REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

EDC BURGOS WIND POWER CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9446 (CTA EB No. 2548)

Members:

RINGPIS-LIBAN, *P.J. & Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

JUL 03 2026
1:00 p.m.

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RESOLUTION

For resolution is the taxpayer's *Manifestation and Submission (Re: Manifestation dated June 18, 2025)*, *without* respondent's comment despite notice per *Records Verification Report* dated May 13, 2026.

On May 19, 2025, it will be recalled that after the Court *En Banc* remanded the case for the determination of the refundable / creditable amount due to the taxpayer, the Court issued a decision which *partially granted* the taxpayer's petition and *ordered the refund or issuance a tax credit certificate* in the amount of PhP3,114,588.48 representing its excess and unutilized input VAT attributable to its zero-rated sales for the 1st quarter of Calendar Year (CY) 2015.

On June 9, 2025, respondent filed a *Motion for Partial Reconsideration (Re: Decision promulgated 19 May 2025)* with the taxpayer's *Comment (Re: Motion for Partial Reconsideration dated June 9, 2025)* filed on June 25, 2025.

On November 5, 2025, the Court issued a *Resolution* denying respondent's motion for lack of merit.

On December 3, 2025, the taxpayer filed a *Manifestation and Submission (Re: Manifestation dated June 18, 2025)*, disclosing that it had filed a paper copy of its *Motion for Partial Reconsideration (Re: Decision dated May 19, 2025)* on June 9, 2025, but had inadvertently used the wrong docket number — CTA Case No. 9466 instead of CTA Case No. 9446, the correct docket of this case. The taxpayer apologized for the oversight and, consequently, posited that the Court's November 5, 2025 *Resolution* had been issued without considering its motion, which had been filed under a different docket.

In its attached *Motion for Partial Reconsideration (Re: Decision dated May 19, 2025)*, the taxpayer argues: *first*, that its excess and unutilized input VAT for the 1st and 2nd quarters of CY 2015 were duly incurred or paid and, pursuant to Section 112(A) of the Tax Code, should be refunded by respondent; and, *second*, that it has neither the legal basis nor the right of action to refund its input VAT from its local suppliers, especially considering that these taxes have been remitted to respondent.

The Court is *not* persuaded.

First, this is a remanded case. The taxpayer has already had its day in Court --- both during trial and on appeal before the Court *En Banc* --- and was afforded ample opportunity to present its cause and argue its case.

Second, even if the Court's November 5, 2025 *Resolution* may *not* have considered the arguments raised in the taxpayer's motion filed on June 9, 2025, the taxpayer had nonetheless filed a *Comment (Re: Motion for Partial Reconsideration dated June 9, 2025)* to respondent's motion. That comment was noted, and the arguments therein were fully considered when the Court issued its November 5, 2025 *Resolution.*

Moreover, the taxpayer's *Comment (Re: Motion for Partial Reconsideration dated June 9, 2025)* contended that it had "sufficiently established that the input taxes it paid or incurred on its purchases of goods and services, as well as its importation of goods" are attributable to its zero-rated sales of power and, that it "presented sufficient evidence to prove its compliance with the requisites for granting VAT refund", thus, it is "entitled to the refund sought." These contentions clearly overlap with arguments now raised in the taxpayer's *Motion for Partial Reconsideration (Re: Decision dated May 19, 2025* --- a motion that was misfiled in the docket of another case due to the taxpayer's inadvertence.

Third, the taxpayer zeroes in on the input VAT amounting to PhP39,375 and PhP30,041,628.19, which it paid to its local suppliers of goods or services.[1] It concedes that it paid these amounts on local purchases used for the development, construction, and installation of its Renewable Energy (RE) plant facilities, notwithstanding "the entitlement of these purchases to VAT zero-rating under the RE law."[2] Nonetheless, it maintains that whether "these input taxes were rightly or wrongly paid by Petitioner to its local suppliers, the fact remains that these input taxes became due from and were paid by Petitioner." It adds that Section 112(A) of the Tax Code "does not distinguish between

[1] See taxpayer's *Motion for Partial Reconsideration (Re: Decision dated May 19, 2025)*, pp. 3-9.
[2] *Id.*, p. 4.

input taxes that were correctly or incorrectly paid" nor does "it limit the refund entitlement to input taxes that were rightfully paid." On this basis, the taxpayer concludes that it is entitled to a refund or tax credit of the same, given that these input taxes were remitted to the respondent.

The assailed decision squarely resolved this issue. It ruled that Section 15(g) of Republic Act No. (RA) 9513, otherwise known as the Renewable Energy Act of 2008, granted the taxpayer, as an RE developer, a tax incentive of zero VAT on its local purchases of goods and services needed for the development, construction, and installation of its plant facilities — and therefore, the taxpayer should *not* have paid these input taxes in the first place:

"For the 1st and 2nd quarters of CY 2014, petitioner allegedly paid input taxes on its domestic purchases of goods and services, importation of non-capital goods and on payments for services rendered by non-residents in the aggregate amount of ₱33,903,404.70, broken down as follows:[3]

Taxable Quarter	Unutilized Input Tax				Total Input Tax Claim
	Domestic Purchases of Goods	Importation of Goods other than Capital Goods	Domestic Purchase of Services	Services Rendered by Non-residents	
1st	₱ 39,375.00		₱ 10,658,397.22	₱ 601,044.51	₱ 11,298,816.73
2nd		₱ 3,221,357.00	19,383,230.97		22,604,587.97
Total	**₱ 39,375.00**	**₱ 3,221,357.00**	**₱ 30,041,628.19**	**₱ 601,044.51**	**₱ 33,903,404.70**

Petitioner states that these input taxes are attributable to its zero-rated sales of electricity power generated from renewable sources of energy.[4] In this regard, Section 15(g) of RA No. 9513 declares that an RE Developer's purchases of local supply of goods, properties, and services needed for the development, construction and installation of its plant facilities and the whole process of exploring and developing renewable energy sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors, shall be entitled zero percent (0%) VAT:

"CHAPTER VII
GENERAL INCENTIVES

Section 15. *Incentives for Renewable Energy Projects and Activities.* - **RE developers of renewable energy facilities**, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications, **as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives**:

xxx xxx xxx

(g) Zero Percent Value-Added Tax Rate. – xxx

[3] Par. 9, petitioner's *Memorandum*, Docket – Vol. 3, p. 1295.
[4] Par. 48, petitioner's *Memorandum*, Docket – Vol. 3, p. 1302.

> **All RE Developers shall be entitled to zero-rated value added tax on its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities.**
>
> **This provision shall also apply to the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors.**" *(Emphases added)*

Being an RE developer, petitioner is entitled to zero-rated purchases from its local suppliers of goods, properties and services needed for the development, construction, and installation of its plant facilities and for the whole process of exploration and development of RE sources up to its conversion into power.

As such, petitioner should not have paid the claimed input taxes of ₱39,375.00 and ₱30,041,628.19 on its local purchases of goods and services, respectively. Hence, petitioner cannot be entitled to claim a tax refund or credit on the said purchases. If petitioner had actually paid the corresponding input taxes of ₱39,375.00 and ₱30,041,628.19, petitioner's proper recourse is not against the BIR but against the seller who had erroneously shifted to it the output VAT. This is in line with the Supreme Court ruling in the analogous case of *Coral Bay Nickel Corporation vs. Commissioner of Internal Revenue* (*Coral Bay*),[5] wherein the Supreme Court found that the taxpayer is a domestic corporation registered with Philippine Economic Zone Authority (PEZA) as an Ecozone Export Enterprise whose purchases were subject to zero-percent VAT under Revenue Memorandum Circular No. 74-99 consistent with the Cross Border Doctrine and the Destination Principle of the Philippine VAT System. The Supreme Court held, therefore, that the taxpayer was not entitled to file a claim for refund of input VAT:

> "The petitioner's principal office was located in Barangay Rio Tuba, Bataraza, Palawan. Its plant site was specifically located inside the Rio Tuba Export Processing Zone — a special economic zone (ECOZONE) created by Proclamation No. 304, Series of 2002, in relation to Republic Act No. 7916. **As such, the purchases of goods and services by the petitioner that were destined for consumption within the ECOZONE should be free of VAT; hence, no input VAT should then be paid on such purchases, rendering the petitioner not entitled to claim a tax refund or credit. Verily, if the petitioner had paid the input VAT, the CTA was correct in holding that the petitioner's proper recourse was not against the Government but against the seller who had shifted to it the output VAT following RMC No. 42-03**, which provides:
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> > In case the supplier alleges that it reported such sale as a taxable sale, the substantiation of remittance of the output taxes of the seller (input taxes of the

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[5] G.R. No. 190506, June 13, 2016.

> exporter-buyer) can only be established upon the thorough audit of the suppliers' VAT returns and corresponding books and records. It is, therefore, imperative that the processing office recommends to the concerned BIR Office the audit of the records of the seller."
>
> In the meantime, the claim for input tax credit by the exporter-buyer should be denied without prejudice to the claimant's right to seek reimbursement of the VAT paid, if any, from its supplier." *(Emphasis added)*

In the recent case of *Hedcor, Inc. vs. Commissioner of Internal Revenue*,[6] the Supreme Court emphasized the applicability of the above-quoted ruling in the *Coral Bay* case to RE Developers, such as petitioner:

> "In *Contex Corp. v. Commissioner of Internal Revenue* (*Contex Corp.*),[7] the Court held that where a taxpayer should not have been liable for the VAT erroneously passed on to it by its supplier—since the same was a zero-rated sale on the part of the said supplier, and a zero-rated purchase on the part of the taxpayer—it is the supplier, and not the taxpayer, who is the proper party to claim such VAT refund.
>
> This is further explained in *Coral Bay*—the case cited by the CTA Division and EB—where the Court held that '[w]e should also take into consideration the nature of VAT as an indirect tax. Although the seller is statutorily liable for the payment of VAT, the amount of the tax is allowed to be shifted or passed on to the buyer. However, reporting and remittance of the VAT paid to the BIR remained to be the seller/supplier's obligation. Hence, the proper party to seek the tax refund or credit should be the suppliers[.]'
>
> **Although the foregoing cases involved entities situated in freeports and ecozones, the same principle may be applied to RE developers who are similarly situated. Like entities within the ecozones, the sale of suppliers to RE developers may be zero-rated sales (from the point of view of the supplier) and zero-rated purchases (from the point of view of the RE developer).**
>
> **Thus, following *Contex Corp.* and *Coral Bay*, if the taxpayer with zero-rated purchases—<u>such as RE developers</u> or entities within ecozones—mistakenly pays input VAT on its purchases, the proper recourse of the said taxpayer is not to file an administrative or judicial claim for refund under Section 112, but to claim *reimbursement* from its suppliers of goods and services who mistakenly shifted output VAT.**" *(Emphases and*

[6] G.R. No. 250313, July 22, 2024.
[7] 477 Phil. 442 (2004) [Per J. Quisumbing, Second Division].

> *underscoring added)" (Underscoring supplied; footnotes retained but renumbered)*

The taxpayer *cannot* benefit from a refund or tax credit of input VAT it paid incorrectly *knowing* that it contravenes Section 15(g) of RA 9513.

Acts executed against the provisions of *mandatory* or prohibitory laws are *void*, except when the law itself authorizes their validity.[8] Neither may the taxpayer invoke Section 112 (A) of the Tax Code alone, in isolation from other relevant provisions of the Tax Code and laws applicable to this case, i.e. RA 9513 and the Civil Code. As the Supreme Court has held, the "rule is that a statute should be so construed not only to be consistent with itself but also to harmonize with other laws on the same subject matter, as to form a complete, coherent and intelligible system. The rule is expressed in the maxim, *interpretare et concordare leges legibus est optimus interpretandi modus*, or every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence."[9]

The foregoing considered, and there being no new matter or substantial issue raised, the Court finds no compelling reason to reverse or modify the assailed decision.

ACCORDINGLY, petitioner's *Manifestation and Submission (Re: Manifestation dated June 18, 2025)* is **NOTED** and the attached *Motion for Partial Reconsideration (Re: Decision dated May 19, 2025)* is **DENIED** for lack of merit.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

We Concur:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

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[8] Article 5, Civil Code; *Commissioner of Internal Revenue v. San Roque Power Corp.*, G.R. Nos. 187485, 196113 & 197156, February 12, 2013, Supreme Court *En Banc.*
[9] *Grand Development Corp. v. Franklin Baker, Inc.*, G.R. No. 251463, August 2, 2023 *citing* Agpalo.