REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

MELCO RESORTS LEISURE (PHP) CORPORATION,
Petitioner,

- versus –

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2958
(CTA Case Nos. 10236, 10271, 10294 & 10359)

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COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

MELCO RESORTS LEISURE (PHP) CORPORATION,
Respondent.

CTA EB NO. 2959
(CTA Case Nos. 10236, 10271, 10294 & 10359)

Present:
RINGPIS-LIBAN, *Acting P.J.,*
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
DEC 04 2025 4:20pm

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DECISION

RINGPIS-LIBAN, ***J.:***

The Case

Before the Court are the following:

1) Petition for Review[1] filed by Melco Resorts Leisure (PHP) Corporation ("MRLC"), docketed as CTA EB No. 2958, which prays for the reversal of the Decision[2] dated February 05, 2024 ("Assailed Decision") and Resolution[3] dated July 11, 2024 ("Assailed Resolution") promulgated by the Court of Tax Appeals ("CTA") Special First Division, and that judgment be rendered:

   a. Declaring MRLC entitled to a refund or tax credit in the aggregate amount of Php192,435,633.14 representing erroneously and illegally paid value-added tax ("VAT") on its purchases of capital goods, domestic purchases of goods (other than capital goods) and services, importation of goods (other than capital goods) and purchases of services rendered by non-residents, which are passed on by its suppliers and are related to revenues from gaming operations for the 1st to 4th quarters of taxable year 2018; and

   b. Ordering the Commissioner of Internal Revenue ("CIR") to refund or issue a tax credit certificate in the aggregate amount of Php192,435,633.14; and

2) Petition for Review[4] filed by the CIR, docketed as CTA EB No. 2959, which prays for the reversal and setting aside of the Assailed Decision and Assailed Resolution, and the issuance of a new decision denying the original petition for review for lack of merit.

The Parties

MRLC is a domestic corporation organized and existing under the laws of the Philippines. It is engaged in the business of developing and operating tourist facilities, including hotel casino entertainment complexes with hotel, retail and amusement areas and themed development components, without being engaged in retail trade, and to engage in casino gaming activities. It is a VAT-registered taxpayer under tax identification number (TIN) / VAT Registration No. 008-362-871-00000.[5] N

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1 Rollo (CTA EB No. 2958), pp. 53-85.
2 Penned by Associate Justice Catherine T. Manahan with Separate Concurring Opinion of Presiding Justice Roman G. Del Rosario and Dissenting Opinion of Associate Justice Marian Ivy F. Reyes-Fajardo. Docket, pp. 1063-1093.
3 *Id.*, pp. 1134-1146.
4 Rollo (CTA EB No. 2959), pp. 7-17.
5 Docket, Decision dated February 05, 2024, p. 1064.

On the other hand, the CIR is the duly appointed commissioner of the Bureau of Internal Revenue ("BIR") and is empowered to exercise the powers and perform the duties of his office, including, the power to decide disputed assessments, refunds of internal revenue taxes, fees and other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code ("NIRC") of 1997, as amended.

The CIR holds office at the BIR National Office Building located at BIR Road, Diliman, Quezon City.[6]

The Facts

The facts as found by the Special First Division are as follows:

> "These are consolidated Petitions for Review filed by Melco Resorts and Leisure Corporation praying for the refund or issuance of a tax credit certificate (TCC) in the total amount of [Php]192,435,633.14, representing erroneously or illegally collected input value-added tax (VAT) on purchases of capital goods, domestic purchases of goods (other than capital goods) and services, importations of goods (other than capital goods), and purchases of services rendered by non-residents, passed on by its suppliers and directly attributable or allocable to revenues from gaming operations for the four (4) quarters of taxable year (TY) 2018, detailed as follows:

CTA Case Nos.	Amounts	Periods covered
10236	[Php]61,415,651.17	1st quarter of 2018
10271	[Php]31,467,212.22	2nd quarter of 2018
10294	[Php]43,553,115.94	3rd quarter of 2018
10359	[Php]55,999,653.81	4th quarter of 2018

xxx xxx xxx

> [MRLC] filed administrative claims for refund or tax credit of erroneously and illegally paid VAT on purchases attributable or allocable to its revenues from gaming operations for the four (4) quarters of TY 2018, with the Large Taxpayers Service of the BIR, on the following dates:

For the period covered (Taxable year 2018)	Date of filing
1st quarter	November 27, 2019

6 *Id.*, Decision dated February 05, 2024, p. 1064.

2nd quarter	March 2, 2020
3rd quarter	May 29, 2020
4th quarter	August 4, 2020

Subsequently, [MRLC] received on August 20, 2020 and November 26, 2020, the letters from the BIR dated June 26, 2020 and September 18, 2020, respectively, denying its administrative claim for VAT refund for the 3rd and 4th quarters of TY 2018.

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For CTA Case No. 10236:

On December 27, 2019, [MRLC] filed a Petition for Review, praying that judgment be rendered declaring [MRLC] entitled to a refund or tax credit in the amount of [Php]61,415,651.17, representing erroneously or illegally collected input VAT on purchases of capital goods, domestic purchases of goods (other than capital goods) and services, importations of goods (other than capital goods) and purchases of services rendered by non-residents, attributable or allocable to revenues from gaming operations for the 1st quarter of TY 2018; and ordering respondent to grant [MRLC] a refund or tax credit in the said amount. The case was raffled to the Court's First Division and docketed as Court of Tax Appeals (CTA) Case No. 10236.

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For CTA Case No. 10271:

On March 26, 2020, [MRLC] filed a Petition for Review, praying that judgment be rendered declaring [MRLC] entitled to a refund or tax credit in the amount of [Php]31,467,212.22, representing erroneously or illegally collected input VAT on purchases of capital goods, domestic purchases of goods (other than capital goods) and services, importations of goods (other than capital goods) and purchases of services rendered by non-residents, attributable or allocable to revenues from gaming operations for the 2nd quarter of TY 2018; and ordering respondent to grant [MRLC] a refund or tax credit in the said amount of [Php]31,467,212.22. The case was raffled to the Court's Third Division and was docketed as CTA Case No. 10271.

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For CTA Case No. 10294:

On June 30, 2020, [MRLC] filed a Petition for Review, praying that judgment be rendered granting [MRLC]'s refund or tax credit in the amount of [Php]43,553,115.94, representing erroneously or illegally collected input VAT on purchases of capital goods, domestic purchases of goods (other than capital goods) and services, importations of goods (other than capital goods) and purchases of services rendered by non-residents, attributable or allocable to revenues from gaming operations for the 3rd quarter of TY 2018. The case was raffled to this Court's Second Division, and docketed as CTA Case No. 10294.

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For CTA Case No. 10359:

On September 30, 2020, [MRLC] filed a Petition for Review, praying that judgment be rendered granting [MRLC]'s refund or tax credit in the amount of [Php]55,999,653.81, representing erroneously or illegally collected input VAT on purchases of capital goods, domestic purchases of goods (other than capital goods) and services, importations of goods (other than capital goods) and purchases of services rendered by non-residents, attributable or allocable to revenues from gaming operations for the 4th quarter of TY 2018. The case was raffled to the Court's First Division, and was docketed as CTA Case No. 10359."[7]

The Ruling of the Special First Division

On February 05, 2024, the CTA Special First Division promulgated the Assailed Decision partially granting the Petition for Review, to wit:

"**WHEREFORE**, in light of the foregoing considerations, the consolidated Petitions for Review filed by [MRLC] is **PARTIALLY GRANTED**.

Accordingly, [the CIR] is hereby **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE (TCC)** to [MRLC] the reduced amount of [Php]3,720,321.72,

[7] *Id.*, Decision dated February 05, 2024, pp. 1063-1068.

representing the input tax paid on importation of goods for the four (4) quarters of 2018.

SO ORDERED."[8]

On February 27, 2024, the CIR filed a "Motion for Partial Reconsideration (Re: Decision dated 5 February 2024)"[9] while MRLC filed a "Motion for Reconsideration [of Decision dated February 5, 2024)"[10] on March 01, 2024. Both were denied by the CTA Special First Division in the Assailed Resolution, to wit:

> "**WHEREFORE**, premises considered, [the CIR's] *Motion for Partial Reconsideration (Re: Decision dated 5 February 2024)* filed on February 27, 2024 and [MRLC's] *Motion for Reconsideration [of Decision dated February 5, 2024]* filed on March 1, 2024 are **DENIED** for lack of merit.
>
> Accordingly, the Decision of the Court in the above-captioned case dated February 5, 2024 is hereby **AFFIRMED**.
>
> **SO ORDERED.**"[11]

The Proceedings in the Court of Tax Appeals En Banc

On July 30, 2024, MRLC filed a "Motion for Extension of Time to File Petition for Review"[12], docketed as CTA EB No. 2958, which the court granted in a Minute Resolution[13] on August 01, 2024.

On August 15, 2024, MRLC filed its "Petition for Review"[14].

Meanwhile, the CIR filed a "Motion for Extension to File Petition for Review"[15] on July 31, 2024, docketed as CTA EB No. 2959, praying for an additional fifteen (15) days or until August 16, 2024 within which to file the petition for review. The Court granted the same in a Minute Resolution[16] dated August 02, 2024.

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[8] *Id.*, Decision dated February 05, 2024, p. 1086.
[9] *Id.*, pp. 1094-1103.
[10] *Id.*, pp. 1104-1117.
[11] *Id.*, Resolution dated July 11, 2024, p. 1142.
[12] Rollo (CTA EB No. 2958), pp. 1-4. Record shows that Melco Resorts Leisure (PHP) Corporation received the Assailed Resolution on July 16, 2024; Docket, p. 1133.
[13] *Id.*, p. 52.
[14] *Id.*, pp. 53-85.
[15] Rollo (CTA EB No. 2959), pp. 1-5 Record shows that the Commissioner of Internal Revenue received the Assailed Resolution on July 17, 2024; Docket, p. 1133.
[16] *Id.*, p. 6.

On August 16, 2024, the CIR filed his "Petition for Review"[17].

On August 21, 2024, a Minute Resolution[18] was issued consolidating CTA EB No. 2958 with CTA EB No. 2959. Thereafter, on October 02, 2024, the Court issued a Minute Resolution[19] ordering

1) the CIR to file his comment on MRLC's "Petition for Review" in CTA EB No. 2958, within ten (10) days from notice; and

2) MRLC to file its comment on the CIR's "Petition for Review" in CTA EB No. 2959, within the same period.

MRLC filed its "Comment/Opposition [Re: Petition for Review dated August 15, 2024]"[20] ("Comment/Opposition") on October 15, 2024, while the CIR failed to file his comment.[21]

On January 15, 2025, a Minute Resolution was issued noting the MRLC's Comment/Opposition and the Records Verification Report, and submitting the instant cases for decision.

Assignment of Errors

MRLC raised the following issues in CTA EB No. 2958:

1) Whether the CTA Special First Division erred in ruling that MRLC is not entitled to the refund of input VAT erroneously or illegally passed on by its supplier notwithstanding the ruling that MRLC is exempt from input VAT on purchases that are attributable to its gaming operations pursuant to Section 13(2)(B), in relation to Section 13(2)(A) of Presidential Decree ("P.D.") No. 1869[22], as amended by Republic Act ("R.A.") No. 9487[23];

[17] *Id.*, pp. 7-17.
[18] Rollo (CTA EB No. 2958), p. 141.
[19] *Id.*, p. 142.
[20] *Id.*, pp. 143-157.
[21] *Id.*, Records Verification Report dated November 06, 2024, p. 159.
[22] Consolidating and Amending Presidential Decree Nos. 1067-A, 1067-B, 1067-C, 1399 and 1632, Relative to the Franchise and Powers of the Philippine Amusement and Gaming Corporation (PAGCOR), July 11, 1983.
[23] An Act Further Amending Presidential Decree No. 1869, Otherwise Known as PAGCOR Charter, June 20, 2007.

2) Whether the CTA Special First Division erred in applying Section 112 of the NIRC of 1997, as amended, and disregarding Sections 204 and Section 229 thereof, in holding that MRLC is not entitled to the claim for refund;

3) Whether the CTA Special First Division erred in disregarding *Philippine Airlines v. Commissioner of Internal Revenue*[24] ("*PAL v. CIR*"), and in not holding that a taxpayer conferred with indirect tax exemption by a special law can claim for a refund of the tax erroneously and illegally passed on, notwithstanding that the claimant-taxpayer is not the statutory taxpayer; and

4) Whether the CTA Special First Division erred in ruling that MRLC is not entitled to the full refund or issuance of a tax credit certificate of erroneously and illegally paid VAT on purchases of capital goods, domestic purchase of goods (other than capital goods) and purchases of services rendered by non-residents, which are attributable or allocable to revenues from gaming operations of taxable year 2018, for the 1st quarter amounting to Php61,415,651.17, 2nd quarter amounting to Php31,467,212.22, 3rd quarter amounting to Php43,553,115.94 and 4th quarter amounting to Php55,999,653.814, or in the aggregate amount of Php192,435,633.14.[25]

Conversely, the CIR assigned a single assignment of error in its "Petition for Review" in CTA EB No. 2959:

> The CTA Special First Division erred in ruling that MRLC is entitled to refund / tax credit in the total amount of Three Million Seven Hundred Twenty Thousand Three Hundred Twenty-One and 72/100 (Php37,720,321.72), representing unutilized input VAT on its importation of goods other than capital goods, for four taxable quarters of 2018.[26]

The Arguments of the Parties

CTA EB No. 2958

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[24] G.R. No. 198759, July 01, 2013.

[25] Rollo (CTA EB No. 2958), Petition for Review dated July 29, 2024, Statement of the Issues, pp. 63-64.

[26] Rollo (CTA EB No. 2959), Petition for Review dated August 15, 2024, Ground for the Petition, p. 10.

MRLC's arguments:

MRLC avers that as a Philippine Amusement and Gaming Corporation ("PAGCOR") licensee, it should likewise be exempt from direct and indirect VAT. The input VAT should not have been passed to it from its suppliers on purchases related to its gaming operation. Since the suppliers have erroneously passed input VAT to MRLC when they should not have, MRLC is entitled to the refund of erroneously passed on input VAT on its purchases attributable or allocable to its gaming operations. According to MRLC, to rule otherwise will render the tax-exempt incentive granted to it nugatory.

MRLC points out that it prays for refund of input VAT not under Section 112 of the NIRC of 1997, as amended, but under Section 229 thereof, which is a recognized recourse outside of the VAT system. This was categorically confirmed in the CTA *En Banc* cases of *Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue*[27] ("2023 *Melco v. CIR*") and *Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue*[28] ("2024 *Melco v. CIR*"), which involve the same parties and issues.

Citing *PAL v. CIR*, MRLC likewise asserts that it has the right to claim a tax refund or credit even if it is not the statutory taxpayer, *i.e.*, it only bears the economic burden of the passed-on tax.

Additionally, MRLC contends that under the principle of *solutio indebiti*, the government had to restore to it the sums representing erroneous payments of taxes. The government is not exempted from the application of the doctrine that no person shall unjustly enrich himself or herself at the expense of another.

MRLC also maintains that the Statement of Settlement of Duties and Taxes ("SSDT"), even without the Single Administrative Document ("SAD"), is sufficient proof of the payment of VAT on importation. Hence, MRLC is entitled to the full refund of the input VAT on importation of goods. This is because the details in the SAD and the actual importation are duly verified as existing and correct when the SSDT is generated, as the SSDT bears the entry number of the SAD.

Lastly, MRLC claims that the input VAT from its purchases of services rendered by non-residents in the amount of Php799,680.22 should also be refunded even though there was no showing that the non-residents who rendered services to MRLC are VAT-registered. The mere fact that MRLC is exempt from input VAT on purchases that are attributable to its gaming operations necessitates the refund of the VAT withheld and paid by MRLC.

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27 CTA EB Case No. 2608 (CTA Case No. 9811), July 11, 2023.
28 CTA EB Case No. 2670 (CTA Case Nos. 10029 & 10052), January 09, 2024.

CTA EB No. 2959

The CIR's arguments:

The CIR submits that MRLC's claim for VAT refund / tax credit has no factual and legal basis.

Furthermore, the CIR alleges that MRLC, being a mere licensee of PAGCOR, is not entitled to the tax exemption under PD No. 1869 because the said exemption shall inure only to those entities who provide necessary services to PAGCOR in connection with the latter's operations of the casinos.

Finally, the CIR insists that even assuming that MRLC is exempt from payment of VAT, the proper recourse is not a claim for refund of the erroneously or illegally paid passed-on VAT against the government, but to seek reimbursement against the seller who shifted the input VAT payment, following *Coral Bay Nickel Corporation v. Commissioner of Internal Revenue*[29] ("*Coral Bay v.* CIR").

MRLC's counter-arguments:

MRLC stresses that the instant Petition for Review is a mere reiteration of the arguments raised before the CTA Special First Division, which have already been resolved and extensively discussed in the Assailed Decision.

In any case, MRLC declares that the CTA Special First Division has already affirmed that it is exempt from taxes under Section 13(2) of PD No. 1869; hence, it is entitled to the refund of the amount paid.

Further, MRLC professes that the cases of *Hedcor, Inc. v. Commissioner of Internal Revenue*[30], *Maibarara Geothermal, Inc. v. Commissioner of Internal Revenue*[31], and *Coral Bay v. CIR* which were cited by the CIR are not applicable in the instant case.

<u>The Ruling of the Court</u>

Timeliness of Petitions

The Court in Division issued the Assailed Resolution, denying the CIR's "Motion for Partial Reconsideration (Re: Decision dated 5 February 2024)" and

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[29] G.R. No. 190506, June 13, 2016.
[30] CTA Case No. 8875, July 11, 2017.
[31] CTA Case Nos. 8871, 8937, 8999 and 9042, August 02, 2017.

MRLC's "Motion for Reconsideration [of Decision dated February 5, 2024)", on July 11, 2024. MRLC received said Resolution on July 16, 2024 whereas the CIR received it on July 17, 2024. Pursuant to Rule 4, Section 2(a)(1)[32] in relation to Rule 8, Section 3(b)[33] of the Revised Rules of the Court of Tax Appeals[34] ("RRCTA"), MRLC and the CIR had fifteen (15) days from date of receipt of the resolution or until July 31, 2024 and August 01, 2024, respectively, within which to file their petitions for review.

On July 30, 2024, MRLC filed a "Motion for Extension of Time to File Petition for Review"[35], praying for an extension of fifteen (15) days to file. The Court granted the same in a Minute Resolution dated August 01, 2024. On August 15, 2024, MRLC timely filed its "Petition for Review"[36].

Meanwhile, the CIR filed a "Motion for Extension to File Petition for Review"[37] on July 31, 2024, praying for an extension of fifteen (15) days to file. The Court granted the same in a Minute Resolution dated August 02, 2024. On August 16, 2024, the CIR timely filed his "Petition for Review".

Hence, the Court *En Banc* validly acquired jurisdiction over the two (2) petitions.

We now proceed to the merits of the case.

At the outset, it must be pointed out that the crux of both petitions is whether MRLC is entitled to a refund or tax credit representing VAT on its purchases which corresponds to its revenues from gaming operations for

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32 **Sec. 2.** *Cases within the jurisdiction of the Court en banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:

xxx xxx xxx

(1) Cases arising from administrative agencies – Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture; x x x

33 **Sec. 3.** *Who may appeal; period to file petition.* — x x x

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (Rules of Court, Rule 42, sec. 1a)

34 A.M. No. 05-11-07-CTA, November 22, 2005.

35 Rollo (CTA EB No. 2958), pp. 1-4.

36 *Id.*, pp. 53-85.

37 Rollo (CTA EB No. 2959), pp. 1-5.

taxable year 2018. As such, this Court shall proceed to jointly resolve the arguments of MRLC and CIR for being interrelated.

PAGCOR's exemption from VAT under its Charter

The first matter We shall resolve is whether PAGCOR's exemption from both direct and indirect taxes under its Charter extends to its contractors and licensees.

Section 13(2) of PD No. 1869[38], as amended by RA No. 9487[39], exempts PAGCOR from the payment of taxes, including any form of charges, fees and levies (with the exemption of the five percent franchise tax on gross revenues or earnings) with respect to its income from gaming operations, to wit:

> "SECTION 13. Exemptions. —
>
> xxx xxx xxx
>
> (2) *Income and other taxes.* — (a) Franchise Holder: No tax of any kind or form, income or otherwise, as well as fees, charges or levies of whatever nature, whether National or Local, shall be assessed and collected under this Franchise from the Corporation; nor shall any form of tax or charge attach in any way to the earnings of the Corporation, **except a Franchise Tax of five (5%) percent of the gross revenue or earnings derived by the Corporation from its operation** under this Franchise. <u>Such tax shall</u> be due and payable quarterly to the National Government and **<u>shall be in lieu of all kinds of taxes, levies, fees or assessments of any kind, nature or description, levied, established or collected by any municipal, provincial, or national government authority</u>**.
>
> (b) *Others*: The exemptions herein granted for earnings derived from the operations conducted under the franchise specifically from the payment of any tax, income of otherwise, as well as any form of charges, fees or levies, shall inure to the benefit of and extend to corporation(s), association(s), agency(ies), or individual(s) with whom the Corporation or operator has any

38 Consolidating and Amending Presidential Decree Nos. 1067-A, 1067-B, 1067-C, 1399 and 1632, Relative to the Franchise and Powers of the Philippine Amusement and Gaming Corporation (PAGCOR), July 11, 1983.

39 An Act Further Amending Presidential Decree No. 1869, Otherwise Known as PAGCOR Charter, June 20, 2007.

contractual relationship in connection with the operations of the casino(s) authorized to be conducted under this Franchise and to those receiving compensation or other remuneration from the Corporation or operator as a result of essential facilities furnished and/or technical services rendered to the Corporation or operator."[40]

In *Commissioner of Internal Revenue v. Acesite (Philippines) Hotel Corporation*[41] ("*CIR v. Acesite*"), it was explained that the above provision gives PAGCOR a blanket exemption to taxes with no distinction on whether the taxes are direct or indirect, *viz.*:

> "A close scrutiny of the above provisos clearly gives PAGCOR **a blanket exemption to taxes <u>with no distinction on whether the taxes are direct or indirect</u>**. We are one with the CA ruling that PAGCOR is also exempt from indirect taxes, like VAT, as follows:
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>> Under the above provision [Section 13 (2) (b) of P.D. 1869], the term 'Corporation' or operator refers to PAGCOR. Although the law does not specifically mention PAGCOR's exemption from indirect taxes, PAGCOR is undoubtedly exempt from such taxes because the law exempts from taxes persons or entities contracting with PAGCOR in casino operations. **Although, differently worded, the provision clearly exempts PAGCOR from indirect taxes**. In fact, it goes one step further by granting tax exempt status to persons dealing with PAGCOR in casino operations. The unmistakable conclusion is that PAGCOR is not liable for the [Php]30,152,892.02 VAT and neither is Acesite as the latter is effectively subject to zero percent rate under Sec. 108 B (3), R.A. 8424.
>
> Indeed, by extending the exemption to entities or individuals dealing with PAGCOR, the legislature clearly granted exemption also from indirect taxes. It must be noted that the indirect tax of VAT, as in the instant case, can be shifted or passed to the buyer, transferee, or lessee of the goods, properties, or services subject to VAT. Thus, by extending the tax exemption to entities or individuals dealing with PAGCOR in casino operations, it is exempting PAGCOR from being liable to indirect taxes."[42]

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[40] *Emphasis and underscoring supplied.*
[41] G.R. No. 147295, February 16, 2007.
[42] *Emphasis supplied.*

Thus, in *Philippine Amusement and Gaming Corporation (PAGCOR) v. Bureau of Internal Revenue*[43] the Supreme Court cited *CIR v. Acesite* and affirmed the rule that this exemption granted to PAGCOR includes VAT.

Meanwhile, a review of jurisprudence confirms that PAGCOR's tax exemption extend to its licensees such as MRLC.

In *Bloomberry Resorts and Hotels, Inc. v. Bureau of Internal Revenue*[44] ("*Bloomberry v. BIR*"), the Supreme Court clarified the taxation of the income from gaming operations derived by PAGCOR's contractees and licensees as follows:

> "Section 13 of PD No. 1869 evidently states that payment of the 5% franchise tax by PAGCOR and its *contractees and licensees* exempts them from payment of any other taxes, including corporate income tax, quoted hereunder for ready reference:
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> xxx xxx xxx
>
> As previously recognized, the above-quoted provision providing for the said exemption was neither amended nor repealed by any subsequent laws (*i.e.*, Section 1 of R.A. No. 9337 which amended Section 27(C) of the NIRC of 1997); thus, it is still in effect. Guided by the doctrinal teachings in resolving the case at bench, it is without a doubt that, like PAGCOR, its *contractees and licensees* remain exempted from the payment of corporate income tax and other taxes since the law is clear that said exemption inures to their benefit.
>
> xxx xxx xxx
>
> As the PAGCOR Charter states in unequivocal terms that exemptions granted for earnings derived from the operations conducted under the franchise specifically from the payment of any tax, income or otherwise, as well as any form of charges, fees or levies, ***shall inure to the benefit of and extend to*** corporation(s), association(s), agency(ies), or individual(s) with whom the PAGCOR or operator has any contractual relationship in connection with the operations of the casino(s) authorized to be conducted under this Franchise, **so it must be that all *contractees and licensees* of PAGCOR, upon payment of the 5% franchise tax, shall likewise be exempted from all other**

[43] G.R. No. 172087, March 15, 2011.
[44] G.R. No. 212530, August 10, 2016.

> **taxes, including corporate income tax realized from the operation of casinos**.
>
> For the same reasons that made us conclude in the 10 December 2014 Decision of the Court sitting En Banc in G.R. No. 215427 that PAGCOR is subject to corporate income tax for 'other related services,' we find it logical that its *contractees and licensees* shall likewise pay corporate income tax for income derived from such 'related services.'
>
> Simply then, in this case, we adhere to the principle that since the statute is clear and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is the plain meaning rule or *verba legis*, as expressed in the maxim *index animi sermo* speech is the index of intention.
>
> Plainly, too, upon payment of the 5% franchise tax, petitioner's income from its gaming operations of gambling casinos, gaming clubs and other similar recreation or amusement places, and gaming pools, defined within the purview of the aforesaid section, is not subject to corporate income tax."[45]

This doctrine in *Bloomberry v. BIR* was then reiterated in the cases of *Commissioner of Internal Revenue v. Travellers International Hotel Group, Inc.*[46] and *Saint Wealth, Ltd. v. Bureau of Internal Revenue*[47].

From the foregoing, PAGCOR's exemption inures to the benefit of and extend to other entities, such as its contractees and licensees. It follows therefore that MRLC, as a PAGCOR licensee is also exempt from paying direct or indirect taxes on its gaming operations, whether local or national, which necessarily includes VAT.

Legal basis for MRLC's refund or tax credit for its VAT on purchases

For purposes of clarity and orderly discussion, We classify the VAT in MRLC's claim for refund into three (3) types, to wit:

1) VAT on (a) purchases of capital goods, and (b) domestic purchases of goods (other than capital goods) and services, where MRLC is not the statutory taxpayer but only

[45] *Emphasis and underscoring supplied.*
[46] G.R. No. 255487, May 03, 2021 (Resolution).
[47] G.R. Nos. 252965 and 254102, December 07, 2021.

shoulders the burden of taxation (*i.e.*, MRLC's suppliers were the ones who filed the VAT return and paid the VAT);

2) VAT on importation of goods (other than capital goods) where MRLC is the statutory taxpayer, (*i.e.*, MRLC was the one who remitted the VAT to the government); and

3) VAT on purchases of services rendered by non-residents, where MRLC withheld the VAT from its payments to its suppliers.

The Court shall discuss below whether MRLC is entitled to a VAT refund or tax credit for each type of purchase.

VAT on purchases of capital goods, and domestic purchases of goods (other than capital goods) and services

The VAT pertained to under the first category is an indirect tax. In such instances, the burden of the tax is shifted from the seller to the purchaser of the goods or services, notwithstanding the fact that it was the seller who paid the tax to the government. As expounded in *Commissioner of Internal Revenue v. Philippine Long Distance Telephone Co.*:

> "On the other hand, indirect taxes are those that are demanded, in the first instance, from, or are paid by, one person in the expectation and intention that he can shift the burden to someone else. Stated elsewise, **indirect taxes are taxes wherein the liability for the payment of the tax falls on one person but the burden thereof can be shifted or passed on to another person**, such as when the tax is imposed upon goods before reaching the consumer who ultimately pays for it. **When the seller passes on the tax to his buyer, he, in effect, shifts the tax burden, not the liability to pay it, to the purchaser as part of the price of goods sold or services rendered.**
>
> To put the situation in graphic terms, by tacking the VAT due to the selling price, the seller remains the person primarily and legally liable for the payment of the tax. What is shifted only to the intermediate buyer and ultimately to the final purchaser is the burden of the tax. Stated differently, **a seller who is directly and legally liable for payment of an indirect tax, such as the VAT on goods or services, is not necessarily the person who ultimately bears the burden of the same tax. It is the final**

> **purchaser or end-user of such goods or services who, although not directly and legally liable for the payment thereof, ultimately bears the burden of the tax.**"[48]

Having confirmed from the previous discussion that MRLC, as a licensee of PAGCOR, is exempt from VAT, MRLC is correct in its claim that its suppliers should not have passed on to it the VAT component of its purchases of capital goods and goods (other than capital goods) and services. Conversely, MRLC should not have paid for the VAT portion of the purchase price from its suppliers. And yet, in the case at bar, MRLC did; thus, its claim for refund or tax credit.

MRLC however is not entitled to a refund or tax credit of the VAT for the first type of purchases.

In a recent case[49] involving the same parties and issue, the Supreme Court categorically ruled that MRLC was not entitled to the refund or the issuance of tax credit certificate for passed-on VAT, under either Section 112 of the NIRC of 1997, as amended, (refund of excess and unutilized input VAT) or Section 204(c) in relation to Section 229 (recovery of erroneously paid or illegally collected taxes).

Excess and unutilized input VAT is only refundable under Section 112 of the NIRC of 1997, as amended, in two (2) instances – when the taxpayer is engaged in zero-rated or effectively zero-rated sales[50] or the taxpayer cancelled its VAT registration due to retirement from or cessation of business.

Section 112 reads:

> "SEC. 112. ***Refunds or Tax Credits of Input Tax.*** —
>
> *A. Zero-Rated or Effectively Zero-Rated Sales.* — **Any VAT-registered person, <u>whose sales are zero-rated or effectively zero-rated</u> 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

48 *Emphasis supplied.*
49 *Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue*, G.R. No. 271261, April 02, 2025.
50 *See Commissioner of Internal Revenue v. Toledo Power Company*, G.R. Nos. 195175 & 199645, August 10, 2015.

> 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 of 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: *Provided, finally*, That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
>
> *B. Cancellation of VAT Registration.* – **A person whose registration has been cancelled due to retirement from or cessation of business, or due to changes in or cessation of status** under Section 106(C) of this Code **may**, within two (2) years from the date of cancellation, **apply for the issuance of a tax credit certificate or cash refund for any unused input tax** which may be used in payment of his other internal revenue taxes or apply for refund for any unused input tax.
>
> xxx xxx xxx"[51]

Both conditions are not present in the instant case.

At the time the claim for refund was filed, MRLC has not yet been dissolved nor is it in the process of dissolution. Moreover, as found by the court *a quo*, MRLC is engaged in the business of developing and operating tourist facilities, including hotel casino entertainment complexes with hotel, retail and amusement areas and themed development components, without being engaged in retail trade, and to engage in casino gaming activities. These activities are not considered zero-rated or effectively zero-rated sales under the relevant provisions[52] of the Tax Code.

Instead, MRLC's sales are VAT exempt under Section 109(1)(K)[53] of the NIRC of 1997, as amended. This is because sale transactions of MRLC, just

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[51] *Emphasis and underscoring supplied.*
[52] Sections 106(A)(2) and 108(B) of the National Internal Revenue Code of 1997, as amended.
[53] SEC. 109. **Exempt Transactions. -**

like the sale transactions of PAGCOR, are exempt from VAT following Section 13(2) of PD No. 1869, as amended by RA No. 9487.

Therefore, for not being zero-rated or effectively zero-rated sales, MRLC's claim for refund or tax credit of the alleged unutilized input VAT under Section 112 cannot prosper.[54]

Meanwhile, MRLC's claim for refund or tax credit under Section 204(c) in relation to Section 229 of the NIRC of 1997, as amended, must also fail. For the grant of refund under the said provisions, there must be first and foremost an erroneous payment or illegal collection of the passed-on VAT.

An erroneous or illegal tax is defined as one levied without statutory authority, or upon property not subject to taxation or by some officer having no authority to levy the tax, or one which is some other similar respect is illegal.[55]

Sections 204(c) and 229 read:

> "SEC. 204. ***Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.***
>
> xxx xxx xxx
>
> *(C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority*, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty as provided under Section 229 of this Code: Provided, however, That a return filed showing an overpayment shall be considered as a written claim for credit or refund: Provided, further, that the Commissioner shall process and decide the refund under this provision within one hundred eighty (180) days from date of submission of complete documents

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(1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the VAT:

xxx xxx xxx

(K) Transactions which are exempt under international agreements to which the Philippines is a signatory or under special laws, except those under Presidential Decree No. 529[.]

54 *See Commissioner of Internal Revenue v. Filminera Resources Corporation*, G.R. No. 236325, September 16, 2020.

55 *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation*, G.R. No. 188497, April 25, 2012.

in support of the application filed: Provided, furthermore, That should the Commissioner deny, in full or in part, the claim for refund, the Commissioner shall state the legal and/or factual basis for the denial: Provided, finally, That failure on the part of any official, agent, or employee of the BIR to process and decide on the application within the one hundred eighty (180)-day period shall be punishable under Section 269 of this Code.

xxx xxx xxx"

"SEC. 229. ***Recovery of Tax Erroneously or Illegally Collected***. - No suit or proceeding shall be maintained in any court for the **recovery of any national internal revenue tax** hereafter **alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected**, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

xxx xxx xxx"[56]

As pointed out by the Supreme Court recently in *Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue*[57], there was no erroneous or illegal payment in this case because being exempted from VAT, the input VAT that may have been passed on to MRLC by its suppliers should be treated as part of purchase price or cost (*i.e.,* expense), following Sections 4.109-1 and 4.110-4 of Revenue Regulations[58] No. 16-05. For VAT-exempt entities, the input VAT on the purchases is added to the cost of sales of goods or services.

Following this logic, the Supreme Court did not grant MRLC's refund claim, notwithstanding its argument that the ruling in *Pilipinas v. CIR* should apply. Instead, it is the suppliers who erroneously paid the VAT to the government, not the person to whom the tax was passed on as part of the purchase price (*i.e.,* MRLC), who are allowed to file the judicial claim under Section 229.

The case of *CIR v. Acesite* is instructive. There, Acesite (Philippines) Hotel Corporation ("Acesite") catered food and beverages to PAGCOR through the hotel's restaurant outlets. Acesite mistakenly paid VAT on the

[56] *Emphasis supplied.*
[57] G.R. No. 271261, April 02, 2025.
[58] Consolidated Value-Added Tax Regulations of 2005, September 01, 2005.

transactions, and when it tried to shift the VAT to PAGCOR, the latter refused to pay on account of its tax-exempt status. Since the sales to PAGCOR, as a VAT exempt entity, are considered effectively zero-rated under Section 102(b)(3) of the 1977 Tax Code, as amended (now Section 108(B)(3)[59] of the NIRC of 1997, as amended), Acesite's claim for VAT refund was granted.

Similarly, in *Manila Peninsula Hotel, Inc. v. Commissioner of Internal Revenue*[60] ("*Manila Peninsula v. CIR*"), the Supreme Court granted the erroneous payment by Manila Peninsula Hotel of VAT in connection with the room accommodations and food and beverage services it performed to Delta Air's pilots and cabin crew during flight layovers in the Philippines. Delta Air is engaged in international air transport operations, and the transactions between Manila Peninsula Hotel and Delta Air are zero-rated under Section 108(B)(4)[61] of the Tax Code.

Manila Peninsula v. CIR does not involve PAGCOR licensees or contractees. Regardless, considering that it likewise deals with the erroneous payment of VAT by a seller in connection with a zero-rated/effectively zero-rated sale, the said case is analogous in the case at bar and therefore may be applied here.

In summary, MRLC is not entitled to refund or tax credit of passed-on VAT in relation to its purchases of capital goods and domestic purchases of goods (other than capital goods) and services.

VAT on importation of goods (other than capital goods)

With respect to the second type of purchases – input VAT paid by MRLC on its importation of goods other than capital goods for taxable year

[59] SEC. 108. *Value-Added Tax on the Sale of Services, Including Digital Services, and the Use or Lease of Properties.*

xxx xxx xxx

(B) Transactions Subject to Zero Percent (0%) Rate - The following services performed in the Philippines by VAT- registered persons shall be subject to zero percent (0%) rate.

xxx xxx xxx

(3) Services rendered to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects the supply of such services to zero percent (0%) rate[.]

[60] G.R. No. 229338, April 17, 2024.

[61] SEC. 108. *Value-Added Tax on the Sale of Services, Including Digital Services, and the Use or Lease of Properties.*

xxx xxx xxx

(B) Transactions Subject to Zero Percent (0%) Rate - The following services performed in the Philippines by VAT- registered persons shall be subject to zero percent (0%) rate.

xxx xxx xxx

(4) Services rendered to persons engaged in international shipping or international air transport operations, including leases of property for use thereof: Provided, That these services shall be exclusive for international shipping or air transport operations [.]

2018, We find basis for the refund thereof pursuant to Section 204(C) in relation to Section 229 of the NIRC of 1997, as amended.

From the said provisions, the following requisites must be established by a taxpayer for a claim for refund to prosper, to wit:

1) There must be an erroneous or illegal collection of tax, or a penalty collected without authority, or sum excessively or wrongfully collected;

2) The claim for refund has been duly filed with the CIR, within two (2) years after the payment of tax or penalty; and

3) The suit or proceeding is instituted with this Court within two (2) years from the date of payment of tax or penalty.

For the first requisite, the Court *En Banc* finds that there was erroneous payment of the VAT. As pointed out by the Special First Division, it is the importer who shall pay the twelve percent (12%) VAT on the importation of goods under Section 107(A) of the NIRC of 1997, as amended –

> "SEC. 107. ***Value-Added Tax on Importation of Goods.*** –
>
> ***(A) In General.*** - There shall be levied, assessed and collected on every importation of goods a value-added tax equivalent to twelve percent (12%) based on the total value used by the Bureau of Customs in determining tariff and customs duties plus customs duties, excise taxes, if any, and other charges, such tax to be paid by the importer prior to the release of such goods from customs custody: Provided, That where the customs duties are determined on the basis of the quantity or volume of the goods, the value-added tax shall be based on the landed cost plus excise taxes, if any."

Once again, MRLC is exempt from paying VAT under Section 13(2) of the PAGCOR Charter. Since MRLC mistakenly paid the VAT as importer, it is entitled to the refund of the amount paid.

As for the second and third requisites, MRLC was able to establish that it timely filed both its administrative and judicial refund claims, as follows:

Taxable	Date Filed	End of the	Administrative	Judicial

Quarter of 2018	and Paid - Quarterly VAT Return	2-year Prescriptive Period	Claim	Claim
1st Quarter	December 21, 2018[62]	December 21, 2020	November 27, 2019[63]	December 27, 2019[64]
2nd Quarter	December 21, 2018[65]	December 21, 2020	March 02, 2020[66]	March 26, 2020[67]
3rd Quarter	December 21, 2018[68]	December 21, 2020	May 29, 2020[69]	June 30, 2020[70]
4th Quarter	January 25, 2019[71]	January 25, 2021	August 04, 2020[72]	September 30, 2020[73]

From the foregoing, MRLC's administrative claims and judicial claims for the four (4) quarters of 2018 were timely filed within the two-year prescriptive period.

Regarding the computation of the refundable amount, We affirm the Special First Division's finding that there were valid disallowances and that MRLC is entitled to the refund or issuance of tax credit only in the amount of Php3,720,321.72, representing VAT paid on the importation of goods other than capital goods for the four (4) quarters of 2018.

The Court *En Banc* echoes the Special First Division's declaration on the matter, to wit:

> "Based on the report of the Independent Certified Public Accountant (ICPA), [MRLC's] valid input taxes on importation of goods other than capital goods for the four (4) quarters of TY 2018 amounted to [Php]6,222,788.72. xxx
>
> Upon further verification however, the Court finds that an additional disallowance of [Php]2,502,467.00 is in order. xxx

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62 Docket (CTA Case No. 10236), Amended Quarterly Value-Added Tax Return (BIR Form No. 2550-Q), Exhibit "P-11", pp. 364-365.
63 *Id.*, Application for Tax Credits/Refunds (BIR Form No. 1914), Exhibit "P-25", p. 396.
64 *Id.*, Petition for Review, pp. 7-23.
65 *Id.*, Amended Quarterly Value-Added Tax Return (BIR Form No. 2550-Q), Exhibit "P-15", pp. 376-377.
66 *Id.*, Application for Tax Credits/Refunds (BIR Form No. 1914), Exhibit "P-26", p. 409.
67 Docket (CTA Case No. 10271), Petition for Review, pp. 10-32.
68 Docket (CTA Case No. 10236), Amended Quarterly Value-Added Tax Return (BIR Form No. 2550-Q), Exhibit "P-19", pp. 384-385.
69 *Id.*, Application for Tax Credits/Refunds (BIR Form No. 1914), Exhibit "P-27", p. 422.
70 Docket (CTA Case No. 10294), Petition for Review, pp. 7-31.
71 Docket (CTA Case No. 10236), Quarterly Value-Added Tax Return (BIR Form No. 2550-Q), Exhibit "P-23", pp. 392-393.
72 *Id.*, Application for Tax Credits/Refunds (BIR Form No. 1914), Exhibit "P-28", p. 436.
73 Docket (CTA Case No. 10359), Petition for Review, pp. 6-31.

> Combined with the disallowances found by the ICPA, the total disallowances are now computed at [Php]9,332,913.28, leaving a valid input tax in the amount of [Php]3,720,321.72. xxx
>
> In sum, petitioner is entitled to the refund in the amount of [Php]3,720,321.72...."[74]

MRLC insists however that even without the SAD, the SSDT constitutes sufficient proof of the payment of VAT on importation. As such, MRLC is entitled to the full refund of the input VAT on importation of goods.

MRLC's argument fails to persuade.

The SSDT and SAD are two different documents. The SAD contains the necessary details required by law while by SSDT serves as proof that the customs duties and taxes were duly paid during the period. Without the SAD, the Court cannot reasonably verify or link a payment of customs duties and taxes recorded in the SSDT to the specific import declaration of the goods subject of the case. In fact, this Court in *Philex Mining Corporation v. Commissioner of Internal Revenue*[75] considered the SSDT and SAD collectively (and not the SSDT alone) as sufficient substantiation for input VAT on importations.

VAT on purchases of services rendered by non-residents

Much like the first type of purchases, MRLC's claim for refund in relation to VAT input taxes from purchases of services rendered by non-residents (*i.e.*, VAT withheld from payment of services to non-residents) is also untenable.

The same cannot be refunded under Section 112 of the NIRC of 1997, as amended. As already indicated, MRLC has not yet retired or ceased its business operations. Nor is MRLC engaged in zero-rated or effectively zero-rated sales by virtue of its tax-exempt status as a licensee of PAGCOR. Without showing that the non-residents who rendered such service to MRLC are VAT-registered, the same cannot be pronounced as VAT zero-rated sale under Section 108(B)(2)[76] of the NIRC of 1997, as amended.

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74 Docket (CTA Case No. 10236), Decision dated February 05, 2024, pp. 1084-1086.

75 CTA EB No. 2497 (CTA Case No. 10037), September 29, 2022.

76 SEC. 108. *Value-Added Tax on the Sale of Services, Including Digital Services, and the Use or Lease of Properties.*

xxx xxx xxx

(B) Transactions Subject to Zero Percent (0%) Rate - The following services performed in the Philippines by VAT- registered persons shall be subject to zero percent (0%) rate.

xxx xxx xxx

There was also no erroneous payment under Sections 204(C) and 229 of the NIRC of 1997, as amended.

Withholding tax is not an internal revenue or local tax, but a mode of collecting tax in advance.[77] The nature of a withholding tax is explained in *LG Electronics Philippines, Inc v. Commissioner of Internal Revenue*[78], *viz.*:

> "In the operation of the withholding tax system, the payee is the taxpayer, the person on whom the tax is imposed, while **the payor, a separate entity, acts no more than <u>an agent of the government for the collection of the tax</u> in order to ensure its payment**. Obviously, the amount thereby used to settle the tax liability is deemed sourced from the proceeds constitutive of the tax base."[79]

Not being a tax in the strictest sense, MRLC's tax-exempt status as a licensee of PAGCOR cannot excuse it from remitting VAT withheld from its non-resident suppliers.

Even PAGCOR's liability itself as a withholding agent is not covered by the tax exemptions under its Charter. This was the principle enunciated in in the case of *Commissioner of Internal Revenue v. Secretary of Justice*[80] where the assessment of Final Withholding Tax on Fringe Benefits ("FBT") was upheld. Withheld VAT from non-resident suppliers are akin to FBT which are treated as final taxes withheld by the payor for the payee.

Considering all these pronouncements, We find no sufficient basis for both MRLC's and the CIR's assertions in their respective petitions.

To summarize, MRLC is not entitled to its claim for refund or issuance of a tax credit certificate for the passed-on VAT on its purchases of capital goods, and domestic purchases of goods (other than capital goods) and services, as well as the withheld VAT for its purchases of services rendered by non-residents. MRLC is only entitled to be refunded of the VAT it paid on its importation of goods (other than capital goods) amounting to Php3,720,321.72.

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(2) Services other than those mentioned in the preceding paragraph, rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP) [.]

[77] Commissioner of Internal Revenue v. Commission on Elections, G.R. Nos. 244155 & 247508, May 11, 2021.

[78] G.R. No. 165451, December 03, 2014.

[79] *Emphasis and underscoring supplied.*

[80] G.R. No. 165451, December 03, 2014.

There being no reversible error committed by the court *a quo*, We find no cogent reason to reverse or modify the Assailed Decision and Assailed Resolution.

ACCORDINGLY, the instant Petitions for Review filed by Melco Resorts Leisure (PHP) Corporation and the Commissioner of Internal Revenue are **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(On Leave)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(I maintain my Dissenting Opinion in the Assailed Decision and Resolution in CTA Case Nos. 10236, 10271, 10294 and 10359)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the cases were assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice