22-000394-0047

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10957

AIR DRILLING ASSOCIATES PTE LTD.,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. ALBERT C. ARPON
ATTY. CARL FITRI A. HUSSIN
ATTY. JOEL VINCENT D. SALAZAR
Bureau of Internal Revenue
Legal Division, Revenue Region No. 8A
36th Floor, Export Bank Plaza Building
Sen. Gil Puyat Avenue corner Chino Roces Avenue
Makati City

AGAN MONTENEGRO MALASAGA & CO.
7th Floor, Electra House Building
115-117 Esteban Street, Legazpi Village
1229 Makati City

GREETINGS:

You are hereby notified by these presents that on **September 15, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **September 16, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

AIR DRILLING ASSOCIATES PTE LTD., Petitioner,	CTA Case No. **10957**
	Members:
- versus -	**DEL ROSARIO**, *P.J., Chairperson,* **BACORRO-VILLENA**, *and* **CUI-DAVID**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: SEP 15 2025; 1:10PM

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution are the following:

(1) Petitioner Air Drilling Associates Pte Ltd.'s (**petitioner**'s) "Partial Motion for Reconsideration"[1] (**PMR**), filed on 31 March 2025, without respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) comment despite due notice[2]; and

(2) Respondent's "Motion for Partial Reconsideration"[3] (**MPR**), filed on 03 April 2025, with petitioner's "Comment to Respondent's Partial Motion for Reconsideration"[4] (**Comment**), filed on 16 May 2025.

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[1] Division Docket, Volume II, pp. 763-767.
[2] See Records Verification dated 20 May 2025; id., p. 789.
[3] Id., pp. 769-777.
[4] Id., pp. 783-787.

Both petitioner and respondent seek the reconsideration of this Court's Decision[5] promulgated on 07 March 2025 (**assailed Decision**). The dispositive portion of which reads as follows:

> ...
>
> **WHEREFORE,** premises considered, the instant Petition for Review filed on 15 August 2022 by petitioner Air Drilling Associates Pte Ltd. is hereby **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in the amount of **₱3,566,817.96**, representing petitioner's unutilized excess input Value-Added Tax for the 2nd, 3rd and 4th quarters of CY 2020 which is attributable to its zero-rated sales for the same period.
>
> **SO ORDERED.**
>
> ...

I. PETITIONER'S PARTIAL MOTION FOR RECONSIDERATION (PMR)

In its PMR, petitioner contests the disallowance of its zero-rated sales amounting to ₱99,617,333.98 for the second (2nd) to fourth (4th) quarters of calendar year (**CY**) 2020. It asserts that it sufficiently established its entitlement to the entire amount of value-added tax (**VAT**) refund claimed, *i.e.*, ₱13,071,974.37, pursuant to Section 15(g)[6] of Republic Act (**RA**) No. 9513[7], having rendered aerated drilling services to Energy Development Corporation (**EDC**) and Philippine Geothermal

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5 Id., pp. 711-753.

6 **Sec. 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:

...

(g) Zero Percent Value-Added Tax Rate. — The sale of fuel or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337.

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.

...

7 AN ACT PROMOTING THE DEVELOPMENT, UTILIZATION AND COMMERCIALIZATION OF RENEWABLE ENERGY RESOURCES AND FOR OTHER PURPOSES.

Production Company (**PGPC**), both registered renewable energy (**RE**) developers with requisite Certificates of Registrations (**CORs**) from the Department of Energy (**DOE**) and Board of Investments (**BOI**).

The PMR lacks merit.

At the outset, We observe that the present PMR is a complete rehash of petitioner's arguments that the assailed Decision has thoroughly addressed and passed upon.[8] Thus, discussing the same merits would be an exercise in futility.

In *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[9], the Supreme Court declared:

> ...
> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); *i.e.*, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.
> ...

Nonetheless, to lay petitioner's concerns to rest, this Court finds it proper to clarify the grounds for the disallowance of the claimed zero-rated sales.

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[8] Division Docket, Volume II, pp. 720-752.
[9] G.R. No. 109645, 04 March 1996.

It must be emphasized that the disallowance was anchored on two main grounds: *first*, petitioner failed to establish that all EDC projects it serviced were duly registered with DOE and BOI and there was no showing that the services were rendered exclusively to EDC's DOE and BOI-registered projects in Tongonan, Leyte and Palinpinon, Negros Oriental; and *second*, the transactions were not supported by official receipts (**ORs**), nor was the nature of the services rendered clearly indicated.

However, notably, the present PMR, failed to directly controvert these factual findings and instead advanced broad assertions, which warrant minimal consideration.

II. RESPONDENT'S MOTION FOR PARTIAL RECONSIDERATION (MPR)

An examination of the records of the case warrants the dismissal of the MPR due to its belated filing.

Pursuant to Section 1[10], Rule 15 of the Revised Rules of Court of Tax Appeals (**RRCTA**), an aggrieved party shall have fifteen (15) days from the date of receipt of notice of the decision, resolution or order of the Court in question, otherwise the said decision, resolution or order (being contested) shall become final and executory.

Here, based on the Notice of Decision dated 12 March 2025[11], respondent, through his or her Legal Division, received the assailed Decision on 18 March 2025. Counting 15 days therefrom, respondent had until **02 April 2025** to file the MPR. However, the MPR was filed only on **03 April 2025**, thus it was filed out of time. Consequently, the assailed Decision had already attained finality with respect to respondent.

Granting, for argument's sake, that We brush aside the foregoing procedural *faux pas*, respondent's MPR still deserves scant consideration.

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[10] SEC. 1. *Who may and when to file motion.* – Any aggrieved party may seek a reconsideration or new trial of any decision: resolution or order of the Court by filing a motion for reconsideration or new trial within fifteen days from the date of receipt of notice of the decision, resolution or order of the Court in question.

[11] Division Docket. Volume II, p. 710.

Respondent, in his or her MPR, argues that petitioner failed to prove it was engaged in zero-rated or effectively zero-rated sales during the 2nd to 4th quarters of CY 2020. Respondent highlights that the only document relied upon, *i.e.*, the Contract for Aerated Fluids Drilling Works, had expired on 01 January 2017 and petitioner failed to present any evidence of its extension, amendment or continued validity. Absent competent evidence of ongoing contractual engagement or actual zero-rated transactions during the relevant period, petitioner's claim necessarily fails to meet the 4th requisite under Section 112(A)[12] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, which requires that input VAT be attributable to valid zero-rated sales.

Even assuming *arguendo* that petitioner had valid zero-rated sales, respondent contends that the claim must still be denied for failure to comply with the invoicing requirements under Section 113(B)(2)(c)[13] of the NIRC of 1997, as amended, since the phrase "zero-rated sale," was

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[12] **SEC. 112.** *Refunds or Tax Credits of Input Tax.* —
(A) *Zero-Rated or Effectively Zero-Rated Sales.* — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated 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 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 or 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.

[13] **SEC. 113.** *Invoicing and Accounting Requirements for VAT-Registered Persons.* —
...
(B) *Information Contained in the VAT Invoice or* ***VAT Official Receipt.*** — The following information shall be indicated in the VAT invoice or VAT official receipt:
(1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided*, That:
(a) The amount of the tax shall be shown as a separate item in the invoice or receipt;
(b) If the sale is exempt from value-added tax, the term '**VAT-exempt sale**' shall be written or printed prominently on the invoice or receipt;
(c) If the sale is subject to zero percent (0%) value-added tax, the term '**zero-rated sale**' shall be written or printed prominently on the invoice or receipt;
(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the **breakdown** of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: *Provided*, That the seller may issue separate invoices or receipts for the taxable, exempt, and **zero-rated** components of the sale. (Emphasis supplied)

not prominently imprinted in petitioner's ORs and a mere 'breakdown' in the invoices or ORs does not suffice.

In the Comment, petitioner counters that: (1) it has sufficiently established that EDC and PGPC are RE developers and its sale of services to the same entities qualifies as zero-rated sales pursuant to Section 15(g)[14] of RA No. 9513; and (2) a 'breakdown' conspicuously showing that the said sale transaction is zero-rated substantially complies with the imprinting requirement.

As to respondent's *first* ground, We clarify that the assailed Decision **did not rely solely on the alleged expired Contract for Aerated Fluids Drilling Works. Rather, it also gave weight to the ORs and invoices issued by petitioner, which clearly specify the nature of the services petitioner rendered. A judicious review of the ORs and corresponding invoices reasonably convinces this Court that "aerated fluids drilling services", as explicitly described therein, satisfy the statutory requirement that the services must be "needed for the development, construction, and installation of the RE Developer's plant facilities and the whole process of exploration and development of RE sources up to its conversion into power" under Section 15(g)[15] of RA No. 9513.** Indeed, jurisprudence recognizes that an invoice or OR may sufficiently reflect the nature of services rendered for tax purposes.[16]

Regarding respondent's *second* ground, We have tersely addressed this in the assailed Decision, where We held that a 'breakdown' in the ORs, clearly identifying the transaction as a zero-rated sale, constitutes substantial compliance with the imprinting requirements.[17]

In sum, this Court finds no cogent reason to modify or overturn the assailed Decision.[18]

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14 Supra at note 6.

15 Id.

16 See *Commissioner of Internal Revenue v. Manila Mining Corporation*, G.R. No. 153204, 31 August 2005.

17 Division Docket, Volume II, pp. 739-741.

18 Supra at note 5.

WHEREFORE, premises considered, the Court, hereby, **RESOLVES** to:

1. **DENY** petitioner's "Partial Motion for Reconsideration", filed on 31 March 2025, for lack of merit; and,

2. **DENY** respondent's "Motion for Partial Reconsideration", filed on 03 April 2025, for being filed out of time and lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

I reiterate my Dissenting Opinion

LANEE S. CUI-DAVID
Associate Justice