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SECOND DIVISION

[G.R. No. 179961, January 31, 2011]

**KEPCO PHILIPPINES CORPORATION, PETITIONER, VS.
COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.**

DECISION

MENDOZA, J.:

This is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure assailing the May 17, 2007 Decision^[1] of the Court of Tax Appeals En Banc (CTA), in C.T.A. E.B. No. 186 entitled "*KEPCO Philippines Corporation v. Commissioner of Internal Revenue*," which denied petitioner's claim for refund or issuance of tax credit certificate for the unapplied input value-added taxes attributable to zero-rated sales of services for taxable year 1999, as well as its Resolution, dated September 28, 2007, which denied the motion for reconsideration of the said decision.

THE FACTS

Petitioner Kepco Philippines Corporation (*Kepco*) is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines. It is a value-added tax (VAT) registered taxpayer engaged in the production and sale of electricity as an independent power producer. It sells its electricity to the National Power Corporation (NPC). Kepco filed with respondent Commissioner of Internal Revenue (CIR) an application for effective zero-rating of its sales of electricity to the NPC.

Kepco alleged that for the taxable year 1999, it incurred input VAT in the amount of P10,527,202.54 on its domestic purchases of goods and services that were used in its production and sale of electricity to NPC for the same period. In its 1999 quarterly VAT returns filed with the Bureau of Internal Revenue (BIR) on March 30, 2000, Kepco declared the said input VAT as follows:

INPUT TAX				
Exhibit	1999	Carried-over from	This quarter	Carried over to next

		previous quarter		quarter
A	1 st qtr	100,564,209.14	4,804,974.70	105,369,183.84
B	2 nd qtr	105,369,183.84	1,461,960.38	106,831,144.22
C	3 rd qtr	106,831,144.22	2,563,288.00	109,394,432.22
D	4 th qtr	109,394,432.22	1,696,979.46	111,091,411.68
		TOTAL	<u>P10,527,202.54:</u> ^[2]	

Thus, on January 29, 2001, Kepco filed an administrative claim for refund corresponding to its reported unutilized input VAT for the four quarters of 1999 in the amount of P10,527,202.54. Thereafter, on April 24, 2001, Kepco filed a petition for review before the CTA pursuant to Section 112(A) of the 1997 National Internal Revenue Code (NIRC), which grants refund of unutilized input taxes attributable to zero-rated or effectively zero-rated sales. This was docketed as CTA Case No. 6287.

On August 31, 2005, the CTA Second Division rendered a decision^[3] denying Kepco's claim for refund for failure to properly substantiate its effectively zero-rated sales for the taxable year 1999 in the total amount of P860,340,488.96, with the alleged input VAT of P10,527,202.54 directly attributable thereto. The tax court held that Kepco failed to comply with the invoicing requirements in clear violation of Section 4.108-1 of Revenue Regulations (*R.R.*) No. 7-95, implementing Section 108(B)(3) in conjunction with Section 113 of the 1997 NIRC.

In view of the denial of its motion for reconsideration, Kepco filed an appeal via petition for review before the CTA *En Banc*, on the ground that the CTA Second Division erred in not considering the amount of P10,514,023.92 as refundable tax credit and in failing to appreciate that it was exclusively selling electricity to NPC, a tax exempt entity.

On May 17, 2007, the CTA *En Banc* dismissed the petition, reasoning out that Kepco's failure to comply with the requirement of imprinting the words "zero-rated" on its official receipts resulted in non-entitlement to the benefit of VAT zero-rating and denial of its claim for refund of input tax. The decision reads in part:

In sum, the Court *En Banc* finds no cogent justification to disturb the findings and conclusion spelled out in the assailed August 31, 2005 Decision and May 4, 2006 Resolution of the CTA Second Division. What the instant petition seeks is for the Court *En Banc* to view and appreciate the evidence in their own perspective of things, which unfortunately had already been considered and

passed upon.

WHEREFORE, the instant Petition is hereby **DENIED DUE COURSE** and **DISMISSED** for lack of merit.

SO ORDERED.^[4]

Presiding Justice Ernesto D. Acosta agreed with the majority that services rendered by a VAT-registered entity to the NPC, a tax-exempt entity, were effectively zero-rated. He was likewise of the view that Kepco's claim could not be granted because it presented official receipts which were not in sequence indicating, that it might have sold electricity to entities other than NPC. But, he strongly dissented on the outright rejection of Kepco's refund claim for failure to comply with the imprinting requirements. His dissenting opinion states in part:

However, I dissent to the majority's finding that imprinting the term "zero-rated" as well as the BIR authority to print or BIR Permit marker on duly registered Value Added Tax (VAT) official receipts/invoices is necessary such that non-compliance would result to the outright denial of petitioner's claim.

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Clearly, the applicable provisions of the Tax Code does not require the word "zero-rated" or the other information required by the majority in the invoice/official receipt. The "requirement" of imprinting the questioned information on the VAT invoice or receipt can be found in Section 4.108-1 of Revenue Regulations No. 7-95 (*The Implementing Rules and Regulations of the VAT law*). Then again, the said provision is merely a regulation created for the sole and limited purpose of implementing an otherwise very exact law.

Moreover, granting for the sake of argument that the Revenue Regulations above cited may validly impose such requirements, no provision allows the outright rejection of a refund claim as penalty for a tax-payer's failure to abide by the requirements laid down in the said regulations.^[5]

Kepco filed a motion for reconsideration of the decision but it was denied for lack of merit by the CTA *En Banc* in its Resolution^[6] dated September 28, 2007.

Hence, Kepco interposes this petition praying for the reversal and setting aside of the May

17, 2007 CTA Decision anchored on the following

GROUND(S):

(I)

THE COURT OF TAX APPEALS EN BANC COMMITTED SERIOUS ERROR OF LAW WHEN IT RULED THAT PETITIONER'S FAILURE TO IMPRINT THE WORDS "ZERO-RATED" ON ITS VAT OFFICIAL RECEIPTS ISSUED TO NPC IS FATAL TO ITS CLAIM FOR REFUND OF UNUTILIZED INPUT TAX CREDITS.

(II)

PETITIONER HAS SUFFICIENTLY PROVEN THAT IT IS RIGHTFULLY ENTITLED TO A REFUND OR ISSUANCE OF TAX CREDIT CERTIFICATE IN THE AMOUNT OF PHP10,514,023.92.^[7]

From the foregoing arguments, the principal issue to be resolved is whether Kepco's failure to imprint the words "zero-rated" on its official receipts issued to NPC justifies an outright denial of its claim for refund of unutilized input tax credits.

Kepco contends that the provisions of the 1997 Tax Code, specifically Section 113 in relation to Section 237, do not mention the mandatory requirement of imprinting the words "zero-rated" to purchases covering zero-rated transactions. The only provision which requires the imprinting of the word "zero-rated" on VAT invoice or official receipt is Section 4.108-1 of R.R. No. 7-95. Kepco argues that the condition imposed by the said administrative issuance should not be controlling over Section 113 of the 1997 Tax Code, "considering the long-settled rule that administrative rules and regulations cannot expand the letter and spirit of the law they seek to enforce."

Kepco further argues that there is no law or regulation which imposes automatic denial of taxpayer's refund claim for failure to comply with the invoicing requirements. No jurisprudence sanctions the same, not even the *Atlas* case,^[8] cited by the CTA *En Banc*. According to Kepco, although it agrees with the CTA ruling that administrative issuances, like BIR regulations, requiring an imprinting of "zero-rated" on zero-rating transactions should be strictly complied with, it opposes the outright denial of refund claim for non-compliance thereof. It insists that such automatic denial is too harsh a penalty and runs counter to the doctrine of *solutio indebiti* under Article 2154 of the New Civil Code.

The CIR, in his Comment,^[9] counters that Kepco is not entitled to a tax refund because it was not able to substantiate the amount of P10,514,023.92 representing zero-rated transactions for failure to submit VAT official receipts and invoices imprinted with the wordings "zero-rated" in violation of Section 4.108-1 of R.R. 7-95.

The petition is bereft of merit.

The pertinent laws governing the present case is Section 108(B)(3) of the NIRC of 1997 in relation to Section 13 of Republic Act (R.A.) No. 6395 (The Revised NPC Charter), as amended by Presidential Decree (P.D.) Nos. 380 and 938, which provide as follows:

Sec. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. -

(A) Rate and Base of Tax. - x x x

(B) Transactions Subject to Zero Percent (0%) Rate. - The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

x x x

(3) Services rendered to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects the supply of such services to zero percent (0%) rate;

x x x

Sec. 13. Non-profit Character of the Corporation; Exemption from All Taxes, Duties, Fees, Imposts and Other Charges by the Government and Government Instrumentalities. The Corporation shall be non-profit and shall devote all its return from its capital investment as well as excess revenues from its operation, for expansion. To enable the Corporation to pay its indebtedness and obligations and in furtherance and effective implementation of the policy enunciated in Section One of this Act, the Corporation, including its subsidiaries, is hereby declared exempt from the payment of all forms of taxes, duties, fees, impost as well as costs and service fees including filing fees, appeal bonds, supersedeas bonds, in any court or administrative proceedings.

Based on the afore-quoted provisions, there is no doubt that NPC is an entity with a special charter and exempt from payment of all forms of taxes, including VAT. As such, services rendered by any VAT-registered person/entity, like Kepco, to NPC are effectively subject to zero percent (0%) rate.

For the effective zero rating of such services, however, the VAT-registered taxpayer must comply with invoicing requirements under Sections 113 and 237 of the 1997 NIRC as implemented by Section 4.108-1 of R.R. No. 7-95, thus:

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; 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.

(B) Accounting Requirements. - Notwithstanding the provisions of Section 233, all persons subject to the value-added tax under Sections 106 and 108 shall, in addition to the regular accounting records required, maintain a subsidiary sales journal and subsidiary purchase journal on which the daily sales and purchases are recorded. The subsidiary journals shall contain such information as may be required by the Secretary of Finance.^[10] (Emphasis supplied)

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 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 (P100.00) or more, or regardless of 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.

The original of each receipt or invoice shall be issued to the purchaser, customer or client at the time the transaction is effected, who, if engaged in business or in the exercise of profession, shall keep and preserve the same in his place of business for a period of three (3) years from the close of the taxable year in which such invoice or receipt was issued, while the duplicate shall be kept and preserved by the issuer, also in his place of business, for a like period.

The Commissioner may, in meritorious cases, exempt any person subject to an internal revenue tax from compliance with the provisions of this Section.^[11]

Section 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;**
6. The invoice value or consideration.

In the case of sale of real property subject to VAT and where the zonal or market value is higher than the actual consideration, the VAT shall be separately indicated in the invoice or receipt.

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 "VAT Invoice." All purchases covered by invoices other than "VAT Invoice" shall not give rise to any input tax.

If the taxable person is also engaged in exempt operations, he should issue separate invoices or receipts for the taxable and exempt operations. A "VAT Invoice" shall be issued only for sales of goods, properties or services subject to VAT imposed in Sections 100 and 102 of the code.

The invoice or receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records. (Emphases supplied)

Also, as correctly noted by the CTA *En Banc*, in Kepco's approved Application/Certificate for Zero Rate issued by the CIR on January 19, 1999, the imprinting requirement was likewise specified, *viz*:

Valid only for sale of services from Jan. 19, 1999 up to December 31, 1999 unless sooner revoked.

Note: Zero-Rated Sales must be indicated in the invoice/receipt.^[12]

Indeed, it is the duty of Kepco to comply with the requirements, including the imprinting of the words "zero-rated" in its VAT official receipts and invoices in order for its sales of electricity to NPC to qualify for zero-rating.

It must be emphasized that the requirement of imprinting the word "zero-rated" on the invoices or receipts under Section 4.108-1 of R.R. No. 7-95 is mandatory as ruled by the CTA *En Banc*, citing *Tropitek International, Inc. v. Commissioner of Internal Revenue*.^[13]

In *Kepco Philippines Corporation v. Commissioner of Internal Revenue*,^[14] the CTA *En Banc* explained the rationale behind such requirement in this wise:

The imprinting of "zero-rated" is necessary to distinguish sales subject to 10% VAT, those that are subject to 0% VAT (zero-rated) and exempt sales, to enable the Bureau of Internal Revenue to properly implement and enforce the other provisions of the 1997 NIRC on VAT, namely:

1. Zero-rated sales [Sec. 106(A)(2) and Sec. 108(B)];
2. Exempt transactions [Sec. ¹⁰⁹] in relation to Sec. 112(A);

3. Tax Credits [Sec. ¹¹⁰]; and
4. Refunds or tax credits of input tax [Sec. ¹¹²]

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Records disclose, as correctly found by the CTA that Kepco failed to substantiate the claimed zero-rated sales of P10,514,023.92. The wordings "zero-rated sales" were not imprinted on the VAT official receipts presented by Kepco (marked as Exhibits S to S-11) for taxable year 1999, in clear violation of Section 4.108-1 of R.R. No. 7-95 and the condition imposed under its approved Application/Certificate for Zero-rate as well.

Kepco's claim that Section 4.108-1 of R.R. 7-95 expanded the letter and spirit of Section 113 of 1997 Tax Code, is unavailing. Indubitably, said revenue regulation is merely a precautionary measure to ensure the effective implementation of the Tax Code. It was not used by the CTA to expound the meaning of Sections 113 and 237 of the NIRC. As a matter of fact, the provision of Section 4.108-1 of R.R. 7-95 was incorporated in Section 113 (B)(2)(c) of R.A. No. 9337,^[15] which states that "*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.*" This, in effect, and as correctly concluded by the CIR, confirms the validity of the imprinting requirement on VAT invoices or official receipts even prior to the enactment of R.A. No. 9337 under the principle of legislative approval of administrative interpretation by reenactment.

Quite significant is the ruling handed down in the case of *Panasonic Communications Imaging Corporation of the Philippines v. Commissioner of Internal Revenue*,^[16] to wit:

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 1977 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 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.

Further, the printing of the word "zero-rated" on the invoice helps segregate sales that are subject to 10% (now 12%) VAT from those sales that are zero-rated. Unable to submit the proper invoices, petitioner Panasonic has been

unable to substantiate its claim for refund.

To bolster its claim for tax refund or credit, Kepco cites the case of *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*.^[17] Kepco's reliance on the said case is misplaced because the factual milieu there is quite different from that of the case at bench. In the *Intel* case, the claim for tax refund or issuance of a tax credit certificate was denied due to the taxpayer's failure to reflect or indicate in the sales invoices the BIR authority to print. The Court held that the BIR authority to print was not one of the items required by law or BIR regulation to be indicated or reflected in the invoices or receipts, hence, the BIR erred in denying the claim for refund. In the present case, however, the principal ground for the denial was the absence of the word "zero-rated" on the invoices, in clear violation of the invoicing requirements under Section 108(B)(3) of the 1997 NIRC, in conjunction with Section 4.108-1 of R.R. No. 7-95.

Regarding Kepco's contention, that non-compliance with the requirement of invoicing would only subject the non-complying taxpayer to penalties of fine and imprisonment under Section 264 of the Tax Code, and not to the outright denial of the claim for tax refund or credit, must likewise fail. Section 264 categorically provides for penalties in case of "Failure or Refusal to Issue Receipts or Sales or Commercial Invoices, Violations related to the Printing of such Receipts or Invoices and Other Violations," but not to penalties for failure to comply with the requirement of invoicing. As recently held in *Kepco Philippines Corporation v. Commissioner of Internal Revenue*,^[18] "Section 264 of the 1997 NIRC was not intended to excuse the compliance of the substantive invoicing requirement needed to justify a claim for refund on input VAT payments."

Thus, for Kepco's failure to substantiate its effectively zero-rated sales for the taxable year 1999, the claimed P10,527,202.54 input VAT cannot be refunded.

Indeed, in a string of recent decisions on this matter, to wit: *Panasonic Communications Imaging Corporation of the Philippines v. Commissioner of Internal Revenue*,^[19] *J.R.A. Philippines, Inc. v. Commissioner of Internal Revenue*,^[20] *Hitachi Global Storage Technologies Philippines Corp. (formerly Hitachi Computer Products (Asia) Corporations) v. Commissioner of Internal Revenue*,^[21] and *Kepco Philippines Corporation v. Commissioner of Internal Revenue*,^[22] this Court has consistently held that failure to print the word "zero-rated" on the invoices or receipts is fatal to a claim for refund or credit of input VAT on zero-rated sales.

Contrary to Kepco's view, the denial of its claim for refund of input tax is not a harsh penalty. The invoicing requirement is reasonable and must be strictly complied with, as it is the only way to determine the veracity of its claim.

Well-settled in this jurisdiction is the fact that actions for tax refund, as in this case, are in the nature of a claim for exemption and the law is construed in *strictissimi juris* against the taxpayer. The pieces of evidence presented entitling a taxpayer to an exemption are also *strictissimi* scrutinized and must be duly proven.^[23]

WHEREFORE, the petition is **DENIED**.

SO ORDERED.

Carpio, (Chairperson), Nachura, Peralta, Abad, and Mendoza, JJ., concur.

[1] *Rollo*, pp. 61-71. Penned by Associate Justice Caesar A. Casanova with Associate Justices Juanito C. Castaneda, Jr., Lovell R. Bautista, Erlinda P. Uy and Olga Palanca-Enriquez, concurring. Presiding Justice Ernesto D. Acosta with concurring and dissenting opinion.

[2] *Id.* at 62.

[3] Annex C, Petition, *id.* at 78-90.

[4] Annex B, Petition, *id.* at 71.

[5] Annex B, Petition, *id.* at 74-75.

[6] Annex A, Petition, *id.* at 51-53.

[7] *Id.* at 10-11.

[8] *Atlas Consolidated Mining & Development Corporation v. Commissioner of Internal Revenue*, 376 Phil. 495 (1999).

[9] Dated January 6, 2009, *rollo* p. 612.

[10] The provision, as amended by RA 9337, now reads:

Section 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 and 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;

(b) If the sale is exempt from the value-added tax, the term "VAT-exempt sale" shall be written or printed prominently on the invoice or receipt;

(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;

(d) If the sale involves goods, properties or services some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the breakdown of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt; Provided, That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

(3) The date of the transaction, quantity, unit cost and description of the goods or properties or nature of the service; and

(4) In the case of sales in the amount of one thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and taxpayer identification number (TIN) of the purchaser, customer or client.

(C) Accounting Requirements. - Notwithstanding the provisions of Section 233, all persons subject to the value-added tax under Sections 106 and 108 shall, in addition to the regular accounting records required, maintain a subsidiary sales journal and subsidiary purchase journal on which the daily sales and purchases are recorded. The subsidiary journals shall contain such information as may be required by the Secretary of Finance.

(D) Consequence of Issuing Erroneous VAT Invoice or VAT Official Receipt. -

(1) If a person who is not a VAT-registered person issues an invoice or receipt showing his Taxpayer Identification Number (TIN) followed by the word "VAT":

(a) The issuer shall, in addition to any liability to other percentage taxes, be liable to:

(i) The tax imposed in Section 106 or 108 without the benefit of any input tax credit; and

(ii) A 50% surcharge under Section 248 (B) of this Code;

(b) The VAT shall, if the other requisite information required under Subsection (B) hereof is shown on the invoice or receipt, be recognized as an input tax credit to the purchaser under Section 110 of this Code.

(2) If a VAT-registered person issues a VAT invoice or VAT official receipt for a VAT-exempt transaction, but fails to display prominently on the invoice or receipt the term "VAT-exempt Sale", the issuer shall be liable to account for the tax imposed in Section 106 or 108 as if Section 109 did not apply.

(E) Transitional Period. - Notwithstanding Section (B) hereof, taxpayers may continue to issue VAT invoices and VAT official receipts for the period July 1, 2005 to December 31, 2005, in accordance with Bureau of Internal Revenue

administrative practices that existed as of December 31, 2004.

[11] The provision, as amended by R.A. 9337, now reads:

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, 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.

The original of each receipt or invoice shall be issued to the purchaser, customer or client at the time the transaction is effected, who, if engaged in business or in the exercise of profession, shall keep and preserve the same in his place of business for a period of three (3) years from the close of the taxable year in which such invoice or receipt was issued, while the duplicate shall be kept and preserved by the issuer, also in his place of business, for a like period.

The Commissioner may, in meritorious cases, exempt any person subject to an internal revenue tax from compliance with the provisions of this Section.

[12] Annex B of Petition, *rollo*, p. 66.

[13] CTA Case Nos. 6422 & 6499, July 13, 2005. Annex B of Petition, *id.* at 68.

[14] CTA E.B. Case No. 107, June 29, 2007.

[15] An Act Amending Sections 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237, and 288 of the National Internal Revenue Code of 1997, As Amended, and for Other Purposes, which took effect on November 1, 2005.

[16] G.R. No. 178090, February 8, 2010, 612 SCRA 28, 36-37.

[17] G.R. No. 166732, April 27, 2007, 522 SCRA 657.

[18] G.R. No. 181858, November 24, 2010.

[19] G.R. No. 178090, February 8, 2010, 612 SCRA 28.

[20] *G.R. No. 177127, October 11, 2010.*

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

[22] G.R. No. 181858, November 24, 2010.

[23] *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 159490, February 18, 2008, 456 SCRA 150, 163.

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