REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

PHILEX MINING CORPORATION,
Respondent.

CTA EB No. 1168
(CTA Case No. 8371)

Present:

Del Rosario, P.J.,
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Cotangco-Manalastas, and
Ringpis-Liban, JJ.

Promulgated:

JUN 19 2015
2:45 p.m.

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DECISION

CASTAÑEDA, JR., J.:

This is a petition for review filed with the Court *en banc* on May 23, 2014 by petitioner Commissioner of Internal Revenue, seeking that the assailed Decision[1] dated November 12, 2013 and Amended Decision[2] dated April 15, 2014, be reversed and set aside.

The dispositive portion of the Decision dated November 12, 2013 reads, as follows:

[1] Penned by Associate Justice Esperanza R. Fabon-Victorino and concurred by Associate Justice Erlinda P. Uy of the Special First Division; Docket, pp. 168-193.
[2] Penned by Associate Justice Esperanza R. Fabon-Victorino and concurred by Associate Justice Erlinda P. Uy of the Special First Division; Docket, pp. 227-235.

> "**WHEREFORE,** this Petition for Review is **PARTIALLY GRANTED.** Accordingly, respondent Commissioner of Internal Revenue is hereby **DIRECTED TO REFUND** petitioner Philex Mining Corporation the amount of P36,650,834.57, representing the latter's unutilized excess input VAT attributable to zero-rated sales for the 3rd quarter of 2009.
>
> **SO ORDERED.**"

On the other hand, the dispositive portion of the Amended Decision dated April 15, 2014, reads as follows:

> "**WHEREFORE,** respondent's Motion for Reconsideration dated December 20, 2013 is hereby **DENIED,** for lack of merit.
>
> On the other hand, petitioner's Motion for Partial Reconsideration is **GRANTED.** Accordingly, the assailed Decision of November 12, 2013 is hereby **MODIFIED** as follows:
>
> > **WHEREFORE,** this Petition for Review is **PARTIALLY GRANTED.** Accordingly, respondent Commissioner of Internal Revenue is hereby **DIRECTED TO REFUND** petitioner Philex Mining Corporation the amount of P37,379,000.22, representing the latter's unutilized excess input VAT attributable to zero-rated sales for the 3rd quarter of 2009.
> >
> > **SO ORDERED.**
>
> **SO ORDERED.**"

STATEMENT OF FACTS

Culled from the records are the following facts found by the Court in Division:

> "Petitioner (now respondent), a duly organized domestic corporation with principal office at 27 Brixton Street, Pasig City, is engaged in the mining business, which includes exploration and operation of mine properties and commercial production and marketing of mine products. gr

As VAT-registered entity, petitioner was issued Registration Certificate No. 35-6-000731 effective October 29, 1987. It likewise has a duly approved Application for Zero Rate effective April 12, 1988.

Respondent, on the other hand, is the Commissioner of the Internal Revenue (CIR), with authority among others to grant refund or tax credit of taxes erroneously or illegally collected. She holds office at the Bureau of Internal Revenue, National Office Building, Diliman, Quezon City.

On March 11, 2004, petitioner entered into a "Long Term Gold and Copper Concentrates Sales Agreement" with Pan Pacific Copper Co., Ltd. of Tokyo, Japan, for the sale of its copper concentrates starting April 1, 2004. On August 16, 2007, petitioner entered into a similar contract with Louis Dreyfus Commodities Metals Suisse SA, a Swiss company, for the sale of its copper concentrates.

Petitioner claims that it made several shipments of mineral products to its foreign buyers during the 3rd quarter of 2009 with a total sales of US$71,556,185.00.

On October 21, 2009 petitioner filed its original or tentative VAT return for the 3rd Quarter of 2009. On May 18, 2011, it filed an amended VAT return reflecting a total zero-rated sales of P3,444,737,285.82, importation of goods of P196,911,750.00 with input tax of P23,629,410.00, and purchases of services of P156,020,402.42 with input tax of P18,722,448.29.

On June 15, 2011, petitioner filed an administrative claim for refund with the One-Stop-Shop Center of the Department of Finance (DOF) in the amount of P42,351,858.29, allegedly representing excess input tax for the 3rd quarter of 2009.

On November 10, 2011, petitioner filed the instant Petition for Review alleging inaction on the part of the respondent on its administrative claim for refund.

On February 9, 2012, respondent filed the required Answer interposing the following special and affirmative defenses:

4. Petitioner's claim for tax refund is subject to administrative investigation and/or examination by the respondent;

5. Taxes paid and collected are presumed to have been paid in accordance with law and regulations, hence, not refundable;

6. Moreover, in order to validly claim for tax refund, it is imperative for petitioner to prove its compliance with the following, *viz*:

A. The registration requirements of a Value-Added taxpayer under the pertinent provision of the National Internal Revenue Code (NIRC) of 1997, as amended and its implementing revenue regulations;

B. The invoicing and accounting requirements for VAT-registered persons, as well as the filing and payment of VAT pursuant to the provisions of Section 113 and 114 of the National Internal Revenue Code (NIRC) of 1997, as amended. Failure to comply with the invoicing requirements on the documents supporting the sale of goods and services will result in the disallowance of the claim for input tax of the taxpayer claimant (Revenue Memorandum Circular No. 42-2003).

C. The submission of complete documents in support of the administrative claim for tax refund pursuant to Section 112 (C) of the National Internal Revenue Code (NIRC) of 1997, as amended, otherwise, there would be no sufficient compliance with regard to the filing of administrative claim for tax refund which is a condition sine qua non prior to the filing of such claim;

D. That the input taxes of P42,351,858.29 allegedly representing excess and unutilized input taxes for the 3rd quarter of 2009, were:

i. Paid by petitioner;
ii. Attributable to its zero-rated or effectively zero-rated sales; and
iii. Such input taxes paid should not have been applied against any output tax.

E. The petitioner's claim for tax refund allegedly representing excess and unutilized input taxes for the 3rd Quarter of 2009 in the amount of P42,351,858.29 was filed within the two (2) years after the close of the taxable quarter when the sales were made in accordance with Section 112 *fr*

(A) of the National Internal Revenue Code (NIRC) of 1997, as amended.

7. Accordingly, the claimants of those refunds bear the burden of proving the factual basis of their claims and of showing, by words too plain to be mistaken, that the legislature intended to exempt them;

8. And finally, basic is the rule that tax refunds are in the nature of tax exemptions and are to be construed *strictissimi juris* against the entity claiming the same. Moreover, statutes in derogation of sovereignty such as those containing exemption should be strictly construed in favor of the State. In this regard, taxation is the rule and exemption is the exception. The law does not look with favor on tax exemptions and that he who would seek to be thus privileged must justify it by words too plain to be mistaken and too categorical to be misinterpreted.

On April 12, 2012, the parties filed their Joint Stipulation of Facts and Issues, which the Court approved on May 7, 2012.

In support of its case, petitioner presented two (2) witnesses, namely, the Manager of its Accounting Department, Eileen C. Rodriguez and the Court-commissioned Independent Certified Public Accountant (ICPA), Milagros F. Padernal.

Eileen C. Rodriguez, by way of judicial affidavit testified that as Manager of the Accounting Department of petitioner she supervises and reviews the preparation and filing of its tax returns, as well as its claims for refund of overpaid and/or excess internal revenue taxes. According to her, petitioner is into mining industry and its main products are copper concentrates and partly gold bullions. These products are sold and shipped to its buyers, specifically Pan Pacific Copper Co., Ltd. of Tokyo, Japan, and to Louis Dreyfus Commodities Metals of Switzerland which acts as a broker for other foreign buyers. The sale transactions are covered by a contract denominated as Long Term Gold and Copper Concentrates Sales Agreement dated March 11, 2004, which was signed by petitioner's former Chairperson and Chief Executive Officer (CEO) Walter Brown.

For each shipment of mineral products to its buyers, petitioner issues two invoices in view of *Clause 9 of the Agreement* which provides two stages of payment for the shipment: *first*, a provisional payment at the time of shipment equal to 90% of the provisional price as determined by petitioner based on the weight and petitioner's provisional assay, and *second*, a final payment covering the balance of the concentrate value upon presentation of the final invoice. The first invoice is for the 90% provisional payments while the final invoice reflects the final concentrate value and the final balance due after deducting the 90% provisional payment.

Due to the intricate and long procedure required under *Clause 10 of the Agreement* which included the weighing, sampling, sample preparation, determination of moisture content, independent assaying by the respective assays of petitioner and the buyers, designation of and referral to an independent umpire for settlement of the difference between petitioner and the buyers assays to arrive at the price or final concentrate value, delays in the issuance of the final invoice by petitioner are sometimes incurred. The Final Invoice can only be issued after the parties arrived at a final settlement as to weight, moisture content, assay and price.

During the 3rd quarter of 2009, petitioner sold its copper concentrates to its buyers Pan Pacific Copper Co., Ltd., of Tokyo, Japan, and to Louis Dreyfus Commodities Metals of Switzerland under the same Agreements.

Eileen C. Rodriguez admitted that she was not present when the Agreements were signed since the negotiation and the execution of the said Agreement involved higher officers of petitioner only, such as the Chairman and CEO and their counterparts. In any event, she is familiar with the signature of petitioner's former Chairperson and CEO Walter Brown having worked with him for a considerable length of time. She filed the supporting documents to substantiate petitioner's administrative claim for refund.

The witness further clarified that the hiring of an umpire is sometimes dispensed with as when the assay of both teams are within the acceptable range dictated under the Agreement. However, she is not certain if the services of an umpire were secured for the shipment for the third quarter of 2009, the subject of the instant case. Lastly, she stressed that the final receipts are issued only upon the verification of the umpire when there is a dispute on the results of the assay.

The second witness, ICPA Milagros F. Padernal testified that her review and verification of petitioner's pertinent documents revealed that the input taxes in the total amount of P42,351,858.29 paid for the 3rd quarter of 2009, P268,293.37 was used to pay the output tax for said quarter. Further, the input tax of P42,351,858.29 for the 3rd quarter of 2009 was reflected as "VAT Refund/TCC Claimed" in the 1st quarter of 2011 VAT that it could no longer be carried over to the succeeding quarter since it would be the subject of an administrative claim for refund to be filed within the prescribed period.

The ICPA opined that while the total claim in the Petition for Review is P42,351,858.29, her findings based on the documents presented for audit warrant a downward adjustment of P1,360,340.59.

After formal offer of its evidence, petitioner rested its case.

During the hearing for the reception of evidence for respondent, her counsel manifested that respondent would no longer present evidence in support of her position. Thereafter, the parties filed their respective memoranda."

On November 12, 2013, the Court in Division promulgated the assailed Decision,[3] partially granting the Petition for Review. It directed petitioner to refund respondent the amount of P36,650,834.57, representing respondent's unutilized excess input VAT attributable to zero-rated sales for the 3rd quarter of 2009.

On December 20, 2013 and January 6, 2014, both parties filed their motion for reconsideration[4] and motion for partial reconsideration,[5] respectively.

On April 15, 2014, the Court in Division promulgated the assailed Amended Decision[6] which denied petitioner's motion for reconsideration and granted respondent's motion for partial reconsideration. Accordingly, petitioner was directed to refund respondent the amount of P37,379,000.22, representing respondent's unutilized excess input VAT attributable to zero-rated sales for the 3rd quarter of 2009.

On May 12, 2014, the Court *en banc* granted petitioner's "Motion for Extension of Time to File Petition for Review En Banc" filed on May 7, 2014.[7] In the Resolution[8] dated June 26, 2014, the Court *en banc* ordered

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[3] Division docket, pp. 168-193.
[4] Petitioner's Motion for Reconsideration (Decision of 12 November 2013), Docket, pp. 194-200.
[5] Respondent's Motion for Partial Reconsideration (Of Decision dated 12 November 2013), Division docket, pp. 203-208.
[6] Division docket, pp. 227-235.
[7] Minute Resolution, Division docket, p. 236.

respondent to file its Comment to the Petition for Review within ten (10) days from receipt thereof, which respondent filed on July 28, 2014.[9]

On September 2, 2014, the Court *en banc* issued a Resolution[10] granting the parties a period of thirty (30) days from notice within which to file their memoranda. On September 29, 2014, the Court *en banc* took note of respondent's "Manifestation (Re: Resolution dated September 2, 2014)" filed on September 25, 2014. In the said manifestation, respondent stated that it is adopting the arguments in the Comment filed on July 28, 2014 as its memorandum.[11] On the other hand, the Court *en banc* granted petitioner's "Motion for Extension of Time to File Memorandum" filed on October 17, 2014.[12]

On November 17, 2014, petitioner filed her Memorandum. Thus, the case was submitted for decision on December 4, 2014.

Hence, this Decision.

STATEMENT OF ISSUE

> WHETHER OR NOT RESPONDENT IS ENTITLED TO THE REFUND OR TAX CREDIT OF THE ALLEGED EXCESS AND UNUTILIZED INPUT TAXES IN THE TOTAL AMOUNT OF P42,351,858.29 FOR THE 3RD QUARTER OF 2009.

THIS COURT'S RULING

We deny the Petition.

Authority to Print

Petitioner claims that respondent failed to print on its invoices or receipts the Authority to Print (ATP) as required under Revenue Memorandum Order (RMO) No. 12-2013. On the other hand, respondent states that its ATP is printed at the bottom of the sales invoices. Nevertheless, respondent argues that the Court in Division already resolved that the BIR ATP is not required to be reflected or indicated on invoices or receipts. Ju

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8 Division docket, pp. 239-240.
9 Respondent's Comment, Court en banc docket, pp. 101-109.
10 Division docket, p.p. 242-243.
11 Minute Resolution, Division Docket, p. 237.
12 Division docket, p. 244.

Section 238 of the NIRC of 1997, as amended, states:

> "SEC. 238. **Printing of Receipts or Sales or Commercial Invoices.** – All persons who are engaged in business shall secure from the Bureau of Internal Revenue an authority to print receipts or sales or commercial invoices before a printer can print the same.
>
> No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.
>
> All persons who print receipt or sales or commercial invoices shall maintain a logbook/register of taxpayer who availed of their printing services. The logbook/register shall contain the following information:
>
> (1) Names, Taxpayer Identification Numbers of the persons or entities for whom the receipts or sales or commercial invoices are printed; and
>
> (2) Number of booklets, number of sets per booklet, number of copies per set and the serial numbers of the receipts or invoices in each booklet."

It is noteworthy that the subject claim involves respondent's unutilized excess input VAT attributable to zero-rated sales for the 3rd quarter of 2009. Hence, at that time, RMO No. 12-2013 was not yet in force. At any rate, respondent sufficiently proved before the Court in Division that it printed the ATP at the bottom left hand corner of all of its other sales invoices. In addition, well-settled is the rule that ATP need not be indicated in the corresponding invoice or receipt.[13] Thus, we agree with the findings of the Court in Division that:

> "As petitioner points out, printed at the bottom left hand corner of all the other sales invoices, such as the provisional and final sales invoices that it issued to Pan Pacific Copper Co., is BIR Permit No. OCN8AU0000065595 dated January 26, 2006. Said BIR Permit authorized the printing and use of sales

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[13] *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue,* G.R. No. 166732, April 27, 2007 (522 SCRA 695-696); *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue,* G.R. No. 172378, January 17, 2011 (639 SCRA 536).

> invoices bearing Serial Numbers 2501 to 2900. Thus, considering that the subject Final Sales Invoices PX-2568 and PX-2574 are within the Serial Numbers 2501 to 2900 covered by BIR Permit No. OCN8AU0000065595 dated January 26, 2006, they should be considered, even if the previous BIR permit is indicated at the bottom part. The Supreme Court has consistently ruled that the BIR authority to print is not required to be reflected or indicated on invoices or receipts. What is important is that it has been secured or obtained by the taxpayer and that invoices or receipts are duly registered."[14]

Considering the foregoing, we find no merit to petitioner's foregoing argument to warrant the grant of the present Petition.

Submission of complete supporting documents

Petitioner asserts that respondent failed to submit complete supporting documents for its claim. As such, the 120-day period within which petitioner may act on the administrative claim did not commence. On the other hand, respondent argues that it is not the BIR who determines what relevant supporting documents it should submit and the non-submission thereof is not fatal to its claim.

The definition of the phrase "relevant supporting documents" is already well-settled. In the case of *Commissioner of Internal Revenue v. First Express Pawnshop Company, Inc.*,[15] the Supreme Court ruled that *relevant supporting documents* are those documents necessary to support the legal basis in disputing a tax assessment as determined by the taxpayer. The BIR can only inform the taxpayer to submit additional documents. The BIR cannot demand what type of supporting documents should be submitted. Otherwise, a taxpayer will be at the mercy of the BIR, which may require the production of documents that a taxpayer cannot submit.[16]

While the present case does not involve tax assessment, we agree with respondent that the BIR cannot determine what type of document respondent needs to produce in order to prove its claim for tax refund. In other words, respondent has the liberality to present any evidence which, to its mind, would be sufficient to prove entitlement to its claim for refund.

Considering the foregoing, we find petitioner's argument bereft of merit.

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[14] Amended Decision dated April 15, 2014, p. 5; Division Docket, p. 231.
[15] G.R. No. 172045-46, June 16, 2009 (589 SCRA 275).
[16] Id.

Compliance with the requirements under Sec. 113 (C) and Section 114 (A) of the NIRC of 1997, as amended

Proceeding from the above-discussion, petitioner asserts that respondent failed to comply with the requirements of Sections 4.113-1 and 4.113-3 of Revenue Regulations (RR) No. 16-2005, in relation to Revenue Memorandum Circular (RMC) No. 62-2005 regarding invoicing and accounting requirements, *i.e.*, maintenance of subsidiary sales journal and subsidiary purchase journal. Likewise, petitioner avers that respondent failed to prove with certainty that it complied with the requirements of Section 114 (A) of the National Internal Revenue Code of 1997, as amended (NIRC of 1997, as amended) and Section 4.114-1 of RR No. 16-2005 regarding the filing and payment of the monthly VAT declarations of large and non-large taxpayers.

On the other hand, respondent argues that it is only required to prove the following requisites under Section 112[17] of the NIRC of 1997, as amended, for it to be entitled to its claim for refund, *viz:*

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[17] SEC. 112. *Refunds or Tax Credits of Input Tax.* -

"(A) *Zero-Rated or Effectively Zero-Rated Sales.* - Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108 (B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108 (B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.

"(B) *Cancellation of VAT Registration.* - A person whose registration has been cancelled due to retirement from or cessation of business, or due to changes in or cessation of status under Section 106(C) of this Code may, within two (2) years from the date of cancellation, apply for the issuance of a tax credit certificate for any unused input tax which may be used in payment of his other internal revenue taxes.

"(C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* - In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.

"In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.

1. That there must be zero-rated sales or effectively zero-rated sales;

2. That the input VAT is incurred or paid;

3. That such input VAT is attributable to zero-rated sales or effectively zero-rated sales;

4. That the input VAT is not applied to any output VAT liability during the quarter or the succeeding quarters; and

5. That the administrative and judicial claims for refund were filed within the prescribed periods.

Additionally, respondent argues that assuming without admitting that it failed to comply with the said requirements, petitioner's recourse is to commence civil and criminal actions under Title X of the NIRC of 1997, as amended.

Section 113 (C) and Section 114 (A) of the NIRC of 1997, as amended, respectively provide:

> "SEC. 113. **Invoicing and Accounting Requirements for VAT-Registered Persons.** –
>
> xxx xxx xxx
>
> (C) Accounting Requirements. – Notwithstanding the provisions of Section 233, all persons subject to the value-added tax under Sections 106 and 108 shall, in addition to the regular accounting records required, maintain a subsidiary sales journal and subsidiary purchase journal on which the daily sales and purchases are recorded. The subsidiary journals shall contain such information as may be required by the Secretary of Finance."
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> "SEC. 114. **Return and Payment of Value-Added Tax.** –
>
> (A) *In General.* – Every person liable to pay the value-added tax imposed under this Title shall file a quarterly return

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"(D) *Manner of Giving Refund.* - Refunds shall be made upon warrants drawn by the Commissioner or by his duly authorized representative without the necessity of being countersigned by the Chairman, Commission on Audit, the provisions of the Administrative Code of 1987 to the contrary notwithstanding: Provided, That refunds under this paragraph shall be subject to post audit by the Commission on Audit."

> of the amount of his gross sales or receipts within twenty-five (25) days following the close of each taxable quarter prescribed for each taxpayer; Provided, however, That VAT-registered persons shall pay the value-added tax on a monthly basis."

Under the afore-quoted provisions of the law, all persons subject to VAT are required to maintain a subsidiary sales journal and subsidiary purchase journal on which the daily sales and purchases are recorded. Moreover, VAT-registered persons shall likewise pay VAT on a monthly basis.

While it is conceded that the mandatory requirements set forth under Section 113 (C) and Section 114 (A) of the NIRC of 1997, as amended, should be complied with, it is equally important to consider the doctrine laid down under the *First Express Pawnshop Company, Inc.* case that it is the taxpayer who has the leeway to determine what type of relevant supporting documents it shall present for the successful prosecution of its claim.

As aptly found by the Court in Division, respondent was able to prove by its relevant supporting documents that it is entitled to its claim for refund. Whether respondent maintains a subsidiary sales journal and subsidiary purchase journal does not affect respondent's claim for refund, because it is not one of the requisites for respondent to be entitled thereto. Nonetheless, non-compliance with the foregoing may be the subject of a separate and independent cause of action by petitioner.

Similarly, respondent was able to prove before the Court in Division that it paid its VAT liabilities. Failure to timely pay VAT on a monthly basis may give rise to the payment of penalties under the NIRC of 1997, as amended, but it does not affect respondent's entitlement to its claim for refund because it has sufficiently shown that it has in fact been paid.

To conclude, we see no cogent reason to deviate from the ruling of the Court in Division which found that respondent sufficiently proved that it is entitled to its claim for refund.

WHEREFORE, premises considered, the above-captioned Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the Decision dated November 12, 2013 and the Amended Decision dated April 15, 2014 are hereby **AFFIRMED**.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR. A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court *En Banc*.

ROMAN G. DEL ROSARIO
Presiding Justice