REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

CROMA MEDIC, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9584

Members:
CASTAÑEDA, JR., *Chairperson, and*
MANAHAN, *JJ.*

Promulgated:
DEC 18 2019 3:00 PM

x - x

RESOLUTION

CASTAÑEDA, JR., J.:

Submitted before this Court is petitioner's **Motion Reconsideration**, filed on September 3, 2019, without respondent's comment per Records Verification Report dated October 1, 2019.

In its Motion, petitioner moves that the Decision promulgated on August 16, 2019 be reconsidered in finding that it failed to substantiate the amount it claimed to have been erroneously remitted as final withholding tax on dividends, the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **DISMISSED** for insufficiency of evidence.
>
> **SO ORDERED**."

Petitioner primarily claims that the Certifications dated May 4, 2016 and May 3, 2017 issued by the respondent's Revenue District Office (RDO) No. 48 – West Makati, marked and admitted in evidence as Exhibits "P-4" and "P-4-a", respectively, adequately establish the fact that it paid final withholding tax on dividends. Petitioner further raises the following grounds in support of its Motion:

1. The Certification dated May 4, 2016 marked and admitted in evidence as *petitioner's exhibit "P-4"* and Certification dated May 3, 2017 marked and admitted in evidence as *petitioner's exhibit "P-4-a"* are more than sufficient to prove that petitioner actually paid final withholding tax on dividends subject matter of the case;

2. The failure to submit in evidence the original copy of the *Revised Monthly Remittance Return of Final Income Tax Withheld (1601F)* should not have been taken as absence of proof of actual payment of final income tax on dividends subject matter of the instant case; and

3. Petitioner's failure to submit in evidence original copes of the *Revised Monthly Remittance Return of Final Income Tax Withheld (1601F)* or even the *Revised 1601F*, were adequately explained by no less than petitioner's witness and whose testimony remained uncontroverted because of the absence of evidence to the contrary.

After due consideration, petitioner's Motion is bereft of merit.

Unfortunately, petitioner's arguments have already been considered and discussed in the assailed decision, to wit:

> "To bolster its claim, petitioner presented Certifications respectively issued by Revenue District Officer Wilfreda V. Pilapil dated May 4, 2016, and OIC-Chief Blendina Allen B. Castillo, Collection Section, dated May 3, 2016, both revenue officers of Revenue Region No. 08, RDO No. 048, West Makati. <u>Indeed, while the said documents certifies that petitioner paid the amount of P3,200,000.00 as payment for Final Withholding Tax, they, however, do not show that the said amount paid actually pertains to the final withholding tax **on dividends**</u>.
>
> In the case of *EQUITABLE BANKING CORPORATION vs. COMMISSIONER OF INTERNAL REVENUE*, this Court had the occasion to rule that: ✓

> In the case at bar, petitioner failed to present Certificates of Income Tax Withheld at Source to prove that the final taxes were withheld and actually remitted to the coffers of the government. **Although petitioner submitted some relevant documents to substantiate its claim for refund, the Court finds the same insufficient to grant the desired relief.** Plainly stated, since it appears that petitioner has no other evidence to show how much final withholding tax was paid on interest income it received, we are constrained not to grant petitioner's prayer. *(Emphasis Supplied)*

Though petitioner attempted to offer its Revised Monthly Remittance Return of Final Income Taxes Withheld (1601F) marked as Exhibit 'P-3-a', the same was however denied admission by this Court. Since evidence, documentary or testimonial, cannot be given probative value unless offered and admitted by the court, the denied exhibit cannot be considered by this Court as part of petitioner's evidence.

As such, by failing to provide the Original Monthly Remittance Return of Final Income Taxes Withheld (1601F) for the month of March with the corresponding payment confirmation receipt filed through the eFPS, this Court cannot clearly ascertain how much final tax were withheld and remitted by the petitioner on its dividends.

Time and again, this Court reminds that 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. Thus, the burden of proof rests upon the taxpayer to establish by sufficient and competent evidence, its entitlement to a claim for refund.

Hence, for having failed to substantiate the burden bestowed upon petitioner in presenting proof of its entitlement to refund the amount of ₱1,600,000.00, representing tax erroneously paid to the government, the dismissal of the instant Petition for Review is in order."[1] *(Citations omitted, Underscoring supplied)* ge

[1] Decision, pp. 9-10.

Based on the foregoing, this Court finds no compelling reason to reverse or modify the Decision dated August 16, 2019. To discuss them anew would be mere superfluity.

WHEREFORE, premises considered, petitioner's Motion Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

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

I Concur:

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice