547 Phil. 332

FIRST DIVISION

[G.R. NO. 145526, March 16, 2007]

ATLAS CONSOLIDATED MINING AND DEVELOPMENT CORPORATION, PETITIONER, VS. COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.

D E C I S I O N

CORONA, J.:

Petitioner Atlas Consolidated Mining and Development Corporation is engaged in the business of mining, production, and sale of various mineral products. On March 31, 1993, petitioner presented to respondent Commissioner of Internal Revenue applications for refund or tax credit of excess input taxes[1] for the second, third and fourth quarters of 1992 in the following amounts: P24,031,673 for the second quarter, P16,597,709.17 for the third quarter and P29,839,894.82 for the last. Petitioner attributed these claims to its sales of gold to the Central Bank, copper concentrates to Philippine Associated Smelting and Refining Corporation (PASAR) and pyrite to Philippine Phosphates, Inc. (Philphos) on the theory that these were zero-rated transactions resulting in refundable or creditable input taxes under Section 106(b) of the Tax Code of 1986.[2]

Owing to respondent's continuous inaction and the imminent expiration of the two-year period for beginning a court action for tax credit or refund, petitioner brought its claims to the Court of Tax Appeals (CTA) by way of a petition for review.

The CTA denied petitioner's claims on the grounds of prescription and insufficiency of evidence.[3] Petitioner appealed to the Court of Appeals (CA).[4] The appeal was docketed as CA-G.R. SP No. 47824. In a decision dated June 29, 2000,[5] the CA reversed the CTA's ruling on the matter of prescription but affirmed the latter's decision in all other respects. Petitioner's motion for reconsideration was denied for lack of merit.[6] Thereupon, petitioner filed this appeal by certiorari.[7]

It has always been the rule that those seeking tax refunds or credits bear the burden of proving the factual bases of their claims and of showing, by words too plain to be

mistaken, that the legislature intended to entitle them to such claims.[8] The rule, in this case, required petitioner to (1) show that its sales qualified for zero-rating under the laws then in force and (2) present sufficient evidence that those sales resulted in excess input taxes.

There is no dispute that respondent had approved petitioner's applications for the zero-rating of its sales to the Central Bank, PASAR and Philphos prior to the transactions from which these claims arose. Thus, on the strength of this Court's ruling in *Atlas Consolidated Mining and Development Corp. v. Commissioner of Internal Revenue*[9] that respondent's approval of petitioner's application for zero-rating of its sales to Philphos and PASAR "indubitably signified" that such sales qualified for zero-rating,[10] it could well be conceded that petitioner had complied with the first requirement. However, it was also incumbent on petitioner to submit sufficient evidence to justify the grant of refund or tax credit. It was here that petitioner fell short.

The CTA and the CA both found that petitioner failed to comply with the evidentiary requirements for claims for tax credits or refunds set forth in Section 2(c) of Revenue Regulations 3-88 and in CTA Circular 1-95, as amended by CTA Circular 10-97. The pertinent part of Section 2(c) of Revenue Regulations 3-88 stated:

> A photocopy of the purchase invoice or receipt evidencing the value added tax paid shall be submitted together with the application [for tax credit/refund of value-added tax paid]. The original copy of the said invoice/receipt, however, shall be presented for cancellation prior to the issuance of the Tax Credit Certificate or refund. xxx

CTA Circular 1-95 likewise required submission of invoices or receipts showing the amounts of tax paid:

> 1. The party who desires to introduce as evidence such voluminous documents must, after motion and approval by the Court, present: (a) a Summary containing, among others, a chronological listing of the numbers, dates and amounts covered by the invoices or receipts and the amount/s of tax paid; and (b) a Certification of an independent Certified Public Accountant attesting to the correctness of the contents of the summary after making an examination, evaluation and audit of the voluminous receipts and invoices. xxx
>
> 2. The method of individual presentation of each and every receipt, invoice or account for marking, identification and comparison with the originals thereof need not be done before the Court or Clerk of Court anymore after the introduction of the summary and CPA certification. It is enough that

> **the receipts, invoices, vouchers or other documents covering the said accounts or payment to be introduced in evidence must be pre-marked by the party concerned and submitted to the Court** in order to be made accessible to the adverse party who desires to check and verify the correctness of the summary and CPA certification. Likewise the originals of the voluminous receipts, invoices or accounts must be ready for verification and comparison in case doubt on the authenticity thereof is raised during the hearing or resolution of the formal offer of evidence. (emphasis supplied)

Both courts correctly observed that petitioner never submitted any of the invoices or receipts required by the foregoing rules and held this omission to be fatal to its cause. Petitioner insists, however, that its failure to submit these documents should not have been held to bar the successful prosecution of its claims. Petitioner offers two propositions: (1) the documentary requirements imposed by Revenue Regulations 3-88 applied only to administrative claims for refund or tax credit and should have had no bearing in a judicial claim for refund in the CTA which was "entirely independent of and distinct from the administrative claim,"[11] and (2) the summary and certification of an independent certified public accountant required by CTA Circular 1-95(1)[12] "constitute(d) the principal evidence" and rendered superfluous the submission of VAT invoices and receipts.[13]

Petitioner's contention that non-compliance with Revenue Regulations 3-88 could not have adversely affected its case in the CTA indicates a failure on its part to appreciate the nature of the proceedings in that court. First, a judicial claim for refund or tax credit in the CTA is by no means an original action but rather an *appeal* by way of petition for review of a previous, unsuccessful administrative claim.[14] Therefore, as in every appeal or petition for review, a petitioner has to convince the appellate court that the quasi-judicial agency *a quo* did not have any reason to deny its claims. In this case, it was necessary for petitioner to show the CTA not only that it was entitled under substantive law to the grant of its claims but also that it satisfied all the documentary and evidentiary requirements for an administrative claim for refund or tax credit. Second, cases filed in the CTA are litigated *de novo*. Thus, a petitioner should prove every minute aspect of its case by presenting, formally offering and submitting its evidence to the CTA.[15] Since it is crucial for a petitioner in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first place, part of the evidence to be submitted to the CTA must necessarily include whatever is required for the successful prosecution of an administrative claim.

Petitioner's second proposition must be rejected as well. In *Commissioner of Internal Revenue v. Manila Mining Corporation*,[16] we ruled on a similar argument:

> There is nothing in CTA Circular No. 1-95, as amended by CTA Circular No. 10-97, which either expressly or impliedly suggests that summaries and schedules of input VAT payments, even if certified by an independent CPA, suffice as evidence of input VAT payments.
>
> xxx xxx xxx
>
> The circular, in the interest of speedy administration of justice, was promulgated to avoid the time-consuming procedure of presenting, identifying and marking of documents before the Court. It does not relieve respondent of its imperative task of pre-marking photocopies of sales receipts and invoices and submitting the same to the court after the independent CPA shall have examined and compared them with the originals. Without presenting these pre-marked documents as evidence - from which the summary and schedules were based, the court cannot verify the authenticity and veracity of the independent auditor's conclusions. (underscoring in the original)
>
> There is, moreover, a need to subject these invoices or receipts to examination by the CTA in order to confirm whether they are VAT invoices. Under Section 21 of Revenue Regulation No. 5-87, all purchases covered by invoices other than a VAT invoice shall not be entitled to a refund of input VAT.
>
> xxx xxx xxx
>
> While the CTA is not governed strictly by technical rules of evidence, as rules of procedure are not ends in themselves but are primarily intended as tools in the administration of justice, the presentation of the purchase receipts and/or invoices is not [a] mere procedural technicality which may be disregarded considering that it is the only means by which the CTA may ascertain and verify the truth of respondent's claims.[17] (citations omitted)

In view of the foregoing, we find no cogent reason to reverse the CA.

WHEREFORE, the petition is hereby **DENIED**. The decision of the Court of Appeals in CA-G.R. SP No. 47824 is **AFFIRMED**.

Costs against petitioner.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Azcuna, and *Garcia, JJ.,* concur.

[1] "Input tax" means the value-added tax paid by a VAT-registered person in the course of his trade or business on importation of goods or local purchases of goods or services from a VAT-registered person. xxx The term "output tax" means the value-added tax due on the sale of taxable goods or services by any person registered or required to register under Section 107 of [the] Code. (Tax Code of 1986, Sec. 104, as *amended* by EO 273) If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters. Any input tax attributable to the purchase of capital goods or to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 106. (Tax Code of 1986, Sec. 104 [b])

[2] *Zero-rated or effectively zero-rated sales.* - Any person, except those covered by paragraph (a) above, whose sales are zero-rated or are effectively zero-rated may, within two years after the close of the quarter when such sales were made, apply for the issuance of the a tax credit certificate or refund of the input taxes attributable to such sales to the extent that such input tax has not been applied against output tax.

[3] Decision dated February 5, 1998, penned by Associate Judge Ramon O. de Veyra (retired) and concurred in by Presiding Judge (now Presiding Justice) Ernesto D. Acosta and Associate Judge Amancio Q. Saga (retired) of the Court of Tax Appeals. CA records, pp. 197-210.

[4] Under Rule 43 of the Rules of Court. Under RA 9282, effective April 23, 2004, appeals from the decisions of the CTA are now brought to the Supreme Court.

[5] Penned by Associate Justice Delilah Vidallon-Magtolis (retired) and concurred in by Associate Justices Eloy R. Bello, Jr. (retired) and Elvi John S. Asuncion of the Thirteenth Division of the Court of Appeals.

[6] Resolution dated October 18, 2000. Rollo, p. 51.

[7] Under Rule 45 of the Rules of Court.

[8] *See Commissioner of Internal Revenue v. Seagate Technology (Philippines),* G.R. No. 153866, 11 February 2005, 451 SCRA 132.

[9] 376 Phil. 495 (1999).

[10] Id., p. 515.

[11] *Rollo*, p. 147.

[12] *Supra*.

[13] *Rollo,* pp. 148 & 152.

[14] In fact, under RA 1125 (the law creating the CTA), the CTA had only appellate jurisdiction; it had no power to take cognizance of original actions. With the advent of RA 9282 (an Act expanding the jurisdiction of the CTA) in 2004, however, the CTA began to exercise original jurisdiction over certain actions. Nonetheless, its jurisdiction over refund claims has remained purely appellate.

[15] See *Commissioner of Internal Revenue v. Manila Mining Corporation*, G.R. No. 153204, 31 August 2005, 468 SCRA 571.

[16] G.R. No. 153204, 31 August 2005, 468 SCRA 571.

[17] Id., pp. 592-594.
