REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Special Second Division, issued a Resolution dated **11 December 2019** *which reads as follows*:

"***G.R. No. 238610 (MD Express Manila, Inc., v. Commissioner of Internal Revenue)***. – Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision[1] dated November 22, 2017 and the Resolution[2] dated April 4, 2018 of the Court of Tax Appeals (CTA) in CTA EB No. 1469, which affirmed the Decision[3] dated April 17, 2015 and Resolution[4] dated May 13, 2016 of the CTA Third Division (CTA Division) in CTA Case Nos. 8388, 8389, and 8390.

MD Express Manila, Inc. (petitioner) is a provider of domestic and international freight forwarding services.[5] As a value-added tax (VAT)-registered enterprise,[6] it filed a Bureau of Internal Revenue (BIR) Form No. 2550-Q (VAT Return) for the following taxable quarters: (1) fourth quarter of 2008[7] and (2) first,[8] second,[9] third,[10] and fourth[11] quarters of 2009.[12]

Subsequently, petitioner filed with the BIR Revenue District Office No. (RDO) 33, three separate claims for tax credit/refund

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1 *Rollo*, Vol. 1, pp. 93-106; penned by CTA Associate Justice Caesar A. Casanova with CTA Presiding Justice Roman G. Del Rosario and CTA Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, Ma. Belen M. Ringpis-Liban, and Catherine T. Manahan concurring. CTA Associate Justice Erlinda P. Uy was on leave.
2 *Id.* at 107-110.
3 *Rollo*, Vol. II, pp. 975-988.
4 *Id.* at 1068-1099.
5 *Rollo*, Vol. I, p. 169.
6 *Id.* at 214.
7 *Id.* at 369.
8 *Id.* at 225.
9 *Id.* at 227.
10 *Id.* at 299.
11 *Id.* at 310.
12 *Id.* at 178.

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(Administrative Claims).[13] Petitioner averred[14] as follows: *First*, it provided services to various Philippine Economic Zone Authority (PEZA)- and Clark Freeport Zone (CFZ)-registered entities. *Second*, under Section 108(B)(3) of the National Internal Revenue Code of 1997 (Tax Code), sales of services to PEZA-registered entities are zero-rated sales. *Third*, during the above-enumerated taxable quarters, it incurred expenses directly attributable to these zero-rated sales and giving rise to input VAT. *Fourth*, it did not utilize or carry-forward such input VAT to succeeding taxable quarters. *Fifth*, under Section 112(A) of the Tax Code, it was entitled to a tax credit/refund of excess and unutilized input VAT in the aggregate amount of ₱4,605,610.27; *viz*:

Year	Taxable Quarter	Date of Filing	Amount
2008	4th Quarter	December 23, 2010	₱1,381,903.02
2009	1st Quarter	March 30, 2011	921,015.02
2009	2nd, 3rd, and 4th Quarters	June 30, 2011	2,302,692.23
			₱4,605,610.27

Petitioner submitted documents supporting these administrative claims on June 30, 2011.[15]

Asserting that respondent Commissioner of Internal Revenue (CIR) did not act upon its administrative claims, petitioner filed three separate petitions for review before the CTA on November 28, 2011 (Judicial Claims).[16] The petitions—initially docketed as CTA Case Nos. 8388, 8389, and 8390—were later on consolidated.

The CTA Division Ruling

In its Decision dated April 17, 2015, the CTA Division denied petitioner's judicial claims. It ruled as follows: *First*, the judicial claims were filed within the prescriptive period set forth under Section 112(C) of the Tax Code. *Second*, although the law considers sales of services to PEZA and CFZ-registered entities as zero-rated, petitioner failed to establish that the enterprises they sold services to were either PEZA- or CFZ-registered. It submitted photocopies of the certifications of these entities but did not present the original copies. Thus, the certifications cannot be admitted for violating the best evidence rule.

[13] MD Express filed its claims for credit/refund using BIR Form No. 1914 or the Application for Tax Credits/Refunds. *Rollo*, Vol. I, pp. 383, 236, and 321.
[14] *Id.* at 379-381, 233-235, and 318-320.
[15] *Id.* at 179.
[16] *Rollo*, Vol. II, p. 976.

Petitioner moved for reconsideration prompting the CTA Division to revisit its documentary submissions. Thus, in its Resolution[17] dated May 13, 2016, the CTA Division ruled that, contrary to its earlier findings, petitioner had in fact established zero-rated sales amounting to ₱76,234,584.10.[18] However, ultimately, it still denied the judicial claims due to petitioner's failure to properly substantiate the input VAT claimed with VAT official receipts as required by the Tax Code and applicable BIR rules and regulations.[19]

Aggrieved, petitioner appealed to the CTA *En Banc*.

The CTA En Banc *Ruling*

In its assailed Decision dated November 22, 2017, the CTA *En Banc* denied petitioner's appeal, fully subscribing to the ruling of the CTA Division. It reiterated that VAT invoices or receipts must show the information as required by the law and applicable rules. Claims for tax credit/refund based on documentation that did not comply with these statutory requirements must fail.[20]

Petitioner moved for reconsideration but was denied. Hence, it filed the present Petition.

Issue

The sole issue for the Court's resolution is *whether petitioner is entitled to a tax credit/refund amounting to P4,605,610.27.*

The Court's Ruling

The petition is unmeritorious.

Petitioner imputes error to the CTA *En Banc* and argues as follows: *First*, its sales invoices are sufficient to show that the sales it made to certain enterprises are in fact zero-rated.[21] *Second*, its suppliers' official receipts are sufficient to prove the amount of input VAT claim. Its input VAT claim should not have been disallowed outright due to

[17] *Id.* at 977-988.
[18] *Id.* at 1081.
[19] *Id.* at 1082.
[20] *Rollo* Vol. I, p.104.
[21] *Id.* at 68.

non-compliance with the applicable invoicing requirements because the input VAT resulting from each transaction is determinable from the official receipts.[22]

Petitioner clearly raises questions of fact. The resolution of these questions requires the Court not only to rule whether its sales invoices and suppliers' official receipts are the proper evidence to substantiate a claim for tax credit/refund of excess and unutilized input VAT, but also to review the evidence already presented before the CTA.

The basic rule is that the Court is not a trier of facts. It is not this Court's function to examine, review or evaluate the evidence all over again.[23] Verily, there are well-recognized exceptions to this rule. However, We find that this case does not fall under any of them.

Furthermore, the CTA, both sitting in division and *en banc*, consistently found and held that petitioner's evidence—consisting of official receipts issued by its suppliers—was insufficient to substantiate its claim. In this regard, the CTA considered the independent certified public accountant's report and supporting documents formally offered during the course of the proceedings. After its thorough evaluation of the records, the CTA Division and CTA *En Banc* arrived at the same conclusion: that the subject official receipts did not comply with the invoicing requirements under the Tax Code.

The Court is bound by these findings of fact. We have already ruled that the factual findings of the CTA are accorded great respect, if not finality, because we recognize that the CTA has necessarily developed an expertise on tax matters.[24] These findings cannot be disturbed without any showing of grave abuse of discretion, considering that the members of the Division are in the best position to analyze the documents presented by the parties.[25]

After a careful reading of the CTA's assailed issuances, We do not find any reason to deviate from its findings. The CTA correctly denied petitioner's claim for credit/refund of excess and unutilized input VAT.

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[22] *Rollo* Volume I, p. 79.

[23] See *Coca-Cola Bottlers Philippines, Inc. vs. CIR*, G.R. No. 222428, February 19, 2018, 856 SCRA 64, 84.

[24] *Winebrenner & Iñigo Insurance Brokers, Inc.*, vs. *Commission in Internal Revenue*, G.R. No. 206526, January 28, 2015, 748 SCRA 591, 615.

[25] *Republic vs. Team (Phils.) Energy Corp.*, 750 Phil. 700, 717 (2015). Also see *Coca-Cola Bottlers Philippines, Inc. vs. CIR, supra* note 23.

It is well-recognized that refunds are in the nature of exemptions and, thus, strictly construed against the claimant. In other words, the claimant bears the burden of establishing the factual basis of his or her claim for tax credit or refund.[26] This burden requires a person seeking a tax credit/refund of excess and unutilized input VAT to present "VAT invoices and/or official receipts"–documentary proof that comply with the relevant invoicing and accounting requirements,[27] particularly those set forth in Section 4.108-1 of BIR Revenue Regulations No. 7-95,[28] *viz*:

> 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; and
>
> 6. the invoice value or consideration.
>
> xxxx
>
> 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.
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> xxxx
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> (Emphasis Supplied).

That the input tax arising from each transaction may nonetheless be determined from the face of each receipt, as petitioner insists, is

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[26] See *Coca-Cola Bottlers Philippines, Inc. vs. CIR, supra* note 23 at 85; *CIR vs. Seagate Technology*, G.R. No. 153866, February 11, 2005, 451 SCRA 132-133; *CIR v. Toshiba*, 503 Phil. 823-825 (2005).

[27] *Sitel Philippines Corp. vs. CIR*, 805 Phil. 464-488 (2017).

[28] Consolidated Value-Added Tax Regulations, Revenue Regulations No. 07-95, [December 9, 1995].

immaterial. These invoicing requirements are mandatory. Certainly, a document that does not comply with these requirements is not a "VAT invoice or receipt", and thus, cannot support a claim for excess and unutilized input tax.[29]

In view of petitioner's failure to present the required documentary proof to establish its entitlement to a tax credit/refund, the CTA correctly denied its judicial claim.

WHEREFORE, premises considered, the Petition is **DENIED**. The Decision dated November 22, 2017 and Resolution dated April 4, 2018 of the Court of Tax Appeals in CTA EB No. 1469 are **AFFIRMED**.

SO ORDERED."

Very truly yours,

TERESITA AQUINO TUAZON
Deputy Division Clerk of Court
17 JAN 2020

[29] *Sitel Philippines Corp. vs. CIR*, *supra* note 27; *JRA Philippines, Inc. vs. CIR*, 716 Phil. 566, 573-574 (2013).

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