REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

COLT COMMERCIAL, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9539

Members:

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

Promulgated:

MAY 2 8 2019 10:08 AM

x - x

RESOLUTION

CASTAÑEDA, JR., *J.*:

For resolution is respondent's **Motion for Reconsideration (Of the Decision dated January 14, 2019)**, filed on January 30, 2019, without petitioner's comment as per Records Verification Report dated March 5, 2019.

Respondent seeks reconsideration of this Court's Decision[1] dated January 14, 2019 (assailed Decision), the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED** to refund or issue a tax credit certificate in favor of petitioner in the reduced amount of **THREE MILLION THREE HUNDRED THIRTY FOUR THOUSAND NINETY SEVEN PESOS AND 05/100 (₱3,334,097.05)** or **One Million Seven Hundred Twenty Four Thousand Five Hundred Forty Nine and 79/100 Pesos Only (₱1,724,549.79) and One Million Six**

[1] Docket (Vol. III), pp. 773-800.

> **Hundred Nine Thousand Five Hundred Forty Seven and 26/100 Pesos Only (₱1,609,547.26),** respectively, representing unutilized input VAT attributable to its zero-rated sales for the 3rd and 4th quarters of TY 2014.
>
> **SO ORDERED.**"

In his motion, respondent asserts that petitioner is not entitled to refund on the alleged unutilized input taxes attributable to its zero-rated sales for the third and fourth quarters of taxable year (TY) 2014.

Respondent alleges that petitioner failed to provide the Court with the originals or certified true copies of the Philippine Economic Zone Authoirty (PEZA) and Subic Bay Metropolitan Authority (SBMA) certificate of registration of petitioner's clients/customers.

Respondent contends that absent this PEZA Certification, petitioner should not be allowed zero-rating sales for the said enterprise.

Finally, respondent states that in a claim for refund or tax credit, the applicant must prove not only entitlement to the grant of the claim under substantive law, but must also satisfy all the documentary and evidentiary requirements of an administrative claim for refund or tax credit.

The instant motion is bereft of merit.

Section 4.106-5(c) of Revenue Regulations No. 16-2005[2], classifies sales of goods or properties to enterprises duly registered and accredited with the PEZA and SBMA as zero-rated sales.

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[2] SEC. 4.106-5. *Zero-Rated Sales of Goods or Properties.* — x x x
The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
x x x
(c) "*Sales to Persons or Entities Deemed Tax-exempt under Special Law or International Agreement*". — Sales of goods or property to persons or entities who are tax-exempt under special laws, e.g. **sales to enterprises duly registered and accredited with the Subic Bay Metropolitan Authority (SBMA) pursuant to R.A. No. 7227, sales to enterprises duly registered and accredited with the Philippine Economic Zone Authority (PEZA)** or international agreements to which the Philippines is signatory, such as, Asian Development Bank (ADB), International Rice Research Institute (IRRI), etc., shall be effectively subject to VAT at zero-rate. *(Emphasis supplied)*

Thus, to qualify for VAT zero-rating, petitioner must prove by sufficient evidence that its reported zero-rated sales are valid sales to entities duly registered and accredited with the PEZA and SBMA.

In the assailed Decision, in lieu of the individual PEZA Certifications, the Court considered the Confirmation Letter[3] dated July 5, 2016, from the PEZA Deputy Director General for Operations, Ms. Mary Harriet O. Abordo, validating the issuance of VAT zero-rating certifications to various clients of petitioner.

In CTA Case No. 9270[4], involving the same petitioner, this Court found that the Certification dated February 16, 2016 issued by PEZA, confirming that the latter issued VAT zero-rating certifications to the PEZA-registered enterprises enumerated therein, has sufficiently evidenced the entitlement of petitioner's buyer to tax incentives.

Similarly, in the present case, the Court maintains that petitioner's submission of the said Confirmation Letter issued by PEZA itself is sufficient to prove the entitlement of petitioner's clients to VAT zero-rating.

However, as found in the assailed Decision, with respect to its alleged SBMA registered clients, petitioner was not able to submit any document to substantiate its entitlemet to VAT zero-rating.

Thus, only the sales made during the 3rd and 4th quarters of TY 2014 to the PEZA-registered entities enumerated in the Confirmation Letter qualify for VAT zero-rating.

In view of the foregoing, the Court finds that respondent failed to raise a new or substantial matter, or compelling reason to justify the reversal or modification of the assailed Decision.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration (Of the Decision dated January 14, 2019)**, is **DENIED** for lack of merit.

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[3] Exhibit "P-6".
[4] Decision dated April 3, 2018 and Amended Decision dated August 31, 2018.

SO ORDERED.

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

I CONCUR:

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice