654 Phil. 492

FIRST DIVISION

[G.R. No. 172378, January 17, 2011]

SILICON PHILIPPINES, INC., (FORMERLY INTEL PHILIPPINES MANUFACTURING, INC.), PETITIONER, VS. COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.

D E C I S I O N

DEL CASTILLO, J.:

The burden of proving entitlement to a refund lies with the claimant.

This Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeks to set aside the September 30, 2005 Decision[1] and the April 20, 2006 Resolution[2] of the Court of Tax Appeals (CTA) *En Banc*.

Factual Antecedents

Petitioner Silicon Philippines, Inc., a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, is engaged in the business of designing, developing, manufacturing and exporting advance and large-scale integrated circuit components or "IC's."[3] Petitioner is registered with the Bureau of Internal Revenue (BIR) as a Value Added Tax (VAT) taxpayer [4] and with the Board of Investments (BOI) as a preferred pioneer enterprise.[5]

On May 21, 1999, petitioner filed with the respondent Commissioner of Internal Revenue (CIR), through the One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance (DOF), an application for credit/refund of unutilized input VAT for the period October 1, 1998 to December 31, 1998 in the amount of P31,902,507.50, broken down as follows:

	Amount
Tax Paid on Imported/Locally Purchased	

Capital Equipment	P 15,170,082.00
Total VAT paid on Purchases per Invoices Received During the Period for which this Application is Filed	16,732,425.50
Amount of Tax Credit/Refund Applied For	P 31,902,507.50[6]

Proceedings before the CTA Division

On December 27, 2000, due to the inaction of the respondent, petitioner filed a Petition for Review with the CTA Division, docketed as CTA Case No. 6212. Petitioner alleged that for the 4th quarter of 1998, it generated and recorded zero-rated export sales in the amount of P3,027,880,818.42, paid to petitioner in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas;[7] and that for the said period, petitioner paid input VAT in the total amount of P31,902,507.50,[8] which have not been applied to any output VAT.[9]

To this, respondent filed an Answer[10] raising the following special and affirmative defenses, to wit:

> 8. The petition states no cause of action as it does not allege the dates when the taxes sought to be refunded/credited were actually paid;
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> 9. It is incumbent upon herein petitioner to show that it complied with the provisions of Section 229 of the Tax Code as amended;
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> 10. Claims for refund are construed strictly against the claimant, the same being in the nature of exemption from taxes (Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95; Manila Electric Co. vs. Commissioner of Internal Revenue, 67 SCRA 35);
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> 11. One who claims to be exempt from payment of a particular tax must do so under clear and unmistakable terms found in the statute (Asiatic Petroleum vs. Llanes, 49 Phil. 466; Union Garment Co. vs. Court of Tax Appeals, 4 SCRA 304);
>
> 12. In an action for refund, the burden is upon the taxpayer to prove that he is entitled thereto, and failure to sustain the same is fatal to the action for refund. Furthermore, as pointed out in the case of William Li Yao vs. Collector (L-11875, December 28, 1963), amounts sought to be recovered or credited should be shown to be taxes which are erroneously or illegally collected; that is to say,

> their payment was an independent single act of voluntary payment of a tax believed to be due and collectible and accepted by the government, which had therefor become part of the State moneys subject to expenditure and perhaps already spent or appropriated; and
>
> 13. Taxes paid and collected are presumed to have been made in accordance with the law and regulations, hence not refundable.[11]

On November 18, 2003, the CTA Division rendered a Decision[12] partially granting petitioner's claim for refund of unutilized input VAT on capital goods. Out of the amount of P15,170,082.00, only P9,898,867.00 was allowed to be refunded because training materials, office supplies, posters, banners, T-shirts, books, and other similar items purchased by petitioner were not considered capital goods under Section 4.106-1(b) of Revenue Regulations (RR) No. 7-95 (Consolidated Value-Added Tax Regulations).[13] With regard to petitioner's claim for credit/refund of input VAT attributable to its zero-rated export sales, the CTA Division denied the same because petitioner failed to present an Authority to Print (ATP) from the BIR;[14] neither did it print on its export sales invoices the ATP and the word "zero-rated."[15] Thus, the CTA Division disposed of the case in this wise:

> WHEREFORE, in view of the foregoing the instant petition for review is hereby PARTIALLY GRANTED. Respondent is ORDERED to ISSUE A TAX CREDIT CERTIFICATE in favor of petitioner in the reduced amount of P9,898,867.00 representing input VAT on importation of capital goods. However, the claim for refund of input VAT attributable to petitioner's alleged zero-rated sales in the amount of P16,732,425.50 is hereby DENIED for lack of merit.
>
> SO ORDERED.[16]

Not satisfied with the Decision, petitioner moved for reconsideration.[17] It claimed that it is not required to secure an ATP since it has a "Permit to Adopt Computerized Accounting Documents such as Sales Invoice and Official Receipts" from the BIR.[18] Petitioner further argued that because all its finished products are exported to its mother company, Intel Corporation, a non-resident corporation and a non-VAT registered entity, the printing of the word "zero-rated" on its export sales invoices is not necessary.[19]

On its part, respondent filed a Motion for Partial Reconsideration[20] contending that petitioner is not entitled to a credit/refund of unutilized input VAT on capital goods because it failed to show that the goods imported/purchased are indeed capital goods as defined in Section 4.106-1 of RR No. 7-95.[21]

The CTA Division denied both motions in a Resolution[22] dated August 10, 2004. It noted that:

> [P]etitioner's request for Permit to Adopt Computerized Accounting Documents such as Sales Invoice and Official Receipt was approved on August 31, 2001 while the period involved in this case was October 31, 1998 to December 31, 1998 x x x. While it appears that petitioner was previously issued a permit by the BIR Makati Branch, such permit was only limited to the use of computerized books of account x x x. It was only on August 31, 2001 that petitioner was permitted to generate computerized sales invoices and official receipts [provided that the BIR Permit Number is printed] in the header of the document x x x.
>
> x x x x
>
> Thus, petitioner's contention that it is not required to show its BIR permit number on the sales invoices runs counter to the requirements under the said "Permit." This court also wonders why petitioner was issuing computer generated sales invoices during the period involved (October 1998 to December 1998) when it did not have an authority or permit. Therefore, we are convinced that such documents lack probative value and should be treated as inadmissible, incompetent and immaterial to prove petitioner's export sales transaction.
>
> x x x x
>
> **ACCORDINGLY,** the Motion for Reconsideration and the Supplemental Motion for Reconsideration filed by petitioner as well as the Motion for Partial Reconsideration of respondent are hereby **DENIED** for lack of merit. The pronouncement in the assailed decision is **REITERATED.**
>
> **SO ORDERED** [23]

Ruling of the CTA En Banc

Undaunted, petitioner elevated the case to the CTA *En Banc* via a Petition for Review,[24] docketed as EB Case No. 23.

On September 30, 2005, the CTA *En Banc* issued the assailed Decision[25] denying the petition for lack of merit. Pertinent portions of the Decision read:

> This Court notes that petitioner raised the same issues which have already been thoroughly discussed in the assailed Decision, as well as, in the Resolution denying petitioner's Motion for Partial Reconsideration.
>
> With regard to the first assigned error, this Court reiterates that, the requirement of [printing] the BIR permit to print on the face of the sales invoices and official receipts is a control mechanism adopted by the Bureau of Internal Revenue to safeguard the interest of the government.
>
> This requirement is clearly mandated under Section 238 of the 1997 National Internal Revenue Code, which provides that:
>
> > SEC. 238. *Printing of Receipts or Sales or Commercial Invoice.* - 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.
>
> The above mentioned provision seeks to eliminate the use of unregistered and double or multiple sets of receipts by striking at the very root of the problem -- the printer *(H. S. de Leon, The National Internal Revenue Code Annotated, 7th Ed., p. 901)*. And what better way to prove that the required permit to print was secured from the Bureau of Internal Revenue than to show or print the same on the face of the invoices. There can be no other valid proof of compliance with the above provision than to show the Authority to Print Permit number [printed] on the sales invoices and official receipts.
>
> With regard to petitioner's failure to print the word "zero-rated" on the face of its export sales invoices, it must be emphasized that Section 4.108-1 of Revenue Regulations No. 7-95 specifically requires that all value-added tax registered persons shall, for every sale or lease of goods or properties or services, issue duly registered invoices which must show the word "zero-rated" [printed] on the invoices covering zero-rated sales.

It is not enough that petitioner prove[s] that it is entitled to its claim for refund by way of substantial evidence. Well settled in our jurisprudence [is] that tax refunds are in the nature of tax exemptions and as such, they are regarded as in derogation of sovereign authority *(Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95).* Thus, tax refunds are construed in strictissimi juris against the person or entity claiming the same *(Commissioner of Internal Revenue vs. Procter & Gamble Philippines Manufacturing Corporation, 204 SCRA 377; Commissioner of Internal Revenue vs. Tokyo Shipping Co., Ltd., 244 SCRA 332).*

In this case, not only should petitioner establish that it is entitled to the claim but it must most importantly show proof of compliance with the substantiation requirements as mandated by law or regulations.

The rest of the assigned errors pertain to the alleged errors of the First Division: in finding that the petitioner failed to comply with the substantiation requirements provided by law in proving its claim for refund; in reducing the amount of petitioner's tax credit for input vat on importation of capital goods; and in denying petitioner's claim for refund of input vat attributable to petitioner's zero-rated sales.

It is petitioner's contention that it has clearly established its right to the tax credit or refund by way of substantial evidence in the form of material and documentary evidence and it would be improper to set aside with haste the claimed input VAT on capital goods expended for training materials, office supplies, posters, banners, t-shirts, books and the like because Revenue Regulations No. 7-95 defines capital goods as to include even those goods which are indirectly used in the production or sale of taxable goods or services.

Capital goods or properties, as defined under Section 4.106-1(b) of Revenue Regulations No. 7-95, refer "to goods or properties with estimated useful life greater than one year and which are treated as depreciable assets under Section 29 (f), used directly or indirectly in the production or sale of taxable goods or services."

Considering that the items (training materials, office supplies, posters, banners, t-shirts, books and the like) purchased by petitioner as reflected in the summary were not duly proven to have been used, directly or indirectly[,] in the production or sale of taxable goods or services, the same cannot be considered as capital goods as defined above[. Consequently,] the same may not x x x then [be] claimed as such.

> **WHEREFORE**, in view of the foregoing, this instant Petition for Review is hereby **DENIED DUE COURSE** and hereby **DISMISSED** for lack of merit. This Court's Decision of November 18, 2003 and Resolution of August 10, 2004 are hereby **AFFIRMED** in all respects.
>
> **SO ORDERED**.[26]

Petitioner sought reconsideration of the assailed Decision but the CTA *En Banc* denied the Motion[27] in a Resolution[28] dated April 20, 2006.

Issues

Hence, the instant Petition raising the following issues for resolution:

> (1) whether the CTA *En Banc* erred in denying petitioner's claim for credit/ refund of input VAT attributable to its zero-rated sales in the amount of P16,732,425.00 due to its failure:
>
> > (a) to show that it secured an ATP from the BIR and to indicate the same in its export sales invoices; and
> >
> > (b) to print the word "zero-rated" in its export sales invoices.[29]
>
> (2) whether the CTA *En Banc* erred in ruling that only the amount of P9,898,867.00 can be classified as input VAT paid on capital goods.[30]

Petitioner's Arguments

Petitioner posits that the denial by the CTA *En Banc* of its claim for refund of input VAT attributable to its zero-rated sales has no legal basis because the printing of the ATP and the word "zero-rated" on the export sales invoices are not required under Sections 113 and 237 of the National Internal Revenue Code (NIRC).[31] And since there is no law requiring the ATP and the word "zero-rated" to be indicated on the sales invoices,[32] the absence of such information in the sales invoices should not invalidate the petition[33] nor result in the outright denial of a claim for tax credit/refund.[34] To support its position, petitioner cites

Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue,[35] where Intel's failure to print the ATP on the sales invoices or receipts did not result in the outright denial of its claim for tax credit/refund.[36] Although the cited case only dealt with the printing of the ATP, petitioner submits that the reasoning in that case should also apply to the printing of the word "zero-rated."[37] Hence, failure to print of the word "zero-rated" on the sales invoices should not result in the denial of a claim.

As to the claim for refund of input VAT on capital goods, petitioner insists that it has sufficiently proven through testimonial and documentary evidence that all the goods purchased were used in the production and manufacture of its finished products which were sold and exported.[38]

Respondent's Arguments

To refute petitioner's arguments, respondent asserts that the printing of the ATP on the export sales invoices, which serves as a control mechanism for the BIR, is mandated by Section 238 of the NIRC;[39] while the printing of the word "zero-rated" on the export sales invoices, which seeks to prevent purchasers of zero-rated sales or services from claiming non-existent input VAT credit/refund,[40] is required under RR No. 7-95, promulgated pursuant to Section 244 of the NIRC.[41] With regard to the unutilized input VAT on capital goods, respondent counters that petitioner failed to show that the goods it purchased/imported are capital goods as defined in Section 4.106-1 of RR No. 7-95. [42]

Our Ruling

The petition is bereft of merit.

Before us are two types of input VAT credits. One is a credit/refund of input VAT attributable to zero-rated sales under Section 112 (A) of the NIRC, and the other is a credit/refund of input VAT on capital goods pursuant to Section 112 (B) of the same Code.

Credit/refund of input VAT on zero-rated sales

In a claim for credit/refund of input VAT attributable to zero-rated sales, Section 112 (A) [43] of the NIRC lays down four requisites, to wit:

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 years after the close of the taxable quarter when such sales were made; and

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.

To prove that it is engaged in zero-rated sales, petitioner presented export sales invoices, certifications of inward remittance, export declarations, and airway bills of lading for the fourth quarter of 1998. The CTA Division, however, found the export sales invoices of no probative value in establishing petitioner's zero-rated sales for the purpose of claiming credit/refund of input VAT because petitioner failed to show that it has an ATP from the BIR and to indicate the ATP and the word "zero-rated" in its export sales invoices.[44] The CTA Division cited as basis Sections 113,[45] 237[46] and 238[47] of the NIRC, in relation to Section 4.108-1 of RR No. 7-95.[48]

We partly agree with the CTA.

Printing the ATP on the invoices or receipts is not required

It has been settled in *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*[49] that the ATP need not be reflected or indicated in the invoices or receipts because there is no law or regulation requiring it.[50] Thus, in the absence of such law or regulation, failure to print the ATP on the invoices or receipts should not result in the outright denial of a claim or the invalidation of the invoices or receipts for purposes of claiming a refund.[51]

ATP must be secured from the BIR

But while there is no law requiring the ATP to be printed on the invoices or receipts, Section 238 of the NIRC expressly requires persons engaged in business to secure an ATP from the BIR prior to printing invoices or receipts. Failure to do so makes the person liable under Section 264[52] of the NIRC.

This brings us to the question of whether a claimant for unutilized input VAT on zero-rated sales is required to present proof that it has secured an ATP from the BIR prior to the printing of its invoices or receipts.

We rule in the affirmative.

Under Section 112 (A) of the NIRC, a claimant must be engaged in sales which are zero-rated or effectively zero-rated. To prove this, duly registered invoices or receipts evidencing zero-rated sales must be presented. However, since the ATP is not indicated in the invoices or receipts, the only way to verify whether the invoices or receipts are duly registered is by requiring the claimant to present its ATP from the BIR. Without this proof, the invoices or receipts would have no probative value for the purpose of refund. In the case of *Intel,* we emphasized that:

> It bears reiterating that while the pertinent provisions of the Tax Code and the rules and regulations implementing them require entities engaged in business to secure a BIR authority to print invoices or receipts and to issue duly registered invoices or receipts, it is not specifically required that the BIR authority to print be reflected or indicated therein. **Indeed, what is important with respect to the BIR authority to print is that it has been secured or obtained by the taxpayer, and that invoices or receipts are duly registered.**[53] (Emphasis supplied)

Failure to print the word "zero-rated" on the sales invoices is fatal to a claim for refund of input VAT

Similarly, failure to print the word "zero-rated" on the sales invoices or receipts is fatal to a claim for credit/refund of input VAT on zero-rated sales.

In *Panasonic Communications Imaging Corporation of the Philippines (formerly Matsushita Business Machine Corporation of the Philippines) v. Commissioner of Internal Revenue,*[54] we upheld the denial of Panasonic's claim for tax credit/refund due to the absence of the word "zero-rated" in its invoices. We explained that compliance with Section 4.108-1 of RR 7-95, requiring the printing of the word "zero rated" on the invoice covering zero-rated sales, is essential as this regulation proceeds from the rule-making authority of the Secretary of Finance under Section 244[55] of the NIRC.

All told, the non-presentation of the ATP and the failure to indicate the word "zero-rated" in the invoices or receipts are fatal to a claim for credit/refund of input VAT on zero-rated sales. The failure to indicate the ATP in the sales invoices or receipts, on the other hand, is not. In this case, petitioner failed to present its ATP and to print the word "zero-rated" on its export sales invoices. Thus, we find no error on the part of the CTA in denying outright

petitioner's claim for credit/refund of input VAT attributable to its zero-rated sales.

Credit/refund of input VAT on capital goods

Capital goods are defined under Section 4.106-1(b) of RR No. 7-95

To claim a refund of input VAT on capital goods, Section 112 (B)[56] of the NIRC requires that:

1. the claimant must be a VAT registered person;
2. the input taxes claimed must have been paid on capital goods;
3. the input taxes must not have been applied against any output tax liability; and
4. the administrative claim for refund must have been filed within two (2) years after the close of the taxable quarter when the importation or purchase was made.

Corollarily, Section 4.106-1 (b) of RR No. 7-95 defines capital goods as follows:

> "Capital goods or properties" refer to goods or properties with estimated useful life greater that one year and which are treated as depreciable assets under Section 29 (f),[57] used directly or indirectly in the production or sale of taxable goods or services.

Based on the foregoing definition, we find no reason to deviate from the findings of the CTA that training materials, office supplies, posters, banners, T-shirts, books, and the other similar items reflected in petitioner's Summary of Importation of Goods are not capital goods. A reduction in the refundable input VAT on capital goods from P15,170,082.00 to P9,898,867.00 is therefore in order.

WHEREFORE, the Petition is hereby **DENIED**. The assailed Decision dated September 30, 2005 and the Resolution dated April 20, 2006 of the Court of Tax Appeals *En Banc* are hereby **AFFIRMED.**

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and *Perez, JJ.*, concur.

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[1] *Rollo*, pp. 15-46; penned by Associate Justice Erlinda P. Uy and concurred in by Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Caesar A. Casanova, and Olga Palanca-Enriquez; with Concurring and Dissenting Opinion of Presiding Justice Ernesto D. Acosta, and Separate Concurring Opinion of Associate Justice Juanito C. Castañeda, Jr.

[2] Id. at 47-53, with Dissenting Opinion of Presiding Justice Ernesto D. Acosta.

[3] Id. at 187.

[4] Id.

[5] Id.

[6] Id. at 188.

[7] Id. at 163.

[8] Id.

[9] Id. at 166.

[10] Id. at 180-182.

[11] Id. at 181.

[12] Id. at 186-197.

[13] Id. at 195.

[14] Id. at 192.

[15] Id. at 192-193.

[16] Id. at 196.

[17] Id. at 198-215 and 216-222.

[18] Id. at 201-202.

[19] Id. at 207.

[20] CTA Division *rollo*, pp. 169-172.

[21] Id. at 170.

[22] *Rollo,* pp. 223-239.

[23] Id. at 226-227; 229.

[24] Id. at 240-268.

[25] Id. at 15-46.

[26] Id. at 19-22.

[27] Id. at 269-297.

[28] Id. at 47-53.

[29] Id. at 80.

[30] Id. at 98.

[31] Id. at 80-82.

[32] Id. at 80.

[33] Id. at 90.

[34] Id. at 374.

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

[36] Id. at 696.

[37] *Rollo,* p. 373 (unpaged).

[38] Id. at 98.

[39] Id. at 324.

[40] Id. at 329-330.

[41] Id. at 327.

[42] Id. at 335.

[43] SECTION 112. *Refunds or Tax Credits of Input Tax*. --

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

[44] *Rollo,* pp. 192-193.

[45] SECTION 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.

[46] SECTION 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.

[47] SECTION 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.

All persons who print receipt or sales or commercial invoices shall maintain a logbook/register of taxpayer who availed of their printing services. The logbook/register shall contain the following information:

(1) Names, Taxpayer Identification Numbers of the persons or entities for whom the receipts or sales or commercial invoices are printed; and

(2) Number of booklets, number of sets per booklet, number of copies per set and the serial numbers of the receipts or invoices in each booklet.

[48] 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" [printed] on the invoice covering zero-rated sales; and

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 invoice 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.

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.

[49] Supra note 35.

[50] Id. at 687 and 693.

[51] Id. at 694.

[52] SECTION 264. *Failure or Refusal to Issue Receipts or Sales or Commercial Invoices, Violations Related to the Printing of such Receipts or Invoices and Other Violations.* --

(a) Any person who, being required under Section 237 to issue receipts or sales or commercial invoices, fails or refuses to issue such receipts or invoices, issues receipts or invoices that do not truly reflect and/or contain all the information required to be shown therein or uses multiple or double receipts or invoices, shall, upon conviction for each act or omission, be punished by a fine of not less than One thousand pesos (P1,000) but not more than Fifty thousand pesos (P50,000) and suffer imprisonment of not less than two (2) years but not more than four (4) years.

(b) Any person who commits any of the acts enumerated hereunder shall be penalized in the same manner and to the same extent as provided for in this Section:

(1) Printing of receipts or sales or commercial invoices without authority from the Bureau of Internal Revenue; or

(2) Printing of double or multiple sets of invoices or receipts;

(3) Printing of unnumbered receipts or sales or commercial invoices, not bearing the name, business style, Taxpayer Identification Number, and business address of the person or entity.

[53] Supra note 35 at 695-696.

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

[55] SECTION 244. *Authority of Secretary of Finance to Promulgate Rules and Regulations.* -- The Secretary of Finance, upon recommendation of the Commissioner, shall promulgate all needful rules and regulations for the effective enforcement of the provisions of this Code.

[56] SECTION 112. *Refunds or Tax Credits of Input Tax*. --

x x x x

(B) Capital Goods -- A VAT-registered person may apply for the issuance of a tax credit certificate or refund of input taxes paid on capital goods imported or locally purchased, to the extent that such input taxes have not been applied against output taxes. The application may be made only within two (2) years after the close of the taxable quarter when the importation or purchase was made.

[57] Now Section 34 (f) of the NIRC.
