REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

MACQUARIE OFFSHORE SERVICES PTY. LTD.-PHILIPPINE BRANCH,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case Nos. 8936, 8994 & 9040

Members:

CASTAÑEDA, JR., *Chairperson*
CASANOVA, *and*
MANAHAN, *JJ.*

Promulgated:
MAY 2 2 2018 3:08 pm

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RESOLUTION

MANAHAN, *J.:*

For resolution is respondent's "Motion for Reconsideration" filed through registered mail on April 17, 2018 with petitioner's "Comment/Opposition (Re: Motion for Reconsideration dated 10 April 2018)" filed on May 3, 2018 praying for the reversal of this Court's Decision dated March 27, 2018, the dispositive portion of which reads:

> **"WHEREFORE**, premises considered the instant consolidated Petitions for Review are hereby **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in the amount **of THIRTY-TWO MILLION EIGHT HUNDRED TWENTY-ONE THOUSAND FOUR HUNDRED SIXTY-THREE AND 15/100 (P32,821,463.15),** representing petitioner's unutilized input VAT attributable to its zero-rated sales for FY ended March 31, 2013.

SO ORDERED."

Respondent submits that the Court erred in partially granting the claim for refund in the above-entitled cases on the following grounds:

1. The petitioner fell short of the invoicing requirements under Section 113 of the National Internal Revenue Code of 1997 (NIRC) of 1997, as amended by Republic Act (RA) No. 9337;
2. The input taxes that are not directly attributable to petitioner's zero-rated sales should have been excluded by the Court;
3. The testimonies of Mr. Tim Mulvihill, Ms. Ailyn Perocho and Katherine O. Constantino, cannot be given probative value for being hearsay.

On the first ground, respondent assails the decision because the Court failed to recognize or take into consideration that some of the VAT invoices and receipts submitted by petitioner failed to comply with the requirements of Section 113 (A) and (B) of the NIRC of 1997 as follows:

a. The VAT was not separately indicated in some of the VAT official receipts and invoices;
b. Some of the invoices/receipts in support of the claimed input taxes do not indicate the quantity, unit cost and description of the goods or properties or nature of the service;
c. Some of the invoices/receipts had no TIN and address of petitioner.

On the second ground, respondent maintains that the Court failed to exclude input taxes that were not directly attributable to petitioner's zero-rated sales pursuant to the requirement of Section 112 (A) of the NIRC of 1997, as amended.

On the third ground, respondent belittles the testimonies of the three witnesses of petitioner because they were neither the signatories of the documents presented in evidence nor did they cause the preparation thereof, making such testimonies hearsay. Respondent therefore, calls upon the Court not to give credence to such testimonies because it will go against the principle that tax refunds are strictly construed against the taxpayer.

Petitioner, on the other hand, opposes the motion arguing that the Court had already conducted an examination of the documents presented and scrutinized the contents thereof and accordingly arrived at a conclusion on the basis of the amount of input VAT that were properly substantiated for the taxable year 2013.

As to the allegation of hearsay evidence relative to the testimonies of its witnesses, petitioner points out that the documents listed by respondents are public documents that need not be authenticated. Not being parties to the documents presented is therefore, not a ground for rendering the said testimonies hearsay. Petitioner asseverates that as long as the witnesses have custody of these public documents, their testimonies must be given great weight and not relegated to the category of hearsay evidence.

After a careful study of the arguments of both parties, the Court finds that the averments presented by the respondent have already been addressed and sufficiently passed upon in the assailed decision.

Working on the well-entrenched principle that tax refunds are construed *strictissimi juris* against the taxpayer, every claim for refund elevated to this Court passes through an intense scrutiny and evaluation of the evidence presented by both parties. In resolving the primordial issue of whether or not the taxpayer is entitled to a claim for refund, we are guided by the dictum of the Supreme Court in the case of *Atlas Consolidated Mining and Development Corporation vs.*

WE CONCUR:

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

CAESAR A.CASANOVA
Associate Justice

CIR[1] when it laid down the stringent standards to be observed in making a conclusion on a judicial claim for refund, and we quote:

> "In fine, we reiterate our consistent ruling that actions for tax refund, as in the instant case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, **but also the pieces of evidence presented entitling a taxpayer to an exemption is** *(sic)* ***strictissimi*** **scrutinized and must be duly proven."** (emphasis supplied)

A careful reading of the assailed Decision would clearly reveal that the Court had already disallowed portions of the input VAT claimed for failure to meet the substantiation requirements provided by relevant laws and implementing regulations hence resulting to a substantial reduction in the amount claimed by petitioner.

In sum, the Court had already ruled, upon a thorough examination of relevant supporting documents, that petitioner was able to prove its entitlement to the refund claimed, albeit in a reduced amount.

WHEREFORE, in view of the foregoing and finding no cogent reason to disturb the ruling in the assailed Decision, respondent's **Motion for Reconsideration (Re: Decision dated 27 March 2018)** is hereby **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

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[1] G.R. No. 159490, February 18, 2008.