Alphalist of Payees (MAP) Whose Income Received Have Been Subjected to Withholding Tax to the Withholding Tax Remittance Return Filed by the Withholding Agent/Payor of Income Payments.*

Petitioner's allegation that respondent allegedly failed (1) to present evidence of actual remittance of the taxes claimed to have been withheld; and (2) to submit complete documents in support of its claim, deserves scant consideration.

Proof of actual remittance of taxes withheld is not a pre-requisite in claiming refund of unutilized creditable withholding tax. It must be emphasized that proof of remittance of withholding taxes is the responsibility of the payor-withholding agent and not of the payee.

Further, it bears emphasis that the payee-refund claimant, such as respondent in this case, need only prove the **fact of withholding of taxes**, which is established by a copy of the withholding tax statement; and not its actual remittance to the BIR. In the instant case, respondent was able to prove the fact of withholding through its Certificates of Tax Withheld at Source (BIR Form No. 2307)[5] and Withholding Tax Remittance Returns (BIR Form No. 1606)[6] and Certificates Authorizing Registration for the Year 2010.[7] We find that these documents are competent proof to establish the fact that the subject taxes were withheld.

Petitioner's assertion that respondent allegedly failed to submit complete documents in support of its claim pursuant to RMO No. 53-98 and RR No. 2-2006, is likewise without merit. We reiterate that nowhere is it stated in RMO No. 53-98 and RR No. 2-2006, that the non-submission of the documents enumerated therein would *ipso facto* result to the denial of the claim for tax refund or credit. Further, it bears noting that RR No. 2-2006 merely imposes a penalty of fine for non-submission of the information or statement required therein, but not the outright denial of the claim for tax refund or credit.

In sum, the failure of respondent to present the proof of actual remittance and to submit complete documents enumerated under RMO No. 53-98 and RR No. 2-2006, is not fatal to its claim for refund.

As for the other arguments raised by petitioner in the instant *Motion for Reconsideration*, as mentioned earlier, the same are mere

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[5] Exhibits "P-8" to "P-311".
[6] Exhibits "P-584" to P-618", "P-620" to "P-634", "P-636" to "P-715", "P-717" to "P-720", "P-722" to "P-777", "P-779" to "P-793", "P-796" to "P-803", "P-805" to "P-828", and "P-830" to "P-886".
[7] Exhibits "P-619", "P-635", "P-716", "P-721", "P-778", "P-794", "P-795", "P-804" and "P-829".

reiteration of matters already considered, weighed and resolved in the assailed Decision. Thus, We shall no longer belabor in this Resolution, to repeat the disquisitions made therein. Moreover, petitioner failed to present new matters or arguments which may compel Us to reconsider and reverse the assailed Decision.

WHEREFORE, in light of the foregoing considerations, the instant *Motion for Reconsideration* is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice