REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

M+W PHILIPPINES, INC.,
Petitioner,

C.T.A. EB NO. 1056
(C.T.A. Case No.8159)

- versus -

Present:
DEL ROSARIO, *PJ*
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
COTANGCO-MANALASTAS, *and*
RINGPIS-LIBAN, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JUN 22 2015
3:50 p.m.

x- -x

RESOLUTION

Fabon-Victorino, J.:

Insisting that it is entitled to refund or tax credit in the amount of Php9,222,659.29, representing its alleged unutilized input value-added tax (VAT) paid on domestic purchases of goods and services attributable to effectively zero-rated sales for the four quarters of taxable year 2009, petitioner moves for a reconsideration[1] of the Decision[2] dated January 7, 2015, which sustained the denial of its Petition for Review by the Court in Division.

In asking for reconsideration, petitioner claims that:

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[1] *Id.*, pp. 217-221.
[2] *En Banc* docket, pp. 195-213.

I. PETITIONER'S INPUT TAXES AMOUNTING TO SIX MILLION FIVE HUNDRED TWO THOUSAND TWO HUNDRED EIGHTY AND 79/100 PESOS (PHP6,502,280.79) SHOULD NOT HAVE BEEN DISALLOWED.

II. THE INPUT VAT PAID BY PETITIONER ON ITS DOMESTIC PURCHASES OF GOODS AND SERVICES FOR TAXABLE YEAR 2009 ATTRIBUTABLE TO EFFECTIVELY ZERO-RATED SALES WAS NOT APPLIED AGAINST ANY OUTPUT VAT LIABILITY OF THE PETITIONER.

Petitioner cannot accept the disallowance of the amount of Php6,502,280.79 claiming that it was incurred and paid in 2009, or within the period when BIR Officials were not strictly implementing the "separate indication method" for input taxes.

As to the amount of Php9,222,659.29, petitioner claims that it was not applied against any output VAT liability for the reason that it was deducted from its accumulated input VAT on the Second Quarter of 2010, when it filed its administrative claim with respondent. This was not disputed by respondent in her *Comment/Opposition* to the *Petition for Review*.

On March 31, 2015, respondent, in lieu of comment/opposition required by the Court [3], filed a *Manifestation & Motion*[4] adopting the factual findings and legal conclusions of the Court *En Banc* in the assailed Decision of January 7, 2015, and all her arguments in her previous pleadings filed with the Court *En Banc*, as her *Comment/Opposition* to petitioner's *Motion for Reconsideration*. In addition, she deems petitioner's *Motion for Reconsideration pro forma* as the arguments raised therein are allegedly mere repetitions and reiterations of the arguments passed and ruled upon by the Court *En Banc*.

[3] *Id.*, Resolution dated February 23, 2015, pp. 224-225.
[4] *Id.*, pp. 226-228.

Ruling Court *En Banc*

Petitioner's *Motion for Reconsideration* must fail.

On the disallowance of petitioner's input VAT in the amount of Php6,502,280.79, the Court observed that petitioner failed to meet the required standard of substantiation to merit the grant of the relief sought. On the matter, Section 113 of the NIRC of 1997, as amended, provides, thus:

> 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:
>
> (1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
>
> (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: Provided, That:
>
>> (a) **The amount of the tax shall be shown as a separate item in the invoice or receipt**; (*Boldfacing supplied*)

In the case of *Kepco Philippines Corporation vs. Commissioner of Internal Revenue,*[5] the Supreme Court enjoins strict compliance with the invoicing and

[5] G.R. No. 181858, November 24, 2010.

substantiation requirements as provided by law in claims for refund or credit, thus:

> Although it is true that the CTA is not strictly governed by technical rules of evidence, **the invoicing and substantiation requirements must, nevertheless, be followed because it is the only way to determine the veracity of Kepco's claims. Verily, the CTA En Banc correctly disallowed the input VAT that did not meet the required standard of substantiation**. (*Boldfacing supplied*)

In other words, the failure on the part of taxpayer to prove that all the requirements for entitlement have been met, justify the denial of the claim in whole or in part. Such is obtaining in the case at bar.

As regards petitioner's insistence that the input taxes sought to be refunded were not applied against any output VAT liability, suffice it to say that this has been amply discussed in the assailed Decision of January 7, 2015 and to state them anew is simply a waste of time and resources.

At the risk of being repetitive, it has been ruled that tax refunds are in the nature of tax exemptions which represent a loss of revenue to the government. These exemptions, therefore, must not rest on vague, uncertain or indefinite inference, but should be granted only by a clear and unequivocal provision of law on the basis of language too plain to be mistaken. Such exemptions must be strictly construed against the taxpayer, as taxes are the lifeblood of the government.[6]

WHEREFORE, the *Motion for Reconsideration* filed by petitioner M+W Philippines, Inc. is hereby **DENIED**, for lack of merit.

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[6] *Silkair (Singapore) Pte. Ltd. v. Commissioner of Internal Revenue*, G.R. No. 184398, February 25, 2010.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

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

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
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