REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

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DEUTSCHE KNOWLEDGE SERVICES PTE. LTD., Petitioner,	**CTA EB NO. 1917** (CTA Case No. 9079)
- versus -	
COMMISSIONER OF INTERNAL REVENUE, Respondent.	
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COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 1919** (CTA Case No. 9079)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** and **MODESTO-SAN PEDRO,** *JJ.*
DEUTSCHE KNOWLEDGE SERVICES PTE. LTD., Respondent.	**Promulgated:** NOV 24 2020 11:55 a.m.

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RESOLUTION

UY, J.:

For resolution are the following:

1) ***MOTION FOR RECONSIDERATION (Re: Decision promulgated 5 February 2020)*** filed by the Commissioner of Internal Revenue (CIR) on February 19, 2020,[1] with the

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[1] EB Docket (CTA EB No. 1917), pp. 200 to 209.

COMMENT (RE: COMMISSIONER OF INTERNAL REVENUE'S MOTION FOR RECONSIDERATION DATED FEBRUARY 19, 2020)[2] filed by Deutsche Knowledge Services Pte. Ltd. (or Deutsche Knowledge) on March 16, 2020; and

2) ***MOTION FOR PARTIAL RECONSIDERATION (RE: DECISION DATED FEBRUARY 5, 2020)***[3] filed by Deutsche Knowledge *via* registered mail on February 26, 2020, and received by the Court on March 3, 2020, without the CIR's comment despite due notice, as per *Records Verification*[4] issued by the Judicial Records Division of this Court on September 29, 2020.

Both *Motions* pray for the reconsideration of the Court *En Banc's* Decision dated February 5, 2020,[5] the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the *Petition for Review* in CTA EB No. 1917 filed by Deutsche Knowledge is **PARTIALLY GRANTED**. The assailed Decision dated January 9, 2018, and the Resolution dated August 8, 2018, are hereby **MODIFIED**.
>
> Accordingly, the Commissioner of Internal Revenue is **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of Deutsche Knowledge in the amount of **₱8,202,880.25,** representing its unutilized excess input VAT for the 2nd quarter of 2013 attributable to its zero-rated sales.
>
> On the other hand, the *Petition for Review* in CTA EB No. 1919 filed by the CIR is **DENIED** for lack of merit.
>
> **SO ORDERED.**"

The CIR's arguments:

In his *Motion for Reconsideration*, the CIR reiterates that no attributability was established between the input tax on purchases *vis-à-vis* the zero-rated sales.

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[2] EB Docket (CTA EB No. 1917), pp. 247 to 256.
[3] EB Docket (CTA EB No. 1917), pp. 218 to 236.
[4] EB Docket (CTA EB No. 1917), p. 258.
[5] EB Docket (CTA EB No. 1917), pp. 163 to 199.

It is the CIR's position that to be creditable, the input tax must come from purchases of goods that form part of the finished product of the taxpayer or it must be directly used in the chain of production.

The CIR likewise insists that Deutsche Knowledge must establish its claim by the quantum of evidence and not by assumption.

In addition, the CIR avers that a tax refund is in the nature of a tax exemption which must be construed *strictissimi juris* against the taxpayer. Deutsche Knowledge allegedly fell short of proving the veracity of its claim for refund.

Deutsche Knowledge arguments:

In its *Motion for Partial Reconsideration*, Deutsche Knowledge maintains that its sales for the 2nd quarter of calendar year (CY) 2013 were made to non-resident foreign corporations doing business outside the Philippines. Thus, the unutilized input VAT are allegedly attributable to these zero-rated sales and are proper subjects of a claim for input VAT refund under the Tax Code.

According to Deutsche Knowledge, the business registration documents and the Company Profile Fact Sheets (CPFS) retrieved from the AMINET database, taken together, should be given the same probative value as the Articles of Incorporation/Association required by this Court.

Further, Deutsche Knowledge asserts that it was able to sufficiently prove that its zero-rated sales were made in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP. According to Deutsche Knowledge, it has duly complied with the requirements under Section 108 (B) (2) of the National Internal Revenue Code (NIRC) of 1997, as amended, when it presented and offered in evidence the relevant official receipts, VAT returns, fund transfer credit advices and bank statements, which upon verification conducted by the ICPA, allegedly point to the conclusion that its sales of services were paid in acceptable foreign currency.

Deutsche Knowledge likewise reiterates that its disallowed excess and unutilized input VAT is duly substantiated, and must be allowed for refund.

Finally, Deutsche Knowledge claims that it has sufficient excess input VAT carried over from previous quarters to sufficiently cover its output VAT liability for the 2nd quarter of CY 2013.

THE COURT *EN BANC'S* RULING

We find no merit in both *Motions*.

The CIR's position that no attributability was established between the input tax on purchases *vis-à-vis* the zero-rated sales, deserves scant consideration.

As ruled in the assailed Decision, Section 112 of the NIRC of 1997, as amended, allows the allocation of creditable input taxes which cannot be directly or entirely attributable to zero-rated sales. Hence, contrary to the CIR's assertion, the attribution of the input tax to the zero-rated sales need not always be direct.

With respect to Deutsche Knowledge's insistence that the business registration documents and the CPFS retrieved from the AMINET database, taken together, should be given the same probative value as the Articles of Incorporation/Association required by this Court, the same is without merit.

It must be noted that the Court cannot give any evidentiary value to the foreign business registration documents and CPFS print-outs retrieved from the AMNET database, since these printouts are self-serving, and lack credibility, which can easily be manipulated to favor Deutsche Knowledge in view of its affinity with the entity that maintains or keeps the said database.

As for the other arguments raised by the parties, a careful perusal of the CIR's *Motion for Reconsideration* and Deutsche Knowledge's *Motion for Partial Reconsideration* show that the grounds raised therein are mere reiteration of matters which have already been considered, weighed and resolved in the assailed Decision. Moreover, the parties failed to present new matters or arguments which may compel Us to reconsider, modify or reverse the assailed Decision. Hence, We shall no longer belabor in this Resolution, to repeat the disquisitions made therein.

WHEREFORE, in light of the foregoing considerations, the *Motion for Reconsideration* filed by the CIR and the *Motion for Partial Reconsideration* filed by Deutsche Knowledge are hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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