REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

****

DEUTSCHE KNOWLEDGE SERVICES PTE. LTD., Petitioner,	**CTA EB NO. 2421** (CTA Case No. 7921)
- versus -	
COMMISSIONER OF INTERNAL REVENUE, Respondent.	

x--x

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2423** (CTA Case No. 7921)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID,** and **FERRER-FLORES,** *JJ.*
DEUTSCHE KNOWLEDGE SERVICES PTE. LTD., Respondent.	***Promulgated:*** JAN 30 2023 11:30 am

x - x

RESOLUTION

UY, *J.*:

For resolution are the following:

1) Deutsche Knowledge Services Pte. Ltd.'s (DKSPL) **"MOTION FOR RECONSIDERATION (Decision Promulgated July 1, 2022)"** filed on July 22, 2022, with the Commissioner of Internal Revenue's (CIR) **"COMMENT (On Petitioner's Motion for Reconsideration dated 22 July 2022)"** filed on September 7, 2022; and

2) CIR's "**MOTION FOR RECONSIDERATION (On Decision dated 01 July 2022)"** filed on July 28, 2022, with DKSPL's **"COMMENT (Re: Motion for Reconsideration dated July 27, 2022)"** filed on September 5, 2022.

In the instant Motions, both parties pray that the Court *En Banc*'s Decision dated July 1, 2022, be reversed and set aside. The dispositive portion thereof reads:

> "**WHEREFORE**, in light of the foregoing considerations, both *Petitions for Review* are hereby **DENIED** for lack of merit. The Decision dated July 23, 2020 and Resolution dated January 14, 2021, rendered by the Second Division of this Court in CTA Case No. 7921 are hereby **AFFIRMED**.
>
> **SO ORDERED.**"

In support of its Motion, DKSPL raises the following arguments, to wit:

1. DKSPL has proven with competent evidence that all of its clients for the 1st quarter of CY 2007 are non-resident foreign corporations (NRFCs) doing business outside the Philippines.

2. Claims for refund of erroneously paid taxes, like any other ordinary civil case, necessitate only preponderance of evidence for its approbation.

3. DKSPL's input VAT in the amount of ₱12,549,446.30 for 1st quarter of CY 2007 is properly substantiated and attributable to its zero-rated sales.

In his Comment, the CIR counters that:

1. DKSPL failed to present competent evidence that all of its clients for the 1st Quarter for CY 2007 are non-resident foreign corporation doing business outside the Philippines.

2. The CTA is not bound by the findings of the court-commissioned Independent Certified Public Accountant (ICPA).

Meanwhile, the CIR proffers the following arguments in his Motion, to wit:

1. DKSPL's witness, Maricel Tio-Balagtas, only became a Legal Entity Controller as of October 2017. Before that, she was a member of DKSPL's Finance Legal Entity Control team since March 2016. Although she has custody of the service agreements, she has no personal knowledge of their execution.

2. The sworn statements of corrections offered by DKSPL should not be deemed as public documents, as they are self-serving.

3. In an action for refund, the burden of proof is on the taxpayer who claims the exemption, and he must justify his claim by the clearest grant under the Constitution or statutory law.

In its Comment, DKSPL counters that:

1. The testimony of the custodian of the business records of DKSPL falls under the exception to the hearsay rule.

2. DKSPL was able to prove by sufficient and competent evidence its entitlement to the refund of or issuance of a TCC for its excess and unutilized input VAT for the 1st quarter of CY 2007 in the amount of ₱12,549,446.30, attributable to its zero-rated sales and purchases of goods for the period.

THE COURT *EN BANC'S* RULING

Both Motions lack merit.

After a careful examination and consideration of the parties' Motions for Reconsideration, it is noted that the arguments raised in the said Motions are mere reiterations of matters which have already been considered, weighed and resolved in the assailed Decision. Thus, We shall not belabor, in this Resolution, to repeat the disquisitions made therein.

Nevertheless, this Court emphasizes that the "*foreign business registration printouts*"[1] presented by DKSPL, *i.e.*, the AMINET Company Profile Fact Sheets,[2] one of which contained an unauthenticated copy of the Articles of Association,[3] and two of which contained unauthenticated documents in a foreign language,[4] cannot be considered as competent evidence to prove that its clients are non-resident foreign corporations doing business outside the Philippines.

A party which presents proof of official records, *i.e.*, foreign business registration documents, must comply with Section 24 of Rule 132 of the Revised Rules on Evidence,[5] which states that if the record of the public document is in a foreign country, the copy of the public document must be accompanied by a certificate that the attesting officer has the legal custody thereof. The certificate may be issued by any of the authorized Philippine embassy or consular officials stationed in the foreign country in which the record is kept, and authenticated by the seal of his office. The attestation must state, in substance, that the copy is a correct copy of the original, or a specific part thereof, as the case may be, and must be under the official seal of the attesting officer.[6]

---

[1] EB Docket (CTA EB No. 2421), p. 17.
[2] Exhibits "P-8" to "P-8.14," Division Docket (CTA Case No. 7921), Vol. IV, pp. 1404 to 1519.
[3] Exhibit "P-8.4," Division Docket (CTA Case No. 7921), Vol. IV, pp. 1410 to 1496.
[4] Exhibits "P-8.6" and "P-8.7," Division Docket (CTA Case No. 7921), Vol. IV, pp. 1499 to 1510.
[5] The 2019 Amendments to the 1989 Revised Rules on Evidence (A.M. No. 19-08-15-SC) only took effect on May 1, 2020.
[6] *Manufacturers Hanover Trust Co. and/or Chemical Bank vs. Rafael Ma. Guerrero*, G.R. No. 136804, February 19, 2003.

In this case, DKSPL should have submitted duly authenticated proof of official records of foreign business registration documents, instead of submitting mere print-outs thereof, retrieved from the AMINET database. As found by the Court in Division, the AMINET database is a database maintained by DKSPL's Head Office in Germany. Hence, the information contained therein cannot be given full faith and credit by this Court, as it is prone to manipulation in favor of DKSPL, and in view of its affinity with the entity that maintains or keeps the database.

Anent DKSPL's argument that the documents retrieved from the AMINET database should be considered by the Court since these are prepared *ante litem motam*, this Court emphasizes that the CTA is a court of record, the cases filed before it are litigated *de novo*, and party litigants should prove every minute aspect of its case.[7]

It bears stressing that actions for tax refund or credit, as in the instant case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven. The burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit. Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented as they are not intended to be liberally construed.[8]

It is likewise stressed that DKSPL's reliance on the findings of the ICPA is misplaced, as the findings of the ICPA are not conclusive upon the Court. It is subject to verification, to determine their accuracy, veracity and merit. In the instant case, upon the Court's independent verification, it was found that some of DKSPL's input VAT was not properly substantiated by VAT invoices or ORs as required by law and regulations.

Without specifically indicating the supposed reversible errors made by the Court in Division in its appreciation of the evidence presented, DKSPL's general averments that it was able to fully substantiate its claim for refund, will not warrant a reversal of the

---

[7] *Commissioner of Internal Revenue vs. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.
[8] *Coca-Cola Bottlers Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 222428, February 19, 2018.

factual findings made by the Court in Division, for being vague and uncertain. As between the specific findings of, and ruling rendered by the Court in Division, and the general averments of DKSPL, the former must perforce prevail.

With regard to the testimonies of Marcel Tio-Balagtas and Glenn Ian D. Villanueva, this Court upholds the findings of the Court in Division and sustains the probative value accorded thereto.

As discussed in the assailed Decision, the testimony of Tio-Balagtas is not hearsay, as she is the custodian of DKSPL's corporate and financial documents,[9] and has personal knowledge as to existence of the said documents in the records of DKSPL, derived from her own perception.[10]

Anent the testimony of Glenn Ian Villanueva on the sales invoices that contained erasures and countersignatures, the same was duly supported by duly notarized *Sworn Statements of Corrections,*[11] attesting to the corrections therein. The subject *Sworn Statements*, having been notarized, are public documents, and *prima facie* evidence of the facts stated therein.[12]

In the absence of timely objections and the utter lack of evidence to rebut the testimonies of DKSPL's witnesses or the notarized *Sworn Statements of Corrections*, there is no reason to disturb the findings of the Court in Division or question the probative value accorded to the evidence on record.

Finally, this Court finds that there is no reversible error in the factual findings of the Court in Division, and concurs in its appreciation of the evidence on record, which concluded that DKSPL was able to sufficiently explain the noted discrepancies in the Certificates of Non-Registration.

---

[9] Q&A No. 4, *Sworn Statement of Maricel Tio-Balagtas to Questions Propounded by Atty. Ian Jerrick B. Inandan,* Division Docket (CTA Case No. 7921), Vol. III, pp. 704 to 705.
[10] Section 36, Rule 130, Revised Rules on Evidence.
[11] Exhibit "P-18," CD.
[12] *Heirs of Spouses Angel Liwagon and Francisca Dumalagan, et al. vs. Heirs of Spouses Demetrio Liwagon and Regina Liwagon, et al.,* G.R. No. 193117, November 26, 2014.

WHEREFORE, in light of the foregoing considerations, the **"MOTION FOR RECONSIDERATION (Decision Promulgated July 1, 2022)"** filed by Deutsche Knowledge Services Pte. Ltd., as well as the "**MOTION FOR RECONSIDERATION (On Decision dated 01 July 2022)"** filed by the Commissioner of Internal Revenue, are hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice