REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

HALLIBURTON WORLDWIDE LIMITED – PHILIPPINE BRANCH,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10139

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:

JAN 2 4 2024
10:10 a.m

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AMENDED DECISION

CUI-DAVID, J.:

For Court's resolution are the following:

1. Petitioner's ***Motion for Partial Reconsideration and Correction (Re: Decision dated July 26, 2023)***, filed on August 17, 2023, without respondent's comment, as per Records Verification dated October 6, 2023; and

2. Respondent's ***Motion for Reconsideration (Decision of July 26, 2023),*** posted on August 17, 2023, with petitioner's ***Comment (Re: Respondent's Motion for Reconsideration dated August 17, 2023)***, posted on September 20, 2023.

Both parties seek the reconsideration of the Court's *Decision* promulgated on July 26, 2023, the dispositive portion of which reads:

> **WHEREFORE**, in light of the foregoing, the instant *Petition for Review* is **PARTIALLY GRANTED**.

> Accordingly, respondent is **ORDERED** to issue a tax credit certificate in favor of petitioner in the additional amount of Seven Million Six Hundred Sixty-Nine Thousand Five Hundred and Eighty Pesos and Nineteen Centavos (₱7,669,580.19), representing petitioner's unutilized input VAT attributable to its zero-rated receipts for the 1st, 2nd, 3rd and 4th quarters of CY 2017.

Petitioner and respondent received the assailed *Decision* on August 2, 2023. Thus, both parties had until August 17, 2023 to file their respective motion for reconsideration. Accordingly, on August 17, 2023, both parties timely filed their separate motion for reconsideration.

We now proceed to their arguments.

Petitioner's Motion for Partial Reconsideration and Correction

Petitioner argues that its sales to Energy Development Corporation (EDC) are valid zero-rated sales and that the Contract for Directional Drilling Works sufficiently describes the nature of services for which EDC engaged petitioner.[1]

Petitioner assails the Court's disallowance of ₱3,174,338 of input value-added tax (VAT) on importation of goods wherein the importer of the shipment is not under the petitioner's name. It alleges that such input VAT is sufficiently supported by the Bureau of Customs Statement of Settlement of Duties and Taxes (SSDT) in the broker's name. It further alleges that a Certification was issued to the effect that petitioner owns the importations.[2]

Petitioner likewise assails the disallowance of ₱68,621.88 of input VAT on the domestic purchase of goods wherein petitioner's tax identification number (TIN) is not indicated in the invoice. According to petitioner, its exhibits show that the invoices reflect its TIN.[3]

Finally, petitioner requests that the dispositive portion of the assailed *Decision* be corrected as it prayed for a tax refund and not the issuance of a tax credit certificate (TCC).[4]

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[1] Petitioner's Motion for Reconsideration, pars. 4-5.
[2] *Id.*, pars. 7-10.
[3] *Id.*, pars. 15-16.
[4] *Id.*, pars. 17-20.

Respondent's Motion for Reconsideration

In his *Motion*, respondent argues that the 90 days should be counted from the submission date of official receipts or invoices and other documents supporting the application for VAT refund. According to respondent, the 90 days should have been counted from June 25, 2019. Hence, respondent essentially argues that the filing of the Petition for Review is premature.

Petitioner counterargues that it submitted a Sworn Certification attesting to the completeness of documents in support of its administrative claim for refund on March 29, 2019; hence, the 90-day period was correctly counted by the Court from said date.

Other than the *Motion for Correction*, We find the instant Motions without merit.

Anent petitioner's sale of services to EDC, We maintain our ruling that such sales do not satisfy the requirement for valid zero-rating. Our finding remains unrebutted, *i.e.*, that the official receipt (OR) did not contain the nature of the services rendered by petitioner to EDC as required by Section 113(B)(3) of the NIRC of 1997, as amended.[5]

Petitioner implores this Court to refer to the Contract for Directional Drilling Works. However, this Court could not just plainly assume from petitioner's representation that its ORs issued to EDC arose out of the particular contract to the exclusion of all other services. Petitioner failed to convincingly establish a reasonable nexus that would connect the ORs it presented before the Court and the said Contract for Directional Drilling Works.

Anent the Court's disallowance of ₱3,174,338 of input VAT on the importation of goods wherein the importer of the shipment is not under the petitioner's name, petitioner explains that the foregoing importations were sufficiently supported by the Bureau of Customs (BOC) SSDT issued under the name of its broker, Supply Oilfield Services, Inc., and also

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[5] "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: ... ...
(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; ...

by the Certification[6] issued by the latter stating that that the shipments thereon are duly owned by petitioner.

The Court is not convinced.

Regardless of the Certification issued by Supply Oilfield Services, Inc. on the matter, the fact remains that the importer stated in the subject SSDTs was Supply Oilfield Services, Inc., and not petitioner. There was no indication in the said SSDTs that the former was merely acting as a broker for petitioner. The said Certification, issued by Mr. Erwin Nazario S. Sanchez, Logistic Supervisor of Newrest SOS, could not be given probative value since the latter did not testify during trial on the contents of the said Certification. By failing to do so, the Court has no way to ascertain the *truthfulness and veracity* of the statement made thereon by Mr. Sanchez.

For the said reasons, the Court has no recourse but to sustain the disallowance of the input VAT on the importation of goods other than capital goods in the amount of ₱3,174,338.00.

Anent the Court's disallowance of ₱68,621.88 of input VAT on domestic purchase of goods wherein petitioner's TIN is not indicated in the invoice, petitioner maintains that contrary to the findings of the Court, perusal of Exhibits "P-108" to "P-118" would show that the invoices issued to it duly reflect petitioner's TIN 266-369-565-000. Petitioner seeks that the Court revisits its findings that petitioner's TIN is not indicated in the invoices covered by the said exhibits, to wit:

1. Input VAT on domestic purchases of goods other than capital goods wherein petitioner's TIN is not indicated in the invoice.		
P-108	Fervid International Products, Inc.	₱ 6,090.43
P-109	Fervid International Products, Inc.	6,116.14
P-110	Fervid International Products, Inc.	5,789.49
P-111	Fervid International Products, Inc.	5,815.20
P-112	Fervid International Products, Inc.	9,302.75
P-113	Fervid International Products, Inc.	12,475.55
P-114	Fervid International Products, Inc.	3,572.76
P-115	Fervid International Products, Inc.	4,754.26
P-116	Fervid International Products, Inc.	3,572.76

6 Exhibit "P-845".

P-117	Fervid International Products, Inc.	5,566.27
P-118	Fervid International Products, Inc.	5,566.27
	Subtotal	₱ 68,621.88

However, after taking a second look at Exhibits "P-108" to "P-118", the Court notes that only Fervid International Product's Inc.'s (petitioner's supplier) "VAT REG. TIN-001-860-277-000" can be found on the top portion of the invoices covered by the said exhibits, while petitioner's TIN No. 266-369-565-000 is nowhere to be found. Consequently, the disallowance of input VAT on domestic purchases of goods other than capital goods, in the amount of ₱68,621.88, is sustained.

In fine, this Court finds no reason to reconsider the disallowance of input taxes due to petitioner's failure to meet the invoicing and substantiation requirements prescribed by law and its implementing rules.

On the other hand, respondent assails the Court's reckoning of the 90 days to decide on petitioner's administrative VAT refund claim.

Section 112(C) of the NIRC of 1997, as amended, clearly states that the 90-day period is counted "from the date of submission of the official receipts or invoices and other documents in support of the application."

The Supreme Court, in *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue,*[7] ruled that for purposes of determining when the supporting documents have been completed — it is the taxpayer who ultimately determines when complete documents have been submitted for the purpose of commencing and continuing the running of the 90-day period. Accordingly, that period cannot be dictated by respondent by simply requesting additional documents.

The ruling in *Pilipinas Total Gas* was modified with the issuance of Revenue Memorandum Circular (RMC) No. 54-

[7] G.R. No. 207112, December 8, 2015.

2014[8] and, as applied to TRAIN Law,[9] RMC No. 17-2018.[10] With this, by respondent's subsequent issuance, the reckoning date of the 90-day period is made more explicit:

> "III. Time frame to process claims for VAT claims under Sections 112 (A) and (B) of the Tax Code, as amended further by R.A. No. 10963
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> 1. **<u>The 90-day period prescribed under Section 112 (C) of the Tax Code, as amended, shall start from the actual date of filing of the application with complete documents duly received by the processing office</u>**.
>
> 2. The 90-day period shall be applied prospectively, i.e., for claims filed upon the effectivity of R.A. No. 10963.
>
> ... ...
>
> IV. Documents to be submitted by the taxpayer/claimant upon filing of the application for VAT refund:
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> 1. The application must be accompanied by complete supporting documents enumerated in the Revised Checklist of 'Mandatory Requirements (Annex 'A.1') for claims filed pursuant to Sec. 112 (A) of the Tax Code, as amended, or Checklist of Documentary Requirements (Annex 'A.2') for claims filed under Sec. 112 (B) of the same Tax Code.
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> 2. **<u>The taxpayer-claimant shall also attach a notarized sworn certification (Annex 'B') attesting to the completeness and veracity of the documents submitted</u>**. Accordingly, the claim shall be processed based on the documents submitted, as well as the books of accounts and accounting records, presented by the taxpayer-claimant.
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> 3. Failure on the part of the taxpayer-claimant to submit the relevant vital document/s in support of his/its claim upon filing of the application shall result to non-acceptance of the application, and failure to present the books of accounts and accounting records relevant to the claim is a ground for its denial." [Emphases supplied.]

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[8] Clarifying Issues Relative to the Application for Value Added Tax (VAT) Refund/Credit, June 11, 2014.
[9] Republic Act No. 10963, amending the Tax Code, otherwise known as the "Tax Reform for Acceleration and Inclusion Law."
[10] Amending RMC No. 89-2017 and Certain Provisions of RMC No. 54-2014 on Processing of Claims for Issuance of Tax Refund/TCC in Relation to Amendments Made in NIRC of 1997, as Amended by RA No. 10963, February 27, 2018.

With the above issuances, the prevailing rule now is that all complete documents are to be submitted upon the filing of the taxpayer's administrative claim for refund.[11] Consequently, the 90-day period begins to run from such filing.

To reiterate, petitioner filed with RDO No. 53B its administrative claim for a refund or tax credit on March 29, 2019.[12] Respondent had 90 days, or until June 27, 2019, to act on petitioner's claim. In case of inaction within the said 90-day period, petitioner had 30 days from June 27, 2019, or until July 27, 2019, to file an appeal before this Court. Petitioner timely filed its *Petition of Review* on July 26, 2019.[13]

Finally, We find merit in petitioner's Motion for Correction, which respondent did not contest.

A careful reading of Section 112 (A) of the NIRC of 1997, as amended, would show that it allows *either* a cash refund or a tax credit for input VAT on zero-rated or effectively zero-rated sales.[14] Considering that petitioner, indeed, prayed for the refund of its unutilized input taxes for the 1st, 2nd, 3rd, and 4th quarters of CY 2017 attributable to zero-rated sales in its Petition for Review, and there being no objection from respondent, it is only fitting that the Court grant the amendment of the dispositive portion of the Decision dated July 26, 2023, to reflect the partial grant of **refund**, instead of tax credit, in the amount of ₱7,669,580.19.

WHEREFORE, premises considered, respondent's *Motion for Reconsideration (Decision of July 26, 2023)* is hereby **DENIED**. Petitioner's *Motion for Partial Reconsideration and Correction (Re: Decision dated July 26, 2023)* is **PARTIALLY GRANTED**.

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[11] *Zuellig-Pharma Asia Pacific Ltd. Phils. ROHQ v. Commissioner of Internal Revenue*, G.R. No. 244154, July 15, 2020.
[12] Exhibit "P-25", Application for Tax Credits/Refunds (BIR Form 1914), Docket, Vol. I, p. 466.
[13] Docket – Vol. I, pp. 12-23.
[14] "**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: xxx." *(Emphasis supplied)*

Accordingly, the dispositive portion of the *Decision* dated July 26, 2023, is amended as follows:

> **WHEREFORE**, in light of the foregoing, the instant *Petition for Review* is **PARTIALLY GRANTED**.
>
> Accordingly, respondent is **ORDERED** to **refund** in favor of petitioner in the additional amount of Seven Million Six Hundred Sixty-Nine Thousand Five Hundred and Eighty Pesos and Nineteen Centavos (₱7,669,580.19), representing petitioner's unutilized input VAT attributable to its zero-rated receipts for the 1st, 2nd, 3rd and 4th quarters of CY 2017.
>
> **SO ORDERED**.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Special 2nd Division Acting Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Special Second Division Acting Chairperson's Attestation, it is hereby certified that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice