



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

J.R.A. PHILIPPINES, INC.,
Petitioner,

G.R. No. 171307

- versus -

Present:

COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

CARPIO, J., Chairperson,
PERALTA,*
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:
AUG 28 2013

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RESOLUTION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated September 20, 2005 and Resolution³ dated January 27, 2006 of the Court of Tax Appeals (CTA) *En Banc* in C.T.A. E. B. No. 35 which denied petitioner J.R.A. Philippines, Inc.'s (petitioner) claim for refund of its unutilized input value-added tax (VAT) for the calendar year 1999 in the amount of ₱7,786,614.04.

The Facts

Petitioner is a VAT and Philippine Economic Zone Authority (PEZA) registered corporation engaged in the manufacture and export of ready-to-wear items.⁴ It claimed to have paid the aggregate sum of ₱7,786,614.04 as excess input VAT for the calendar year 1999, which amount it purportedly used to purchase domestic goods and services directly attributable to its

Designated Acting Member per Special Order No. 1525 dated August 22, 2013.

¹ *Rollo*, pp. 11-51.

² *Id.* at 54-65. Penned by Associate Justice Caesar A. Casanova, with Associate Justices Lovell R. Bautista, Olga Palanca-Enriquez, concurring; Associate Justice Juanito C. Castañeda, Jr., separate concurring; and Presiding Justice Ernesto D. Acosta, concurring and dissenting.

³ *Id.* at 88-93. Issued by Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, and Olga Palanca-Enriquez, with Presiding Justice Ernesto D. Acosta, dissenting.

⁴ *Id.* at 55.

zero-rated export sales.⁵ Alleging that its input VAT remained unutilized as it has not engaged in any business activity or transaction for which it may be liable for output VAT, petitioner filed four separate applications for tax refund with the One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance.⁶ When the same was not acted upon by respondent Commissioner of Internal Revenue (CIR) – and in order to toll the two-year prescriptive period under Section 229⁷ of Republic Act No. (RA) 8424,⁸ as amended, otherwise known as the National Internal Revenue Code (NIRC) – petitioner filed a petition for review⁹ before the CTA, docketed as CTA Case No. 6249.

In its Answer,¹⁰ the CIR contended that since petitioner is registered with the PEZA, its business was not subject to VAT as provided under Section 24¹¹ of RA 7916,¹² otherwise known as “The Special Economic Zone Act of 1995,” in relation to Section 109(q)¹³ of the NIRC. Hence, it is not entitled to credit its input VAT under Section 4.103-1 of Revenue Regulations No. (RR) 7-95.¹⁴ Besides, petitioner’s alleged unutilized input VAT for 1999 was not properly documented.¹⁵

The Proceedings Before the CTA

On March 16, 2004, the CTA Division¹⁶ rendered a Decision¹⁷ denying petitioner’s claim for input VAT refund on the ground that all of its export sales invoices: (a) have no Bureau of Internal Revenue (BIR) Permit

⁵ Id. at 56.

⁶ Id.

⁷ SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* -

x x x x

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.

⁸ “AN ACT AMENDING THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES,” otherwise known as “Tax Reform Act of 1997.”

⁹ *Rollo*, pp. 101-105.

¹⁰ Id. at 122-124.

¹¹ SEC. 24. *Exemption from Taxes under the National Internal Revenue Code.* - Any provision of existing laws, rules and regulations to the contrary notwithstanding, no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE. In lieu of paying taxes, five percent (5%) of the gross income earned by all businesses and enterprises within the ECOZONE shall be remitted to the national government. x x x. (See also id. at 166.)

¹² “AN ACT PROVIDING FOR THE LEGAL FRAMEWORK AND MECHANISMS FOR THE CREATION, OPERATION, ADMINISTRATION, AND COORDINATION OF SPECIAL ECONOMIC ZONES IN THE PHILIPPINES, CREATING FOR THIS PURPOSE, THE PHILIPPINE ECONOMIC ZONE AUTHORITY (PEZA), AND FOR OTHER PURPOSES.”

¹³ SEC. 109. *Exempt Transactions.* - The following shall be exempt from the value-added tax:

x x x x

(q) Transactions which are exempt under international agreements to which the Philippines is a signatory or under special laws, except those under Presidential Decree Nos. 66, 529 and 1590;

x x x x

¹⁴ *Rollo*, p. 123.

¹⁵ Id.

¹⁶ The specific division is not indicated in the records.

¹⁷ *Rollo*, pp. 163-175. Penned by Associate Judge Juanito C. Castañeda, Jr., with Associate Judge Lovell R. Bautista, concurring.

to Print; (b) did not contain its Taxpayer's Identification Number-VAT (TIN-V); and (c) the word "zero-rated" was not imprinted thereon in violation of Section 113(A)¹⁸ in relation to Section 238 of the NIRC and Section 4.108-1 of RR 7-95.¹⁹ Having thus failed to comply with the invoicing requirements, petitioner's evidence was deemed insufficient to establish its zero-rated export sales for input VAT refund purposes.²⁰

Dissatisfied, petitioner filed a motion for reconsideration²¹ which was, however, denied in a Resolution²² dated September 20, 2004.

Unperturbed, petitioner elevated the matter before the CTA *En Banc*, arguing that the export sales invoices are not the sole basis to prove export sales.²³ In this accord, it posited that its export sales should be deemed properly documented and substantiated by the bills of lading, airway bills, and export documents²⁴ as these documents are the best evidence to prove the actual exportation of the goods.²⁵

On September 20, 2005, the CTA *En Banc* issued the assailed Decision,²⁶ denying petitioner's claim for input VAT refund. It ruled that petitioner failed to establish the fact that its 1999 export sales were "zero-rated" for VAT purposes as it failed to comply with the substantiation requirements under Section 113(A) in relation to Section 238 of the NIRC, as well as Section 4.108-1 of RR 7-95.²⁷ Further, it affirmed the earlier finding that petitioner's export sales invoices had no BIR Permit to Print and did not contain its TIN-V and the words "zero-rated." As such, the documents it submitted were insufficient to prove the zero-rated export sales of the goods for input VAT refund purposes.²⁸

Petitioner moved for reconsideration which was, similarly, denied in a Resolution dated January 27, 2006.²⁹ Hence, the instant petition.

¹⁸ 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.

x x x x

¹⁹ *Rollo*, p. 172.

²⁰ *Id.* at 173-174.

²¹ *Id.* at 176-181. Dated April 5, 2004.

²² *Id.* at 187-190.

²³ *Id.* at 205.

²⁴ *Id.* at 204.

²⁵ *Id.* at 206.

²⁶ *Id.* at 54-65.

²⁷ *Id.* at 59-60.

²⁸ *Id.* at 61-62.

²⁹ *Id.* at 88-93.

The Issue Before the Court

The sole issue in this case is whether or not the CTA erred in denying petitioner's claim for tax refund.

The Court's Ruling

The petition lacks merit.

Case law dictates that in a claim for tax refund or tax credit, the applicant must prove not only entitlement to the claim but also compliance with all the documentary and evidentiary requirements therefor.³⁰ Section 110(A)(1)³¹ of the NIRC provides that creditable input taxes must be evidenced by a VAT invoice or official receipt, which must, in turn, comply with Sections 237³² and 238³³ of the same law, as well as Section 4.108.1³⁴

³⁰ *Western Mindanao Power Corporation v. CIR*, G.R. No. 181136, June 13, 2012, 672 SCRA 350, 362.

³¹ 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 x x x:

x x x x

³² 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 (₱25.00) or more, issue duly registered receipts or sales 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 in the case of sales, receipts or transfers in the amount of One hundred pesos (₱100.00) 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.

x x x x

³³ SEC. 238. *Printing of Receipts or Sales or Commercial Invoices.* - All persons who are engaged in business shall secure from the Bureau of Internal Revenue an authority to print receipts or sales or commercial invoices before a printer can print the same.

No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.

x x x x

³⁴ Section 4.108-1 of RR 7-95 provides:

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 “VAT Invoice” shall not give rise to any input tax.

of RR 7-95. The foregoing provisions require, *inter alia*, that an invoice must reflect, as required by law: (a) the BIR Permit to Print; (b) the TIN-V of the purchaser; and (c) the word “zero-rated” imprinted thereon. In this relation, failure to comply with the said invoicing requirements provides sufficient ground to deny a claim for tax refund or tax credit.³⁵

In this case, records show that all of the export sales invoices presented by petitioner not only lack the word “zero-rated” but also failed to reflect its BIR Permit to Print as well as its TIN-V. Thus, it cannot be gainsaid that it failed to comply with the above-stated invoicing requirements, thereby rendering improper its claim for tax refund. Clearly, compliance with all the VAT invoicing requirements is required to be able to file a claim for input taxes attributable to zero-rated sales. As held in *Microsoft Philippines, Inc. v. CIR*:³⁶

The invoicing requirements for a VAT-registered taxpayer as provided in the NIRC and revenue regulations are clear. **A VAT-registered taxpayer is required to comply with all the VAT invoicing requirements to be able to file for a claim for input taxes on domestic purchases for goods or services attributable to zero-rated sales.** A “VAT invoice” is an invoice that meets the requirements of Section 4.108-1 of RR 7-95. Contrary to Microsoft’s claim, RR-7-95 expressly states that “[A]ll purchases covered by invoice other than a VAT invoice shall not give rise to any input tax. Microsoft’s invoice, lacking the word “zero-rated,” is not a “VAT invoice,” and thus cannot give rise to any input tax.”³⁷ (Emphasis supplied)

All told, the CTA committed no reversible error in denying petitioner’s refund claim.

WHEREFORE, the petition is **DENIED**. Accordingly, the Decision dated September 20, 2005 and Resolution dated January 27, 2006 of the Court of Tax Appeals *En Banc* in C.T.A. E.B. No. 35 are hereby **AFFIRMED**.

SO ORDERED.

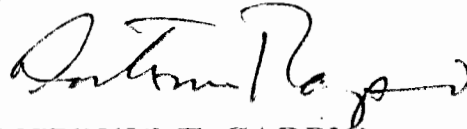

ESTELA M. PERLAS-BERNABE
Associate Justice

³⁵ *Eastern Telecommunications Philippines, Inc. v. CIR*, G.R. No. 168856, August 29, 2012, 679 SCRA 305, 313.

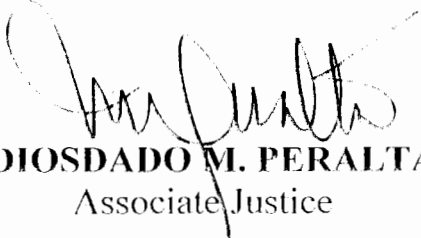
³⁶ G.R. No. 180173, April 6, 2011, 647 SCRA 398. See also *J.R.A. Philippines, Inc. v. CIR*, October 11, 2010, 632 SCRA 517, 525-527.

³⁷ *Id.* at 405.

WE CONCUR:



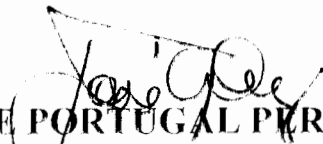
ANTONIO T. CARPIO
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



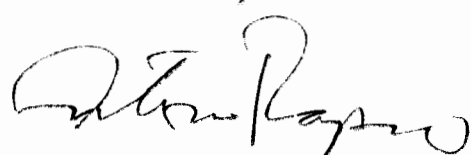
MARIANO C. DEL CASTILLO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice

ATTESTATION

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



ANTONIO T. CARPIO
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 Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice