REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

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MATSUSHITA BUSINESS MACHINE CORPORATION OF THE PHILIPPINES,
Petitioner,

C.T.A. CASE NO. 5975

- versus -

Members:

ACOSTA, *Chairman*
BAUTISTA, and
CASANOVA, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
AUG 22 2006

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DECISION

CASANOVA, J.:

This case involves a claim for refund in the amount of P9,368,482.40 allegedly representing unutilized and/or unapplied input value-added taxes which are attributable to zero-rated sales for the period covering April 1, 1998 to March 31, 1999.

Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with principal office at Bo. Mapandan, Ortigas Avenue Extension, Taytay, Rizal. Meanwhile, respondent is the duly appointed Commissioner of Internal Revenue, vested under the appropriate laws with the authority to carry out all the functions, duties, and responsibilities of said Office, including, *inter alia*, the power to decide, approve, and grant claim for refunds and/or tax credits, with office address at the 4th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.

Petitioner is duly registered with the Bureau of Internal Revenue (BIR) as a value-added tax (VAT) enterprise. It is likewise registered with the Board of Investments (BOI) in accordance with the provisions of the Omnibus Investments Code of 1987, as a preferred-pioneer enterprise for the production and export of plain paper copiers, sub-assemblies, parts and components.[1]

For the periods covering April 1, 1998 to September 30, 1998 and October 1, 1998 to March 31, 1999, petitioner allegedly generated export sales in the amounts of US$12,819,475.15 and US$11,859,489.78, respectively, or in the sum of US$24,678,964.93. The proceeds thereof were inwardly remitted and accounted for in accordance with existing regulations of the Bangko Sentral ng Pilipinas (BSP). Petitioner believes that the said export sales are zero-rated for VAT purposes pursuant to Sec. 106(A)(2)(a)(1) of the National Internal Revenue Code (NIRC) of 1997.

For the same periods of April 1, 1998 to September 30, 1998 and October 1, 1998 to March 31, 1999, petitioner avers that it paid input VAT in the amounts of P4,980,254.26 and P4,388,228.14, respectively, or in the sum of P9,368,482.40 which were all attributable to its zero-rated sales.

Inasmuch as the accumulated input VAT for the periods of April 1, 1998 to September 30, 1998 and October 1, 1998 to March 31, 1999 had allegedly remained unutilized and/or unapplied, petitioner filed with the BIR on March 12, 1999 and July 20,

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[1] Pars. 3 & 4, Facts Admitted, Records, p. 49

126

1999 two separate applications for the refund/tax credit of the input VAT payments of P4,980,254.26 and P4,388,228.14, respectively, totaling P9,368,482.40.[2]

Due to respondent's inaction on petitioner's claims, petitioner filed the instant Petition for Review on December 16, 1999.

In his Answer filed on January 31, 2000, respondent interposed the following Special and Affirmative Defenses:

4. Petitioner's claim for refund/credit is still undergoing administrative routinary investigation/examination by the respondent's Bureau;

5. The alleged tax sought to be refunded was collected and paid pursuant to law and pertinent BIR implementing rules and regulations; hence, the same is not refundable. Petitioner must prove that the income sought to be refunded was paid and was declared in the gross income during the year under review;

6. Petitioner's allegation that it erroneously and excessively paid the tax during the year under review does not *ipso facto* warrant the refund/credit and it must prove that the alleged refundable/creditable tax was neither automatically applied as tax credit against the tax liability for the succeeding quarters of the succeeding year nor included as creditable tax declared and applied to the succeeding taxable years;

7. Claims for tax refund/credit are construed in *strictissimi juris* against the taxpayer as they partake *(of)* the nature of an exemption from tax and it is incumbent upon the petitioner to prove that it is entitled thereto under the law. Failure to prove the same is fatal to its claim for refund/credit; and

8. Petitioner must show that it has complied with the provisions of Section 204(C) and 229 of the 1997 Tax Code.

Petitioner and respondent submitted the following issues for resolution of this Court:

1. Whether or not petitioner's sales of goods are zero-rated for VAT purposes;

2. Whether or not petitioner's input VAT subject matter of the instant judicial claim for refund is attributable to its zero-rated sales;

3. Whether or not petitioner's input VAT was not utilized or applied against its output VAT liabilities for the subsequent quarters; and

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[2] Exhibits "H", "H-1", "I" & "I-1"

427

4. Whether or not petitioner is entitled to the refund of the amount of P9,368,482.40 representing unutilized input VAT for the period April 1, 1998 to March 31, 1999.

Anent the first issue, petitioner maintains that its export sales which were paid for in US dollars, inwardly remitted and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas are subject to zero percent (0%) VAT pursuant to Section 106(A)(2)(a)(1) of the NIRC of 1997, which provides:

"SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* –

"(A) *Rate and Base of Tax.* –There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, value-added tax equivalent to ten percent (10%) of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor.

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"(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
"(a) *Export Sales.* – The term *'export sales'* means:
"(1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)."

To substantiate its export sales for the period April 1, 1998 to March 31, 1999 and the foreign currency proceeds thereof, petitioner proffered before this Court the following documents:

DOCUMENT	EXHIBIT NO.
Quarterly VAT Returns for the period April 1, 1998 to March 31, 1999	A to G; L
Certification issued by Security Bank dated December 29, 1998 certifying that for the period April 1, 1998 to Sept. 30, 1998 the bank received inward remittances totaling US$12,819,475.15 and was credited to the account of petitioner	J to J-1

428

Certification issued by Security Bank dated June 1, 1999 certifying that for the period October 1, 1998 to March 31, 1999, the bank received inward remittances totaling US$11,859,489.78 and was credited to the account of petitioner	K to K-1
Report of the commissioned independent Certified Public Accountant (CPA)	M to M-1
Various Invoices, Airway Bills/Bills of Lading Export Declarations and Client Credit Advices	R-1 to R-684, S-1 to S-599, T-1 to T-70, T-80 to T-150, T-160 to T-546 U-1 to U-492
Summary of Export Sales and Collections for the period April 1, 1998 to March 31, 1999	W to W-34

A perusal of the aforementioned documents reveals that petitioner's products were actually sold and shipped abroad and in consideration thereof, petitioner received foreign currency payments, which were inwardly remitted in accordance with the BSP rules and regulations. Thus, these export sales may fall within the export sales transactions subject to zero percent (0%) VAT referred to under Section 106(A)(2)(a)(1) of the NIRC of 1997.

However, Section 106 (A)(2)(a)(1) of the NIRC of 1997 should not be read in isolation but in conjunction with Section 113 of the same Code, which prescribes that a VAT-registered person like petitioner, shall, for every sale, issue an invoice or receipt which must contain the following information:

> SEC. 113. *Invoicing and Accounting Requirements for VAT Registered Persons.* —
> (A) *Invoicing Requirements.* — A VAT-registered person shall, for every sale, issue an invoice or receipt. In addition to the information required under Section 237, the following information shall be indicated in the invoice or receipt:
> (1) A statement that the seller is a VAT-registered person, followed by his taxpayer's identification number (TIN); and
> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax.

429

Corollary thereto, Section 4.108-1 of Revenue Regulations No. 7-95, provides as follows:

> **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:
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> 1. the name, TIN, and address of seller;
> 2. date of transaction;
> 3. quantity, unit cost and description of merchandise or nature of service;
> 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.
>
> xxx xxx xxx
>
> <u>Only VAT-registered persons are required to print their **TIN followed by the word "VAT"** in their invoices or receipts and this shall be considered as a "VAT Invoice".</u> All purchases covered by invoices other than "VAT Invoice" shall not give rise to any input tax. *(Emphasis supplied)*

Based on the evidence on record, although petitioner's export invoices bear the TIN-VAT number of petitioner and the printer's BIR permit number, the word "zero-rated" was not imprinted thereon in clear violation of Section 4.108-1 of Revenue Regulations No. 7-95.

The law and regulations are explicit in emphasizing strict compliance with the invoicing requirements because for the same transactions the output VAT of the seller becomes the input VAT of the purchaser. Pursuant to Sections 106(D)(1) and 108(C), in relation to Section 110 of the NIRC of 1997, as amended, the output or input tax on the sale or purchase of goods is determined by the total amount indicated in the invoice, while the output or input tax on the sale or purchase of services is determined by the total amount indicated in the official receipt. In the case of zero-rated sales transactions, the regulations further require that the word "zero-rated" be imprinted on the face of the covering invoices or official receipts (***AMERICAN EXPRESS INTERNATIONAL, INC., PHILIPPINE***

430

BRANCH vs. COMMISSIONER OF INTERNAL REVENUE, CTA EB No. 103, March 3, 2006). The rationale for the imprinting of the word "zero-rated" on the face of the covering invoice or official receipt of the seller is for the buyer or purchaser not to claim any input VAT from such purchase, as elucidated by the Second Division of this Court in the case of ***J.R.A. PHILPPINES, INC. vs. COMMISSIONER OF INTERNAL REVENUE, C.T.A. CASE NO. 6454, June 30, 2005,*** to wit:

> Furthermore, Section 110 of the NIRC of 1997, as amended, provides that: "Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax: x x x." **If the invoice or official receipt was not imprinted with "zero-rated", there is a danger that the purchaser of the goods or services may be able to claim input tax on the sale to it by the taxpayer of the goods or services, as the case may be, notwithstanding the fact that no VAT was actually paid on such goods or services since the taxpayer is zero-rated.** This is the rationale for the mandatory requirement in Revenue Regulations No. 7-95 that the words "zero-rated" be imprinted in the invoice or receipt, as the case may be. **The zero-rated taxpayer should be entitled to a tax credit/refund on input taxes paid on its purchase of goods or services subject to the mandatory compliance with the invoicing requirements under the regulations. Otherwise, there may result the absurd situation where the government would be crediting/refunding non-existent input tax to purchasers of goods or services of such zero-rated taxpayer.** *(Emphasis supplied)*

In the case of ***TAGANITO MINING CORPORATION vs. COMMISSIONER OF INTERNAL REVENUE, CTA EB No. 7, January 31, 2006,*** the Court *En Banc* held that the issuance of Revenue Regulations No. 7-95 was made pursuant to the respondent's duty of implementing the VAT provisions of the NIRC, thus:

> Revenue Regulations No. 7-95, otherwise known as the Consolidated Value-Added Tax Regulations, was promulgated by the Secretary of Finance pursuant to the authority granted by Section 245 of the National Internal Revenue Code of 1977, which provides:
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>> SEC. 245. ***Authority of Secretary of Finance to promulgate Rules and Regulations.*** – The Secretary of Finance, upon the recommendation of the Commissioner, shall promulgate **all needful rules and regulations for the effective enforcement of the provisions of this Code.** *(Emphasis supplied)*

431

The above provision was re-enacted *in toto* under Section 244 of the 1997 NIRC. Moreover, to further strengthen the rule making power of the Secretary of Finance in coordination with the Bureau of Internal Revenue, an additional section (SEC. 245) was incorporated defining the extent of such rule making power. Section 245, in pertinent part, provides:

> SEC. 245. **Specific provisions to be contained in rules and regulations.** – The rules and regulations of the Bureau of Internal Revenue shall, among other things, contain provisions specifying, prescribing or defining:
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> xxx xxx xxx
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> (g) The manner in which revenue shall be collected and paid, the instrument, document or object to which revenue stamps shall be affixed, the mode of cancellation of the same, **the manner in which the** proper books, records, **invoices** and other papers **shall be kept and entries therein made** by the person subject to the tax, as well as the manner in which licenses and stamps shall be gathered up and returned after serving their purposes; (Emphasis/italics supplied)

Considering the legislative grant of authority to the Secretary of Finance to promulgate all needful rules and regulations for the effective enforcement of the provisions of the NIRC, Section 4.108-1 of Revenue Regulations No. 7-95 requiring the imprinting of the words "zero-rated" on sales invoices or official receipts cannot be said as having no valid basis or legislative root. On the contrary, it is both reasonable and necessary for the effective implementation of the provisions of the NIRC concerning zero-rated sales. Hence, the requirement that sales invoices be imprinted with the word "zero-rated" cannot be taken as an enlargement or expansion of the law for the reason that it merely implements the provisions of the 1997 NIRC on sales that are subject to 10% VAT, zero-rated sales (0%) VAT and exempt sales. **The imprinting of "zero-rated' is necessary to distinguish sales subject to 10% VAT, those that are subject to 0% VAT (zero-rated) and exempt sales, to enable the Bureau of Internal Revenue to properly implement and enforce the other provisions of the 1997 NIRC on VAT**, namely:

1. Zero-rated sales [Sec. 106(A)(2) and Sec. 108(B)];
2. Exempt transactions [Sec. 109] in relation to Sec. 112(A);
3. Tax Credits [Sec. 110]; and
4. Refunds or tax credits of input tax [Sec. 112].

The rule is that as long as the administrative regulation is not in conflict with the law it seeks to implement, the same should be taken as part of the law taking into consideration the underlying purpose of the rule or regulation.

432

In a recent decision, the Supreme Court held that regulations issued by the Department of Finance/Bureau of Internal Revenue that would give effect to the law are valid regulations, thus:

> Petitioner's arguments impugning the validity of Revenue Regulations V-39 and 17-67 deserve scant consideration. First, both regulations were issued pursuant to Section 245 (now Section 244) of the Tax Code. The authority of the Secretary of Finance, in conjunction with the Commissioner of Internal Revenue, to promulgate needful rules and regulations for the effective enforcement of internal revenue tax laws cannot be controverted. Such rules and regulations, as well as administrative opinions and rulings, ordinarily deserve to be given weight and respect by the courts. Second, our scrutiny of Revenue Regulations Nos. V-39 and 17-67 show that said regulations did not modify or deviate from the text of Sections 137 and 141 but merely implemented and clarified said two provisions by providing certain conditions under which stemmed leaf tobacco may be exempted from prepayment of specific tax.[3] (Emphasis supplied; *citations omitted*)

We agree with the respondent that the issuance of Revenue Regulation No. 7-95 was made pursuant to the respondent's duty of implementing the 1977 NIRC, as amended. The requirement of imprinting the word "zero-rated" fulfills the intent of the law. It is useful, practical and necessary not only with respect to the proper implementation of the provisions of the 1997 NIRC on zero-rated transactions but more importantly, to prevent the granting of refund or tax credit of non-existent input VAT. It is an act of tax administration which is not violative of the rule on non-delegation of delegated powers.

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Hence, the need for strict compliance with the mandatory requirement of imprinting the word "zero-rated" on sales invoices or official receipts regardless of whether or not the business entity engages only in export sales since Revenue Regulations No. 7-95 did not make any distinction on the different kinds of zero-rated sales.

To emphasize, it is explicit from the provisions of Section 113 of the NIRC of 1997 in relation to Section 237 of the same Code and Section 4.108-1 of Revenue Regulations No. 7-95 that a VAT-registered person like herein petitioner must issue a duly registered VAT

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[3] Compania General de Tabacos de Filipinas vs. Hon. Court of Appeals and The Commissioner of Internal Revenue, G.R. No. 147361, March 23, 2004 (426 SCRA 203).

433

invoice or receipt **for every sale transaction**. Such VAT invoice or receipt must show the taxpayer's identification number (TIN) followed by the word VAT, printer's BIR permit number and **the word "zero rated" imprinted on the invoice** or receipt **covering a zero-rated sale**. Considering so, the export sales referred to under Section 106(A)(2)(1)(a) of the NIRC of 1997 as subject to zero percent (0%) VAT are those covered by duly registered VAT invoices bearing all the required information. Since the word "zero-rated" was not imprinted on its sales invoices, petitioner's reported export sales for the period April 1, 1998 to March 31, 1999 cannot qualify for VAT zero-rating. Consequently, the claimed unutilized input VAT attributable thereto in the amount of P9,368,482.40 cannot be granted. It is clear from the provisions of Section 106(a) [now 112(A)] of the Tax Code that there must be zero-rated or effectively zero-rated sales in order that a refund of input VAT could prosper, to wit:

> 'SEC. 112. *Refunds or Tax Credits of Input Tax. —*
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> "(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). xxx"

In view thereof, this Court finds it no longer necessary to delve on the other issues raised by the parties.

WHEREFORE, the Petition for Review is hereby **DENIED** for lack of merit.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

434

WE CONCUR:

(With Dissenting Opinion)
ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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's Division.

ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division

435

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MATSUSHITA BUSINESS MACHINE CORPORATION OF THE PHILIPPINES,
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-versus-

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Respondent.

C.T.A. CASE No. 5975

Members:

ACOSTA, ***Chairman,***
BAUTISTA, and
CASANOVA, ***JJ.***

Promulgated:
AUG 22 2006

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Dissenting Opinion

With due respect to my esteemed colleagues, I wish to manifest my dissent to the majority opinion, as expressed in the Decision of the Court of Tax Appeals First Division, that found the export sales invoices/receipts invalid, incompetent, and irrelevant for failure to imprint the term "zero-rated" and the subsequent denial of petitioner's claim for tax refund for its zero-rated sales.

Contrary to the view of the majority, (1) pertinent provisions of the 1997 Tax Code do not require imprinting of the word "zero-rated"; (2) the absence of the term "zero-rated" in the invoice does not affect the admissibility and competency of the same as evidence in support of its refund claim; (3) assuming the propriety of imposing the alleged requirement to imprint the word "zero-rated" in the invoice, the invalidation of the same and the denial of the refund claim are not the legally

436

imposable penalties for failure to meet such alleged requirement; and (4) the other equally valid pieces of evidence presented and formally offered are sufficient proof to justify the grant of the VAT refund claim attributable to its zero-rated transactions.

The relevant provisions of the 1997 Tax Code, namely, **Sections 113** and **237**, provide as follows:

> "**Section 113. Invoicing and Accounting Requirements for VAT registered persons – (A) Invoicing Requirements** – A VAT-registered person, shall, for every sale, issue an invoice or receipt. In addition to the information required under Section 237, the following information shall be indicated in the invoice or receipt:
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> 1. A statement that the seller is a VAT-registered person followed by his taxpayer's identification number (TIN); and
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> 2. The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax.
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> "**Section 237. Issuance of Receipts or Sales of Commercial Invoices.** – All persons subject to an internal revenue tax shall, for each sale, or transfer of merchandise or for services rendered valued at Twenty five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service; Provided however, That in case of sales, receipts or transfers in the amount of One Hundred Pesos (P100.00) or more, regardless of amount where the sale or transfer is made by a person liable to value added tax to another person also liable to value added tax; or where the receipt is issued to cover payment made as rentals, commissions, compensations, or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser; customer or client: Provided further, That where the purchaser is a VAT registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer's Identification Number (TIN) of the purchaser. xxx".

437

Clearly from the foregoing, the only information required to be indicated in an invoice or official receipt, as a precondition for its validity and for claiming a refund claim of input VAT paid, are as follows:

(1) A statement that the seller is a VAT-registered person;
(2) The taxpayers identification number (TIN);
(3) The total amount which the purchaser pays or is obligated to pay to the seller indicating the inclusion of the value-added tax;
(4) Transaction date;
(5) Quantity of merchandise;
(6) Description of merchandise or nature of service;
(7) Unit cost;
(8) The name, business style, if any, and address of the purchaser, customer or client in the case of sales, receipts or transfers in the amount of One hundred pesos (P100.00) or more, or regardless of amount, where the sale or transfer is made by a person liable to value-added tax to another person also liable to value-added tax; or where the receipt is issued to cover payment made as rentals, commissions, compensations or fees; and
(9) The TIN of the VAT-registered purchaser.

Likewise, the tenor of **Section 112 (A) of the Tax Code** permits all VAT-registered enterprises engaged in zero-rated transactions to claim a refund of their creditable input tax due or paid to the extent that such input tax has not been applied against output tax within a period of two (2) years after the close of the taxable quarter. And nowhere is it shown that failure to imprint the word "zero-rated" in the invoice will cause the outright rejection of the refund claim.

The lone provision where the alleged "requirement" of imprinting the term "zero-rated" on the VAT invoice can claim to get its authority from is **Section 4.108-1 of Revenue Regulations No. 7-95** (*The Implementing Rules and Regulations of the VAT law*). However, the said provision is merely a regulation created for the sole and limited purpose of implementing a very exact law. Long-settled is the legal principle that administrative rules and regulations cannot expand the letter and spirit of the law

438

they seek to enforce. And in case of conflict between the basic law and a rule or regulation issued to implement said law, the law prevails because said rule or regulation cannot go beyond the terms and provisions of the basic law (**People vs. Lim**, *108 Phil. 1091*).

The High Tribunal in the recently promulgated case of **Commissioner of Internal Revenue vs. Seagate Technology (Philippines)**, *G.R. No. 153866, February 11, 2005*, pointed out the need to focus only on the legally mandated requirements for claims for VAT refund and explained that, *A VAT-registered status, as well as compliance with the invoicing requirements (Section 113 (A) of the Tax Code), is sufficient for the effective zero rating of the transactions of a taxpayer. The nature of its business and transactions can easily be perused from, as already clearly indicated in, its VAT registration papers and photocopied documents attached thereto. xxx. Administrative convenience cannot thwart legislative mandate.*

Consequently, the requisites to be entitled to the tax refund of unapplied or unutilized input VAT are as follows:

1. There must be zero-rated or effectively zero-rated sales;
2. That input taxes were incurred or paid;
3. That the input taxes are attributable to such zero-rated or effectively zero-rated sales;
4. That the input taxes were not applied against any output VAT liability; and
5. The claim for refund was filed within the two-year prescriptive period.

The petitioner has satisfied the foregoing requisites and established its right to the tax refund through duly submitted material and documentary exhibits. As correctly acknowledged by the majority in the present CTA First Division Decision, a perusal of the submitted documents, such as, sales invoices, airway bills/bills of lading, export declarations, and client credit advices (*Exhibits "R-1" to "R-684", "S-*

439

1" to "S-599", "T-1" to "T-70", "T-80" to "T-150", "T-160" to "T-546", "U-1" to "U-492"), Security Bank Certification of Inward Remittances (*Exhibits "J" to "J-1", "K" to "K-1"*), and Summary of Export Sales and Collections (*"W" to "W-34"*) reveal that petitioner's products were sold and shipped abroad and in consideration thereof, petitioner received foreign currency payments, which were inwardly remitted in accordance with the BSP rules and regulations. The substantive and main requirement of the Tax Code, which is the actual sale and shipment of goods to be considered as zero-rated sales, was satisfactorily complied with and effectively proven before this Court by the petitioner.

Accordingly, I manifest my dissent to the majority opinion insofar as it finds that the term "zero-rated" must be imprinted in the export sales invoice/receipt to be a valid evidence in claiming for refund of excess input taxes and that failure to do so will not cause the outright denial of petitioner's claim especially if there are other pieces of evidence proving the export transactions and the taxpayer's VAT status.

ERNESTO D. ACOSTA
Presiding Justice

140