REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

FILMINERA RESOURCES CORPORATION,
Petitioner,

- versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 8610

Members:

Castañeda, *Chairperson*
Casanova, and
Cotangco-Manalastas, *JJ.*

Promulgated:

MAY 07 2015 3:43 PM

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RESOLUTION

COTANGCO-MANALASTAS, *J.:*

For resolution is petitioner's *Motion for Reconsideration of the Decision dated 6 March 2015*[1] filed on March 24 2015 with respondent's *Comment/Opposition (Re: Motion for Reconsideration of the Decision promulgated 6 March 2015)* filed on April 17, 2015.

Petitioner prays for the reconsideration of this Court's Decision[2] promulgated on March 6, 2015 denying its petition for review, seeking the refund of its unutilized input VAT for the period July 1, 2010 to September 30, 2010, for insufficiency of evidence.

In the assailed Decision, the Court held that petitioner failed to formally offer the Certification from the Board of Investments (BOI) confirming that Philippine Gold Processing and Refining Corporation (PGPRC) exported 100% of its products, which was fatal to its petition.

Likewise, petitioner prays that the documentary proof attached to the instant motion (*i.e.*, BOI Certification dated January 27, 2010 certifying that PGPRC exported 100% of its

[1] Docket, pp. 760-774.
[2] Docket, pp. 743-759.

total sales volume/value for the calendar year 2009 and the Tax Credit Certificate with ITS TCC Trans No. 121-13-00030 issued on September 23, 2013 for the period October 1, 2010 to December 31, 2010 in the amount of P46,640,095.66, attached as Annexes "P-1" and "P-2") be admitted in evidence.

For the guidance of the Court, petitioner cited an earlier case (CTA Case Nos. 8528 and 8576), likewise a claim for input VAT refund involving the same parties but covering different taxable period (*i.e.*, January 1, 2010 to June 30, 2010), where petitioner likewise moved for the reconsideration of the Decision therein denying petitioner's claim for refund for its failure to prove that its buyer PGPRC exports 100% of its products. Petitioner prayed therein that the Court revisit its findings since the transaction entered into between the petitioner and PGPRC are indeed and should be considered zero-rated. Moreover, petitioner points out that the BIR granted its administrative claim for refund for the subsequent period covering October 1, 2010 to December 31, 2010, therefore, petitioner has sufficiently proven PGPRC's 100% exportation of gold and silver.

Despite the opposition of respondent in CTA Case Nos. 8528 and 8576, the Court allowed the presentation in evidence of the same documents cited and attached to the instant motion.

In her *Comment/Opposition*, respondent mainly argues that petitioner failed to prove that its sales are zero-rated as contemplated under the law. No evidence was presented to show that indeed PGPRC exports 100% of its processed gold and silver ore. Petitioner's Articles of Incorporation is not sufficient to prove its allegation. Moreover, reliance on the BIR Ruling confirming that PGPRC exports 100% of its processed gold and silver ore is misplaced. It is incumbent upon petitioner to prove that it is entitled to the refund sought. Failure to prove the same is fatal to its claim for tax refund.

After carefully evaluating the arguments of the parties, the Court finds that allowing the presentation of the documents attached to the instant motion for reconsideration will secure a just and full determination of petitioner's claim for refund.

In *BPI-Family Savings Bank vs. Court of Appeals, et al.*,[3] the Supreme Court took into consideration the taxpayer's Annual Income Tax Return, which was only attached to its Motion for Reconsideration filed before the Court of Tax Appeals (CTA), in evaluating the taxpayer's entitlement to the claim for refund. The Supreme Court held that the law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence. The paramount consideration remains the ascertainment of truth. Verily, the quest for orderly presentation of issues is not an absolute. It should not bar courts from considering undisputed facts to arrive at a just determination of a controversy.

Technical rules of procedure are not ends in themselves but are primarily designed to aid in the administration of justice. And in cases before tax courts, Rules of Court applies only by analogy or in a suppletory character and whenever practicable and convenient shall be liberally construed in order to promote its objective of securing a just, speedy and inexpensive disposition of every action and proceeding.[4]

Nevertheless, it is likewise a well-settled rule that the Court shall consider no evidence which has not been formally offered.[5] Thus, in the interest of substantial justice and to give petitioner the final opportunity to prove its claim for refund, the Court shall allow petitioner to present and formally offer the documents mentioned and attached to the instant motion for reconsideration, subject to this Court's final evaluation and/or appreciation.

However, the Court noted that the BOI Certification attached as Annex "P-1" to petitioner's motion for reconsideration was dated January 27, 2010, stating that PGPRC exported 100% of its total sales volume/value for the calendar year covering January 1 to December 31, 2009 and is valid from January 1 to December 31, 2010 while the BOI Certification not formally offered referred to in the assailed Decision, but in the records (Annex "D" of the Petition for Review[6]), was dated July 19, 2010, stating that PGPRC exported 100% of its total sales volume/value for the fiscal

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[3] G.R. No. 122480, April 12, 2000.
[4] *Philippine Phosphate Fertilizer Corporation vs. Commissioner of Internal Revenue*, G.R. No. 141973, June 28, 2005.
[5] Section 34 of Rule 132 of the Rules of Court.
[6] Docket, pp. 66-68.

year covering July 1 2009 to June 30, 2010 and is valid from July 1, 2010 to June 30, 2011.

WHEREFORE, let this case be set for hearing for the presentation of the documents cited and attached to the instant motion for reconsideration on June 1, 2015 at 9:00 a.m. Meanwhile, the resolution of petitioner's *Motion for Reconsideration of the Decision dated 6 March 2015,* with respondent's *Comment/ Opposition (Re: Motion for Reconsideration of the Decision promulgated 6 March 2015)* is hereby **HELD IN ABEYANCE** until further orders from the Court.

SO ORDERED.

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

WE CONCUR:

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

CAESAR A. CASANOVA
Associate Justice