648 Phil. 425

SECOND DIVISION

[G.R. No. 174212, October 20, 2010]

HITACHI GLOBAL STORAGE TECHNOLOGIES PHILIPPINES CORP. (FORMERLY HITACHI COMPUTER PRODUCTS (ASIA) CORPORATION), PETITIONER, VS. COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.

D E C I S I O N

CARPIO, J.:

The Case

This is a petition for review[1] of the 22 March 2006 Decision[2] and 14 August 2006 Resolution[3] of the Court of Tax Appeals (CTA) *En Banc* in CTA EB No. 54. The 22 March 2006 Decision affirmed the 9 March 2004 Decision[4] and 9 December 2004 Resolution[5] of the CTA First Division which denied petitioner Hitachi Global Storage Technologies Philippines Corp.'s (Hitachi) claim for refund or tax credit in the amount of P25,023,471.84. The 14 August 2006 Resolution denied Hitachi's motion for reconsideration.

The Facts

Hitachi is a domestic corporation engaged in the business of manufacturing and exporting computer products. Hitachi is registered with the Bureau of Internal Revenue (BIR) as a Value-added Tax (VAT) taxpayer, evidenced by Certificate of Registration No. 94-570-000298 and Taxpayer Identification No. 003-877-830 (VAT) issued on 28 June 1994. Hitachi is also registered with the Export Processing Zone Authority as an Ecozone Export Enterprise.

On 4 August 2000, Hitachi filed an administrative claim for refund or issuance of a tax credit certificate before the BIR.[6] The claim involved P25,023,471.84 representing excess input VAT attributable to Hitachi's zero-rated export sales for the four taxable quarters of 1999.

On 2 July 2001, due to the BIR's inaction, Hitachi filed a petition for review with the CTA.[7] On 9 March 2004, the CTA First Division rendered a decision, the dispositive portion

of which reads:

> **IN VIEW OF THE FOREGOING**, petitioner's claim for refund or issuance of a tax credit certificate in the amount of P25,023,471.84 representing excess input value-added tax (VAT) payments that are attributable to zero-rated export sales for the four taxable quarters of 1999 is hereby **DENIED**.
>
> **SO ORDERED**.[8]

Hitachi filed a motion for reconsideration. In its 9 December 2004 Resolution, the CTA First Division denied Hitachi's motion.

On 26 January 2005, Hitachi filed a petition for review with the CTA *En Banc*. In its 22 March 2006 Decision, the CTA *En Banc* affirmed the 9 March 2004 Decision and 9 December 2004 Resolution of the CTA First Division.

Hitachi filed a motion for reconsideration. In its 14 August 2006 Resolution, the CTA *En Banc* denied Hitachi's motion.

Hence, this petition.

The Ruling of the CTA First Division

In its 9 March 2004, the CTA First Division denied Hitachi's claim for refund or tax credit because of Hitachi's failure to comply with the mandatory invoicing requirements. According to the CTA First Division, Hitachi's export sales invoices did not have pre-printed taxpayer's identification number (TIN) followed by the word VAT nor did the invoices bear the imprinted word "zero-rated" as required in Section 113(A)[9] of the National Internal Revenue Code (NIRC) and Section 4.108-1 of Revenue Regulation No. 7-95[10] (RR 7-95). The CTA First Division also found that Hitachi's export sales invoices were not duly registered with the BIR as required under Section 237[11] of the NIRC and there was no BIR authority to print the invoices or BIR permit number indicated in the invoices. Therefore, the CTA First Division did not consider Hitachi's export sales invoices as valid evidence of zero-rated sales of goods for VAT purposes and, consequently, denied Hitachi's claim for a refund or tax credit.

The Ruling of the CTA *En Banc*

The CTA *En Banc* affirmed the findings of the CTA First Division that Hitachi failed to comply with the mandatory invoicing requirements under the NIRC and RR 7-95. The CTA *En Banc* agreed with the CTA First Division that Hitachi failed to substantiate its alleged zero-rated sales because its export sales invoices were not duly registered with the

BIR. Neither did the export sales invoices indicate Hitachi's TIN nor did they state that Hitachi was a VAT registered person. Likewise, the word "zero-rated" was not imprinted on Hitachi's export sales invoices. According to the CTA *En Banc*, the VAT law is clear that only transactions evidenced by VAT official receipts or sales invoices will be considered as VAT transactions for purposes of the input and output tax.

The Issues

Hitachi raises the following issues:

I. Whether Hitachi's failure to comply with the requirements prescribed under Section 4.108-1 of RR 7-95 is sufficient to invalidate Hitachi's claim for VAT refund for taxable year 1999;

II. Whether Hitachi has sufficiently complied with the requirements for its claim for VAT refund for taxable year 1999; and

III. Whether the CTA *En Banc* erred when it denied Hitachi's claim for VAT refund for taxable year 1999.

The Ruling of the Court

The petition has no merit.

Hitachi argues that Section 4.108-1 of RR 7-95 cannot expand the invoicing requirements prescribed by Section 113(A) of the NIRC, in relation to Sections 237 and 106(A)(2)(a)(1), [12] by imposing the additional requirement of printing the word "zero-rated" on the invoices of a VAT registered taxpayer. Hitachi also submits that the non-observance of the requirements of (1) printing "zero-rated;" (2) BIR authority to print; (3) BIR permit number; and (4) registration of such receipts with the BIR cannot result in the outright invalidation of its claim for refund.

We already settled the issue of printing the word "zero-rated" on the sales invoices in *Panasonic v. Commissioner of Internal Revenue*.[13] In that case, we denied Panasonic's claim for refund of the VAT it paid as a zero-rated taxpayer on the ground that its sales invoices did not state on their face that its sales were "zero-rated." We said:

> But when petitioner Panasonic made the export sales subject of this case, *i.e.*, from April 1998 to March 1999, the rule that applied was Section 4.108-1 of RR 7-95, otherwise known as the Consolidated Value-Added Tax Regulations, which the Secretary of Finance issued on December 9, 1995 and took effect on January 1, 1996. **It already required the printing of the word "zero-rated"**

on invoices covering zero-rated sales. When R.A. 9337 amended the 1997 NIRC on November 1, 2005, it made this particular revenue regulation a part of the tax code. This conversion from regulation to law did not diminish the binding force of such regulation with respect to acts committed prior to the enactment of that law.

Section 4.108-1 of RR 7-95 proceeds from the rule-making authority granted to the Secretary of Finance under Section 245 of the 1997 NIRC (Presidential Decree 1158) for the efficient enforcement of the tax code and of course its amendments. The requirement is reasonable and is in accord with the efficient collection of VAT from the covered sales of goods and services. As aptly explained by the CTA's First Division, the appearance of the word "zero-rated" on the face of the invoices covering zero-rated sales prevents buyers from falsely claiming input VAT from their purchases when no VAT was actually paid. If absent such word, a successful claim for input VAT is made, the government would be refunding money it did not collect. (Emphasis supplied)

Likewise, in this case, when Hitachi filed its claim for refund or tax credit, RR 7-95 was already in force. Section 4.108-1 of RR 7-95 specifically required the following to be reflected in the invoice:

Sec.4.108-1. Invoicing Requirements. - All VAT-registered persons shall, for every sale or lease of goods or properties or services, **issue duly registered receipts or sales or commercial invoices which must show**:

1. **the** name, **TIN** and address **of seller**;
2. date of transaction;
3. quantity, unit cost and description of merchandise or nature of service;
4. the name, TIN, business style, if any, and address of the VAT-registered purchaser, customer or client;
5. **the word "zero-rated" imprinted on the invoice covering zero-rated sales**; and
6. the invoice value or consideration.

x x x x

Only VAT-registered persons are required to print their TIN followed by the word "VAT" in their invoices or receipts and this shall be considered as a "VAT invoice." All purchases covered by invoices other than a "VAT invoice" shall not give rise to any input tax. (Emphasis supplied)

Both the CTA First Division and the CTA *En Banc* found that Hitachi's export sales invoices did not indicate Hitachi's Tax Identification Number (TIN) followed by the word VAT. The word "zero-rated" was also not imprinted on the invoices. Moreover, both the CTA First Division and the CTA *En Banc* found that the invoices were not duly registered with the BIR.

Being a specialized court, the CTA has necessarily developed an expertise in the subject of taxation that this Court has recognized time and again.[14] For this reason, the findings of fact of the CTA are generally conclusive on this Court absent grave abuse of discretion or palpable error, which are not present in this case.[15]

Besides, tax refunds, like tax exemptions, are construed strictly against the taxpayer.[16] The claimants have the burden of proof to establish the factual basis of their claim for refund or tax credit.[17] In this case, Hitachi failed to establish the factual basis of its claim for refund or tax credit.

WHEREFORE, we **DENY** the petition. We **AFFIRM** the 22 March 2006 Decision and the 14 August 2006 Resolution of the Court of Tax Appeals *En Banc* in CTA EB No. 54.

SO ORDERED.

Velasco, Jr.,[*] *Leonardo-De Castro,*[**] *Peralta,* and *Mendoza, JJ.*, concur.

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[*] Designated additional member per Raffle dated 28 June 2010.

[**] Designated additional member per Special Order No. 905 dated 5 October 2010.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] *Rollo*, pp. 332-357. Penned by Associate Justice Juanito C. Castañeda, Jr., with Associate Justices Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova and Olga Palanca-Enriquez, concurring. Presiding Justice Ernesto D. Acosta filed a concurring and dissenting opinion; id. at 358-365.

[3] Id. at 390-392. Presiding Justice Ernesto D. Acosta filed a concurring and dissenting opinion; id. at 393-394.

[4] Id. at 275-283.

[5] Id. at 299-302. Presiding Justice Ernesto D. Acosta filed a concurring and

dissenting opinion; id. at 303-310.

[6] Id. at 197.

[7] Id. at 198-202.

[8] Records, p. 219.

[9] Section 113(A) of the National Internal Revenue Code provides:

> SEC. 113. *Invoicing and accounting requirements for VAT-registered persons*. -
>
> (A) Invoicing requirements. - A VAT-registered person shall, for every sale, issue an invoice or receipt. In addition to the information required under Section 237, the following information shall be indicated in the invoice or receipt:
>
> (1) **A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN)**; and
>
> (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. (Emphasis supplied)

[10] Also known as "The Consolidated Value-Added Tax Regulation." Effective 1 January 1996.

[11] Section 237 of the National Internal Revenue Code provides:

> 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 sales or commercial invoices**, prepared at least in duplicate, showing the date of the transaction, quantity, unit cost and description of merchandise or nature of service; provided, however, that in the case of sales, receipts or transfers in the amount of One hundred pesos (P100) or more, or, regardless of the amount, where the sale or transfer is made by a person liable to value-added tax to another person also liable to value-added tax, or where the receipt is issued to cover payment made as rentals, commissions, compensations 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; provided, further,

that where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser. (Emphasis supplied)

[12] Section 106(A)(2)(a)(1) of the National Internal Revenue Code provides:

SEC. 106. *Value-added tax on sale of goods or properties*. -

(A) Rate and base of tax. - 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:

(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; x x x

[13] G.R. No. 178090, 8 February 2010.

[14] *Commissioner of Internal Revenue v. Manila Mining Corporation*, 505 Phil. 650 (2005); *Commissioner of Internal Revenue v. The Philippine American Insurance Company, Inc.*, 493 Phil. 785 (2005).

[15] *Commissioner of Internal Revenue v. The Philippine American Insurance Company, Inc.*, supra; *Commissioner of Internal Revenue v. Cebu Toyo Corporation*, 491 Phil. 625 (2005).

[16] *Commissioner of Internal Revenue v. Bank of the Philippine Islands*, G.R. No. 178490, 7 July 2009, 592 SCRA 219; *Commissioner of Internal Revenue v. Seagate Technology*, 491 Phil. 317 (2005).

[17] Id.