REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

VICTORIAS MILLING COMPANY FARMERS MULTI PURPOSE COOPERATIVE,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE, BIR REGIONAL DIRECTOR, REGION 12, BACOLOD CITY,
Respondents.

CTA CASE NO. 8658

Members:

CASTAÑEDA, JR., *Chairperson*
CASANOVA, *and*
COTANGCO-MANALASTAS, *JJ.*

Promulgated:
NOV 13 2014 3:26 pm

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RESOLUTION

CASTAÑEDA, JR., *J.*:

For this Court's resolution is respondent's *Motion for Reconsideration (Re: Decision Promulgated 10 September 2014)* filed on September 26, 2014, with petitioner's *Comment to Motion for Reconsideration (Re: Decision Promulgated 10 September 2014)* filed on October 20, 2014. The dispositive portion of the assailed Decision is quoted hereunder for ready reference:

> **WHEREFORE**, premises considered, the instant Petition for Review is hereby **GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND** in favor of petitioner the amount of Nine Million Five Hundred Thirty-Seven Thousand Three Hundred Six Pesos (₱9,537,306.00), representing erroneously paid advance VAT for the period covering May 31, 2011 to April 16, 2012.
>
> **SO ORDERED.**

In the said Motion, respondent mainly avers that petitioner's Certificate of Tax Exemption dated November 16, 2011 cannot be considered as enough basis to uphold petitioner's tax exemption because petitioner should have presented additional supporting documents, particularly, official list of the members of the cooperative, sales invoices, and *quedans*, that can prove its tax-exempt status and its entitlement to tax refund.

Petitioner counter-argues that (1) the documents it presented before the Court are the only ones required by the Bureau of Internal Revenue; (2) there is no presumption that the advance value-added taxes (VAT) were collected in accordance with laws and regulations because they were collected in violation of Sections 60 and 61 of the Cooperative Code and Section 109(L) of Republic Act (RA) No. 9337; (3) respondent cannot raise issues not agreed upon by the parties; and (4) there is a presumption that when the BIR Revenue District Officer issued the Certificate Authorizing Release of Refined Sugars (CARRS) to petitioner, he was satisfied that petitioner was the producer of the sugar through its members.

The principal issue raised by respondent is whether the evidence adduced by petitioner is sufficient to prove its entitlement to its claim for tax refund.

A scrutiny of the arguments in the Motion reveals that there is neither substantial nor cogent reason to reconsider the assailed Decision. In fact, the arguments were considered, exhaustively discussed, and passed upon by this Court in the assailed Decision. For emphasis, the Court quotes the pertinent parts of the assailed Decision, thus:

> In the instant case, petitioner belongs to the category of duly registered cooperatives which transact business **with members only** as shown by its Certificate of Tax Exemption dated November 16, 2011. Hence, it is Article 60, not Article 61, of RA No. 9520 that should apply with respect to the tax-exempt status of petitioner. Applying Article 60 of RA No. 9520, petitioner shall not be subject to "taxes and fees imposed under internal revenue laws and other tax laws," including VAT.
>
> Accordingly, it is wrong for respondent to argue that petitioner failed to submit supporting documents to be entitled to tax exemptions based on Article 61 of RA No. 9520 in relation to Section 8 of the Joint Rules and

Regulations. Clearly, said provisions apply only to cooperatives which transact business **with members and non-members**. In other words, petitioner is not required to submit the documentary requirements under the aforesaid provisions of law and regulations because it does not transact with non-members of the cooperative.

Section 13 of the Joint Rules and Regulations likewise provides that petitioner can apply for tax credit/refund of taxes previously paid from the date of registration with the CDA up to the issuance of the Certificate of Tax Exemption/Ruling, subject to the rules and procedures for processing tax credit/refund.

Petitioner faithfully complied with the requirements for it to be accorded a tax-exempt status, specifically, from payment of VAT, by presenting the following documents: (1) Certificate of Registration[1] with the CDA; (2) Certificate of Good Standing[2] issued by the CDA; and (3) Certificate of Tax Exemption[3] issued by the BIR. Since petitioner is exempted from paying taxes, including VAT, petitioner may then apply for tax credit/refund of the advance VAT it already paid.

However, for purposes of discussion, it must be pointed out that it was respondent that issued to petitioner the Certificate of Tax Exemption, the relevant portions of which state:

> THIS IS TO CERTIFY THAT ***VMC FARMERS COOPERATIVE, INC. (VMCFMPC), an agricultural multi-purpose cooperative***, with address at Osmeña Avenue III, Victorias City, Negros Occidental, is a duly-registered taxpayer of RDO No. 076 under Tax Identification No. 000-962-814 and is registered with the Cooperative Development Authority under Registration Certificate No. 9520-06006137 dated January 13, 2010.
>
> As a **cooperative transacting with members only, VMCFMPC** is entitled to the following tax exemptions and incentives provided for under Article 60 of Republic Act No. 9520, as implemented by Section 7 of

[1]Exhibit "P-3"
[2]Exhibit "P-4"
[3]Exhibit "P-5"

the Joint Rules and Regulations Implementing Articles 60, 61 and 144 of RA No. 9520:

xxx xxx xxx

This Certificate of Registration shall be valid for five (5) years or until November 16, 2016, unless sooner revoked by this Office for violation of any provisions of the Joint Revenue Regulations, the terms and conditions on the reverse side hereof or upon withdrawal of the Certificate of Registration by the CDA. *(Emphasis supplied)*

From the foregoing, it is evident that the BIR certified that petitioner is entitled to tax exemptions and incentives provided for under Article 60 of Republic Act No. 9520, as implemented by Section 7 of the Joint Rules and Regulations Implementing Articles 60, 61 and 144 of RA No. 9520 by meeting its conditions, *i.e.*, transacting with its members only. Incidentally, it also provides that the certification shall be valid unless sooner revoked for violation of any of the provisions of the Joint Revenue Regulations, its terms and conditions, or upon withdrawal of the Certificate of Registration by the Cooperative Development Authority (CDA).

Pursuant to the principle of *presumption of regularity* in the performance of official functions[4] the BIR issued the subject certification in the discharge of its official duties and functions. Thus, the BIR is presumed to have issued the same upon ascertaining that petitioner, indeed, satisfied the given conditions. Stated differently, the BIR would not have issued the said certification if it has not determined that petitioner met the requirements to be granted a tax-exempt status.

It is equally worth mentioning that respondent has the power to revoke the benefits granted by the certification if petitioner would violate any of the conditions therein stated. However, no evidence was adduced by respondent proving that petitioner committed violations of the certification which would consequently lead to its revocation. Therefore, the Court committed no error in appreciating said evidence in favor of petitioner.

[4]*Ernesto M. De Chavez, et al. vs. Office of the Ombudsman, et al.*, G.R. Nos. 168830-31, February 6, 2007; Section 3(m) of Rule 131 of the Revised Rules on Evidence

WHEREFORE, premises considered, respondent's *Motion for Reconsideration* is hereby **DENIED** for lack of merit.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice