REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

CARGILL PHILIPPINES, INC.,
Petitioner,

CTA CASE Nos. 6714 & 7262

Members:

\- **versus** -

DEL ROSARIO, *P.J., Chairperson,*
FABON VICTORINO, *and*
MANAHAN, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
DEC 12 2018 8:20 am

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RESOLUTION

DEL ROSARIO, P.J.:

For resolution are the following:

1. Respondent's "**Motion for Partial Reconsideration (Re: Decision promulgated 13 July 2018)**" filed on August 6, 2018 with petitioner's "**Comment (Re: Respondent's Motion for Partial Reconsideration)**" filed on September 17, 2018; and,

2. Petitioner's "**Motion for Reconsideration**" filed on August 6, 2018 with respondent's "**Opposition (Re: Motion for Reconsideration of the Amended Decision dated 13 July 2018)**" filed on September 7, 2018.

Respondent's Motion for Reconsideration

Respondent prays that the Court reconsider the assailed Amended Decision dated July 13, 2018, set it aside and render another one denying petitioner's entire claim for refund in CTA Case No. 7262.

In his Motion, respondent claims that the law requires that only "creditable input taxes" that are "directly attributable" may be refunded. Section 112 of the National Internal Revenue Code (NIRC) of 1997, as amended uses the phrase "directly attributable" and not the phrase "entirely attributable". The fact of "direct attributability" must be established. Thus, it is erroneous to immediately assume that all input taxes are directly attributable to petitioner's zero-rated sales without establishing how they were factored in the production chain.

Respondent also argues that a tax refund is in the nature of a tax exemption which must be construed *strictissimi juris* against the taxpayer, and that the taxpayer must present convincing evidence to substantiate its claim.

Petitioner, in its Comment, counters that the Court had sufficient basis to conclude that petitioner's unutilized input VAT were attributable or allocable to its zero-rated sales. Petitioner cites the findings of the Court where it determined that petitioner's operations are divided into the following units: Oilseeds, Meals and Grains, Animal Fees (Cargill Animal Nutrition), Sugar, and Administration. Petitioner claims that records of its transactions are based on these business units.

Petitioner's Motion for Reconsideration

Petitioner prays that the Court reconsider its Amended Decision dated 13 July 2018 and issue a new decision ordering respondent to issue a refund or tax credit certificate in favor of petitioner in the amount of ₱3,053,469.99 representing unutilized input VAT attributable or allocable to zero-rated sales for the 4th quarter of fiscal year ending May 31, 2003 to the 1st quarter of fiscal year ending May 31, 2005. In summary, petitioner prays that the Court adjust the amount to be refunded to petitioner from ₱1,779,377.17 to ₱3,053,469.99.

In support thereof, petitioner avers that the disallowed amount of ₱1,274,092.82 pertains to the overpayment for the period April 1, 2001 to February 28, 2003 (CTA Case No. 6714) and should therefore not be accumulated with the overpayment for the period March 1, 2003 to August 31, 2004 (CTA Case No. 7262). Petitioner posits that if the Court were to isolate CTA Case No. 7262 but still use the same figures, the computation of petitioner's excess input VAT for the period March 1, 2003 to August 31, 2004 should be as follows:

	March 1, 2003 to Aug. 31, 2004
Output VAT	₱26,322,238.96
Less: Input VAT	
Carried-over from prev qtr	₱1,274,092.82
Presumptive Input Tax	-
Domestic purchases	28,101,616.12
Total available input Tax	₱29,375,708.94
VAT payable/(Excess Input Tax)	₱(3,053,469.99)
Less: Advance Payment	-
Tax Payable/(Overpayment)	₱(3,053,469.99)

Petitioner argues that the amount of ₱1,274,092.82 should no longer be treated as overpayment since CTA Case No. 6714 has been dismissed. Instead, the aforestated amount should be considered as input VAT carried-over from the previous quarter. In addition thereto, petitioner insists that the amount of ₱1,274,092.82 has been fully substantiated as excess input VAT carried over from the previous quarter, and may be credited against petitioner's output VAT for the period of March 1, 2003 to August 31, 2004 pursuant to Section 4.110-5 and 4.110-6 of Revenue Regulations (RR) No. 16-05.

Respondent, on the other hand, counter-argues that petitioner has the burden of proof to establish the factual basis of its claim for tax credit or refund. Citing *Commissioner of Internal Revenue vs. Ledesma,* [1] and *Western Minolco Corp. vs. Commissioner of Internal Revenue,* [2] respondent further retorts that claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation.

THE COURT'S RULING

The Court finds the parties' respective Motions for Reconsideration bereft of merit.

The Court reiterates its finding that petitioner's input VAT of ₱1,779,377.16 is attributable or allocable to its zero-rated sales for the period March 1, 2003 to August 31, 2004.

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[1] *31 SCRA 95.*
[2] *124 SCRA 1211.*

The relevant portion of the assailed Amended Decision reads:

"The sole issue for determination of this Court pertains to the proper amount of excess and unutilized input VAT covering the period of March 1, 2003 to August 31, 2004 that is allowable for refund or issuance of tax credit certificate in favor of petitioner CTA Case No. 7262.

In the Decision dated August 24, 2010 pertaining to both CTA Case Nos. 6714 and 7262, this Court partially granted petitioner's claim for refund or issuance of tax credit certificate in the amount of ₱3,053,469.99, computed as follows:

	April 1, 2001 to Feb. 28, 2003	March 1, 2003 to Aug. 31, 2004	Total
Output VAT	₱ 194,184,554.44	₱ 26,322,238.96	₱ 220,506,793.40
Less: Input VAT			
Carried over from prev qtr	₱ 15,414,288.07	₱ 1,274,092.82	₱ 15,414,288.07
Presumptive Input Tax	6,701,884.34	-	6,701,884.34
Domestic purchases	165,655,103.00	28,101,616.12	193,756,719.12
Total available Input Tax	₱ 187,771,275.41	₱ 29,375,708.94	₱ 215,872,891.54
VAT Payable/(Excess Input VAT)	₱ 6,413,279.03	₱ (3,053,469. 99)	₱ 4,633,901.86
Less: Advance Payment	7,687,371.85	-	7,687,371.85
Tax Payable/(Overpayment)	**₱ (1,274,092.82)**	**₱ (3,053,469.99)**	**₱ (3,053,469,99)**

It could be gleaned from the above that the refundable excess input VAT as per the original Decision in the amount of ₱3,053,469.99 is composed of ₱1,274,092.82 pertaining to the overpayment for the period April 1, 2001 to February 28, 2003 which was then carried over to the following period and accumulated with the overpayment for the period March 1, 2003 to August 31, 2004 in the amount of ₱1,779,377.17 (₱3,053,469.99 less ₱1,274,092.82).

However, since only CTA Case No. 7262 was remanded by the Supreme Court, we shall tackle the issues raised in petitioner's Motion for Reconsideration and Supplement to Petitioner's Motion for Reconsideration filed on September 13, 2010 and December 29, 2010, respectively, of this Court's August 24, 2010 Decision as they relate to CTA Case No. 7262 and determine whether or not the refundable input VAT of ₱1,779,377.17 as originally granted is correct.

xxx xxx xxx

Refundable Excess Input Tax for period March 1, 2003 to August 31, 2004 shall be ₱1,779,377.16

In fine, our perusal of the issues raised by petitioner in its Motion for Reconsideration and Supplement to Petitioner's Motion for Reconsideration shows that the same were not meritorious enough to overturn the Court's original Decision in CTA Case No. 7262.

Thus, the Court hereby finds petitioner entitled to a refundable input VAT amounting to ₱1,779,377.16 attributable or allocable to its zero-rated export sales for the period March 1, 2003 to August 31, 2004 under CTA Case No. 7262, computed as follows:

		March 1, 2003 to Aug.31,2004
Output VAT	₱	26,322 238.96
Less: Input VAT		
Carried-over from prev qtr	₱	-
Presumptive Input Tax		-
Domestic purchases	₱	28,101,616.12
Total available Input Tax	₱	28,101 616.12
Vat Payable/(Excess Input Tax)	₱	(1,779 377.16)
Less: Advance Payment		-
Tax Payable/(Overpayment)	₱	**(1,779,377.16)**

The Court's findings that the input VAT of ₱1,779,377.16 is directly attributable or allocable to petitioner's zero-rated sales is based on evidence submitted by both parties. Thus, respondent's allegations that it is merely an assumption is simply too specious.

Anent petitioner's Motion for Reconsideration, a close scrutiny of the records discloses that petitioner did not offer the required documents *i.e.* VAT invoices or official receipts, to prove that it has input VAT from the previous quarters against which its output tax for the period may be applied. There being no substantiated input VAT from previous quarters, the refundable input VAT is only the excess of the substantiated input VAT for the period of March 1, 2003 to August 31, 2004 after deducting the output tax, as computed in the assailed Amended Decision.

Since **no new matter** invested with legal significance was raised in the parties' respective motions for reconsideration, the Court finds no cogent reason to reverse or modify the assailed Amended Decision.

WHEREFORE, in light of the forgoing considerations, the parties' respective Motions for Reconsideration are hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

CATHERINE T. MANAHAN
Associate Justice