REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

GALILEO ASIA, LLC- PHILIPPINE BRANCH,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8868

Members:

DEL ROSARIO, *Chairperson,*
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

JUN 06 2017 : 3:42 pm

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RESOLUTION

MINDARO-GRULLA, J.:

For resolution is respondent's **Motion for Reconsideration (Of the Decision dated 18 January 2017)**, filed through registered mail on February 2, 2017 and received by the Court on February 15, 2017, with petitioner's **Comment (To Respondent's Motion for Reconsideration dated 2 February 2017)**, filed on March 6, 2017.

Petitioner seeks reconsideration of the Court's Decision dated January 18, 2017, the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, this Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in the amount of **₱344,532.18** in favor of petitioner, representing the latter's unutilized excess input VAT attributable to its

zero-rated sales of services for the period covering February 1, 2012 to December 31, 2012.

SO ORDERED."

In assailing the aforesaid Decision, respondent contends that a perusal of petitioner's Quarterly Value-Added Tax (VAT) Returns for taxable years (TYs) 2013 and 2014 would reveal that it has output tax due for each quarters, as broken down below:

Quarterly VAT Return	Output Tax Due
1st Quarter of TY 2013[1]	₱156,030.88
2nd Quarter of TY 2013[2]	133,452.20
3rd Quarter of TY 2013[3]	110,243.48
4th Quarter of TY 2013[4]	94,565.46
1st Quarter of TY 2014[5]	44,237.40
2nd Quarter of TY 2014[6]	755.36
3rd Quarter of TY 2014[7]	41,517.51
TOTAL:	**₱580,802.29**

Based on the first-in first-out (FIFO) method, petitioner's valid and excess input taxes in the amount of ₱344,532.18 will allegedly apply against its output taxes due for the four (4) quarters of TY 2013 and 1st, 2nd, and 3rd quarters of TY 2014 in the aggregate amount of ₱580,802.29. According to petitioner, it has no more input taxes to which it is entitled to as the same has been fully applied and credited against the output taxes due. Respondent points out that it is well-settled that claims for refunds are construed strictly against the claimant.

Petitioner opposes the instant motion on the ground that respondent did not present any evidence or basis for the latter's erroneous conclusion. Allegedly, there is nothing in the Tax Code, existing rules or regulations, and jurisprudence which states that the FIFO method should be used in determining whether a taxpayer is entitled to a tax refund or a tax credit certificate for unutilized input taxes.

[1] Exhibit P-64.3.
[2] Exhibit P-64.6.
[3] Exhibit P-64.9.
[4] Exhibit P-64.12.
[5] Exhibit P-65.3.
[6] Exhibit P-65.6.
[7] Exhibit P-65.9.

Petitioner points out that the Court's ruling find support in the records of petitioner, which show that the total input VAT for the period 1st Quarter of 2013 to 3rd Quarter of 2014 amounting to ₱13,201,299.82, without the excess input VAT of ₱344,532.18, was correctly applied against petitioner's output VAT of ₱580,802.29, covering the said period. Petitioner did not utilize its 2012 excess input VAT during the said period, *viz*:

PERIOD	INPUT TAX					F. Total Input Tax (B+C+D+E)	G. EXCESS INPUT TAX (A-F)
	A. OUTPUT TAX	B. Purchase of Capital Goods (not exceeding P1 million)	C. Purchase of Capital Goods (exceeding P1 million)	D. Domestic Purchase of Goods Other than Capital Goods	E. Domestic Purchase of Services		
1st Quarter - TY 2013[8]	₱156,030.88	₱52,194.64	₱-	₱40,028.30	₱1,025,645.00	₱1,117,867.94	₱(961,837.06)
2nd Quarter - TY 2013[9]	133,452.20	62,951.68	-	17,696.76	1,875,763.41	1,956,411.85	(1,822,959.65)
3rd Quarter - TY 2013[10]	110,243.48	51,787.50	278,041.07	8,207.82	2,229,093.39	2,567,129.78	(2,456,886.30)
4th Quarter - TY 2013[11]	94,565.46	27,653.57	-	9,338.22	2,183,197.15	2,220,188.94	(2,125,623.48)
1st Quarter - TY 2014[12]	44,237.40	1,655.36	141,977.14	5,008.81	1,373,780.10	1,522,421.41	(1,478,184.01)
2nd Quarter - TY 2014[13]	755.36	26,485.71	155,400.00	2,559.85	1,970,412.79	2,154,858.35	(2,154,102.99)
3rd Quarter - TY 2014[14]	41,517.51	96,005.36	30,120.00	5,716.74	1,530,579.45	1,662,421.55	(1,620,904.04)
TOTAL	**₱580,802.29**	**₱318,733.82**	**₱605,538.21**	**₱88,556.50**	**₱12,188,471.29**	**₱13,201,299.82**	**₱(12,620,497.53)**

The Court finds respondent's argument unmeritorious.

As correctly pointed out by petitioner, there is no factual or legal basis to support the use of the FIFO method in the application of accumulated unutilized input taxes to subsequent output tax liabilities.

Section 110(B) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended, provides:

"SEC. 110. **Tax Credits. –**

xxx xxx xxx

(B) *Excess Output or Input Tax.* — If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered

8 Exhibit P-64.3.
9 Exhibit P-64.6.
10 Exhibit P-64.9.
11 Exhibit P-64.12.
12 Exhibit P-65.3.
13 Exhibit P-65.6.
14 Exhibit P-65.9.

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> person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters: ***Provided, however*, That any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.**
>
> (C) *Determination of Creditable Input Tax.* — The sum of the excess input tax carried over from the preceding month or quarter and the input tax creditable to a VAT-registered person during the taxable month or quarter shall be reduced by the amount of claim for refund or tax credit for value-added tax and other adjustments, such as purchase returns or allowances and input tax attributable to exempt sale.
>
> The claim for tax credit referred to in the foregoing paragraph shall include not only those filed with the Bureau of Internal Revenue but also those filed with other government agencies such as the Board of Investments and the Bureau of Customs." (*Emphasis supplied*)

The foregoing provision of Section 110(B) allows the carry-over of the excess input VAT of a given quarter to the succeeding quarter(s) but it does not require that such excess input tax be applied first using the FIFO method. Likewise, it is clear from the afore-cited provision that any input tax attributable to zero-rated sales may be refunded or credited against other internal revenue taxes at the option of the taxpayer.

Section 110(C) of the NIRC of 1997, as amended, merely requires that the amount of input VAT being claimed for refund should be deducted from the accumulated input VAT as of the month or quarter when such claim was opted to be filed. The reason for the deduction is to assure that the claimed input VAT shall not be applied against any future output VAT liability.

Based on petitioner's records and as summarized in the table above, it is very clear that the current input taxes declared by petitioner for the 1st Quarter of 2013 until the 3rd Quarter of TY 2014 were more than enough to cover the respective output VAT liabilities in each period. Thus, the amount of ₱344,532.18 granted for refund

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or issuance of TCC could not have been possibly utilized until it was deducted as a "VAT Refund/TCC Claimed" in the November 2014 VAT Return.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration (of the Decision dated 18 January 2017)** is **DENIED** for lack of merit.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice