REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Third Division

WNS GLOBAL SERVICES PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8574

Members:

BAUTISTA, *Chairperson,*
FABON-VICTORINO, *and*
RINGPIS-LIBAN, *JJ.*

Promulgated:

MAR 2 6 2018 11:55 a.m.

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RESOLUTION

RINGPIS-LIBAN, *J.*:

For this Court's resolution is petitioner's **Motion for Reconsideration (Re: *Decision* dated 10 October 2017)**, filed on November 3, 2017, without respondent's comment despite notice as per Records Verification dated December 18, 2017.

Petitioner seeks reconsideration of the Court's Decision[1] dated October 10, 2017 (assailed Decision), the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND OR TO ISSUE A TAX CREDIT CERTIFICATE** in the amount of **₱457,445.55** in favor of petitioner, representing WPI's unutilized excess input VAT attributable to its zero-rated sales/receipts for the four quarters of fiscal year ending March 31, 2011.
>
> **SO ORDERED.**"[2]

[1] Docket, vol. 3, pp. 1537-1561.

Petitioner argues that a reconsideration of the assailed Decision is warranted based on the following grounds:

1. Petitioner complied with all the requirements under the laws and jurisprudence to allow it to refund or credit WNS Philippines, Inc.'s unutilized excess input VAT.

2. The Court erred in disallowing the claim for refund of the petitioner in the amount of ₱8,872,815.67 for the alleged non-compliance with the substantiation requirements under the NIRC and Revenue Regulation No. 16-2005; the fact being the non-compliance pertains to the supplier of goods and services of the petitioner in the issuance of their invoices and/or official receipts.

Petitioner's Motion for Reconsideration is bereft of merit.

Petitioner prayed for the refund or issuance of a tax credit certificate of its unutilized input VAT for fiscal year (FY) ending March 31, 2012 in the amount of ₱10,163,064.25. However, as found in the assailed Decision, petitioner was only able to prove its entitlement to the claim for refund of its unutilized input VAT attributed to its zero-rated sales for FY ending March 31, 2011 in the reduced amount of ₱457,445.55.

The Court disallowed ₱680,143.16 for not being properly substantiated by VAT invoices or receipts as prescribed under Sections 110(A), 113(A) and (B) of the National Internal Revenue Code (NIRC) of 1997, as amended, in relation to Sections 4.110-1, 4.110-8 and 4.113-1 of Revenue Regulations No. 16-05, as amended. Moreover, petitioner's input VAT claim in the amount of ₱8,872,815.67 was disallowed for noncompliance with the substantiation requirements under afore-mentioned law and regulations. Finally, out of petitioner's valid input VAT, only the input VAT of ₱457,445.55 is attributable to the valid zero-rated sales/receipts. Thus, petitioner was only able to comply with all the requirements under the laws and jurisprudence to allow the refund or credit of its unutilized excess input VAT in the amount of ₱457,445.55.

In this regard, the Court cannot give credence to petitioner's argument that its claim for refund or credit of WPI's unutilized excess input VAT on zero-rated sales was disallowed because of non-compliance of WPI's suppliers with the invoicing requirements required under the NIRC of 1997, as amended and RR No. 16-2005.

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[2] Docket, vol. 3, p. 1560.

Petitioner contends that the alleged non-compliance pertains to information in the invoices/official receipts issued by petitioner's suppliers on its domestic purchase of goods and services. Petitioner argues that it should not be penalized, in the form of disallowance of its claim for refund or credit of input VAT, for the non-compliance of its suppliers on the invoicing requirements required under the law and rules.

In the case of *Microsoft Philippines, Inc. vs. Commissioner of Internal Revenue*[3], the Supreme Court held that the taxpayer claiming a VAT input tax credit or refund has the burden of proving that he is entitled to the refund or credit by submitting evidence that he has complied with the requirements laid down in the tax code and the BIR's revenue regulations under which such privilege of credit or refund is accorded. The invoicing requirements for a VAT-registered taxpayer as provided in the NIRC and revenue regulations are clear. A VAT-registered taxpayer is required to comply with all the VAT invoicing requirements to be able to file for a claim for input taxes on domestic purchases for goods or services attributable to zero-related sales.

Accordingly, invoices or receipts must have all the information required under RR No. 16-2005, as amended, including the complete name, TIN, and address of the purchaser, otherwise these will be disallowed for non-compliance with the invoicing requirements. Nevertheless, taxpayers who have non-compliant invoices or receipts can request their suppliers to indicate the required information.

In the case of *Coral Bay Nickel Corporation vs. Commissioner of Internal Revenue*[4], the Court *En Banc*, in affirming the findings of the Court in Division, held that petitioner had the right to request its supplier to issue a compliant receipt/invoice.

Thus, petitioner could have asked its suppliers to issue compliant receipts/invoices. Petitioner could have requested them to insert or add the required information in the receipts/invoices to make them compliant and to thereafter check whether the insertions/alterations were properly validated or countersigned by the authorized signatory.[5]

It is axiomatic that a claimant has the burden of proof to establish the factual basis of his or her claim for tax credit or refund. Tax refunds, like tax exemptions, are construed strictly against the taxpayer.[6] Hence, an applicant for a claim for tax refund or tax credit must not only prove entitlement to the

[3] G.R. No. 180173, April 6, 2011.
[4] CTA *EB* Nos. 1269 and 1270, June 29, 2016.
[5] *Coral Bay Nickel Corporation vs. Commissioner of Internal Revenue*, CTA *EB* Nos. 1269 and 1270, June 29, 2016.
[6] *Commissioner of Internal Revenue vs. Bank of the Philippines Islands*, G.R. No. 178490, July 7, 2009.

claim but also compliance with all the documentary and evidentiary requirements.[7]

Considering the foregoing, the Court finds no cogent reason to reverse or modify the assailed Decision promulgated on October 10, 2017.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration (Re: *Decision* dated 10 October 2017)** is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

[7] *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.