Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**G.R. No. 230016**
	Present:
-versus-	PERLAS-BERNABE, *S.A.J.*, *Chairperson*, GESMUNDO, LAZARO-JAVIER, LOPEZ, and ROSARIO,* *JJ.*
PHILEX MINING CORPORATION, Respondent.	Promulgated: NOV 23 2020

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D E C I S I O N

LOPEZ, *J.*:

While the tax law requires mandatory compliance with the keeping of subsidiary journals and the filing of monthly value-added tax (VAT) declarations, the Court will not deny the request for refund on the sole basis that the taxpayer failed to comply with these requirements when the law does not provide for its compliance by the taxpayer to be entitled for refund. The Court may not construe a statute that is free from doubt; neither can we impose conditions or limitations when none is provided for.[1]

This Petition for Review on *Certiorari*[2] under Rule 45 of the Rules of Court seeks to set aside the Decision[3] dated October 19, 2016 and

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* Designated as additional Member per Special Order No. 2797 dated November 5, 2020.

1 *Commissioner of Internal Revenue v. American Express International, Inc.*, 500 Phil. 586, 608 (2005).

2 *Rollo*, pp. 15-27.

3 *Id.* at 31-44; penned by Associate Justice Esperanza R. Fabon-Victorino, with the concurrence of Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Cielito N. Mindaro-Grulla, and Ma. Belen M. Ringpis-Liban.

Resolution[4] dated February 14, 2017 of the Court of Tax Appeals (CTA) *En Banc* in CTA EB No. 1334, which affirmed the CTA Division's Decision[5] dated March 31, 2015 and Resolution[6] dated June 24, 2015 in CTA Case Nos. 8553 and 8562, ordering the Commissioner of Internal Revenue (CIR) to refund in favor of Philex Mining Corporation (Philex Mining) the amount of ₱51,734,898.99, representing its unutilized input VAT attributable to its zero-rated sales for the second and third quarters of the taxable year (TY) 2010.

ANTECEDENTS

Philex Mining is a domestic corporation engaged in the mining business, such as the exploration and operation of mining properties and the commercial production, marketing, and exportation of mineral products.[7] It is a VAT-registered taxpayer with duly approved Application for Zero-Rate effective April 12, 1998.[8] During the second and third quarters of TY 2010, Philex Mining sold and shipped mineral products to Pan Pacific Copper Co., Ltd., Louise Dreyfus Commodities Metals Suisse SA, and Heraeus Ltd.[9]

On February 13, 2012, Philex Mining filed its amended quarterly VAT returns for the second and third quarters to reflect excess input tax arising from its zero-rated sales.[10] On June 7, 2012 and June 22, 2012, it filed claims for refund of ₱45,048,921.68 and ₱51,464,383.81 with the Department of Finance's One-Stop Shop Center (DOF-OSS) and attached to the Claimant Information Sheet Nos. 62442 and 22002, the letters dated May 4, 2012, containing a list of documents to support its claims.[11]

Thereafter, Philex Mining filed two (2) separate petitions for review before the CTA Division on October 9, 2012 (docketed as CTA Case No. 8553) and on October 25, 2012 (docketed as CTA Case No. 8562).[12] The Court granted the motions to consolidate the two (2) cases and to commission an Independent Certified Public Accountant (ICPA) on February 14, 2013.[13] Thereafter, trial ensued.

Ruling of the CTA

On March 31, 2015, the CTA Division partly granted Philex Mining's

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4 *Id.* at 46-48; penned by Associate Justice Esperanza R. Fabon-Victorino, with the concurrence of Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Cielito N. Mindaro-Grulla, Ma. Belen M. Ringpis-Liban, and Catherine T. Manahan.

5 *Id.* at 50-79; penned by Associate Justice Amelia R. Cotangco-Manalastas, with the concurrence of Associate Justices Juanito C. Castañeda, Jr. and Caesar A. Casanova.

6 *Id.* at 81-84.

7 *Id.* at 50-51, and 55.

8 *Id.* at 51.

9 *Id.* at 67.

10 *Id.* at 51-52.

11 *Id.* at 52.

12 *Id.*

13 *Rollo*, p. 54.

petitions.[14] It held that Philex Mining timely filed its administrative and judicial claims for a refund within the period prescribed under Sections 112 (A) and (C) of the 1997 National Internal Revenue Code (NIRC), as amended[15] (Tax Code), and that it attached to the Claimant Information Sheets the required documents to support its claims. The CTA Division examined the pieces of documentary evidence submitted by Philex Mining and evaluated the report issued by the ICPA, and concluded that Philex Mining sufficiently proved its entitlement to a refund for its unutilized input VAT attributable to its zero-rated sales for the second and third quarters of TY 2010, but in the reduced amount of ₱51,734,898.99. The dispositive portion of the Decision reads:

> **WHEREFORE**, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, [the Commissioner of Internal Revenue] is hereby **ORDERED** to **REFUND** in favor of [Philex Mining Corporation] the amount of ₱51,734,898.99, representing its unutilized and excess input VAT attributable to its zero-rated sales for the second and third quarter[s] of 2010.
>
> **SO ORDERED.**[16] (Emphases in the original.)

The CIR moved for reconsideration alleging that the judicial claim for refund was premature, Philex Mining did not submit to the DOF-OSS the required checklist of documents, and Philex Mining failed to comply with the accounting requirements, specifically the keeping of subsidiary sales journal and subsidiary purchase journal, and the filing of monthly VAT declarations.

On June 24, 2015, the CTA Division denied the CIR's motion for reconsideration for lack of merit.[17] The CTA Division reiterated that the judicial claim was timely filed and that Philex Mining submitted complete documents to support its claims. As regards non-compliance with the accounting requirements, the CTA Division held that there was nothing in Section 112 (A) of the Tax Code that required the presentation of subsidiary journals or the filing of monthly VAT declarations so that the taxpayer may be entitled to a refund or the issuance of tax credit certificate of its claimed excess input tax.

Discontented, the CIR appealed to the CTA *En Banc* reiterating the arguments raised in his motion for reconsideration filed with the CTA Division. On October 19, 2016, the CTA *En Banc* affirmed the CTA

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14 *Supra* note 5.

15 Value Added Tax (VAT) Reform Act, as amended by Republic Act No. 9337; approved on May 24, 2005.

16 *Rollo*, p. 78.

17 *Supra* note 6. The dispositive portion of the Resolution reads:

> **WHEREFORE**, premises considered, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit.
>
> **SO ORDERED**. *Id.* at 84. (Emphases in the original.)

Division's findings and conclusion and disposed:[18]

> **WHEREFORE**, the Petition for Review filed by [the] Commissioner of Internal Revenue on August 5, 2015, is hereby **DENIED**, for lack of merit. Accordingly, the assailed Decision and Resolution dated March 31, 2015 and June 24, 2015, respectively promulgated by [the] Court in Division in CTA Case Nos. 8553 & 8562, are hereby **AFFIRMED**.
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> **SO ORDERED**.[19] (Emphases in the original.)

Failing at reconsideration,[20] the CIR, through the Office of the Solicitor General, filed the instant petition with this Court, raising the sole issue:

> CONTRARY TO THE FINDINGS OF THE CTA *EN BANC*, TAX DECLARATIONS AND SUBSIDIARY JOURNALS FORM PART OF THE REQUIREMENTS OF THE LAW FOR THE GRANT OF TAX CREDIT OR REFUND, AND IT IS THE OBLIGATION OF RESPONDENT TO PROVE COMPLIANCE THERETO.[21]

RULING

The petition is bereft of merit.

First off, it is not disputed that Philex Mining was engaged in zero-rated export sales under Section 106 (A)(2)(a)(1)[22] of the Tax Code and that it imported goods other than capital goods and purchased services in relation to such sales for the second and third quarters of TY 2010.[23]

Under Section 112 (A),[24] a taxpayer engaged in zero-rated sales may apply for the issuance of a tax credit certificate, or refund of excess input tax

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18 *Supra* note 3.

19 *Rollo*, p. 43.

20 *Supra* note 4. The dispositive portion of the Resolution reads:

> **WHEREFORE**, the Motion for Reconsideration filed by [the] Commissioner of Internal Revenue on November 16, 2016 is hereby **DENIED**, for lack of merit.
>
> **SO ORDERED**. *Id.* at 48. (Emphases in the original.)

21 *Rollo*, p. 20.

22 SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* —

> (A) Rate and Base of Tax. – x x x
>
> x x x x
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (a) *Export Sales.* — The term '*export sales*' means:
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> (1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
>
> x x x x

23 *Rollo*, pp. 62-64, 73.

24 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

due or paid, attributable to the sale, subject to the following conditions: (1) the taxpayer must be VAT-registered; (2) the taxpayer must be engaged in sales which are zero-rated or effectively zero-rated; (3) the claim must be filed within two (2) years after the close of the taxable quarter when such sales were made; (4) the creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax;[25] and (5) in case of zero-rated sales under Section 106 (A)(2)(a)(1), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with *Bangko Sental ng Pilipinas* rules and regulations.[26]

The issue hinges on the fourth requisite.

The CIR posits that Philex Mining did not comply with the requirement of Section 4.113-3[27] of Revenue Regulations (RR) No. 16-2005[28] to keep, preserve, and maintain subsidiary sales and purchase journals. Likewise, Philex Mining failed to prove that it filed the monthly VAT declarations required under Section 114 (A)[29] of the Tax Code, as implemented by Section 4.114-1[30] of RR No. 16-2005. The CIR opines that prior compliance with these requirements is a condition *sine qua non* in claiming unutilized zero-rated input VAT because the subsidiary journals and monthly VAT declarations will assist the CIR and the courts in determining whether Philex Mining incurred input taxes in connection with its zero-rated sales and whether the input taxes were not applied against any output tax liability.[31]

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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) x x x, 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): x x x.

25 *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*, G.R. No. 234445, July 15, 2020.

26 *AT&T Communications Services Phils., Inc. v. Commissioner of Internal Revenue*, 640 Phil. 613, 617 (2010).

27 SEC. 4.113-3. *Accounting Requirements.* — Notwithstanding the provisions of Sec. 233, all persons subject to VAT under Sec. 106 and 108 of the Tax Code shall, in addition to the regular accounting records required, maintain a subsidiary sales journal and subsidiary purchase journal on which every sale or purchase on any given day is recorded. The subsidiary journal shall contain such information as may be required by the Commissioner of Internal Revenue.

x x x x

28 Consolidated Value-Added Tax Regulations of 2005 dated September 1, 2005.

29 SEC. 114. *Return and Payment of Value-added Tax.* —

(A) *In General.* — Every person liable to pay the value-added tax imposed under this Title shall file a quarterly return of the amount of his gross sales or receipts within twenty-five (25) days following the close of each taxable quarter prescribed for each taxpayer: *Provided, however*, That VAT-registered persons shall pay the value-added tax on a monthly basis.

x x x x

30 SEC. 4.114-1. *Filing of Return and Payment of VAT.* —

(A) Filing of Return. — x x x

Amounts reflected in the monthly VAT declarations for the first two (2) months of the quarter shall still be included in the quarterly VAT return which reflects the cumulative figures for the taxable quarter. Payments in the monthly VAT declarations shall, however, be credited in the quarterly VAT return to arrive at the net VAT payable or excess input tax/over-payment as of the end of a quarter.

x x x x

The monthly VAT Declarations (BIR Form 2550M) of taxpayers whether large or non-large shall be filed and the taxes paid not later than the 20th day following the end of each month.

31 *Rollo*, p. 24.

The CIR is mistaken.

It is elementary rule in statutory construction that when the words of a statute are clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.[32] The plain-meaning rule or *verba legis*, expressed in the maxim *index animi sermo*, or speech is the index of intention, rests on the valid presumption that the words employed by the legislature in a statute correctly express its intention or will, and preclude the court from construing it differently.[33] *Verba legis non est recedendum*. From the words of a statute there should be no departure. Furthermore, every part of the statute must be interpreted with reference to the context, *i.e.* that every part of the statute must be considered together with the other parts, and kept subservient to the general intent of the whole enactment.[34]

Guided by the foregoing principles, we see no reason to depart from the findings and conclusion of the CTA. As the CTA aptly held, and as will be discussed below, there was nothing in the Tax Code or in RR No. 16-2005 that would suggest that the subsidiary journals and monthly VAT declarations are part of the substantiation requirements that must be complied with to support a claim for tax refund or credit.[35]

Under Section 110 (A)[36] of the Tax Code, creditable input taxes must be evidenced by a VAT invoice or official receipt, which must, in turn, be issued in accordance with Sections 113[37] and 237.[38] Related to these

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32 *Philippine Amusement and Gaming Corp. (PAGCOR) v. Philippine Gaming Jurisdiction Inc. (PEJI)*, 604 Phil. 547, 553 (2009).

33 *Id.*

34 *Paras v. COMELEC*, 332 Phil. 56, 63. (1996)

35 See *rollo*, pp. 83-84.

36 SEC. 110. *Tax Credits.* —
(A) *Creditable Input Tax.* —
(1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax:
x x x x

37 SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* —
(A) *Invoicing Requirements.* — A VAT-registered person shall issue:
(1) A VAT invoice for every sale, barter or exchange of goods or properties; and
(2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.
(B) *Information Contained in the VAT Invoice or VAT Official Receipt.* — The following information shall be indicated in the VAT invoice or VAT official receipt:
(1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided*, That:
(a) The amount of the tax shall be shown as a separate item in the invoice or receipt;
x x x x
(c) If the sale is subject to zero percent (0%) value-added tax, the term 'zero-rated sale' shall be written or printed prominently on the invoice or receipt;
x x x x
(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; x x x.
x x x x

provisions, Sections 4.110-8, 4.113-1 (A) and (B) of RR No. 16-2005 enumerate the documents required and information that must appear on the face of the official receipt, to substantiate the input tax on importation of goods other than capital goods and on domestic purchases of services, *viz.*:

> SEC. 4.110-8. *Substantiation of Input Tax Credits.* —
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> (a) **Input taxes for the importation of goods or the domestic purchase** of goods, properties or **services** is made in the course of trade or business, whether such input taxes shall be credited against zero-rated sale, non-zero-rated sales, or subjected to the 5% Final Withholding VAT, **must be substantiated and supported by the following documents**, x x x:
>
> (1) For the importation of goods — import entry or other equivalent document showing actual payment of VAT on the imported goods.
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> x x x x
>
> (4) For the purchase of services — official receipt **showing the information required under Secs. 113 and 237** of the Tax Code.
>
> x x x x
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> SEC. 4.113-1. *Invoicing Requirements.* —
>
> (A) A VAT-registered person shall issue: —
>
> x x x x
>
> (2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.
>
> Only VAT-registered persons are required to print their TIN followed by the word "VAT" in their invoice or official receipts. Said documents shall be considered as a "VAT Invoice" or VAT official receipt. All purchases covered by invoices/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.
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> x x x x
>
> (B) **Information contained in VAT invoice or VAT official receipt.** — The following information shall be indicated in VAT invoice or VAT official receipt:

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[38] SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* — All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sale or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: *Provided, however*, That where the receipt is issued to cover payment made as rentals, commissions, compensation or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client.

x x x x

> (1) A statement that the seller is a VAT-registered person, followed by his TIN;
>
> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; Provided, That:
>
> x x x x
>
> (c) If the sale is subject to zero percent (0%) VAT, the term "zero-rated sale" shall be written or printed prominently on the invoice or receipt [.] x x x. (Emphases supplied.)

From the foregoing, it is apparent that importation of non-capital goods must be evidenced by import entry declarations or any equivalent document; and the domestic purchase of services, by VAT official receipts showing: (1) that the seller is a VAT-registered person; (2) the Tax Identification Number (TIN) of the seller; (3) the word "zero-rated sale" was written or printed prominently on the receipt in case of zero-rated sales; (4) the date of transaction, nature of service, as well as the name, business style, if any, and address of the purchaser; and (5) the TIN of the purchaser.[39] Case law states that failure to comply with the *invoicing requirements* is sufficient ground to deny the claim for refund or tax credit.[40] Too, Revenue Memorandum Circular No. 42-2003[41] only provides for non-compliance with the *invoicing requirements* as a ground for denial of the claim for refund or credit, *viz.*:

> Q-13: Should penalty be imposed on TCC application for failure of claimant to comply with certain **invoicing requirements**, (e.g., sales invoices must bear the TIN of the seller)?
>
> A-13 Failure by the supplier to comply with the **invoicing requirements** on the documents supporting the sale of goods and services will result to the disallowance of the claim for input tax by the purchaser-claimant.
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> If the claim for refund/TCC is based on the existence of zero-rated sales by the taxpayer but it fails to comply with the **invoicing requirements** in the issuance of sales invoices (e.g. failure to indicate the TIN), its claim for tax credit/refund of VAT on its purchases shall be denied considering that the invoice it is issuing to its customers does not depict its being a VAT-registered taxpayer whose sales are classified as zero-rated sales. x x x. (Emphases supplied.)

The reason for strict compliance with invoicing requirements is only a "VAT invoice/official receipt" can give rise to any input tax from domestic

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39 See Section 237 of the Tax Code.

40 *Eastern Telecommunications Phils., Inc. v. Commissioner of Internal Revenue*, 693 Phil. 464, 472 (2012).

41 Clarifying Certain Issues Raised Relative to the Processing of Claims for Value-Added Tax (VAT) Credit/Refund, Including Those Filed with the Tax and Revenue Group, One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center, Department of Finance (OSS) by Direct Exporters; dated July 15, 2003.

purchase of goods or service.[42] Without input tax, there is nothing to refund. On the other hand, the particulars recorded in the subsidiary journals do not affect the character of an invoice or receipt as a "VAT invoice/official receipt." A taxpayer's books of accounts include the journal and the ledger and their subsidiaries, or their equivalents.[43] The general journal is a book of original entry in which the transactions affecting the taxpayer's business are recorded consecutively day by day as they occur.[44] It is a chronological, or date order, record of the transactions of a business. The general journal may consist of several books such as sales book, purchase book, cash book, and such other books as the taxpayer may find convenient for his business.[45] A subsidiary sales journal is a repository of day-to-day sales, while a subsidiary purchase journal records all purchases. Evidently, subsidiary journals may be sources of information from which the CIR may utilize in making assessments[46] but their submission is not indispensable to substantiate the input taxes.

The language used in Section 110 is plain, clear, and unambiguous. To be creditable, the input taxes must be evidenced by validly issued invoices and/or official receipts containing the information enumerated in Sections 113 and 237. The law does not require that subsidiary journals where the sales and purchases (and the output taxes and their corresponding input taxes) were recorded, are also kept. Indeed, courts may not, in the guise of interpretation, enlarge the scope of a statute and include therein situations not provided nor intended by the lawmakers. To do so would be to do violence to the language of the law and to invade the legislative sphere.[47]

In *Western Mindanao Power Corp. v. Commissioner of Internal Revenue*[48] (*Western Mindanao Power Corp.*), the Court held that "[t]he taxpayer claiming the refund must x x x comply with the invoicing **and accounting requirements** mandated by the NIRC, as well as by revenue regulations implementing them."[49] We reiterated this rule in *Bonifacio Water Corp. v. Commissioner of Internal Revenue*[50] (*Bonifacio*), and most recently, in *Sitel Phils. Corp. v. Commissioner of Internal Revenue*[51] (*Sitel*). This pronouncement, however, cannot support the CIR's position that prior compliance with the *accounting requirements* under Section 4.113-3 of RR No. 16-2005 is a condition precedent to the claim for refund or credit. In all

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42 See *Microsoft Phils., Inc. v. Commissioner of Internal Revenue*, 662 Phil. 762, 769 (2011).
43 Bookkeeping Regulations, Revenue Regulations No. V-1 (As Amended), Sec. 2, par. 2; dated March 17, 1947.
44 Bookkeeping Regulations, Revenue Regulations No. V-1 (As Amended), Sec. 2, par. 4; dated March 17, 1947.
45 Bookkeeping Regulations, Revenue Regulations No. V-1 (As Amended), Sec. 4; dated March 17, 1947.
46 See *Commissioner of Internal Revenue v. Philex Mining Corp.*, G.R. No. 233942 (Notice), February 21, 2018.
47 *Canet v. Mayor Decena*, 465 Phil. 325, 333 (2004).
48 687 Phil. 328 (2012).
49 *Id.* at 340.
50 714 Phil. 413 (2013).
51 805 Phil. 464 (2017).

these cases, the taxpayer's failure to maintain subsidiary journals was not raised as an issue.

In *Western Mindanao Power Corp.*, the CTA denied the taxpayer's claim for a refund because the taxpayer's official receipts do not contain the word "zero-rated." In sustaining the CTA, we ruled that the failure to print the phrase "zero-rated" on the VAT official receipts was fatal to the claim for refund of input VAT on zero-rated sales.

> In a claim for tax refund or tax credit, the applicant must prove not only entitlement to the grant of the claim under substantive law. It must also show satisfaction of all the documentary and evidentiary requirements for an administrative claim for a refund or tax credit. Hence, the mere fact that petitioner's application for zero-rating has been approved by the CIR does not, by itself, justify the grant of a refund or tax credit. **The taxpayer claiming the refund must further comply with the invoicing and accounting requirements mandated by the NIRC, as well as by revenue regulations implementing them.**
>
> x x x x
>
> In fact, this Court has consistently held as fatal the failure to print the word "zero-rated" on the VAT invoices or official receipts in claims for a refund or credit of input VAT on zero-rated sales, even if the claims were made prior to the effectivity of R.A. 9337. Clearly then, the present Petition must be denied.[52] (Emphasis supplied.)

In *Bonifacio*, the taxpayer indicated in its official receipts a name not approved by the Securities and Exchange Commission (SEC). The Court ruled that the absence of official receipts issued in a name approved and authorized by the SEC was tantamount to non-compliance with the substantiation requirements under the law. Thus:

> From the foregoing, it is clear that petitioner must show satisfaction of all the documentary and evidentiary requirements before an administrative claim for refund or tax credit will be granted. **Perforce, the taxpayer claiming the refund must comply with the invoicing and accounting requirements mandated by the Tax Code, as well as the revenue regulations implementing them.**
>
> Thus, the change of petitioner's name to "Bonifacio GDE Water Corporation," being unauthorized and without approval of the SEC, and the issuance of official receipts under that name which were presented to support petitioner's claim for tax refund, cannot be used to allow the grant of tax refund or issuance of a tax credit certificate in petitioner's favor. The absence of official receipts issued in its name is tantamount to non-compliance with the substantiation requirements provided by law and, hence, the CTA En Banc's partial grant of its refund on that ground should be upheld.[53] (Emphasis supplied; citation omitted.)

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52 *Supra* note 48, at 340-341.

53 *Supra* note 50.

Meanwhile, the invoices and official receipts issued by the taxpayer-claimant in *Sitel* were not imprinted with its TIN followed by the word "VAT." We ruled that the invoices and official receipts cannot be considered as VAT invoices or official receipts that would give rise to any creditable input VAT in favor of Sitel.

> The CTA Division also did not err when it denied the amount of ₱2,668,852.55, allegedly representing input taxes claimed on Sitel's domestic purchases of goods and services which are supported by invoices/receipts with pre-printed TIN-V. **In *Western Mindanao Power Corp. v. Commissioner of Internal Revenue*, the Court ruled that in a claim for tax refund or tax credit, the applicant must prove not only entitlement to the grant of the claim under substantive law, he must also show satisfaction of all the documentary and evidentiary requirements for an administrative claim for a refund or tax credit and compliance with the invoicing and accounting requirements mandated by the NIRC, as well as by revenue regulations implementing them. The NIRC requires that the creditable input VAT should be evidenced by a VAT invoice or official receipt, which may only be considered as such when the TIN-VAT is printed thereon, as required by Section 4.108-1 of RR 7-95.**
>
> x x x x
>
> In the same vein, considering that the subject invoice/official receipts are not imprinted with the taxpayer's TIN followed by the word VAT, these would not be considered as VAT invoices/official receipts and would not give rise to any creditable input VAT in favor of Sitel.[54] (Emphasis supplied; citations omitted.)

In the foregoing cases, the issue was limited to non-compliance with the invoicing requirements. The Court's statement that accounting requirements must be complied with in addition to the invoicing requirements to entitle the claimant for refund or credit is, at best, merely an *obiter dictum* that is not binding as a precedent. An *obiter dictum* is an opinion expressed by a court upon some question of law, which is not necessary to the decision of the case before it. It is a remark made, or opinion expressed, by a judge, in his decision upon a cause, "by the way," that is, incidentally or collaterally, and not directly upon the question before him, or upon a point not necessarily involved in the determination of the cause, or introduced by way of illustration, or analogy or argument.[55]

Likewise, the CIR's reliance on *Taganito Mining Corp. v. Commissioner of Internal Revenue*[56] is misplaced. In that case, Taganito was asking for the refund of input tax related to its importation of dump trucks, which it claimed to be a capital good. In denying the refund, the Court explained:

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54 *Supra* note 51, at 485-487.

55 *Villanueva, Jr. v. CA*, 429 Phil. 194, 202 (2002); *Delta Motors Corp. v. CA*, G.R. No. 121075, July 24, 1997, 342 Phil. 173, 186 (1997).

56 748 Phil. 774 (2014).

Assuming *arguendo* that Taganito had submitted the valid import entries, its claim would still fail. Its claim of refund of input VAT relates to its importation of dump trucks, allegedly a purchase of capital goods. In this regard, Sections 4.110-3 and 4.113-3 of R.R. No. 16-05, as amended by R.R. No. 4-2007, provide:

> SECTION. 4.-110-3. Claim for Input Tax on Depreciable Goods. — Where a VAT-registered person purchases or imports capital goods, which are depreciable assets for income tax purposes, the aggregate acquisition cost of which (exclusive of VAT) in a calendar month exceeds one million pesos (₱1,000,000.00), regardless of the acquisition cost of each capital good, shall be claimed as credit against output tax in the following manner:
>
> (a) If the estimated useful life of a capital good is five (5) years or more — The input tax shall be spread evenly over a period of sixty (60) months and the claim for input tax credit will commence in the calendar month when the capital good is acquired. The total input taxes on purchases or importations of this type of capital goods shall be divided by 60 and the quotient will be the amount to be claimed monthly.
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> (b) If the estimated useful life of a capital good is less than five (5) years — The input tax shall be spread evenly on a monthly basis by dividing the input tax by the actual number of months comprising the estimated useful life of a capital good. The claim for input tax credit shall commence in the month that the capital goods were acquired.
>
> Where the aggregate acquisition cost (exclusive of VAT) of the existing or finished depreciable capital goods purchased or imported during any calendar month does not exceed one million pesos (₱1,000,000.00), the total input taxes will be allowable as credit against output tax in the month of acquisition.
>
> **Capital goods or properties refers to goods or properties with estimated useful life greater than 1 year and which are treated as depreciable assets under Sec. 34(F) of the tax Code, used directly or indirectly in the production or sale of taxable goods or services.**
>
> x x x x
>
> SECTION 4.113-3. Accounting Requirements. — x x x
>
> **A subsidiary record in ledger form shall be maintained for the acquisition, purchase or importation of depreciable assets or capital goods which shall contain, among others, information on the total input tax thereon as well as the monthly input tax claimed in VAT declaration or return.** (Emphases in the original.)

> Taganito argues that the report of the independent CPA shows that purchases and input VAT paid/incurred were properly recorded in its books of accounts. In addition, it avers that the Balance Sheet in its 2006 Audited Financial Statements showing an account item for property and equipment under its non-current assets indicates that details are found on Note 7 on page 19 of the Notes to Financial Statements, which provide the complete details of its subsidiary ledger. It also alleges that the pertinent IERIDs were reviewed by the independent CPA and they clearly state that the items imported were dump trucks, and that its Vice-President for Finance testified what consists of its purchases of capital goods.
>
> These arguments cannot be given credence.
>
> First, Taganito failed to prove that the importations pertaining to the input VAT are in the nature of capital goods and properties as defined in [Sections 4.110-3 and 4.113-3]. It points to the report of the independent CPA which allegedly reviewed the IERIDs and subsidiary ledger containing the description of the dump trucks. Nonetheless, the petitioner failed to present the actual IERIDs and subsidiary ledger, which would constitute the best evidence rather than a report merely citing them. It did not give any reason either to explain its failure to present these documents. The testimony of its Vice-President for Finance would be insufficient to prove the nature of the importation without these supporting documents.
>
> Second, **even assuming that the importations were duly proven to be capital goods, Taganito's claim still would not prosper because it failed to present evidence to show that it properly amortized the related input VAT over the estimated useful life of the capital goods in its subsidiary ledger, as required by [Sections 4.110-3 and 4.113-3]. This is made apparent by the fact that Taganito's claim for refund is for the full amount of the input VAT on the importation, rather than for an amortized amount, and by its failure to present its subsidiary ledger.**[57] (Emphasis supplied.)

The Court required Taganito to submit the subsidiary ledger, an accounting requirement under Section 4.113-3 of RR No. 16-2005, because the importation of dump trucks was alleged to be a purchase of capital goods. As such, the related input tax on the purchase must be amortized over the estimated useful life of the goods under Section 4.110-3 of RR No. 16-2005. The subsidiary ledger contained the information on the total input tax on the importation and the monthly input tax claimed. It is the best evidence to establish the proper amortization of claimed input tax. Since Taganito failed to introduce in evidence the subsidiary ledger, the Court denied the claim for refund.

Distinct from the foregoing, the presentation of subsidiary journals in the instant case is not indispensable. For one, the subject of the claim for refund is input tax on the importation of goods *other than capital goods* and domestic purchases of services.[58] Also, the CTA was able to determine the existence of Philex Mining's valid creditable input VAT attributable to its

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[57] *Id.* at 787-789.

[58] *Rollo*, p. 73.

zero-rated sales by probing all the official receipts, quarterly VAT returns, and the import entry declarations submitted. The CTA evaluated the ICPA's report and concluded that Philex Mining incurred input taxes in connection with its zero-rated sales and the input taxes were not applied against any of its output tax liability.[59]

Similarly, there was nothing in Section 112 (A) and RR No. 16-2005 that require prior filing of monthly VAT declarations as a condition precedent to the entitlement for refund. While admittedly, Section 114 (A)[60] of the Tax Code, as implemented by Section 4.114-1[61] of RR No. 16-2005, requires the taxpayer to pay VAT on a monthly basis, the Tax Code and relevant revenue regulations do not provide denial of the claim as a consequence of non-compliance. The failure to pay VAT every month may give rise to the payment of penalties but it does not affect the taxpayer's entitlement to its claim for refund as long as it has sufficiently shown that the VAT has in fact been paid. Here, the CTA examined the voluminous documents submitted by Philex Mining and concluded that Philex Mining sufficiently proved payment of creditable input VAT for the second and third quarters of TY 2010.

In all, Philex Mining's failure to maintain subsidiary sales and purchase journals or to file the monthly VAT declarations should not result in the **outright** denial of its claim for refund or credit of unutilized input VAT attributable to its zero-rated sales. These are not part of the requirements for Philex Mining to be entitled thereto. Section 112 (A) of the Tax Code is very clear; no construction or interpretation is needed. The Court may not construe a statute that is free from doubt; neither can we impose conditions or limitations when none is provided for.[62] While tax refunds are in the nature of tax exemptions and are construed *strictissimi juris* against the taxpayer, tax statutes shall be construed strictly against the taxing authority and liberally in favor of the taxpayer, for taxes, being burdens, are not to be presumed beyond what the statute expressly and clearly declares.[63] Verily, the CTA did not err in ruling that the absence of subsidiary sales journal,

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59 *Id.* at 73-78.

60 SEC. 114. *Return and Payment of Value-added Tax.* —
(A) In General. — Every person liable to pay the value-added tax imposed under this Title shall file a quarterly return of the amount of his gross sales or receipts within twenty-five (25) days following the close of each taxable quarter prescribed for each taxpayer: Provided, however, That VAT-registered persons shall pay the value-added tax on a monthly basis. x x x.

61 SEC. 4.114-1. *Filing of Return and Payment of VAT.* —
(A) Filing of Return. — x x x

x x x x

Amounts reflected in the monthly VAT declarations for the first two (2) months of the quarter shall still be included in the quarterly VAT return which reflects the cumulative figures for the taxable quarter. Payments in the monthly VAT declarations shall, however, be credited in the quarterly VAT return to arrive at the net VAT payable or excess input tax/over-payment as of the end of a quarter.

x x x x

The monthly VAT Declarations (BIR Form 2550M) of taxpayers whether large or non-large shall be filed and the taxes paid not later than the 20th day following the end of each month.

x x x x

62 *Commissioner of Internal Revenue v. American Express International, Inc.*, 500 Phil. 586, 608 (2005).

63 *Republic of the Phils. v. Intermediate Appellate Court*, 273 Phil. 573, 579 (1991).

subsidiary purchase journal, and monthly VAT declarations is not sufficient to deprive Philex Mining of its right to a refund.

In any event, the CIR's allegation that Philex Mining failed to prove its creditable input tax attributable to its zero-rated sales necessarily involves factual issue and, thus, is evidentiary in nature which cannot be entertained in the present petition where only questions of law may be generally raised. The Court is not a trier of facts; it is not our duty to look into the documents submitted during trial in order to test the truthfulness of their contents.[64] Besides, the findings of fact of the CTA, which, by the very nature of its functions, dedicated exclusively to the study and consideration of tax problems and has necessarily developed an expertise on the subject, are generally regarded as final, binding, and conclusive upon this Court. The findings shall not be reviewed nor disturbed on appeal unless a party can show that these are not supported by evidence, or when the judgment is premised on a misapprehension of facts, or when the lower courts overlooked certain relevant facts which, if considered, would justify a different conclusion. Here, we find no cogent reason to depart from this general principle.

FOR THESE REASONS, the Petition for Review on *Certiorari* is **DENIED**.

SO ORDERED.

MARIO V. LOPEZ
Associate Justice

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

ALEXANDER G. GESMUNDO
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

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64 *Supra* note 46.

RICARDO R. ROSARIO
Associate Justice

ATTESTATION

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

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

DIOSDADO M. PERALTA
Chief Justice