REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

TETRA PAK PHILIPPINES, INC., *Petitioner,*	**CTA Case No. 10113**
	Members:
-versus-	**DEL ROSARIO,** *P.J., Chairperson,* **MANAHAN,** and **REYES-FAJARDO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: OCT 26 2023 11:10AM

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RESOLUTION

REYES-FAJARDO, J.:

For the Court's resolution is respondent's Motion for Partial Reconsideration (Re: Decision dated 23 May 2023) dated 14 June 2023,[1] praying for the reversal of the Court's Amended Decision promulgated on 23 May 2023 (the "assailed Amended Decision") granting petitioner a refund amounting to Six Hundred Seventy-Eight Thousand Seven Hundred Sixty-Six Pesos and 65/100 (₱678,766.65), representing unutilized input value-added tax ("VAT") attributable to zero-rated sales for the first (1st) quarter of calendar year (CY) 2017.[2]

In the assailed Amended Decision, the Court held that a re-computation of petitioner's refundable unutilized input VAT was proper in order to conform with the Supreme Court's ruling in

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1 Motion for Partial Reconsideration, Docket - Vol. III, pp. 1325 to 1332.
2 Amended Decision, Docket - Vol. III, pp. 1319 to 1324.

Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue ("Chevron").[3]

Using the formula provided in *Chevron,* the Court found petitioner entitled to the refund of its unutilized input VAT attributable to its zero-rated sales for the 1st quarter of CY 2017, amounting to ₱678,766.65, computed as follows:[4]

Valid zero-rated sales	₱60,245,907.68
Divided by total reported sales	839,932,262.84
Multiplied by valid input tax not directly attributable to any activity	9,463,182.34
Refundable input tax attributable to zero-rated sales	**₱678,766.65**

The dispositive portion reads:[5]

> "**WHEREFORE,** in light of the foregoing considerations, petitioner's Motion for Partial Reconsideration (Re: Decision dated 23 November 2022) is **PARTIALLY GRANTED**. Accordingly, the Decision dated November 23, 2022 is **AFFIRMED with MODIFICATIONS**. Consequently, the Commissioner of Internal Revenue is ordered to refund Tetra Pak Philippines, Inc. the total amount of **Six Hundred Seventy-Eight Thousand Seven Hundred Sixty-Six Pesos and 65/100 (₱678,766.65)**, representing unutilized input value-added tax attributable to zero-rated sales for the first quarter of calendar year 2017.
>
> **SO ORDERED**."

In the Motion for Partial Reconsideration, respondent maintains that the Court erred in ruling that petitioner is entitled to the refund/ tax credit in the total amount of ₱678,766.65, representing unutilized input VAT attributable to its zero-rated sales for the 1st quarter of CY 2017.[6]

For respondent, *Chevron* is not on all fours with the present case as there was a decision rendered by the Bureau of Internal Revenue ("BIR") in the present case denying petitioner's administrative claim

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3 G.R. No. 215159, July 5, 2022.
4 Amended Decision, Docket - Vol. III, p. 1322.
5 *Id.* at p. 1323.
6 Motion for Partial Reconsideration, Docket - Vol. III, p. 1326.

for refund; whereas in *Chevron*, the BIR did not act upon the administrative case filed by petitioner therein.[7] Respondent further claims that the ruling in *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue ("Total Gas")*[8] is the applicable rule in the present case.

In its Comment/Opposition (To the Motion for Partial Reconsideration dated 14 June 2023),[9] petitioner counters as follows: i) respondent's reiteration on the applicability of *Total Gas* in the present case is misplaced, and ii) the application of *Chevron* in the present case is proper and in accordance with law and regulations.[10]

On 31 July 2023, the Court promulgated a Resolution submitting for resolution respondent's Motion for Partial Reconsideration (Re: Decision dated 23 May 2023), taking into consideration petitioner's Comment/Opposition (To the Motion for Partial Reconsideration dated 14 June 2023).

We rule. Respondent's Motion for Partial Reconsideration lacks merit.

Citing *Total Gas*, respondent theorizes that since a decision was rendered by the BIR denying petitioner's administrative claim for refund for failure to substantiate the same, petitioner cannot submit documents it did not submit at the administrative level. Moreso, the Court is confined only to the issue of whether the denial was proper given the evidence submitted at the administrative level.[11] We disagree.

Respondent's reliance in *Total Gas* is misplaced. To begin, similar with *Chevron*, the CIR in *Total Gas* also did not act upon the administrative claim filed by petitioner therein. The rule in *Total Gas* is that if a judicial claim for refund or tax credit is an appeal of an unsuccessful administrative claim, the taxpayer has to convince the Court that the CIR had no reason to deny its claim. To wit:

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7 *Id.*
8 G.R. No. 207112, December 8, 2015.
9 Comment/Opposition, Docket - Vol. III, pp. 1338 to 1352.
10 *Id.* at pp. 1338 to 1339.
11 Motion for Partial Reconsideration, Docket - Vol. III, pp. 1326 to 1327.

> A distinction must, thus, be made between administrative cases appealed due to inaction and those dismissed at the administrative level due to the failure of the taxpayer to submit supporting documents. **If an administrative claim was dismissed by the CIR due to the taxpayer's failure to submit complete documents despite notice/request, then the judicial claim before the CTA would be dismissible, not for lack of jurisdiction, but for the taxpayer's failure to substantiate the claim at the administrative level. When a judicial claim for refund or tax credit in the CTA is an appeal of an unsuccessful administrative claim, the taxpayer has to convince the CTA that the CIR had no reason to deny its claim.** It, thus, becomes imperative for the taxpayer to show the CTA that not only is he entitled under substantive law to his claim for refund or tax credit, but also that he satisfied all the documentary and evidentiary requirements for an administrative claim. It is, thus, crucial for a taxpayer in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first place. Consequently, a taxpayer cannot cure its failure to submit a document requested by the BIR at the administrative level by filing the said document before the CTA.[12]

There is nothing in the Supreme Court's disquisition quoted above that precludes a claimant/taxpayer from submitting additional supporting documents before the Court, neither is there anything that prevents the Court from perusing evidence not presented in the administrative claim with the BIR. In fact, Republic Act ("RA") No. 1125, the law creating the Court of Tax Appeals, 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.[13] Section 8 of RA No. 1125 states:

> Section 8. Court of record; seal; proceedings. — The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence.

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12 Boldfacing supplied.

13 *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc.*, G.R. No. 231581, April 10, 2019.

Thus, the Court is not limited by the evidence presented in the administrative level. The claimant/taxpayer may present new and additional evidence to the Court to support its case for tax refund.[14]

While citing *Total Gas,* the Supreme Court in *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc.*[15] clarified that cases filed in the Court of Tax Appeals are litigated *de novo* as such, a claimant/taxpayer should prove every minute aspect of its case by presenting, formally offering and submitting to the Court all evidence required for the successful prosecution of its administrative claim. Consequently, the Court may give credence to all evidence presented by a claimant/taxpayer, including those that may not have been submitted to the CIR as the case is being essentially decided in the first instance.[16]

To be sure, it should be emphasized that the CIR denied petitioner's administrative claim for refund for failure to substantiate the same and not for failure to submit complete documents despite notice/request as contemplated in *Total Gas.* As a matter of fact, the denial of the administrative claim for refund was rendered after the CIR's verification of the documents submitted.[17]

In any event, *Total Gas* is not squarely applicable to the case at bar. The core of the controversy in *Total Gas* only lies in the supposed prematurity of the taxpayer's judicial claim for refund, considering that the latter allegedly failed to submit complete documents in support thereof at the time the claim was filed.[18]

Also, as correctly pointed out by petitioner in its Comment/Opposition,[19] nowhere in *Chevron* did the Supreme Court state that the rule as to the determination of the refundable input VAT attributable to zero-rated sales of taxpayers engaged in mixed

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14 *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc.,* G.R. No. 231581, April 10, 2019.
15 G.R. No. 231581, April 10, 2019.
16 *Id.*
17 BIR's Denial Letter, marked as Exhibit "P-33," Docket - Vol. I, pp. 39 to 41.
18 *Zuellig-Pharma Asia Pacific Ltd. Phils. ROHQ v. Commissioner of Internal Revenue,* G.R. No. 244154, July 15, 2020.
19 Comment/Opposition, Docket - Vol. III, p. 1342.

transactions applies only when the BIR fails to act on the administrative claim of the taxpayer.

Respondent's reliance on the dissenting opinion of Associate Justice Alfredo Benjamin S. Caguioa in *Chevron* to support his arguments holds no water. It is well-settled that a dissenting opinion is not binding as it is a mere expression of the individual view of the dissenting member from the conclusion held by the majority of the Supreme Court.[20]

The doctrine *stare decisis et non quieta movere*, as embodied in Article 8 of the Civil Code of the Philippines,[21] enjoins adherence to judicial precedents and requires courts to follow the rule established in Supreme Court decisions. As a matter of necessary judicial practice, courts should adhere to that principle and apply it to all future cases in which the facts are substantially the same.[22] Hence, the application of the doctrine in *Chevron* to the present case must be upheld.

WHEREFORE, in light of the foregoing considerations, the Court finds no compelling reason to modify the assailed Amended Decision. Respondent's Motion for Partial Reconsideration (Re: Decision dated 23 May 2023) is **DENIED** for lack of merit.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

20 *Coca-Cola Bottlers Phil. Inc. Sales Force Union v. Coca-Cola Bottlers Phil. Inc.*, G.R. No. 155651, July 28, 2005; *National Union of Workers in Hotels, Restaurants and Allied Industries v. National Labor Relations Commission*, G.R. No. 125561, March 6, 1998.

21 ART. 8. Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines.

22 *Commissioner of Internal Revenue v. Insular Life Assurance Co. Ltd.*, G.R. No. 197192, June 4, 2014.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice