REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

DEUTSCHE KNOWLEDGE SERVICES PTE. LTD.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9079

Members:

CASTAÑEDA, JR., *Chairperson,*
CASANOVA, *and*
MANAHAN, *JJ.*

Promulgated:

AUG 0 8 2018 4:08 pm

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RESOLUTION

CASANOVA, *J.*:

For the Court's resolution are the following:

1. petitioner's **Motion for Partial Reconsideration (Re: Decision dated January 9, 2018) (With Motion to Re-Open Trial)**, filed through registered mail on January 25; and

2. respondent's **Motion for Partial Reconsideration (Re: Decision promulgated 9 January 2018)**, filed on January 25, 2018, with petitioner's **Comment (To Respondent's Motion for Partial Reconsideration dated January 25, 2018)**, filed on March 7, 2018.

The Court shall first discuss the propriety of petitioner's Motion to Re-Open Trial.

Petitioner states that it reviewed all the documents in support of its claim and notes that some Securities and Exchange Commission (SEC) Certificate of Non-Registration were not submitted and, hence, were not considered in the determination of the merits of this case. Therefore, it prays for the reopening of the trial and for leave to present supplemental evidence.

Considering the nature of the relief sought, it is evident that what the petitioner now seeks before the Court is actually a motion for new trial on the ground of newly discovered evidence. Hence, the Court shall treat the present motion as a motion for new trial.

The relevant provisions are Sections 1 and 2, Rule 37 of the Rules of Court which, respectively, provide:

"RULE 37
NEW TRIAL OR RECONSIDERATION

> **SECTION 1.** *Grounds of and period for filing motion for new trial or reconsideration.* — Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:
>
> (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or
>
> (b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.
>
> Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law.

> **SEC. 2.** *Contents of motion for new trial or reconsideration and notice thereof.* — The motion shall be made in writing stating the ground or grounds therefor, a written notice of which shall be served by the movant on the adverse party.
>
> A motion for new trial shall be proved in the manner provided for proof of motions. A motion for the cause mentioned in paragraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by affidavits. A motion for the cause mentioned in paragraph (b) shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.
>
> A motion for reconsideration shall point out specifically the findings or conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions.
>
> A *pro forma* motion for new trial or reconsideration shall not toll the reglementary period of appeal."

Related to these provisions are Sections 5 and 6, Rule 15 Revised Rules of the Court of Tax Appeals (RRCTA), to wit:

> **"RULE 15**
> **MOTION FOR RECONSIDERATION OR NEW TRIAL**
>
> xxx xxx xxx
>
> SEC. 5. *Grounds of motion for new trial.* – A motion for new trial may be based on one or more of the following causes materially affecting the substantial rights of the movant:
>
> > (a) Fraud, accident, mistake or excusable negligence which ordinary prudence

could not have guarded against and by reason of which the rights of such aggrieved party has probably been impaired in his rights; or

(b) Newly discovered evidence, which the party could not, with reasonable diligence, have discovered and produced at the trial and, which, if presented, would probably alter the result.

A motion for new trial shall include all grounds then available and those not included shall be deemed waived.

SEC. 6. *Contents of motion for reconsideration or new trial and notice.* — The motion shall be in writing stating its grounds, a written notice of which shall be served by the movant on the adverse party.

A motion for new trial shall be proved in the manner provided for proof of motions. A motion for the cause mentioned in subparagraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by counter-affidavits. A motion for the cause mentioned in subparagraph (b) of the preceding section shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.

A motion for reconsideration or new trial that does not comply with the foregoing provisions shall be deemed *pro forma*, which shall not toll the reglementary period for appeal."

Based on the foregoing, a party may file a motion for new trial on the grounds of fraud, accident, mistake or excusable negligence; or of newly discovered evidence, in the manner provided for proof of motions.

A reading of the present motion, however, shows that the same was neither based on fraud, accident, mistake or excusable negligence which shall be supported by affidavits of merit, nor based on newly discovered evidence which shall require affidavits of witnesses or duly authenticated documents proposed to be introduced in evidence.

Since petitioner intends to present additional evidence, the Court's resolution shall center on the determination of the nature of the SEC Certificate of Non-Registration, either as newly discovered evidence as to warrant the re-opening of the trial or allow the presentation of the proposed evidence, or merely forgotten evidence which can no longer be considered.

In *Commissioner of Internal Revenue vs. A. Soriano Corporation, et al.,*[1] the Supreme Court enumerated the requisites for the grant of a motion for new trial on the ground of newly discovered evidence in this manner:

> "Section 5, Rule 13 of the Rules of the Court of Tax Appeals provides that the provisions of Rule 37 of the Rules of Court shall be applicable to motions for new trial before the Court of Tax Appeals. Under Section 1, Rule 37 of the Rules of Court, the requisites for newly discovered evidence as a ground for a new trial are: (a) the evidence was discovered after the trial; (b) such evidence could not have been discovered and produced at the trial with reasonable diligence; and (c) that it is material, not merely cumulative, corroborative or impeaching, and is of such weight that, if admitted, will probably change the judgment. All three requisites must characterize the evidence sought to be introduced at the new trial."

Newly discovered evidence refers to that which already exists prior to or during a trial, but whose existence is not known to the offering litigant; or, though known, could not have been secured and presented during the trial despite reasonable diligence. What is essential for a particular piece of evidence to be properly regarded as "newly discovered" is that the offering party exercised reasonable diligence in seeking to locate the evidence before or during the trial, but nonetheless failed to secure it. Thus, a party who knows of the existence of specific pieces of evidence cannot offer them as "newly discovered" without any explanation for not presenting them earlier.[2]

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[1] G.R. No. 113703, January 31, 1997.
[2] *Office of the Ombudsman vs. Coronel,* G.R. No. 164460, June 27, 2006.

Notably, a particular evidence is to be considered as newly discovered only when it could not have been discovered and produced at the trial with reasonable diligence. It should be emphasized that the applicant for new trial has the burden of showing that the new evidence he seeks to present has complied with the requisites to justify the holding of a new trial. The threshold question in resolving a motion for new trial based on newly discovered evidence is whether the proferred evidence is in fact a newly discovered evidence which could not have been discovered by due diligence.[3]

In the present case, petitioner failed to prove that the SEC Certificate of Non-Registration were discovered after trial or could not have been discovered and produced at the trial with reasonable diligence. There was no explanation as to why these pieces of evidence are to be presented only after the Court rendered the assailed Decision. In the absence of any valid justification, the Court cannot consider the same as newly discovered evidence but merely as "forgotten evidence" which petitioner intends to present only after obtaining an unfavorable decision

The nature of "forgotten evidence" was discussed in the case of *Office of the Ombudsman vs. Coronel*[4], as follows:

> "xxx 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."

Petitioner further invokes the liberal application of the rules of procedure on the ground of substantial justice and that the proceedings before the Court are not governed by strict procedural

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[3] *Cabarlo vs. People of the Philippines,* G.R. No. 172274, November 16, 2006.
[4] *Supra,* Note 2.

rules so as to warrant the presentation of additional evidence. However, the mere invocation of substantial justice will not automatically justify the liberal application of procedural rules.

In the case of *De Leon vs. Hercules Agro Industrial Corporation, et al.*[5], the Supreme Court ruled:

> "To be sure, the relaxation of procedural rules cannot be made without any valid reasons proffered for or underpinning it. To merit liberality, petitioner must show reasonable cause justifying its non-compliance with the rules and must convince the Court that the outright dismissal of the petition would defeat the administration of substantial justice. x x x. The desired leniency cannot be accorded absent valid and compelling reasons for such a procedural lapse. x x x.
>
> We must stress that the bare invocation of 'the interest of substantial justice' line is not some magic wand that will automatically compel this Court to suspend procedural rules. Procedural rules are not to be belittled, let alone dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights. Utter disregard of the rules cannot be justly rationalized by harping on the policy of liberal construction."

Thus, in the absence of any valid cause, petitioner cannot invoke the liberal application of procedure rules on the bare allegation of substantial justice. Consequently, the Court resolves to deny petitioner's Motion to Re-Open Trial.

We now move to the parties' respective motion seeking reconsideration of the assailed Decision promulgated on January 9, 2018, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the Petition for Review is **PARTIALLY GRANTED**. Accordingly, let a tax refund or a Tax Credit Certificate be issued in favor of petitioner in the reduced amount of **₱5,225,189.50**, representing its unutilized and excess input VAT

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[5] G.R. No. 183239, June 2, 2014.

attributable to zero-rated sales for the attributable to zero-rated sales for the second quarter of CY 2013.

SO ORDERED."

In its motion, petitioner submits that the Court gravely erred in denying a substantial amount of its total claim for input value added tax (VAT) refund for the second quarter of calendar year (CY) 2013 on the basis of the following:

1. Petitioner proved, by preponderant evidence, that all of its zero-rated sales for the second quarter of CY 2013 were made to non-resident foreign corporations doing business outside the Philippines;

2. Petitioner's disallowed excess and unutilized input VAT are duly substantiated, and accordingly, must be allowed for refund; and

3. Petitioner has sufficient excess input VAT carried over from previous quarters to sufficiently cover its output VAT liability for the second quarter of CY 2013.

For his part, respondent, in his motion, invokes the following grounds:

1. The Court erred in ruling that petitioner's input tax in the amount of ₱5,225,189.50 is entirely attributable to the zero-rated sales; and

2. The Court erred in ruling that the claimed input VAT subject of instant case remained unutilized.

By way of comment, petitioner reiterates that it has proven, by preponderant evidence, that the input VAT being claimed is attributable to its zero-rated sales and that it remained unutilized.

Both motions lack merit.

Petitioner's Motion for Partial Reconsideration

Petitioner alleges that while the Certificates of Non-Registration of Corporation issued by SEC prove that the names entities are not registered corporations/partnerships in the Philippines, the IntraGroup Service Agreements (IGSA) with its foreign clients and foreign business registration documents retrieved from its AMINET data all prove the locations and addresses of its clients. These documents, taken together, prove that petitioner's clients are branches, subsidiaries to segments of Deutsche Bank Group of Companies which have business domiciles outside of the Philippines. It also submits that the business registration documents and the Company Profile Fact Sheets (CPFS) retrieved from the AMINET database should be given the same probative value as the Articles of Incorporation/Association required by the Court.

At the outset, it must be noted that the Court had exhaustively discussed the foregoing issues and arguments in the assailed Decision.

As already ruled, the foregoing documents when standing alone, are inadequate to prove that petitioner's client is a non-resident foreign corporation doing business outside the Philippines. To stress, the Service Agreements only show the names and addresses of petitioner's clients to whom it renders services, but the same do not establish that such clients are non-resident foreign corporations doing business outside the Philippines.

Moreover, the Court ruled that the purported foreign business registration print-outs retrieved from the AMINET database which is a database set up by Deutsche Bank Global (the Head Office located in Germany), are not sufficient to establish the fact that the service recipients are non-resident foreign corporations doing business outside the Philippines, as these are self-serving and can be easily manipulated in petitioner's favor in view of its affinity with the entity that maintains or keeps the said database.

Basic is the rule that tax refunds are in the nature of tax exemptions and are to be construed *strictissimi juris* against the entity claiming the same.[6] Thus, there is need to employ a stricter standard in determining whether the evidence filed by the taxpayer is sufficient to support his claim for refund or issuance of tax credit certificate. Considering that petitioner failed to provide sufficient

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[6] *Philippine Geothermal, Inc., vs. Commissioner of Internal Revenue*, G.R. No. 154028, July 29, 2005.

evidence to prove its claim, its arguments cannot be given due course.

Furthermore, petitioner claims that its input VAT is properly substantiated and should be considered in the computation of its refundable excess input tax. It asserts that the Court's disallowance of its invoices and official receipts (ORs) is erroneous on the following grounds: (1) the input VAT claimed from these supporting documents may be readily computed, despite the absence of the separate indication of input VAT; (2) these supporting documents were issued by petitioner's clients over which it has no participation and control whatsoever; and (3) the non-compliance with the invoicing requirements attracts the applicable administrative penalties, not the disallowance of the claim.

Petitioner's arguments deserve scant consideration.

Section 113(B)(2)(a) of the National Internal Revenue Code (NIRC) of 1997, as amended, provides:

> "SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* —
>
> xxx xxx xxx
>
> (B) *Information contained in the VAT Invoice or VAT Official Receipt.* — The following information **shall** be indicated in the VAT invoice or VAT official receipt:
>
> (1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
>
> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided*, That:
>
> (a) The amount of the tax **shall** be shown as a separate item in the invoice or receipt;" (*Emphasis supplied*)

It is elementary that the word "shall" underscores the mandatory character of the rule. It is a word of command; one always has or must be given a compulsory meaning, and is generally imperative or mandatory.[7] Hence, in this case, the disallowance of input VAT not separately indicated in the supporting invoices or ORs is proper.

Petitioner also argues that the out-of-period claims are allowed by Revenue Memorandum Circular (RMC) No. 42-03.

The Court does not agree.

Section 110(A)(2)(a) of the NIRC of 1997, as amended, provides:

> "Sec. 110. Tax Credits. –
>
> (A) Creditable Input Tax. -
>
> xxx xxx xxx
>
> (2) The input tax on domestic purchase or importation of goods or properties by a VAT-registered person shall be creditable:
>
> (a) To the purchaser upon consummation of sale and on importation of goods or properties; and
>
> xxx xxx xxx
>
> *Provided*, That the input tax on goods purchased or imported in a calendar month for use in trade or business for which deduction for depreciation is allowed under this Code, shall be spread evenly over the month of acquisition and the fifty-nine (59) succeeding months if the aggregate acquisition cost for such goods, excluding the VAT component thereof, exceeds One million pesos (P1,000,000.00): Provided, however, That if the estimated useful life of the capital goods is less than five (5) years, as used for depreciation purposes,

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[7] *SM Land, Inc. vs. Bases Conversion and Development Authority, et. al.*, G.R. No. 203655, August 13, 2014, citing *Regalado vs. Go*, G.R. No. 167988, February 6, 2007.

> then the input VAT shall be spread over such a shorter period: *Provided, finally*, That in the case of **purchase of services**, lease or use of properties, **the input tax shall be creditable to the purchaser**, lessee or licensee **upon payment of the compensation**, rental, royalty or fee." (*Emphasis supplied*)

Section 110(A) is explicit. For purchases of goods, the corresponding input VAT of which is creditable to the purchaser upon consummation of sale, that is, upon the issuance of the corresponding invoice. On the other hand, for purchases of services, the corresponding input VAT of which is creditable to the purchaser upon payment of compensation, rental, royalty or fee, that is, upon the date of official receipt. It states "upon consummation", in the case of domestic purchases of goods, and "upon payment", in the case of purchases of services. It is indubitable on the part of the petitioner to declare the input VAT on domestic purchases of goods and services at the end of the corresponding taxable quarter where purchases of goods were consummated, as evidenced by VAT invoice, and for payment of services, as evidenced by VAT OR.[8]

Therefore, applying Section 110(A) in relation to Section 112(A) of the NIRC of 1997, as amended, the input taxes which are supported by VAT invoices and ORs which are dated outside the period of petitioner's claim, cannot be refunded.

Petitioner further alleges that the Court erred in disallowing its claimed input VAT on the ground that their supporting invoices and ORs were not stamped "valid until October 31, 2013 only" in violation of RMC No. 52-2013.

It must be emphasized that RMC No. 52-2013 clearly requires that the term "valid until October 31, 2013 only" shall be stamped prominently on the face of the receipts or invoices (original and duplicate copies) so that it can still be used until October 31, 2013. Otherwise, no deduction and input tax may be claimed using these receipts/invoices. Hence, petitioner's argument has no merit.

Petitioner submits that the Court erred in applying petitioner's unutilized input VAT to its output VAT liability for the second quarter

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[8] *Deutsche Knowledge Services, PTE LTD. vs. Commissioner of Internal Revenue*, CTA Case No. 8243, October 26, 2016.

of CY 2013 as it does not have legal basis. Also, petitioner claims that it has sufficient excess input VAT carried from previous quarters, to cover its output VAT for the subject period of claim.

The Court does not agree.

Under Section 110(A)(1) of the NIRC of 1997, the rule is that **any input tax shall be creditable against the output tax only if it is evidenced by a VAT invoice or VAT OR**. The relevant portion of the said provision is quoted below:

> "SEC. 110. *Tax Credits.* —
>
> (A) *Creditable Input Tax.* —
>
> (1) Any **input tax evidenced by a VAT invoice or official receipt** issued in accordance with Section 113 hereof on the following transactions **shall be creditable against the output tax**: . . ." *(Emphasis supplied)*

Consistent with the foregoing is Section 4.110-8 of Revenue Regulations (RR) No. 16-2005, *viz:*

> "SEC. 4.110-8. *Substantiation of Input Tax Credits.* —
>
> (a) **Input taxes for** the importation of goods or **the domestic purchase of goods, properties or services** is made in the course of trade or business, whether such input taxes shall be credited against zero-rated sale, non-zero-rated sales, or subjected to the 5% Final Withholding VAT, **must be substantiated and supported by the following documents, and must be reported in the information returns required to be submitted to the Bureau**:
>
> (1) . . .
>
> (2) For domestic purchase of goods and properties — **invoice showing the information required under Secs. 113 and 237 of the Tax Code.**

(3) . . .

(4) For the purchase of services — **official receipt showing the information required under Secs. 113 and 237 of the Tax Code.**" (*Emphasis supplied.)*

In this case, the Court found that several invoices and ORs submitted by petitioner to substantiate its claimed excess and unutilized input VAT from previous quarters failed to comply with the mandatory requirements prescribed under Sections 110(A) and 113(A) and (B) of the NIRC of 1997, as amended, in relation to Sections 4.110-2, 4.110-8 and 4.113-1 of RR No. 16-05, as amended. Thus, out of petitioner's total reported input VAT on current purchases of ₱24,020,395.21 for the second quarter of 2013, only the amount of ₱12,188,086.82 represents its valid input VAT. The amount ₱12,188,086.82 shall be applied against the reported output VAT liability of ₱1,134,996.82. Consequently, only the remaining input VAT of ₱11,053,090.00 can be attributed to the entire zero-rated sales amounting to ₱1,105,734,437.79 and only the input VAT of ₱5,225,189.50 is attributable to the valid zero-rated sales of ₱522,720,069.53.

Respondent's Motion for Partial Reconsideration

Respondent contends that to be entitled to the subject input VAT claim, petitioner must prove, among others, that the input VAT are directly attributable to zero-rated or effectively zero-rated sales. It asserts that the phrase directly attributable means arising from a particular source or cause.

Respondent's argument must fail.

A perusal of Section 112 (A) of the NIRC of 1997, as amended discloses that it does not require the input taxes subject of the claim be directly attributable to zero-rated sales. As a matter of fact, the Code allows allocation of input taxes in case the same cannot be directly and entirely attributed to any of the sales[9], as follows:

[9] *CBK Power Company Limited vs. Commissioner of Internal Revenue*, CTA Case No. 7887, February 2, 2018.

> "SEC. 112.*Refunds or Tax Credits of Input Tax.-*
>
> (A) *Zero-rated or Effectively Zero-rated Sales.-* Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: xxx *Provided, further,* **That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales**: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales." (*Emphasis supplied.*)

Section 112(A) of the NIRC of 1997, as amended, only mandates that the input tax paid or incurred is attributable to a taxpayer's zero-rated sales. It does not require that the input tax be directly attributable to petitioner's zero-rated sales. Input taxes that bears a direct or indirect connection with petitioner's zero-rated sales satisfies the requirement of the law.[10]

It is a well recognized rule that where the law does not distinguish, courts should not distinguish. *Ubi lex non distinguish nec nos distinguere debemos.* "The rule, founded on logic, is a corollary of the principle that general words and phrases in a statute should ordinarily be accorded their natural and general significance. The rule requires that a general term or phrase should not be reduced into parts and one part distinguished from the other so as to justify its exclusion from the operation of the law. In other words, there should be no distinction in the application of a statute where none is indicated. For courts are not authorized to distinguish where the law makes no distinction. They should instead administer the law not as

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[10] *Coral Bay Nickel Corporation vs. Commissioner of Internal Revenue*, CTA Case No. 8905, October 19, 2017.

they think it ought to be but as they find it and without regard to consequences.[11]

Moreover, a cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application. As the statute is clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is what is known as the plain-meaning rule or *verba legis*. It is expressed in the maxim, *index animi sermo*, or "speech is the index of intention." Furthermore, there is the maxim *verba legis non est recedendum*, or "from the words of a statute there should be no departure."[12]

Further, respondent argues that petitioner failed to overcome the burden that the subject input VAT being claimed remained unutilized or have not been applied against any output tax for the current and the succeeding quarters of the following taxable year 2016.

The Court already ruled that although the claimed input VAT was carried-over by petitioner in its succeeding Quarterly VAT Returns, the same remained unutilized until it was deducted as "VAT Refund/TCC Claimed" in its Amended Quarterly VAT Return for the first quarter of CY 2015. Thus, the excess input VAT of ₱155,729,598.48 as of the end of the first quarter of 2015, which was carried-over to the succeeding second quarter of 2015, no longer included the subject claim.

It bears stressing that Section 110 (C) of the NIRC of 1997, as amended, merely requires that the amount of input VAT being claimed for refund should be deducted from the accumulated input VAT as of the month or quarter when such claim was opted to be filed. The reason for the deduction is to assure that the claimed input VAT shall not be applied against any future output VAT liability. [13]

While claims for tax refund are strictly construed against the taxpayer and liberally in favor of the State, petitioner has, with respect to the refundable amount of ₱5,225,189.50, overcome the

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[11] *Philippine British Assurance Co., Inc. vs. Honorable Intermediate Appellate Court, et al.*, G.R. No. 72005, May 29, 1987.
[12] *Bolos vs. Bolos*, G.R. No. 186400, October 20, 2010.
[13] *CBK Power Company Limited vs. Commissioner of Internal Revenue*, CTA Case No. 7887, February 2, 2018.

burden of showing that it has strictly complied with the conditions for the grant of the tax refund.

WHEREFORE, premises considered, **Motion for Partial Reconsideration (Re: Decision dated January 9, 2018) (With Motion to Re-Open Trial)** and respondent's **Motion for Partial Reconsideration (Re: Decision promulgated 9 January 2018)**, are **DENIED** for lack of merit.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

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

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice