

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

SAN ROQUE POWER CTA CASE NO. 11012
CORPORATION,

Petitioner, Members:

- versus -

RINGPIS-LIBAN, P.J., Chairperson,
MODESTO-SAN PEDRO, and
FERRER-FLORES, JJ.

COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

Promulgated:

2:28 PM

X ----- X

RESOLUTION

RINGPIS-LIBAN, P.J.:

For resolution of the Court are the following incidents:

1. Respondent's *Motion for Partial Reconsideration (Re: Decision promulgated 7 April 2026)* personally filed on May 11, 2026 and electronically filed on May 12, 2026; and
2. Petitioner's *Motion for New Trial and Partial Reconsideration (Decision dated April 7, 2026)* personally and electronically filed on May 12, 2026.

For easy reference, the dispositive portion of the assailed Decision¹ reads:

FOR THESE REASONS, the present *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** to petitioner the amount of **₱19,245,042.50**, representing petitioner's excess and unutilized input VAT

¹ Docket, Vol. III, pp. 1030-1066.

attributable to its zero-rated sales for the April 1, 2020 to March 31, 2021.

SO ORDERED.²

Respondent asserts in his motion that: (1) the Court should have dismissed the Petition for Review because petitioner failed to substantiate its claim for refund before the administrative level; (2) petitioner is not entitled to its refund claim; and (3) the factual findings of administrative agencies are entitled to great weight.

On the other hand, petitioner asserts in its motion for reconsideration that the VAT zero-rating under Section 108(B)(7) of the Tax Code covers petitioner's sale of ancillary service to NGCP. Meanwhile, petitioner also prays that a new trial be granted, for purposes of presenting pieces of evidence that it inadvertently failed to present during trial.

After careful consideration, the Court resolves to deny the present motions.

Respondent's motion for reconsideration is a mere rehash of his arguments in his memorandum

Upon review, the Court observes that respondent essentially lifted his arguments in the instant motion from his memorandum.³ On this score, the consolidated cases of *Social Justice Society (SJS) Officers, et al., v. Alfredo S. Lim*,⁴ is instructive:

The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. **It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely**

² See Note 1, pp. 1065-1066.

³ Arguments/Discussions, Memorandum, pp. 920-929.

⁴ G.R. Nos. 187836 and 187916, March 10, 2015.

state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); *i.e.*, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc. (*Emphasis supplied*)

Considering that respondent merely rehashed his arguments that were already passed upon in the assailed Decision, the denial of the instant motion is proper.

**Petitioner's Motion for New
Trial is not based on lawful
grounds**

With respect to petitioner's prayer for new trial, petitioner submits that it failed to attach the subject billing statements, statements of account, and other corroborating documents, by reason of its honest mistake or inadvertence. Thus, it moves that a new trial be conducted in relation to the Php6,651,743.45 disallowance on domestic purchases of services and relevant documents.

The Court finds the motion untenable.

In *Lolita R. Alamayri v. Rommel Pabale, et al.*,⁵ the Supreme Court said that:

The parties must diligently and conscientiously present all arguments and available evidences in support of their respective positions to the court before the case is deemed submitted for judgment. Only under exceptional circumstances may the court receive new evidence after having rendered judgment; otherwise, its judgment may never attain finality since the parties may continually refute the findings therein with further evidence.

In this case, petitioner admits that the pieces of evidence to be presented were not attached and submitted during trial, to prove the purchase of the relevant services. In other words, these pieces of evidence were available during trial and before the case was deemed submitted for judgment. Yet, petitioner failed to present the same. As such, the same falls within the concept of "*forgotten evidence*."

⁵ G.R. No. 151243, April 30, 2008.

“*Forgotten evidence*” refers to evidence already in existence or available before or during a trial; known to and obtainable by the party offering it; and could have been presented and offered in a seasonable manner, were it not for the sheer oversight or forgetfulness of the party or the counsel. Presentation of forgotten evidence is disallowed, because it results in a piecemeal presentation of evidence, a procedure that is not in accord with orderly justice and serves only to delay the proceedings. A contrary ruling may open the floodgates to an endless review of decisions, whether through a motion for reconsideration or for a new trial, in the guise of newly discovered evidence.⁶ Consequently, the presentation of the said billing statements, statements of account, and other corroborating documents, at this stage, *cannot* be allowed.

Petitioner’s sale of ancillary services is not subject to zero-rating

Finally, petitioner contends that zero-rating applies not because the power or fuel subject of the sale is actually generated, but due to the fact that the source of the power or fuel subject of the sale emanates from renewable sources. As such, but petitioner’s sale of ancillary services to National Grid Corporation of the Philippines (NGCP) is subject to the zero percent (0%) Value Added Tax (VAT).

Petitioner’s contention is untenable.

The Court, in the assailed Decision, succinctly ruled that:

As a corollary, the NIRC of 1997, as amended, is explicit in imposing the 12% VAT on all kinds of services. Section 108(A) thereof provides as follows:

SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* –

(A) *Rate and Base of Tax.* – **There shall be levied, assessed and collected, a value-added tax equivalent to twelve percent (12%) of gross receipts derived from the sale or exchange of services, including the use or lease of properties.**

The phrase ‘sale or exchange of services’ means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, xxx; sales of electricity by generation

⁶ *Office of the Ombudsman, et al. v. Carmencita D. Coronel*, G.R. No. 164460, June 27, 2006.

companies, transmission by any entity, and distribution companies, including electric cooperatives; xxx.

xxx xxx xxx

The term ‘gross receipts’ means the total amount of money or its equivalent representing the contract price, compensation, service fee, rental or royalty, including the amount charged for materials supplied with the services and deposits and advanced payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person, excluding value-added tax.

Based on the foregoing provision, the imposition of the VAT on the sale of services at the rate of 12% is clear, and the coverage of the services contemplates “all kinds of services”, which include the subject ancillary services.

Relative thereto, Section 4.108-3 of RR No. 16-2005, as amended, provides as follows:

SEC. 4.108-3. *Definitions and Specific Rules on Selected Services.* –

xxx xxx xxx

(f) Sale of electricity by generation, transmission by any entity including the National Grid Corporation of the Philippines (NGCP), and distribution companies including electric cooperatives shall be subject to twelve percent (12%) VAT on their gross receipts.

xxx xxx xxx

‘Gross receipts’ under this Subsection (f) shall refer to the following:

(a) Total amount charged by generation companies for the sale of electricity and related ancillary services;”

Pertinently, the definition of “ancillary services” is provided under Section 4(b) of Republic Act No. 9136, or the Electric Power Industry Reform Act of 2001, to wit:

SEC. 4. *Definition of Terms.* –

xxx

xxx

xxx

(b) ‘Ancillary Services’ refer to those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the transmission system in accordance with good utility practice and the Grid code to be adopted in accordance with this Act;

Had Congress really intended to exclude from the coverage of the aforequoted Section 108(A) of the NIRC of 1997, as amended, ancillary services, as above defined by law, vis-à-vis the sale of power or fuel generated through renewable sources of energy under Section 108(B)(7) of the NIRC of 1997, as amended, it could have provided the words in the law which are necessary to express such an intent. Considering that it did not, it is reasonable to conclude that the gross receipts relative to the sale of the said ancillary services are not subject to the zero-rated VAT, but instead are subject to the 12% VAT.

Correspondingly, under the law, petitioner’s sale of power or fuel generated through renewable sources of energy to NPC is subject to the zero percent (0%) VAT; but petitioner’s sale of ancillary services to NGCP is subject to the twelve percent (12%) VAT, even when such ancillary services are also sourced from the San Roque Hydroelectric Power Plant.⁷

The Court sees no cogent reason to deviate from the above ruling. To emphasize, in the absence of any provision excluding “ancillary services” from the imposition of VAT, or including the same for VAT zero-rating, petitioner’s ancillary services to NGCP is subject to 12% VAT.

To conclude, both parties failed to present meritorious arguments to warrant the reconsideration of the assailed Decision or to justify the grant of a new trial to present forgotten evidence. Hence, the denial of both motions is in order.

FOR THESE REASONS, respondent’s *Motion for Partial Reconsideration* (Re: *Decision promulgated 7 April 2026*) and petitioner’s *Motion for New Trial and Partial Reconsideration* (*Decision dated April 7, 2026*) are both **DENIED**, for lack of merit.

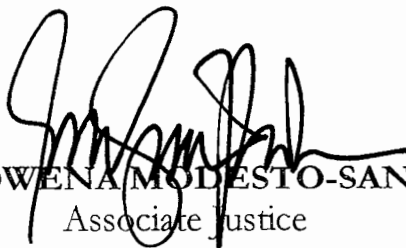
⁷ See Note 1, pp. 1041-1043.

SO ORDERED.



MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

WE CONCUR:



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(On Leave)

CORAZON G. FERRER-FLORES
Associate Justice