Supreme Court E-Library

However, the amount of damages awarded must be modified in conformity with prevailing jurisprudence.[34] Thus, the awards of civil indemnity, moral damages, and exemplary damages are increased to ₱75,000.00 each[35] while the award of actual damages is deleted and in lieu thereof, temperate damages is awarded in the amount of ₱50,000.00.[36]

WHEREFORE, the appeal is **DISMISSED**. The assailed October 21, 2014 Decision of the Court of Appeals in CA-G.R. CEB CR-HC No. 01565 is hereby **AFFIRMED with MODIFICATIONS** that the awards of civil indemnity, moral damages, and exemplary damages are increased to ₱75,000.00 each; the award of actual damages is deleted and in lieu thereof, temperate damages in the amount of ₱50,000.00 is awarded; and all damages awarded shall earn interest at the rate of 6% *per annum* from finality of this Resolution until fully paid.

SO ORDERED.

Sereno, C.J. (Chairperson), Leonardo-de Castro, Tijam, and *Gesmundo,*[*] *JJ.,* concur.

SECOND DIVISION

[G.R. No. 222428. February 19, 2018]

COCA-COLA BOTTLERS PHILIPPINES, INC., *petitioner, vs.* **COMMISSIONER OF INTERNAL REVENUE,** *respondent.*

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[34] *People v. Jugueta*, G.R. No. 202124, April 5, 2016, 788 SCRA 331.

[35] *Id.* at 382.

[36] *Id.* at 388.

* Designated as additional member per November 29, 2017 raffle vice *J.* Jardeleza who recused due to prior action as Solicitor General.

Supreme Court E-Library

SYLLABUS

1. **TAXATION; NATIONAL INTERNAL REVENUE CODE OF 1997; SECTION 229; INAPPLICABLE TO CLAIMS FOR THE RECOVERY OF UNUTILIZED INPUT VALUE-ADDED TAX.—** Petitioner, in advancing its claim for refund or tax credit, cannot rely on Section 229 of the 1997 NIRC, as amended. Time and again, the Court had consistently ruled on the inapplicability of Section 229 to claims for the recovery of unutilized input VAT. In *Commissioner of Internal Revenue v. San Roque Power Corporation (San Roque),* the Court explained that input VAT is not "excessively" collected as understood under Section 229 because at the time the input VAT is collected, the amount paid is correct and proper. If said input VAT is in fact "excessively" collected as understood under Section 229, then it is the person legally liable to pay the input VAT, and not the person to whom the tax is passed on and who is applying the input VAT as credit for his own output VAT, who can file the judicial claim for refund or credit outside the VAT system.

2. **ID.; ID.; SECTIONS 110 (B) AND 112 (A); PROVIDE THAT IF AND WHEN THE INPUT TAX EXCEEDS THE OUTPUT TAX, THE EXCESS SHALL BE CARRIED OVER TO THE SUCCEEDING QUARTER OR QUARTERS.—** [N]either can petitioner advance its claim for refund or tax credit under Sections 110 (B) and 112 (A) of the 1997 NIRC. x x x A plain and simple reading of the x x x provisions reveals that if and when the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters. It is only when the sales of a VAT-registered person are zero-rated or effectively zero-rated that he may have the option of applying for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales.

3. **POLITICAL LAW; STATUTES; THERE IS ONLY ROOM FOR APPLICATION WHEN THE LAW IS CLEAR AND FREE FROM ANY DOUBT OR AMBIGUITY.—** [W]hen the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation; there is only room for application. Only when the law is ambiguous or of doubtful meaning may the court interpret or construe its true intent.

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Ambiguity is a condition of admitting two or more meanings, of being understood in more than one way, or of referring to two or more things at the same time. A statute is ambiguous if it is admissible of two or more possible meanings, in which case, the Court is called upon to exercise one of its judicial functions, which is to interpret the law according to its true intent. It is the first and fundamental duty of the Court to apply the law in such a way that in the course of such application or construction, it should not make or supervise legislation, or under the guise of interpretation, modify, revise, amend, distort, remodel, or rewrite the law, or give the law a construction which is repugnant to its terms. The Court should apply the law in a manner that would give effect to their letter and spirit, especially when the law is clear as to its intent and purpose.

4. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; THE FINDINGS OF THE COURT OF TAX APPEALS ARE ACCORDED THE HIGHEST RESPECT BECAUSE OF ITS EXPERTISE ON THE SUBJECT OF TAXATION.— [T]he Court accords findings and conclusions of the CTA with the highest respect. As a specialized court dedicated exclusively to the resolution of tax problems, the CTA has accordingly developed an expertise on the subject of taxation. Thus, its decisions are presumed valid in every aspect and will not be overturned on appeal, unless the Court finds that the questioned decision is not supported by substantial evidence or there has been an abuse or improvident exercise of authority on the part of the tax court. Upon careful review of the instant case, the Court finds no cogent reason to reverse or modify the findings of the CTA Division, as affirmed by the CTA *En Banc*.

5. ID.; ID.; ID.; PETITION FOR REVIEW UNDER RULE 45 OF THE RULES OF COURT; LIMITED ONLY TO REVIEW OF QUESTIONS OF LAW.— Petitioner's assertion x x x in its petition, that its claim deserves a greater weight of evidence for the same necessitates only a preponderance of evidence must certainly fail. It cannot be allowed, at this stage of the proceedings, to seek a review by the Court of the factual findings of the CTA Division, as affirmed by the CTA *En Banc*, as well as a re-examination of the evidence it presented, taking into account the quantum of proof required in the instant case.

Supreme Court E-Library

Settled is the rule that this Court is not a trier of facts and does not normally embark in the evaluation of evidence adduced during trial. It is not this Court's function to analyze or weight all over again the evidence already considered in the proceedings below. In a petition for review on *certiorari* under Rule 45 of the Rules of Court, moreover, only questions of law may be raised, the Court's jurisdiction being limited to reviewing only errors of law that may have been committed by the lower court. Thus, the Court shall not undertake the re-examination of the evidence presented by petitioner especially since the findings of facts of the CTA Division are affirmed by the CTA *En Banc*.

6. TAXATION; TAX REFUND OR CREDIT; CONSIDERED IN THE NATURE OF A CLAIM FOR EXEMPTION AND THE BURDEN IS ON THE TAXPAYER TO SHOW THAT HE HAS STRICTLY COMPLIED WITH THE CONDITIONS FOR THE GRANT OF THE TAX REFUND OR CREDIT.—[A]ctions for tax refund or credit, as in the instant case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven. The burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit. Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented as they are not intended to be liberally construed.

APPEARANCES OF COUNSEL

A.M. Sison, Jr. & Partners for petitioner.
Office of the Solicitor General for respondent.

D E C I S I O N

PERALTA, *J.*:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to reverse and set aside

Supreme Court E-Library

the Resolution[1] dated January 14, 2016 and Decision[2] dated August 12, 2015 of the Court of Tax Appeals (*CTA*) *En Banc* in CTA EB No. 1111, which affirmed the Decision[3] dated September 16, 2013 and Resolution[4] dated December 4, 2013 of the CTA Division in CTA Case No. 8099 denying petitioner's claim for refund or issuance of tax credit.

The antecedent facts are as follows:

On April 24, 2008, petitioner Coca-Cola Bottlers Philippines, Inc., a Value-Added Tax (*VAT*)-registered, domestic corporation engaged in the business of manufacturing and selling beverages, filed its Quarterly VAT Return for the period of January 1, 2008 to March 31, 2008 and amended the same a few times thereafter.[5] On May 27, 2009, the Bureau of Internal Revenue (*BIR*) issued a Letter of Authority to examine petitioner's books of accounts for all internal revenue taxes for the period January 1, 2008 to December 31, 2008. Subsequently, on April 20, 2010, petitioner filed with the BIR's Large Taxpayers Service an administrative claim for refund or tax credit of its alleged over/erroneous payment of VAT for the quarter ended March 31, 2008 in the total amount of ₱123,459,647.70.[6] Three (3) days

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[1] Penned by Associate Justice Juanito C. Castañeda, Jr., with Associate Justices Roman G. Del Rosario (with Separate Concurring Opinion), Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, Amelia R. Cotangco-Manalastas, and Ma. Belen Ringpis-Liban, concurring; *rollo*, pp. 35-38.

[2] Penned by Associate Justice Juanito C. Castañeda, Jr., with Associate Justices Roman G. Del Rosario (with Separate Concurring Opinion), Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, Amelia R. Cotangco-Manalastas, and Ma. Belen Ringpis-Liban, concurring; *id*. at 8-27.

[3] Penned by Associate Justice Esperanza R. Fabon-Victorino, with Associate Justice Erlinda P. Uy, concurring; *id*. at 152-168.

[4] Penned by Associate Justice Esperanza R. Fabon-Victorino, with Associate Justice Erlinda P. Uy, concurring; *id*. at 136-138.

[5] *Id*. at 9-10.

[6] *Id*. at 10.

Supreme Court E-Library

thereafter, or on April 23, 2010, petitioner filed with the CTA a judicial claim for refund or issuance of tax credit certificate presenting its financial employees as witnesses in support of its case. According to the witnesses, all of petitioner's records and documents, including invoices and official receipts for the period January 1 to March 31, 2008 subject of the instant claim were completely destroyed. They were, however, able to determine petitioner's input and output VAT through its computerized accounting system.[7]

In a Decision dated September 16, 2013 and Resolution dated December 4, 2013, the CTA Division denied petitioner's claim for lack of merit.[8] Subsequently, the CTA *En Banc* affirmed the ruling of the CTA Division in its Decision dated August 12, 2015. According to the CTA *En Banc*, Section 110 (B)[9] of the 1997 National Internal Revenue Code (*NIRC*), as amended, is clear that when input tax exceeds the output tax, the excess shall be carried over to the succeeding quarters. But when input tax, attributable to zero-rated sales, exceeds the output tax, it may be refunded or credited.[10] Section 112[11] is also categorical that there are only two (2) instances when excess input taxes

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[7] *Id.* at 11-12.

[8] *Id.* at 14.

[9] Section 110 (B) of the 1997 National Internal Revenue Code, as amended, provides:

SEC. 110. *Tax Credits.* —

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(B) Excess Output or Input Tax. [69] — If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters. *Provided*, however, That any input tax attributable to zero-rated sales by a VAT-registered person may, at his option, be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.

[10] *Rollo* p. 19.

[11] Section 112 (A) and (B) of the 1997 National Internal Revenue Code, as amended, provides:

Supreme Court E-Library

may be claimed for refund and/or issuance of tax credit certificate: (1) when the claimant is a VAT-registered person, whose sales are zero-rated or effectively zero-rated under Section 112(A); and (2) when the VAT registration of the claimant has been cancelled due to retirement from or cessation of business, or due to changes in or cessation of status under Section 112(B). But since the amount sought to be credited or refunded in the instant case essentially represents undeclared input taxes for the first quarter of 2008, and not erroneously paid VAT or understatement of VAT overpayment, then it does not fall under the instances enumerated in Section 112 which pertain to excess taxes only.[12]

SEC. 112. *Refunds or Tax Credits of Input Tax.* —

(A) *Zero-rated or Effectively Zero-rated Sales.* — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided,* however, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108 (B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided,* further, That where the taxpayer is engaged in zero-rated or effectively zero-rated sales and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales. *Provided,* finally, That for a person making sales that are zero-rated under Section 108(B) (6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.

(B) *Cancellation of VAT Registration.* — A person whose registration has been cancelled due to retirement from or cessation of business, or due to changes in or cessation of status under Section 106(C) of this Code may, within two (2) years from the date of cancellation, apply for the issuance of a tax credit certificate for any unused input tax which may be used in payment of his other internal revenue taxes.

[12] *Rollo,* p. 19.

Supreme Court E-Library

In addition, the CTA *En Banc* also cited jurisprudence which provide that Sections 204(C)[13] and 229[14] of the NIRC similarly

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[13] Section 204 (C) of the 1997 National Internal Revenue Code, as amended, provides:

SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* —

The Commissioner may —

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(C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. 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 (2) years after the payment of the tax or penalty: *Provided*, however, That a return filed showing an overpayment shall be considered as a written claim for credit or refund.

A Tax Credit Certificate validly issued under the provisions of this Code may be applied against any internal revenue tax, excluding withholding taxes, for which the taxpayer is directly liable. Any request for conversion into refund of unutilized tax credits may be allowed, subject to the provisions of Section 230 of this Code: *Provided*, That the original copy of the Tax Credit Certificate showing a creditable balance is surrendered to the appropriate revenue officer for verification and cancellation: *Provided*, further, That in no case shall a tax refund be given resulting from availment of incentives granted pursuant to special laws for which no actual payment was made.

The Commissioner shall submit to the Chairmen of the Committee on Ways and Means of both the Senate and House of Representatives, every six (6) months, a report on the exercise of his powers under this Section, stating therein the following facts and information, among others: names and addresses of taxpayers whose cases have been the subject of abatement or compromise; amount involved; amount compromised or abated; and reasons for the exercise of power: *Provided*, That the said report shall be presented to the Oversight Committee in Congress that shall be constituted to determine that said powers are reasonably exercised and that the Government is not unduly deprived of revenues.

[14] Section 229 of the 1997 National Internal Revenue Code, as amended, provides:

SEC. 229. *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

Supreme Court E-Library

apply only to instances of erroneous payment or illegal collection of internal revenue taxes. In claims for refund or credit of excess input VAT under Sections 110(B) and 112 (A), the input VAT is not "excessively" collected as understood under Section 229. The term "excess" input VAT simply means that the input VAT available as credit exceeds the output VAT, not that the input VAT is excessively collected because it is more than what is legally due.[15] Section 229, therefore, is inapplicable to the instant claim for refund or credit.

The CTA *En Banc* further held that for input taxes to be available as tax credits, they must be substantiated and reported in the VAT Return of the taxpayer.[16] Petitioner, being well-aware of the law allowing the amendment of a VAT Return within three (3) years from its filing provided that an LOA has not yet been served on the taxpayer, was not prompt enough to include the alleged omitted input VAT in this case.[17] Moreover, even if the substantiated input taxes were declared in the VAT Return for the first (1st) quarter of 2008, the same would still be not enough to offset petitioner's output tax liabilities for the same period leaving no balance that may be refunded.[18]

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illegally assessed or collected, or of any penalty claimed to have been collected without authority, of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively 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.

In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: *Provided*, however, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.

[15] *Rollo*, p. 22.

[16] *Id*. at 24.

[17] *Id*. at 23.

[18] *Id*. at 25.

Supreme Court E-Library

When the CTA *En Banc* denied its Motion for Reconsideration in a Resolution dated January 14, 2016, petitioner filed the instant petition invoking the following arguments:

I.

THE CTA *EN BANC* GRAVELY ERRED IN RULING THAT PETITIONER'S CLAIM FOR REFUND/TAX CREDIT DOES NOT FALL WITHIN THE PURVIEW OF SECTION 229 OF THE NIRC OF 1997, AS AMENDED, IN RELATION TO SECTION 204(C) OF THE SAME CODE.

II.

THE CTA *EN BANC* GRAVELY ERRED IN RULING THAT THE UNDECLARED INPUT VAT IN THE AMOUNT OF ₱123,459,674.70 FOR THE QUARTER ENDED MARCH 31, 2008 IS REQUIRED TO BE REPORTED IN THE QUARTERLY VAT RETURN AS A REQUISITE FOR PETITIONER'S CLAIM FOR REFUND OF TAX UNDER SECTION 229 OF THE NIRC OF 1997, AS AMENDED, IN RELATION TO SECTION 204(C) OF THE SAME CODE.

III.

THE CTA *EN BANC* GRAVELY ERRED IN FAILING TO CONSIDER THAT PETITIONER'S CLAIM FOR REFUND SHALL NOT BE CONSTRUED IN *STRICTISSIMI JURIS* AGAINST THE PETITIONER.

IV.

THE CTA *EN BANC* GRAVELY ERRED IN FAILING TO CONSIDER THAT THE OMITTED INPUT VAT IN THE AMOUNT OF ₱123,459,674.70 MAY BE INCLUDED IN THE CURRENT AND AVAILABLE INPUT VAT OF THE PETITIONER FOR THE QUARTER ENDED MARCH 31, 2008 IN ORDER TO PREVENT UNJUST ENRICHMENT OF THE GOVERNMENT TO THE DETRIMENT OF HEREIN PETITIONER.

Petitioner posits that its claim for refund/tax credit is hinged not on the basis of "excess" input tax *per se* but on the basis of the inadvertence of applying the undeclared input tax against the output VAT. It asserts that through relevant evidence, it has substantially proven that due to its employees' inadvertence, the input tax amounting to ₱123,459,674.70 was not credited against the corresponding output tax during the quarter. Thus,

Supreme Court E-Library

by virtue of Section 229 of the 1997 NIRC, petitioner may claim for refund/tax credit of its erroneous payment of output VAT due to its failure to apply the ₱123,459,674.70 input VAT in the computation of its excess allowable input VAT.[19]

Petitioner also avers that since it is already barred from amending its VAT Return due to the fact that the BIR had already issued an LOA, it is left with no other recourse but to apply for a claim for refund for the undeclared input VAT, still, under Section 229. But contrary to the CTA *En Banc*, its claim for refund or issuance of tax credit under Sections 229 and 204(C) of the NIRC only requires that the same be in writing and filed with the Commissioner within two (2) years after the payment of tax or penalty, and that the claim must categorically demand for reimbursement and show proof of payment of the tax.[20] Nowhere is it provided in said provisions a mandatory requirement that a VAT Return must show the undeclared input tax in order to claim a refund.[21] In support of its assertion, petitioner cites the ruling in *Fort Bonifacio Development Corporation v. CIR*[22] which adopts the principle that input taxes not reported in the VAT Return may still be credited against output tax due for as long as the same were properly substantiated.[23]

Furthermore, petitioner maintains that its claim for refund, being based on erroneous payment of output VAT, should not be construed against it and, in fact, necessitates only a preponderance of evidence for its approbation like any other ordinary civil case.[24] In the end, it is only just and proper to allow petitioner's claim for refund so as not to violate the principle of unjust enrichment as enshrined in our laws.[25]

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[19] *Id*. at 51-52.

[20] *Id*. at 54.

[21] *Id*. at 55.

[22] 694 Phil. 7 (2012).

[23] *Rollo*, p. 55.

[24] *Id*. at 58-59.

[25] *Id*. at 61.

Supreme Court E-Library

The petition is devoid of merit.

Petitioner, in advancing its claim for refund or tax credit, cannot rely on Section 229 of the 1997 NIRC, as amended. Time and again, the Court had consistently ruled on the inapplicability of Section 229 to claims for the recovery of unutilized input VAT.[26] In *Commissioner of Internal Revenue v. San Roque Power Corporation (San Roque),*[27] the Court explained that input VAT is not "excessively" collected as understood under Section 229 because at the time the input VAT is collected, the amount paid is correct and proper. If said input VAT is in fact "excessively" collected as understood under Section 229, then it is the person legally liable to pay the input VAT, and not the person to whom the tax is passed on and who is applying the input VAT as credit for his own output VAT, who can file the judicial claim for refund or credit outside the VAT system. The Court, in *San Roque*, explained as follows:

III. **"Excess" Input VAT and "Excessively" Collected Tax**

The input VAT is not "excessively" collected as understood under Section 229 because at the time the input VAT is collected the amount paid is correct and proper. The input VAT is a tax liability of, and legally paid by, a VAT-registered seller of goods, properties or services used as input by another VAT-registered person in the sale of his own goods, properties, or services. This tax liability is true even if the seller passes on the input VAT to the buyer as part of the purchase price. The second VAT-registered person, who is not legally liable for the input VAT, is the one who applies the input VAT as credit for his own output VAT. **If the input VAT is in fact "excessively" collected as understood under Section 229, then it is the first VAT-registered person - the taxpayer who is legally liable and who is deemed to have legally paid for the input VAT — who can ask for a tax refund or credit under Section 229 as**

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[26] *Commissioner of Internal Revenue v. Dash Engineering Philippines, Inc.*, 723 Phil. 433, 439 (2013); *Commissioner of Internal Revenue v. Mindanao II Geothermal Partnership*, 724 Phil. 534, 548 (2014).

[27] *Commissioner of Internal Revenue v. San Roque Power Corporation*, 703 Phil. 300, 365 (2013).

Supreme Court E-Library

an ordinary refund or credit outside of the VAT System. In such event, the second VAT-registered taxpayer will have no input VAT to offset against his own output VAT.

In a claim for refund or credit of "excess" input VAT under Section 110(B) and Section 112(A), the input VAT is not "excessively" collected as understood under Section 229. At the time of payment of the input VAT the amount paid is the correct and proper amount. **Under the VAT System, there is no claim or issue that the input VAT is "excessively" collected, that is, that the input VAT paid is more than what is legally due.** The person legally liable for the input VAT cannot claim that he overpaid the input VAT by the mere existence of an "excess" input VAT. The term "excess" input VAT simply means that the input VAT available as credit exceeds the output VAT, not that the input VAT is excessively collected because it is more than what is legally due. **Thus, the taxpayer who legally paid the input VAT cannot claim for refund or credit of the input VAT as "excessively" collected under Section 229.**

x x x x x x x x x

x x x Only the person legally liable to pay the tax can file the judicial claim for refund. The person to whom the tax is passed on as part of the purchase price has no personality to file the judicial claim under Section 229.

x x x x x x x x x

Any suggestion that the "excess" input VAT under the VAT System is an "excessively" collected tax under Section 229 may lead taxpayers to file a claim for refund or credit for such "excess" input VAT under Section 229 as an ordinary tax refund or credit outside of the VAT System. Under Section 229, mere payment of a tax beyond what is legally due can be claimed as a refund or credit. There is no requirement under Section 229 for an output VAT or subsequent sale of goods, properties, or services using materials subject to input VAT.

From the plain text of Section 229, it is clear that what can be refunded or credited is a tax that is "erroneously, x x x illegally, x x x excessively or in any manner wrongfully collected." In short, there must be a wrongful payment because what is paid, or part of it, is not legally due. As the Court held in *Mirant,* Section 229 should "apply only to instances of erroneous payment or illegal collection of internal revenue taxes." Erroneous or wrongful payment

Supreme Court E-Library

includes excessive payment because **they all refer to payment of taxes not legally due**. **Under the VAT System, there is no claim or issue that the "excess" input VAT is "excessively or in any manner wrongfully collected." In fact, if the "excess" input VAT is an "excessively" collected tax under Section 229, then the taxpayer claiming to apply such "excessively" collected input VAT to offset his output VAT may have no legal basis to make such offsetting. The person legally liable to pay the input VAT can claim a refund or credit for such "excessively" collected tax, and thus there will no longer be any "excess" input VAT. This will upend the present VAT System as we know it**.[28]

Thus, the CTA *En Banc* and CTA Division are correct in holding that, based on the *San Roque* doctrine above, Section 229 of the 1997 NIRC is inapplicable to the instant claim for refund or issuance of tax credit. In addition, neither can petitioner advance its claim for refund or tax credit under Sections 110 (B) and 112 (A) of the 1997 NIRC. For clarity and reference, said Sections are reproduced below:

SEC. 110. *Tax Credits*. —

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(B) Excess Output or Input Tax. — If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the Vat-registered person. **If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters.** Provided, however, That **any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.**

x x x x x x x x x

SEC. 112. *Refunds or Tax Credits of Input Tax*. —

(A) Zero-rated or Effectively Zero-rated Sales. — **Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a**

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[28] *Id*. at 365-369. (Emphases ours; citations omitted)

Supreme Court E-Library

tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, **to the extent that such input tax has not been applied against output tax**: Provided, however, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108 (B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): Provided, further, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales. Provided, finally, That for a person making sales that are zero-rated under Section 108(B) (6), the input taxes shall be allocated rateably between his zero-rated and non-zero-rated sales.[29]

A plain and simple reading of the aforequoted provisions reveals that if and when the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters. It is only when the sales of a VAT-registered person are zero-rated or effectively zero-rated that he may have the option of applying for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales. Such is the clear import of the Court's ruling in *San Roque,* to wit*:*

Under Section 110(B), a taxpayer can apply his input VAT only against his output VAT. The only exception is when the taxpayer is expressly "zero-rated or effectively zero-rated" under the law, like companies generating power through renewable sources of energy. **Thus, a non zero-rated VAT-registered taxpayer who has no output VAT because he has no sales cannot claim a tax refund or credit of his unused input VAT under the VAT System. Even if the taxpayer has sales but his input VAT exceeds his output VAT, he cannot seek a tax refund or credit of his "excess" input VAT under the VAT System. He can only carry-over and apply his "excess" input VAT against his future output VAT**. **If such "excess" input VAT is an "excessively" collected tax, the**

[29] Emphases ours.

Supreme Court E-Library

taxpayer should be able to seek a refund or credit for such "excess" input VAT whether or not he has output VAT. The VAT System does not allow such refund or credit. Such "excess" input VAT is not an "excessively" collected tax under Section 229. The "excess" input VAT is a correctly and properly collected tax. However, such "excess" input VAT can be applied against the output VAT because the VAT is a tax imposed only on the value added by the taxpayer. If the input VAT is in fact "excessively" collected under Section 229, then it is the person legally liable to pay the input VAT, not the person to whom the tax was passed on as part of the purchase price and claiming credit for the input VAT under the VAT System, who can file the judicial claim under Section 229.[30]

It is clear, based on the foregoing, that neither the law nor jurisprudence authorize petitioner's claim for refund or issuance of tax credit. In asserting its alleged right to said claim, petitioner unfortunately failed to convince the Court that it is entitled to the refund or credit of input VAT in the amount of ₱123,459,647.70 it inadvertently failed to include in its VAT Return. This is because as shown above, petitioner's claim is not governed by Section 229 as an ordinary refund or credit outside of the VAT System as the same does not involve a tax that is "erroneously, illegally, excessively, or in any manner wrongfully collected." Neither is said claim authorized under Sections 110(B) and 112(A) as the same does not seek to refund or credit input tax due or paid attributable to zero-rated or effectively zero-rated sales.

On this score, the Court notes that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation; there is only room for application.[31] Only when the law is ambiguous or of doubtful meaning may the court interpret or construe its true intent. Ambiguity is a condition of admitting two or more meanings, of being

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[30] *Id*. (Emphases ours)

[31] *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, 706 Phil. 442, 450 (2013); citing *Rizal Commercial Banking Corporation v. Intermediate Appellate Court and BF Homes, Inc.*, 378 Phil. 10, 22 (1999).

Supreme Court E-Library

understood in more than one way, or of referring to two or more things at the same time. A statute is ambiguous if it is admissible of two or more possible meanings, in which case, the Court is called upon to exercise one of its judicial functions, which is to interpret the law according to its true intent.[32] It is the first and fundamental duty of the Court to apply the law in such a way that in the course of such application or construction, it should not make or supervise legislation, or under the guise of interpretation, modify, revise, amend, distort, remodel, or rewrite the law, or give the law a construction which is repugnant to its terms.[33] The Court should apply the law in a manner that would give effect to their letter and spirit, especially when the law is clear as to its intent and purpose.[34]

Even assuming, for argument's sake, that petitioner's application for refund or issuance of tax credit is permitted under case law as well as the provisions of the tax code, said claim must nonetheless fail in view of petitioner's failure to properly substantiate the same. Because of said failure, moreover, the issue of whether input taxes must first be reported in a taxpayer's VAT Return before they can be refunded or credited becomes irrelevant to petitioner's plight. As petitioner itself asserted, input taxes not reported in the VAT Return may still be credited against output tax due *for as long as the same were properly substantiated*. But as duly found by both the CTA *En Banc* and CTA Division, the substantiated amount is not even enough to offset petitioner's output tax liabilities leaving no balance that may be refunded. In this regard, the CTA *En Banc* held:

In this case, only ₱48,509,474.01 was properly supported by official receipts (ORs) out of the claimed ₱123,459,647.70. The said amount was also recorded in petitioner's books of accounts but was not reported in its VAT Return due to alleged inadvertence. In the assailed Decision, the CTA Division made a pronouncement that

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[32] *Id*.

[33] *Corpuz v. People of the Philippines*, 734 Phil. 353, 416 (2014).

[34] *Id*.

Supreme Court E-Library

even if the substantiated input taxes were declared in the VAT Return for the First (1st) Quarter of 2008, still it would not be enough to offset the output taxes payable for the same taxable period. Pertinent portions of the assailed Decision are reiterated with approval, as follows:

> Petitioner's Quarterly VAT Return for the first quarter of 2008 shows the following output taxes due in the amount of ₱1,269,933,934.95. **Had Petitioner declared the substantiated input taxes of ₱48,509,474.01 in its Quarterly VAT Return for the first quarter of 2008, considering its output taxes and substantiated input taxes for the first quarter of 2008 per ICPA examination, it would not have had enough input taxes to offset against its output taxes for the same taxable periods.**
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> In this case, We emphasize that **"the substantiated amount is not even enough to offset petitioner's output tax liabilities for the same period leaving no balance that may be refunded."** Consequently, petitioner's claim for its alleged understatement of overpayment of VAT (excess input taxes) due to undeclared input taxes for the first quarter of 2008 is denied.[35]

In fact, such was the conclusion likewise reached by CTA Justice Roman G. Del Rosario, in his separate concurring opinion often cited by petitioner, which stated that as found by the Independent CPA and the Court in Division, petitioner's substantiated input VAT is not enough to offset its output VAT liability. Considering that petitioner did not pay any VAT for the 1st quarter of 2008, it did not overpay its taxes due for the 1st quarter of 2008. Thus, there is no basis for petitioner to ask for refund of erroneously paid output VAT.[36]

It bears stressing that the Court accords findings and conclusions of the CTA with the highest respect.[37] As a specialized court

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[35] *Rollo*, p. 25. (Emphases ours; citations omitted)

[36] *Id*. at 32.

[37] *Sitel Philippines Corporation (Formerly Clientlogic Phils., Inc.) v. Commissioner of Internal Revenue*, G.R. No. 201326, February 8, 2017.

Supreme Court E-Library

dedicated exclusively to the resolution of tax problems, the CTA has accordingly developed an expertise on the subject of taxation. Thus, its decisions are presumed valid in every aspect and will not be overturned on appeal, unless the Court finds that the questioned decision is not supported by substantial evidence or there has been an abuse or improvident exercise of authority on the part of the tax court.[38] Upon careful review of the instant case, the Court finds no cogent reason to reverse or modify the findings of the CTA Division, as affirmed by the CTA *En Banc*.

Petitioner's assertion, therefore, in its petition, that its claim deserves a greater weight of evidence for the same necessitates only a preponderance of evidence must certainly fail. It cannot be allowed, at this stage of the proceedings, to seek a review by the Court of the factual findings of the CTA Division, as affirmed by the CTA *En Banc*, as well as a re-examination of the evidence it presented, taking into account the quantum of proof required in the instant case. Settled is the rule that this Court is not a trier of facts and does not normally embark in the evaluation of evidence adduced during trial.[39] It is not this Court's function to analyze or weigh all over again the evidence already considered in the proceedings below.[40] In a petition for review on *certiorari* under Rule 45 of the Rules of Court, moreover, only questions of law may be raised, the Court's jurisdiction being limited to reviewing only errors of law that may have been committed by the lower court.[41] Thus, the Court shall not undertake the re-examination of the evidence presented by petitioner especially since the findings of facts of the CTA Division are affirmed by the CTA *En Banc*.

On a final note, the Court reiterates its consistent ruling that actions for tax refund or credit, as in the instant case, are in the

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[38] *Id*.

[39] *Id*.

[40] *Id*.

[41] *Miramar Fish Company, Inc. v. Commissioner of Internal Revenue*, 735 Phil. 125, 132 (2014).

Supreme Court E-Library

nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven.[42] The burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit.[43] Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented as they are not intended to be liberally construed.[44] Thus, in view of petitioner's failure to prove, to the satisfaction of the Court, its entitlement to the grant of tax refund or issuance of tax credit of input VAT in the amount of ₱123,459,647.70 it inadvertently failed to include in its VAT Return, the Court deems it necessary to deny the same.

WHEREFORE, premises considered, the instant petition is **DENIED**. The assailed Resolution dated January 14, 2016 and Decision dated August 12, 2015 of the Court of Tax Appeals *En Banc* in CTA EB No. 1111, which affirmed the Decision dated September 16, 2013 and Resolution dated December 4, 2013 of the CTA Division denying petitioner's claim for refund or issuance of tax credit, are **AFFIRMED**.

SO ORDERED.

Carpio (Chairperson), Perlas-Bernabe, and *Reyes, Jr., JJ.*, concur.

Caguioa, J., on official business.

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[42] *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue,* 569 Phil. 483, 496 (2008).

[43] *Commissioner of Internal Revenue v. San Roque Power Corporation, supra* note 27, at 357.

[44] *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.,* 746 Phil. 139, 153 (2014); *Commissioner of Internal Revenue v. Dash Engineering Philippines, Inc., supra* note 26, at 443.