THIRD DIVISION

COMMISSIONER OF INTERNAL REVENUE, *Petitioner*,	**G.R. No. 153204** Present:
-versus-	PANGANIBAN, *Chairman,* SANDOVAL- GUTIERREZ, CORONA, CARPIO MORALES, and GARCIA, *JJ.*
MANILA MINING CORPORATION, *Respondent.*	Promulgated: August 31, 2005

x- x

D E C I S I O N

CARPIO MORALES, *J.*:

Being assailed via petition for review on certiorari is the April 12, 2002 Decision[1] of the Court of Appeals reversing that of the Court of Tax Appeals (CTA)[2] which granted the claim of respondent, Manila Mining Corporation, in consolidated CTA Case Nos. 4968 and 4991, for refund or issuance of tax credit certificates in the amounts of ₱5,683,035.04 and ₱8,173,789.60 representing its input value added tax (VAT) payments for taxable year 1991.

Respondent, a mining corporation duly organized and existing under Philippines laws, is registered with the Bureau of Internal Revenue (BIR) as a VAT-registered enterprise under VAT Registration Certificate No. 32-6-00632.[3]

In 1991, respondent's sales of gold to the Central Bank (now Bangko Sentral ng Pilipinas) amounted to ₱200,832,364.70.[4] On April 22, 1991, July 23, 1991, October 21, 1991 and January 20, 1992, it filed its VAT Returns for the 1st, 2nd, 3rd and 4th quarters of 1991, respectively, with the BIR through the VAT Unit at Revenue District Office No. 47 in East Makati.[5]

Respondent, relying on a letter dated October 10, 1988 from then BIR Deputy Commissioner Victor Deoferio that:

> xxx under Sec. 2 of E.O. 581 as amended, gold sold to the Central Bank is considered an export sale which under Section 100(a)(1) of the NIRC, as amended by E.O. 273, is subject to zero-rated if such sale is made by a VAT-registered person[,][6] (Underscoring supplied)

filed on April 7, 1992 with the Commissioner of Internal Revenue (CIR), through the BIR-VAT Division (BIR-VAT), an application for tax refund/credit of the input VAT it paid from July 1- December 31, 1999 in the amount of ₱8,173,789.60.

Petitioner subsequently filed on March 5, 1991 another application for tax refund/credit of input VAT it paid the amount of ₱5,683,035.04 from January 1 – June 30, 1991. As the CIR failed to act upon respondent's application within sixty (60) days from the dates of filing,[7] it filed on March 22, 1993 a Petition for Review against the CIR before the CTA which docketed it as CTA Case No. 4968,[8] seeking the issuance of tax credit certificate or refund in the amount of ₱5,683,035.04 covering its input VAT payments for the 1st and 2nd quarters of 1991. And it filed on May 24, 1993 another Petition for Review, docketed as CTA Case No. 4991, seeking the issuance of tax credit certificates in the amount of ₱8,173,789.60 covering its input VAT payments for the 3rd and 4th quarters of 1991.[9]

To the petition in CTA Case No. 4968 the CIR filed its Answer[10] admitting that respondent filed its VAT returns for the 1st and 2nd quarters of 1991 and an application for

credit/refund of input VAT payment. It, however, specifically denied the veracity of the amounts stated in respondent's VAT returns and application for credit/refund as the same continued to be under investigation.

On May 26, 1993, respondent filed in **CTA Case No. 4968** a "Request for Admissions"[11] of, among other facts, the following:

> x x x
>
> 5. That the original copies of the Official Receipts and Sales Invoices, reflected in Annex "C" ([Schedule of VAT INPUT on Domestic Purchase of Goods and Services for the quarter ending March 31, 1991] consisting of 24 pages) and Annex C-1 (Summary of Importation, 2 pages) were submitted to BIR-VAT, as required, for domestic purchases of goods and services (1st semester, 1991) for a total net claimable of **₱5,268,401.90**; while its VAT input tax paid for importation was **₱679,853.00**; (Emphasis and underscoring supplied)
>
> -
>
> x x x

By Reply[12] of August 11, 1993, the CIR specifically denied the veracity and accuracy of the amounts indicated in respondent's Request for Admissions,[13] among other things.

The CIR's Reply, however, was not verified, prompting respondent to file on August 30, 1993 a "SUPPLEMENT (To Annotation of Admission)" alleging that as the reply was not under oath, "an implied admission of [its requests] ar[ose]" as a consequence thereof.[14]

On September 27, 1993, the CIR filed a Motion to Admit Reply, which Reply was verified and attached to the motion, alleging that its Reply of August 11, 1993 was "submitted within the period for submission thereof, but, however, was incomplete [due to oversight] as to the signature of the administering officer in the verification."[15]

By Resolution[16] of February 28, 1994, the CTA, finding that the matters subject of respondent's Request for Admissions are "relevant to the facts stated in the petition for

review" and there being an implied admission by the CIR under Section 2 of Rule 26 of the then Revised Rules of Court reading:

> Section 2. **Implied** Admission. – Each of the matters of which an admission is requested shall be **deemed admitted** unless xxx the party to whom the request is directed serves upon the party requesting the admission a sworn statement either denying specifically the matters of which an admission is requested xxx. (Emphasis and underscoring supplied),

-

granted respondent's Request for Admissions and denied the CIR's Motion to Admit Reply.

With respect to CTA Case No. 4991, respondent also filed a "Request for Admissions" dated May 27, 1993 of the following facts:

> x x x
>
> 2. Petitioner's **3rd** and **4th** Quarters 1991 VAT Returns were submitted and filed with the BIR-VAT Divisions on October 21, 1991 and January 20, 1991, respectively and subsequently, on April 7, 1993 petitioner filed and submitted its application for tax credit on VAT paid for the 2nd semester of 1990;
>
> x x x
>
> 4. That attached to the transmittal letter [forwarded petitioner's application for tax refund credit] of March 31, 1992 (Annex "B") are the following documents:
>
> a. Copies of invoices and other supporting documents;
> b. VAT Registration Certificate;
> c. VAT returns for the third and fourth quarters of 1990;
> d. Beginning and ending inventories of raw materials, work-in process, finished goods and materials and supplies;
> e. Zero-rated sales to Central Bank of the Philippines;
> f. Certification that the Company will not file any tax credit with the Board of Investments and Bureau of Customs.
>
> which completely documented the petitioner's claim for refund as required.
>
> 5. That the original copies of the Official Receipts and Sales Invoices, reflected in Annex "C" (consisting of 35 pages) and Annex C-1 (Summary of Importation, 2 pages) were submitted to BIR-VAT, as required, to show domestic purchases of goods and services (2nd semester, 1991) which established that the total net claimable of ₱7,953,816.38; while its VAT input tax paid for importation was ₱563,503.00;
>
> x x x[17]

To the Request for Admission the CIR filed a Manifestation and Motion alleging that as the issues had not yet been joined, respondent's request is baseless and premature[18] under Section 1, Rule 26 of the Revised Rules of Court.[19]

In the meantime, the CIR filed on August 16, 1993 its Answer,[20] it averring that sales of gold to the Central Bank may not be legally considered export sales for purposes of Section 100(a) in relation to Section 100(a)(1)[21] of the Tax Code; and that assuming that a refund is proper, respondent must demonstrate that it complied with the provisions of Section 204(3) in relation to Section 230 of the Tax Code.[22]

The CIR subsequently filed on March 25, 1992 its Reply to respondent's Request for Admission in CTA No. 4991, it admitting that respondent filed its VAT returns and VAT applications for tax credit for the 3rd and 4th quarters of 1991, but **specifically denying** the correctness and veracity of the amounts indicated in the schedules and summary of importations, VAT services and goods, the total input and output taxes, including the amount of refund claimed.[23]

By Resolution[24] of February 22, 1994, the CTA, in CTA Case No. 4991, admitted the matters covered by respondent's Request for Admission except those specifically denied by the CIR. In the same Resolution, the CTA consolidated Case Nos. 4968 and 4991, they involving the same parties and substantially the same factual and legal issues.

Joint hearings of CTA Case Nos. 4968 and 4991 were thus conducted.

Through its Chief Accountant Danilo Bautista, respondent claimed that in 1991, it sold a total of 20,288.676 ounces of gold to the Central Bank valued at ₱200,832,364.70, as certified by the Director of the Mint and Refinery Department of the Central Bank[25] and that in support of its application for refund filed with the BIR, it submitted copies of all invoices and official receipts covering its input VAT payments to the VAT Division of the BIR, "the summary and schedules" of which were certified by its external auditor, the Joaquin Cunanan & Co.[26]

Senior Audit Manager of Joaquin Cunanan & Co., Irene Ballesteros, who was also presented by respondent, declared that she conducted a special audit work for respondent for the purpose of determining its actual input VAT payments for the second semester of 1991 and examined every original supplier's invoice, official receipts, and other documents supporting the payments;[27] and that there were no discrepancies or errors between the summaries and schedules of suppliers' invoices prepared by respondent and the VAT invoices she examined.[28]

Following the filing by respondent of its formal offer of evidence in both cases,[29] the CTA, by Resolution[30] of July 18, 1995, admitted the same.

Upon the issue of whether respondent's sales of gold to the BSP during the four quarters of 1991 are subject to 10% VAT under Section 100 of the Tax Code or should be considered zero-rated under paragraph a(2) of said Section 100, the CTA held that said sales are not subject to 10% output VAT, citing *Atlas Consolidated Mining and Development Corporation v. Court of Appeals*,[31] *Manila Mining Corporation v. Commissioner of Internal Revenue*,[32] and *Benguet Corporation v. Commissioner of Internal Revenue*.[33]

Nonetheless, the CTA denied respondent's claim for refund of input VAT for failure to prove that it paid the amounts claimed as such for the year 1991, no sales invoices, receipts or other documents as required under Section 2(c)(1) of Revenue Regulations No. 3-88 having been presented.[34] The CTA explained that a mere listing of VAT invoices and receipts, even if certified to have been previously examined by an independent certified public accountant, would not suffice to establish the truthfulness and accuracy of the contents of such invoices and receipts unless offered and actually verified by it (CTA) in accordance with CTA Circular No. 1-95, as amended by CTA Circular No. 10-97, which requires that photocopies of invoices, receipts and other documents covering said accounts of payments be **pre-marked** by the party concerned and **submitted** to the court.[35]

Respondent's motion for reconsideration[36] of the CTA decision having been denied by Resolution[37] of February 11, 1999, respondent brought the case to the Court of Appeals before which it contended that the CTA erred in denying the refund for insufficiency of evidence, it arguing that in light of the admissions by the CIR of the matters subject of it Requests for Admissions, it was relieved of the burden of submitting the purchase invoices and/or receipts to support its claims.[38]

By Decision[39] of April 12, 2002, the Court of Appeals reversed the decision of the CTA and granted respondent's claim for refund or issuance of tax credit certificates in the amounts of ₱5,683,035.04 for CTA Case No. 4968 and ₱8,173,789.60 for CTA Case No. 4991.

In granting the refund, the appellate court held that there was no need for respondent to present the photocopies of the purchase invoices or receipts evidencing the VAT paid in view of Rule 26, Section 2 of the Revised Rules of Court[40] and the Resolutions of the CTA holding that the matters requested in respondent's Request for Admissions in CTA No. 4968 were deemed admitted by the CIR[41] in light of its failure to file a verified reply thereto.

The appellate court further held that the CIR's reliance on the best evidence rule is misplaced since this rule does not apply to matters which have been judicially admitted.[42]

Hence, the present petition for review,[43] the CIR arguing that respondent's failure to submit documentary evidence to confirm the veracity of its claims is fatal; and that the CTA, being a court of record, is not expected to go out of its way and dig into the records of the BIR to supply the insufficient evidence presented by a party, and in fact it may set a definite rule that only evidence formally presented will be considered in deciding cases before it.[44]

Respondent, in its Comment,[45] avers that it complied with the provisions of Section 2(c)(1) of Revenue Regulation No. 3-88 when it submitted the original receipts and invoices to the BIR, which fact of submission had been deemed admitted by petitioner, as confirmed by the CTA in its Resolutions in both cases granting respondent's Requests for Admissions therein.

To respondent's Comment the Office of the Solicitor General (OSG), on behalf of petitioner, filed its Reply,[46] arguing that the documents required to be submitted to the BIR under Revenue Regulation No. 3-88 should likewise be presented to the CTA to prove entitlement to input tax credit.[47] In addition, it argues that, contrary to respondent's position, a certification by an independent Certified Public Accountant (CPA) as provided under CTA Circulars 1-95 and 10-97 does not relieve respondent of the *onus* of adducing in evidence the invoices, receipts and other documents to show the input VAT paid on its purchase of goods and services.[48]

The pivotal issue then is whether respondent adduced **sufficient evidence** to prove its claim for refund of its input VAT for taxable year 1991 in the amounts of ₱5,683,035.04 and ₱8,173,789.60.

The petition is impressed with merit.

In *Commissioner of Internal Revenue v. Benguet Corporation*,[49] this Court had the occasion to note that as early as 1988, the BIR issued several VAT rulings to the effect that sales of gold to the Central Bank by a VAT-registered person or entity are considered export sales.

> The transactions in question occurred during the period from 1988 and 1991. Under Sec. 99 of the National Internal Revenue Code (NIRC), as amended by Executive Order (E.O.) No. 273 s. 1987, then in effect, any person who, in the course of trade or business, sells, barters or exchanges goods, renders services, or engages in similar transactions and any person who imports goods is liable for output VAT at rates of either 10% or 0% ("zero rated") depending on the classification of the transaction under Sec. 100 of the NIRC. xxx
>
> x x x
>
> In January of 1988, respondent applied for and was granted by the BIR zero-rated status on its sale of gold to the Central Bank. On 28 August 1988, Deputy Commissioner

of Internal Revenue Eufracio D. Santos issued VAT Ruling No. 3788-88, which declared that *"[t]he sale of gold to Central Bank is considered as export sale subject to zero-rate pursuant to Section 100 of the Tax Code, as amended by Executive Order No. 273."* The BIR came out with at least six (6) other issuances, reiterating the zero-rating of sale of gold to the Central Bank, the latest of which is VAT Ruling No. 036-90 dated 14 February 1990.

x x x [50] (Italics in the original; underscoring supplied)

As export sales, the sale of gold to the Central Bank is zero-rated, hence, no tax is chargeable to it as purchaser. Zero rating is primarily intended to be enjoyed by the seller – respondent herein, which charges no output VAT but can claim a refund of or a tax credit certificate for the input VAT previously charged to it by suppliers.[51]

For a judicial claim for refund to prosper, however, respondent must not only prove that it is a VAT registered entity and that it filed its claims within the prescriptive period. It must **substantiate** the input VAT paid by purchase **invoices** or **official receipts**.[52] This respondent failed to do.

Revenue Regulation No. 3-88 amending Revenue Regulation No. 5-87 provides the requirements in claiming tax credits/refunds.

Sec.2. Section 16 of Revenue Regulations 5-87 is hereby amended to read as follows:

Sec. 16. Refunds or tax credits of input tax. -

(a) *Zero-rated sales of goods and services* – Only a VAT-registered person may be granted a tax credit or refund of value-added taxes paid corresponding to the zero-rated sales of goods and services, to the extent that such taxes have not been applied against output taxes, upon showing of proof of compliance with the conditions stated in Section 8 of these Regulations.

For export sales, the application should be filed with the Bureau of Internal Revenue within two years from the date of exportation. For other zero-rated sales, the application should be filed within two years after the close of the quarter when the transaction took place.

xxx

(c) *Claims for tax credits/refunds.* - Application for Tax Credit/Refund of Value-Added Tax Paid (BIR Form No. 2552) shall be filed with the Revenue District Office of the city or municipality where the principal place of business of the applicant is located or directly with the Commissioner, Attention: VAT Division.

A photocopy of the purchase invoice or receipt evidencing the value added tax paid **shall** be submitted together with the application. The original copy of the said invoice/receipt, however, shall be presented for cancellation prior to the issuance of the Tax Credit Certificate or refund. xxx (Emphasis and underscoring supplied)

Under Section 8 of RA 1125,[53] the CTA is described as a court of record. As cases filed before it are litigated *de novo,* party litigants should prove every minute aspect of their cases. No evidentiary value can be given the purchase invoices or receipts submitted to the BIR as the rules on documentary evidence require that these documents must be formally offered before the CTA.[54]

This Court thus notes with approval the following findings of the CTA:

xxx [S]ale of gold to the Central Bank should not be subject to the 10% VAT-output tax but this does not *ipso facto* mean that [the seller] is entitled to the amount of refund sought as it is required by law to present evidence showing the input taxes it paid during the year in question. What is being claimed in the instant petition is the refund of the input taxes paid by the herein petitioner on its purchase of goods and services. Hence, it is necessary for the Petitioner to show proof that it had indeed paid the said input taxes during the year 1991. In the case at bar, Petitioner failed to discharge this duty. It did not adduce in evidence the sales invoice, receipts or other documents showing the input value added tax on the purchase of goods and services.[55]

xxx

Section 8 of Republic Act 1125 (An Act Creating the Court of Tax Appeals) provides categorically that **the Court of Tax Appeals shall be a court of record and as such it is required to conduct a formal trial *(trial de novo)* where the parties must present their evidence accordingly** if they desire the Court to take such evidence into consideration.[56] (Emphasis and underscoring supplied)

A "sales or commercial invoice" is a written account of goods sold or services rendered indicating the prices charged therefor or a list by whatever name it is known which is used in the ordinary course of business evidencing sale and transfer or agreement to sell or transfer goods and services.[57]

A "receipt" on the other hand is a written acknowledgment of the fact of payment in money or other settlement between seller and buyer of goods, debtor or creditor, or person rendering services and client or customer.[58]

These sales invoices or receipts issued by the supplier are necessary to substantiate the actual amount or quantity of goods sold and their selling price,[59] and taken collectively are the best means to prove the input VAT payments.

Respondent contends, however, that the certification of the independent CPA attesting to the correctness of the contents of the summary of suppliers' invoices or receipts which were examined, evaluated and audited by said CPA in accordance with CTA Circular No. 1-95 as amended by CTA Circular No. 10-97 should substantiate its claims.

There is nothing, however, in CTA Circular No. 1-95, as amended by CTA Circular No. 10-97, which either expressly or impliedly suggests that summaries and schedules of input VAT payments, even if certified by an independent CPA, suffice as evidence of input VAT payments.

Thus CTA Circular No. 1-95 provides:

> 1. The party who desires to introduce as evidence such voluminous documents must present: (a) a Summary containing the total amount/s of the tax account or tax paid for the period involved and a chronological or numerical list of the numbers, dates and amounts covered by the invoices or receipts; and (b) a Certification of an independent Certified Public Accountant attesting to the correctness of the contents of the summary after making an examination and evaluation of the voluminous receipts and invoices. Such summary and certification must properly be identified by a competent witness from the accounting firm.
>
> 2. The method of individual presentation of each and every receipt or invoice or other documents for marking, identification and comparison with the originals thereof need not be done before the Court or the Commissioner anymore after the introduction of the summary and CPA certification. <u>It is enough that the receipts, invoices and other documents covering the said accounts or payments must be pre-marked by the party concerned and submitted to the Court</u> in order to be made accessible to the adverse party whenever he/she desires to check and verify the correctness of the summary and CPA certification. However, the originals of the said receipts, invoices or documents should be ready for verification and comparison in case of doubt on the authenticity of the particular documents presented is raised during the hearing of the case.[60] (Underscoring supplied)

The circular, in the interest of speedy administration of justice, was promulgated to avoid the time-consuming procedure of presenting, identifying and marking of documents before the Court. It does not relieve respondent of its imperative task of <u>pre-marking</u> photocopies of sales receipts and invoices and <u>submitting the same to the court</u> after the

independent CPA shall have examined and compared them with the originals. Without presenting these pre-marked documents as evidence – from which the summary and schedules were based, the court cannot verify the authenticity and veracity of the independent auditor's conclusions.[61]

There is, moreover, a need to subject these invoices or receipts to examination by the CTA in order to confirm whether they are VAT invoices. Under Section 21 of Revenue Regulation No. 5-87,[62] all purchases covered by invoices other than a VAT invoice shall not be entitled to a refund of input VAT.

The CTA disposition of the matter is thus in order.

> Mere listing of VAT invoices and receipts, even if certified to have been previously examined by an independent certified public accountant, would not suffice to establish the truthfulness and accuracy of the contents thereof unless offered and actually verified by this Court. CTA Circular No. 1-95, as amended by CTA Circular No. 10-97, requires that the photocopies of invoices, receipts and other documents covering said accounts or payments must be pre-marked by the party and submitted to this Court.[63] (Underscoring supplied)

There being then no showing of abuse or improvident exercise of the CTA's authority, this Court is not inclined to set aside the conclusions reached by it, which, by the very nature of its functions, is dedicated exclusively to the study and consideration of tax problems and has necessarily developed an expertise on the subject.[64]

While the CTA is not governed strictly by technical rules of evidence,[65] as rules of procedure are not ends in themselves but are primarily intended as tools in the administration of justice, the presentation of the purchase receipts and/or invoices is not mere procedural technicality which may be disregarded considering that it is the only means by which the CTA may ascertain and verify the truth of respondent's claims.

The records further show that respondent miserably failed to substantiate its claim for input VAT refund for the first semester of 1991. Except for the summary and schedules of input VAT payments prepared by respondent itself, no other evidence was adduced in support of its claim.

As for respondent's claim for input VAT refund for the second semester of 1991, it employed the services of Joaquin Cunanan & Co. on account of which it (Joaquin Cunanan & Co.) executed a certification that:

> We have examined the information shown below concerning the input tax payments made by the Makati Office of Manila Mining Corporation for the period from July 1 to December 31, 1991. Our examination included inspection of the pertinent suppliers' invoices and official receipts and such other auditing procedures as we considered necessary in the circumstances. xxx[66]

As the certification merely stated that it used "auditing procedures considered necessary" and not auditing procedures which are in accordance with generally accepted auditing principles and standards, and that the examination was made on "input tax payments by the Manila Mining Corporation," without specifying that the said input tax payments are attributable to the sales of gold to the Central Bank, this Court cannot rely thereon and regard it as sufficient proof of respondent's input VAT payments for the second semester.

Finally, respecting respondent's argument that it need not prove the **amount** of input VAT it paid for the first semester of taxable year 1991 as the same was proven by the implied admission of the CIR, which was confirmed by the CTA when it admitted its Request for Admission,[67] the same does not lie.

Respondent's Requests for Admission do not fall within Section 2 Rule 26 of the Revised Rules of Court.[68] What respondent sought the CIR to admit are the total amount of input VAT payments it paid for the first and second semesters of taxable year 1991, which matters have already been previously alleged in respondent's petition and specifically denied by the CIR in its Answers dated May 10, 1993 and August 16, 1993 filed in CTA Case Nos. 4869 and 4991, respectively.

As *Concrete Aggregates Corporation v. Court of Appeals*[69] holds, admissions by an adverse party as a mode of discovery contemplates of interrogatories that would clarify and tend to shed light on the truth or falsity of the allegations in a pleading, and does not refer to a mere reiteration of what has already been alleged in the pleadings; otherwise, it

constitutes an utter redundancy and will be a useless, pointless process which petitioner should not be subjected to.[70]

Petitioner controverted in its Answers the matters set forth in respondent's Petitions for Review before the CTA – the requests for admission being mere reproductions of the matters already stated in the petitions. Thus, petitioner should not be required to make a second denial of those matters it already denied in its Answers.[71]

As observed by the CTA, petitioner did in fact file its reply to the Request for Admissions in CTA Case No. 4869 and specifically denied the veracity and accuracy of the figures indicated in respondent's summary. The Motion to Admit Reply was, however, denied by the CTA as the original Reply was not made under oath.

That the Reply was not made under oath is merely a formal and not a substantive defect and may be dispensed with.[72] Although not under oath, petitioner's reply to the request readily showed that its intent was to deny the matters set forth in the Request for Admissions.

As for respondent's Request for Admission in CTA Case No. 4991, petitioner timely filed its reply and specifically denied the accuracy and veracity of the contents of the schedules and summaries which listed the input VAT payments allegedly paid by respondent for the second semester of 1991.

For failure of respondent then not only to strictly comply with the rules of procedure but also to establish the factual basis of its claim for refund, this Court has to deny its claim. A claim for refund is in the nature of a claim for exemption and should be construed in *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority.[73]

WHEREFORE, the petition is hereby **GRANTED**. The assailed Decision of the Court of Appeals dated April 12, 2002 is hereby **REVERSED and SET ASIDE**. The Court of Tax Appeals Decision dated November 24, 1998 is hereby **REINSTATED**.

SO ORDERED.

CONCHITA CARPIO MORALES
Associate Justice

WE CONCUR:

ARTEMIO V. PANGANIBAN
Associate Justice
Chairman

ANGELINA SANDOVAL-GUTIERREZ
Associate Justice

RENATO C. CORONA
Associate Justice

CANCIO C. GARCIA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ARTEMIO V. PANGANIBAN
Associate Justice
Chairman

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairman's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

HILARIO G. DAVIDE, JR.
Chief Justice

---

[1] *Rollo* at 26-35.

[2] *Id.* at 36-53.

[3] Records of CTA Case No. 4968 at 6.

[4] *Id.* at 209.

[5] CA *Rollo* at 26.

[6] Records of CTA Case No. 4968 at 2.

[7] Section 106 (e) of Presidential Decree No. 1158 (National Internal Revenue Code of 1977) provides to wit:

SEC. 106. xxx

xxx

(e) Period within which refund of input taxes may be made by the Commissioner. – The Commissioner shall refund taxes within 60 days from the date the application for refund of input taxes was filed with him or his duly authorized representative. No refund of input taxes shall be allowed unless the VAT-registered person files an application for refund within the period prescribed in paragraph (a), (b) and (c) as the case may be. (Underscoring supplied)

[8] Records of CTA Case No. 4968 at 1-5.

[9] Records of CTA Case No. 4991 at 1-5.

[10] Records of CTA Case No. 4968 at 16-19.

[11] *Id.* at 20-24.

[12] *Id.* at 79-81.

[13] *Id.* at 79-80.

[14] *Id.* at 85-86.

[15] *Id.* at 91.

[16] *Id.* at 98-100.

[17] Records of CTA Case No. 4991 at 13-17.

[18] *Id.* at 76-77.

[19] Section 1, Rule 26 of the Revised Rules of Court (1964) provides to wit:

Section 1. Request for Admission. – At any time after issues have been joined, a party may serve upon any other party a written request for the admission by the latter of the genuineness of any relevant documents described in and exhibited with the request or of the truth of any relevant matters of fact set forth in the request. Copies of the documents shall be delivered with the request unless copies have already been furnished. (Underscoring supplied)

[20] Records of CTA Case No. 4991 at 84-87.

[21] Sections 100 (a) and Section 100(a)(1)of Presidential Decree No. 1158 (National Internal Revenue Code of 1977) provides to wit:

SEC. 100. Value-added tax on sale of goods. – (a) Rate and base of tax. – There shall be levied, assessed and collected on every sale, barter, or exchange of goods, a value-added tax equivalent to 10% of the gross selling price or gross value in money of the goods sold, bartered or exchanged such tax to be paid by the seller or transferor: Provided, That the following sales by VAT-registered persons shall be subject to 0%:

(1) Export sales; xxx

[22] Sections 204 (3) and 230 of Presidential Decree No. 1158 (National Internal Revenue Code of 1977) provides to wit:

SECTION 204. xxx

(2) xxx No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two year after the payment of the tax or penalty.

SECTION 230. Recovery of tax erroneously or illegally collected. — No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

xxx

[23] Records of CTA Case No. 4991 at 96-98.

[24] *Id.* at 106-109.

[25] Transcript of Stenographic Notes (TSN) May 23, 1994 at 12-13.

[26] *Id.* at 18-19.

[27] TSN, August 15, 1994 at 6-7.

[28] TSN, October 18, 1994 at 4-5.

[29] Records of CTA Case No. 4968 at 146-153.

[30] *Id.* at 224-225.

[31] CA-G.R. SP No. 34152, February 6, 1998.

[32] CA-G.R. SP No. 38287, June 5, 1997.

[33] CA-G.R. SP No. 37205, 38958 and 39435, July 10, 1998.

[34] *Rollo* at 41.

[35] *Id.* at 42-43.

[36] Records of CTA Case No. 4968 at 271-280.

[37] *Id.* at 315-318.

[38] CA *Rollo* at 30.

[39] *Id.* at 130-139.

[40] Rule 26, Sec. 2 of the Revised Rules of Court.

Sec. 2. *Implied Admission*. – Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, which shall not be less than ten (10) days after service thereof, or within such further time as the court may allow on motion and notice, the party to whom the request is directed serves upon the party requesting the admission a sworn statement either denying

specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny those matters.

Objections on the ground of irrelevancy or impropriety of the matter requested shall be promptly submitted to the court for resolution.

[41] CA *Rollo* at 137-138.

[42] *Id.* at 138.

[43] *Rollo* at 7-25.

[44] *Id.* at 20.

[45] *Id.* at 67-78.

[46] *Id.* at 95-102.

[47] *Id.* at 95-98.

[48] *Id.* at 98-100.

[49] G.R. Nos. 134587 & 134588, July 8, 2005.

[50] *Id.*

[51] Deoferio and Mamalateo, THE VALUE ADDED TAX IN THE PHILIPPINES, 189-190 (1st ed., 2000).

[52] *Commissioner of Internal Revenue v. Seagate Technology (Philippines),* G.R. No. 153866, February 11, 2005.

[53] Section 8 of Republic Act No. 1125 (An Act Creating the Court of Tax Appeals) provides to wit:

SEC. 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.

[54] Section 34 of Rule 132 of the Revised Rules of Court (1964), provides to wit:

SEC. 34. *Offer of evidence*. – The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.

[55] *Rollo* at 41.

[56] *Id.* at 43.

[57] Deoferio and Mamalateo, THE VALUE ADDED TAX IN THE PHILIPPINES, 279 (1st ed., 2000).

[58] *Ibid.*

[59] *Id.* at 280.

[60] Circular No. 1-97 which amended CTA Circular No. 1-95 similarly requires respondent to present the sales invoices and receipts, thus:

1. The party who desires to introduce as evidence such voluminous documents must, after motion and approval by the Court, present: (a) a Summary containing, among others, a chronological listing of the numbers, dates and amounts covered by the invoices or receipts and the amount/s of tax paid; and (b) a Certification of an independent Certified Public Accountant attesting to the correctness of the contents of the summary after making an examination, evaluation and audit of the voluminous receipts and invoices. The name of the accountant or partner of the firm in charge must be stated in the motion so that he/she can be commissioned by the Court to conduct the audit and, thereafter, testify in Court relative to such summary and certification pursuant to Rule 32 of the Rules of Court.
2. The method of individual presentation of each and every receipt, invoice or account for marking, identification and comparison with the originals thereof need not be done before the Court or Clerk of Court anymore after the introduction of the summary and CPA certification. It is enough that the receipts, invoices, vouchers or other documents covering the said accounts or payment to be introduced in evidence must be pre-marked by the party concerned and submitted to the Court in order to be made accessible to the adverse party who desires to check and verify the correctness of the summary and CPA certification. Likewise the originals of the voluminous receipts, invoices or accounts must be ready for verification and comparison in case doubt on the authenticity thereof is raised during the hearing or resolution of the formal offer of evidence. (Underscoring supplied)

[61] *Compañia Maritima v. Allied Free Workers Union,* 77 SCRA 24, 39 (1977).

[62] Section 21 of Revenue Regulation No. 5-87 provides to wit:

> SECTION 21. Invoicing Requirements. — (a) Invoice and/or receipts. — All VAT-registered persons who sell goods or services shall, for every sale, issue an invoice or receipt. The invoice should contain the information prescribed in Section 108(a) and 238. Only VAT-registered persons can print the VAT registration number in their invoice and receipt. Any invoice bearing the VAT registration number of the seller shall be considered as "VAT Invoice." Value-Added Tax, whether indicated as a separate item or not in the "VAT Invoice" shall be allowed as input tax credits to those liable to the value-added tax. All purchases covered by invoices other than "VAT Invoice" shall not be entitled to input taxes. (Underscoring supplied)

[63] *Rollo* at 42-43.

[64] *Paseo Realty & Development Corporation v. Court of Appeals*, 440 SCRA 235, 242 (2004).

[65] Section 8 of Republic Act No. 1125, *supra*.

[66] CTA Case No. 4968 at 212.

[67] Records of CTA Case No. 4968 at 273.

[68] *Supra*, note 40.

[69] 266 SCRA 88 (1997).

[70] *Id.* at 94.

[71] *Briboneria v. Court of Appeals*, 216 SCRA 607, 615 (1992).

[72] *Supra* note 70 at 95.

[73] *Commissioner of Internal Revenue v. Seagate Technology (Philippines), supra* note 52.