REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

FOUNDEVER PHILIPPINES CORPORATION (formerly SITEL PHILIPPINES CORPORATION), Petitioner,	**CTA EB NO. 2710** (CTA Case No. 10012)
- versus -	Members: **DEL ROSARIO,** *P.J.* **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondents.	Promulgated: JAN 17 2025

x - x

RESOLUTION

FERRER-FLORES, J.:

For resolution is petitioner's **Motion for Reconsideration (of the Decision dated June 25, 2024)** filed on July 12, 2024, with respondent's **Comment/Opposition** filed on September 4, 2024.

Petitioner seeks the reversal of this Court's *Decision* dated June 25, 2024 (assailed Decision), which denied its *Petition for Review* and affirmed the Decision and Resolution of the Court in Division in CTA Case No. 10012.

In its *Motion*, petitioner claims that the Court erred in ruling that its Palawan Site must be separately registered for purposes of the instant claim for input tax refund. Petitioner contends that the zero-rated sale of services rendered to non-resident foreign affiliate of petitioner in all sites, including that in the Palawan Site, are recognized, recorded and reported by petitioner, which is a registered as a value-added tax (VAT) taxpayer. It avers that its Palawan Site and the head office are one and the same legal entity. The facility merely acts as an agent of the head office, and it does not and cannot act on its own without the instructions of the head office.

Petitioner also posits that the Palawan Site was correctly registered as a facility. Even assuming for the sake of argument that it should have been registered as a branch, petitioner maintains that the rules and regulations of the Bureau of Internal Revenue (BIR) will not permit the branch registration without the need for petitioner to change or modify its business activities or arrangements in its sites. According to petitioner, the Palawan Site is not independent of the head office as it merely houses its contact center agents for purposes of undertaking the call center operations and does not have its own accounting system and has no separate books of accounts. It only acts as a cost-center facility or a place of production where services are generated. All transactions, recordings, documentations and issuances of receipts, whether principal or supplementary, are done by petitioner in the head office.

Petitioner also argues that the law does not distinguish as to where the zero-rated sale of service must be performed; thus, as long as it is performed in the Philippines, the claimant should be entitled to refund. Finally, petitioner maintains that Section 236(G), now 236(F), of the National Internal Revenue Code (NIRC) of 1997, as amended, which requires registration with the Revenue District Office (RDO) that has jurisdiction over the branch, is not relevant to the instant case considering that the Palawan Site in itself is not engaged in any sale of service.

On the other hand, respondent reiterates that petitioner is not entitled to the claim of input VAT refund as the Palawan Site, which generated the zero-rated sales, was registered only as a facility, thus, will merit the denial of the claim.

Petitioner's *Motion* is bereft of merit.

A reading of petitioner's motion shows that the arguments therein are a mere rehash of the same arguments it raised in the instant *Petition for Review* which this Court had already exhaustively discussed in the assailed Decision. Nevertheless, the Court shall briefly address petitioner's arguments.

It must be emphasized that the crux of the matter in the instant case is the non-registration of petitioner's Palawan Site, where said zero-rated sales of service were generated, for it to be allowed refund of input VAT. The Court in Division and this Court found that the Palawan site was only registered as a facility only on August 9, 2017; whereas the zero-rated sales were generated from services rendered in the 3rd quarter of taxable year 2016.[1] Undoubtedly, the Palawan Site was not yet registered during the period of the subject claim for refund.

As aptly discussed in the assailed Decision, Section 236(G)[2] of the NIRC of 1997, as amended, in relation to Revenue Regulations (RR) No. 07-12[3] requires a taxpayer to register as VAT person once it reaches the gross sales or gross receipts threshold of ₱1,919,500.00 earned by its head office or branch.[4] Clearly, even if properly recorded, reported and recognized by the

---

[1] Assailed Decision dated June 25, 2024, *Rollo*, p. 22.

[2] SEC. 236. Registration Requirements. —

xxx xxx xxx

(G) Persons Required to Register for Value-Added Tax. —

(1) Any person who, in the course of trade or business, sells, barters or exchanges goods or properties, or engages in the sale or exchange of services, shall be liable to register for value-added tax if:

(a) His gross sales or receipts for the past twelve (12) months, other than those that are exempt under Section 109(A) to (U), have exceeded One million five hundred thousand (P1,500,000); or

(b) There are reasonable grounds to believe that his gross sales or receipts for the next twelve (12) months, other than those that are exempt under Section 109(A) to (U), will exceed One million five hundred thousand pesos (P1,500,000).

(2) **Every person who becomes liable to be registered under paragraph (1) of this Subsection shall register with the Revenue District Office which has jurisdiction over the head office or branch of that person**, and shall pay the annual registration fee prescribed in Subsection (B) hereof. **If he fails to register, he shall be liable to pay the tax under Title IV as if he were a VAT-registered person, but without the benefit of input tax credits for the period in which he was not properly registered.** (Boldfacing and underlining supplied)

[3] SUBJECT: Amended Consolidated Revenue Regulations on Primary Registration, Updates, And Cancellation.

[4] SECTION 9. Requirement for the Registration of Each Type of Internal Revenue Tax. — Every person, who is required to register with the BIR under Section 4 of these Regulations, shall register each type of internal revenue tax for which he/it is obligated to file a return or pay taxes due thereon. Such person shall update the BIR for any changes in his/its registration information in accordance with Section 11 hereof.

xxx xxx xxx

For purposes of determining the proper tax type (i.e., whether VAT or other percentage taxes) based on the nature of the business activity of the taxpayer, the following rules shall apply:

i. VAT Registration, in General. — Any person who, in the course of trade or business, sells, barters, exchanges goods or properties, or engages in the sale of services subject to VAT imposed in Sections 106 and 108 of the Code, as amended, shall register the VAT tax type with the BIR district office having jurisdiction over the HO.

ii. Mandatory VAT Registration. — Any person who, in the course of trade or business, sells, barters or exchanges goods or properties or engages in the sale or exchange of services shall be liable to register the VAT tax type if:

head office, considering that the zero-rated sale of service was generated by petitioner in its Palawan Site, the latter must be registered as a branch as it is a facility with sales activity, pursuant to Section 3 of RR No. 07-12, viz:

> SECTION 3. Definition of Terms. — For purposes of these Regulations, the following words and/or phrases shall be defined as follows:
>
> xxx xxx xxx
>
> 7. ***"Branch"*** — means a separate or distinct establishment or place of business where sales transactions are conducted independently from the HO. For purposes of these Regulations, branch shall include the following:
>
> i. Sales outlet or establishment situated in another location/address other than at the HO;
>
> **ii. Facility with sales activity;**
>
> xxx xxx xxx
>
> 8. "Facility" — may include but not limited to place of production, showroom, warehouse, storage place, garage, bus terminal, or real property for lease with no sales activity. **A facility shall be registered as a branch whenever sales transactions/activities are conducted thereat.** Registration of the "Facility" with no sales activity is not subject to payment of Annual Registration Fee (ARF). (Boldfacing supplied)

Moreover, the Court cannot subscribe to petitioner's allegation that its Palawan Site had been properly registered as a facility because it cannot be considered a branch and does not conduct transaction independently from the head office. Also, for petitioner, the generation of services does not equate to the sale thereof as all the business of petitioner are transacted at the head office. Nonetheless, the Court already held in the assailed Decision that even

---

1) **His gross sales or receipts for the past twelve (12) months, other than those that are exempt under Section 109 (1) (A) to (U) of the Code, as amended, have exceeded One Million Nine Hundred Nineteen Thousand Five Hundred Pesos (P1,919,500.00)**; or

2) There are reasonable grounds to believe that **his gross sales or receipts for the next twelve (12) months, other than those that are exempt under Section 109 (1) (A) to (U) of the Code, as amended, will exceed One Million Nine Hundred Nineteen Thousand Five Hundred Pesos (P1,919,500.00).**

Every person who becomes liable to VAT under paragraph (ii) of this Section shall register with the BIR district office which has jurisdiction over his HO. If he fails to register, he shall be liable to pay the output tax under Sections 106 and/or 108 of the Code, as amended, as if he were a VAT-registered person, but without the benefit of input tax credits for the period in which he was not properly registered. (Boldfacing supplied) if the Palawan Site does not issue invoices, it is still considered a branch because it is directly involved in the production or operation of its main office; and, thus, must be registered with the BIR.

As registration as a VAT taxpayer is a requirement for purposes of the claim for refund of input taxes, failure of petitioner to comply merits the denial of its claim.

In sum, there being no new issues or substantial arguments raised in the instant *Motion*, this Court finds no compelling reason to disturb or overturn the assailed *Decision* or rediscuss our ruling therein.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration (of the Decision dated June 25, 2024)** is hereby **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
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

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice