REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Third Division

CASAS + ARCHITECTS,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9705

Members:
RINGPIS-LIBAN, *Chairperson, and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
JAN 02 2024
2:20 p.m.

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RESOLUTION

MODESTO-SAN PEDRO, J.:

For the Court's resolution is petitioner's "Motion for Reconsideration (Re: Decision dated March 9, 2021)" ("Motion") filed via registered mail on 3 May 2021, with no comment from respondent,[1] assailing this Court's Decision, dated 9 March 2021.

In its Motion, petitioner claims that (a) it is not liable for the alleged deficiency Value-Added Tax ("VAT") assessed as respondent already admitted that it paid such VAT in 2012; and (b) the meal allowances it gave to its employees are *de minimis* benefits and thus not subject to withholding.

The Motion lacks merit.

Anent petitioner's contention that respondent's VAT assessment against it should be cancelled, the same holds no water. The fatal flaw in its argument is its incompleteness: true, respondent's witness admitted that petitioner had made a payment, allegedly for VAT, in 2012. Said witness did *not*, however, conclusively admit that said payment corresponds to designer fees allegedly received from DMCI Consunji, Inc. ("DMCI"), which is the actual crux of the matter.

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[1] *See* Records Verification Report, dated 11 August 2022, Records Vol. 4.

Reviewing the portions of the cross-examination and clarificatory questions that petitioner specifically chose to quote, it would appear that respondent's witness did, indeed, admit that a payment was made for VAT. Said witness never identifies DMCI by name, however. The only invocation of DMCI here was in petitioner's own letter to respondent, which may then have been mentioned by petitioner's counsel but *not* by respondent's witness.

Indeed, reading said witnesses' answers to the questions propounded by (Ret.) Hon. Associate Justice Erlinda P. Uy, it seems that he did not, in fact, "trace or check" said payment, as emphasized by petitioner. This implies that while he was aware of a payment made in 2012, this knowledge does not extend to the exact details of said payment. As such, his admission of the payment allegedly made in 2012 cannot be extended into an admission that the VAT paid was based on designer fees from DMCI.

Accordingly, what petitioner's Motion shows, if anything, is that it made a payment, allegedly for VAT, in 2012. It does *not* show that said payment corresponds to any alleged designer fees from DMCI. The latter, to reiterate, is the actual issue at hand. In the Assailed Decision, We upheld the assessment against petitioner not because We had no proof that petitioner made a payment to respondent in 2012 but because We cannot trace and verify that said payment corresponds to the alleged designer fees. Respondent's admission thus changes nothing about the facts of this case as We apprehended them.

Petitioner's further contention that the findings of the Independent Certified Public Accountant ("ICPA") should be respected and negate the need to present a Summary List of Sales is also untenable. First of all, this Court is not bound by the findings of the ICPA. Furthermore, this Court's issuances on the practice of commissioning ICPAs, such as ***CTA En Banc Resolution No. 8-2016***, clearly states the guidelines for the submission of evidence examined by an ICPA. This implies that even evidence marked and checked by an ICPA must be offered in court. The longstanding practice of commissioning ICPAs to *assist* in the examination of voluminous documents does not in any way obsolete the need to present all relevant pieces of evidence to this Court. As such, Our ruling stands.

Petitioner's arguments regarding the meal allowances at issue suffer a similar defect: it goes to great lengths to show that meal allowances can be considered *de minimis* benefits even when the same are not used for overtime, but it does not show why the specific meal allowances should be considered so.

The argument, again, seems convincing on its face. Petitioner cites Bureau of Internal Revenue Rulings to prove that meal allowances can be considered *de minimis* benefits even when not paid pursuant to overtime work. However, petitioner is tellingly silent on the requirements for such consideration. It does not expound on the specific conditions under which meal allowances not paid pursuant to overtime work can be considered *de minimis* benefits. It does not then show that these conditions obtain in the particular case of the meal allowances it paid. It thus fails to prove that the relevant meal allowances were *de minimis* benefits and thus not subject to withholding. Our ruling, once again, stands.

In sum, petitioner fails to prove either that the questioned VAT assessment against should not be upheld or that the meal allowances at issue should not be subject to withholding. We are thus not convinced that the relevant parts of Our Decision must be changed.

WHEREFORE, petitioner's Motion for Reconsideration (Re: Decision dated March 9, 2021) is hereby **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

I CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice