REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

DEUTSCHE KNOWLEDGE SERVICES PTE, LTD.,
Respondent.

CTA *EB* NO. 2641
(CTA Case No. 9227)

x---x

DEUTSCHE KNOWLEDGE SERVICES PTE, LTD.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA *EB* NO. 2644
(CTA Case No. 9227)

Present:

DEL ROSARIO, P.J.,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
FEB 27 2024 4:00 pm

x --- x

RESOLUTION

MODESTO-SAN PEDRO, J.:

For the Court's resolution are (a) the Commissioner of Internal Revenue's ("CIR") "Motion for Partial Reconsideration (Re: Decision dated 04 October 2023)" ("CIR's Motion"), filed on 23 October 2023, with Deutsche Knowledge Services Pte., Ltd.'s ("Deutsche") "Comment (Re: Motion for Partial Reconsideration dated October 20, 2023)", filed on 15 November 2023; and (b) Deutsche's "Motion for Reconsideration (Re: Decision dated October 4, 2023)" ("Deutsche's Motion"), filed on 24 October 2023, with the CIR's "Comment (Re: Petitioner's Motion for Reconsideration dated 24 October 2023)", filed on 13 November 2023. Both assail this Court's Decision, dated 4 October 2023 ("Assailed Decision").

Both Motions must be denied.

The CIR's Motion

In his Motion, the CIR argues against the Assailed Decision on the following grounds:

(a) Deutsche failed to substantiate its administrative claim, which should be fatal to its judicial claim;
(b) Deutsche failed to prove that it performed its services in the Philippines;
(c) Deutsche failed to prove that its clients are non-resident foreign corporations doing business outside the Philippines; and
(d) Deutsche failed to prove that its alleged zero-rated sales were paid for in US Dollars and accounted for.

All of these fail to convince this Court *En Banc*.

First, the CIR's argument regarding Deutsche's alleged failure to substantiate its administrative claim is almost completely a mere rehash of an argument he raised in his Petition for Review before this Court *En Banc*. Most of it has already been found wanting in the Assailed Decision. His only addition to this already refuted contention is a passage quoted from the 2015 case of ***Pilipinas Total Gas v. Commissioner of Internal Revenue***.[1] He does not, however, show why this case should prevail over jurisprudence to the contrary. He does not show how this refutes the Supreme Court decisions cited in the Assailed Decision, such as ***Commissioner of Internal Revenue v. Philippine Bank of Communications***,[2] ***Commissioner of Internal Revenue v. Univation Motor Philippines, Inc.***,[3] ***Philippine Airlines, Inc. v. Commissioner of Internal Revenue***,[4] or ***Commissioner of Internal Revenue***

[1] G.R. No. 207112, 8 December 2015.
[2] G.R. No. 211348, 23 February 2022.
[3] G.R. No. 231581, 10 April 2019.
[4] G.R. Nos. 206079-80, 17 January 2018.

v. Philippine National Bank,[5] all but one of which are more recent than ***Pilipinas Total Gas***, and all of which clearly show that a taxpayer's failure to substantiate its administrative claim is not fatal to its judicial claim. Without such a proper refutation, Our conclusion still stands.

Second, the CIR's argument regarding Deutsche's alleged failure to prove that it does business in the Philippines is still too general to disprove the Court in Division's findings in its Decision, dated 18 November 2021. His claim that the testimony of Deutsche's witness is "self-serving" is by itself insufficient to undermine the Court in Division's acceptance of said testimony. Notably, the Court in Division based its position on jurisprudence: ***Bienvenido Yap v. The Solicitor General***,[6] ***People of the Philippines v. Elrosell Manzano y Brebonera***,[7] ***Philippine Phosphate Fertilizer Corporation v. Commissioner of Internal Revenue***,[8] and ***Southern Philippine Power Corporation v. Commissioner of Internal Revenue***.[9] The CIR is silent on these and on the specific conclusions drawn from them by the Court in Division. He thus fails to convincingly oppose said conclusions.

Third, the CIR's contention about Deutsche's clients is (a) a mere reiteration of his stance on administrative claims, which We have already rejected; and (b) a claim copied from the Court in Division's 18 November 2021 Decision, which, accordingly, invites no changes to the Assailed Decision. We thus need not comment on it any further.

Fourth, his argument on Deutsche's zero-rated sales is trussed on (a) a claim that electronic print-outs of inward remittances are insufficient as proof; and (b) a claim that the Independent Certified Public Accountant ("ICPA") failed to comply with relevant rules and regulations. Both claims are easily dismissed, however.

His claim regarding electronic print-outs is just that: a claim. He does not provide rational and considered reasoning, relevant jurisprudence, or clear statements of law to support it. It thus remains a bare claim, rather than a full-bodied argument substantial enough to challenge Our ruling.

Meanwhile, the accusation he levels against the ICPA is, again, overly general. He invokes the checklist of requirements included in Revenue Memorandum Circular No. 54-2014, documents, and computation, but he does not identify specific items in said checklist ignored by the ICPA, or specific documents that should not have been allowed, or specific

---

[5] G.R. No. 180290, 29 September 2014.
[6] G.R. No. L-1602, 8 September 1942.
[7] G.R. No. 138303, 26 November 2001.
[8] G.R. No. 141973, 28 June 2005.
[9] G.R. No. 179632, 19 October 2011.

computations that should be revised, or the precise effect these would ultimately have on the amount refundable to Deutsche.

In short, the CIR's Motion fails to convince us of any error in the Assailed Decision.

Deutsche's Motion

Moving on to Deutsche's Motion, the same is also deficient in merit.

Its first claim is that the business registration documents it presented sufficiently show that its foreign clients are doing business outside the Philippines. But Our finding is precisely that said documents are insufficient for such purpose. Untranslated, they do not show that said clients are doing business outside the Philippines — they show this Court *nothing*. We cannot determine anything from reading these documents because We cannot even read them in the first place. Even if these were issued by "respective foreign government agencies", the fact remains that we cannot properly determine the details of said issuances. Accordingly, they hold no probative value before Us.

The rest of Deutsche's Motion amounts to an insistence that the principle of VAT neutrality should be applied to its case. However, this insistence is once again bereft of any justification. While it provides an outline of said principle, it does not provide any proof or argumentations that show that such *general* principle should be applied to its *specific* case. It holds that the principle should obsolete the need to submit translated documents by simply assuming that it substantially proved its claim, when that is exactly what is at question here. It contends that the Court violated the principle when We invoked certain requirements regarding the Official Receipts it presented, without explaining how said requirements constitute a violation of VAT neutrality by being "biased" or "partial".

From a quotation of international guidelines included in the Motion itself, the principle of VAT neutrality is meant to combat *undue* tax burdens and *disproportionate* or *inappropriate* compliance costs. Note the inclusion of qualifiers here: the principle does not justify the elimination of *all* tax burdens, *all* compliance costs, or *all* related substantial requirements. Deutsche's utilization of the principle would have thus had some purchase had it tried to explain how, say, the requirement that proof be understandable by a court is "biased", "undue", or "inappropriate", rather than proceeding as if this was *prima facie* the case. Absent such explanation, there is nothing to convince this Court *En Banc* that Deutsche's use of the principle is itself unbiased and appropriate for the case at bar.

In sum, both Motions fail to identify any actual error in the Assailed Decision.

WHEREFORE, both the CIR's Motion for Partial Reconsideration (Re: Decision dated 04 October 2023) and Deutsche's Motion for Reconsideration (Re: Decision dated October 4, 2023) are hereby **DENIED** for lack of merit. The Decision, dated 4 October 2023, is hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice