REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

FILMINERA RESOURCES CORPORATION, *Petitioner,* - *versus* - **COMMISSIONER OF INTERNAL REVENUE,** *Respondent.*	**CTA CASE NO. 8802**
FILMINERA RESOURCES CORPORATION, *Petitioner,* - *versus* - **COMMISSIONER OF INTERNAL REVENUE,** *Respondent.*	**CTA CASE NO. 8842** Members: ***Bautista,*** *Chairperson* ***Fabon-Victorino,*** *and* ***Ringpis-Liban, JJ.*** Promulgated: APR 19 2017 3:52 p.m.

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R E S O L U T I O N

BAUTISTA, J:

For resolution are:

1. Petitioner's Omnibus Motion (For Partial Reconsideration and to Reopen Trial) filed by registered mail on February 3, 2017, without respondent's comment despite due notice; and

2. Respondent's Motion for Reconsideration (Re: Decision Promulgated On January 11, 2017) filed on February 6, 2017, with

petitioner's Comment (Re: Motion for Reconsideration dated February 6, 2017) filed on March 27, 2017.

On January 11, 2017, the Court rendered a Decision, the dispositive portion of which reads as follows:

> **WHEREFORE,** premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED.** Respondent Commissioner of Internal Revenue is hereby **ORDERED TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner Filminera Resources Corporation in the reduced amount of **SIXTY FIVE MILLION FOUR HUNDRED FIFTY-FIVE THOUSAND FIVE HUNDRED TWENTY-TWO AND 58/100 PESOS (PHP65,455,522.58).**
>
> **SO ORDERED.**[1]

The Court found that both the administrative and the judicial claims for refund were filed on time; and that the Court of Tax Appeals ("CTA") is not barred from receiving, evaluating, and appreciating evidence submitted before it.

It likewise held that petitioner is entitled to the issuance of a tax credit certificate ("TCC"), albeit at the reduced amounts of Php44,241,255.30 [for the second quarter of financial year ("FY") ending June 30, 2012] and Php21,214,297.28 (for the third quarter of FY ending June 30, 2012), as claims for refund arising from its unutilized input value-added tax ("VAT") from zero-rated transactions.

In petitioner's Omnibus Motion (For Partial Reconsideration and to Reopen Trial), it avers that the supplier's failure to indicate the nature of service in the official receipt ("OR") does not mitigate the fact that petitioner paid input VAT on its purchase; that the lack of signature of the authorized representative of the supplier in the ORs submitted does not invalidate the ORs; that the error of petitioner's supplier in issuing a Taxpayer's Identification Number ("TIN")-V OR does not invalidate petitioner's claim for refund of excess input VAT; and that the Independent Certified Public Accountant ("ICPA") verified and confirmed that the purchase of services from Bradley Drilling Incorporated is properly substantiated by OR No. 1590. Hence, it prays for the Court to partially reconsider the Decision

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[1] Emphases retained.

insofar as it disallowed input VAT in the amount of Php60,298,076.71; to set a commissioner's hearing for the comparison of the original OR No. 15990 with the attached photocopy; and to issue an amended decision ordering respondent to refund or to issue a TCC in favor of petitioner in the amount of Php125,801,786.85; or alternatively, to order the re-opening of trial to allow petitioner to present its supplemental evidence.

In respondent's Motion for Reconsideration (Re: Decision Promulgated On January 11, 2017), he argues that the Court has no jurisdiction over applications for tax refund that did not satisfy the statutory and administrative requirement provided in the *1997 National Internal Revenue Code, as amended ("1997 NIRC")*; and that the determination of the amount of tax credit to be issued should be based on the supporting documents submitted in petitioner's application for refund.

On February 13, 2017, the Court ordered the parties to file their respective comments to the other's Motions within ten (10) days from notice. Records reveal that respondent received the Resolution on February 16, 2017. Hence, respondent had until February 27[2], 2017 to file his comment.

On March 6, 2017, petitioner filed its Motion for Extension of Time to File Comment, which was granted by the Court in a Resolution dated March 24, 2017, giving petitioner an extension of until March 21, 2017 to file its comment. On even date, the Judicial Records Division issued a Records Verification Report stating that respondent failed to file his comment.

On March 21, 2017, petitioner filed another Motion for Extension of Time to File Comment, which was granted by the Court in a Resolution dated March 29, 2017, giving petitioner a final and non-extendable period of ten (10) days or until March 31, 2017 to file its comment.

On March 27, 2017, petitioner filed its Comment (Re: Motion for Reconsideration dated February 6, 2017) averring that it submitted complete documents in support of its administrative claim for refund;

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2 February 26, 2017 fell on a Sunday.

and that judicial claims for refund should be decided on the basis of documents offered in evidence.

The Court finds no merit in the parties' Motions for Reconsideration.

As to the requirement that the nature of service be indicated in the VAT ORs and invoices, the Court requires compliance with *Section 113 of the 1997 NIRC* on Invoicing and Accounting Requirements for VAT-registered persons for those claiming for VAT refund, to wit:

> SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* -
>
> xxx xxx xxx
>
> (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:
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> xxx xxx xxx
>
> (1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
>
> xxx xxx xxx
>
> (3) The date of transaction, quantity, unit cost and description of goods or properties or nature of service; and xxx[3]

Likewise, *Section 4.108-1 of Revenue Regulations No. 7-95* provides the following:

> SEC. 4.108-1. *Invoicing Requirements.* -
>
> All VAT-registered persons shall, for every sale or lease of goods or properties or services, issue duly registered receipts or sales or commercial invoices which must show:
>
> 1. the name, TIN, and address of seller;

[3] Underscoring ours.

2. date of transaction;
3. quantity, unit cost and description of merchandise or nature of service;[4]
4. the name, TIN, business style, if any, and address of the VAT-registered purchaser, customer or client;
5. the word 'zero-rated' imprinted on the invoice covering zero-rated sales, and;
6. the invoice value or consideration.[5]

Tax refunds, being in the nature of tax exemptions, are construed *strictissimi juris* against the taxpayer and liberally in favor of the Government. Accordingly, it is a claimant's burden to prove the factual basis of a claim for refund or tax credit.

In this case, petitioner failed to discharge this burden. For an entity like petitioner, whose sales are zero-rated and regularly claims for VAT refund, the responsibility falls upon it to check whether the ORs and the invoices issued by its suppliers complied with the invoicing requirements. If not, as suggested by petitioner, it must request the supplier to amend the documents in order to comply with the invoicing requirements immediately before these documents are presented as evidence for refund purposes. The same goes for the error of petitioner's supplier in issuing a TIN-V OR.

The Court likewise does not agree with petitioner's claim that it has sufficiently complied with the invoicing requirements despite the lack of signatures or counter-signatures of the authorized representatives of the suppliers in the ORs submitted.

The format of every single OR and invoice has a portion for an "authorized signature." Its purpose is to authenticate and to bind the individual signing it on the correctness of the information. It signifies the commitment of the person signing that the details stated therein are true and correct. The Court examines the validity of the evidence presented based on the face of the documents. In this regard, compliance with invoicing requirements is strictly implemented and that includes signatures to give assurance on the regularity of the documents.

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[4] Underscoring ours.
[5] Underscoring ours.

With regard to petitioner's claim that the ICPA verified and confirmed that the purchase of service from Bradley Drilling Incorporated is properly substantiated by OR No. 1590, the Court finds the need to stress that the Court is not bound by the findings of the ICPA. The ICPA Report is a mere tool or guide to aid the Court in the resolution of the case, hence, the determination of the merit or the probative value of such Report is still within the province of the Court. The Court is free to adopt or disregard, completely or partially, the findings of the ICPA. It can even make its own audit and evaluation of the documents pertinent to the case presented during the trial in order to intelligently resolve the conflict brought before it. Moreover, it is petitioner's obligation to ensure and double check the evidence it presents. Accordingly, the Court finds no basis for petitioner's Omnibus Motion to Re-Open Trial for the presentation and reception of additional evidence on the basis that the Court has already given petitioner sufficient time to present evidence as it deems adequate to substantiate a claim for refund.

As to respondent's arguments, the Court finds that these have been sufficiently passed upon and discussed in the Decision of the Court dated January 11, 2017.

WHEREFORE, petitioner's Omnibus Motion (For Partial Reconsideration and to Reopen Trial) and respondent's Motion for Reconsideration (Re: Decision Promulgated On January 11, 2017) are hereby **DENIED** for lack of merit.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice