REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

AIR DRILLING ASSOCIATES PTE. LTD.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10609

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

2:17 PM

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RESOLUTION

FERRER-FLORES, J.:

Submitted before the Court is respondent's **Motion for Partial Reconsideration (Re: Decision dated July 3, 2025)** filed *via* registered mail on August 13, 2025, and received by the Court on August 18, 2025, with petitioner's **Comment (To Respondent's Motion for Partial Reconsideration)** filed on September 23, 2025.

On July 3, 2025, the Court promulgated a Decision partially granting, in a reduced amount, petitioner's claim for refund of unutilized input value-added tax (VAT) for failure to fully substantiate its zero-rated sales of service for the first quarter of taxable year (TY) 2019, the dispositive portion of which is quoted hereafter as follows:

> **WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**.
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> Accordingly, respondent is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner, amounting to **₱682,258.17**, representing petitioner's unutilized input VAT attributable to its zero-rated sales for the first quarter of taxable year 2019 or for the period covering January 1, 2019 to March 31, 2019.
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> **SO ORDERED.**

In his *Motion*, respondent assails the above Decision by arguing that the Court has no jurisdiction over the present case and that, assuming otherwise, petitioner failed to completely substantiate its claim for refund.

As to his first argument, respondent reiterates that the present *Petition for Review* was filed out of time and insists that the administrative circulars suspending or extending the filing and service of pleadings and other Court submissions due to the 2019 Corona Virus Disease (COVID-19) only apply to cases that were already filed in court. Respondent emphasizes that, since petitioner claims to have received the denial of its application for refund on August 2, 2021, it had 30 days therefrom, or until September 1, 2021, to file its *Petition for Review* with the Court. Thus, the *Petition* filed on October 8, 2021 was belatedly filed. As such, respondent asserts that his denial already attained finality which deprives the Court of jurisdiction to further entertain the same.

With regard to his second argument, respondent maintains that petitioner unsuccessfully substantiated its entire claim for refund by failing to timely secure a Certificate of Endorsement from the Department of Energy (DOE), through the Renewable Energy Management Bureau (REMB). Respondent stresses that, at the time petitioner's alleged transaction transpired in the first quarter of 2019, the sale to Energy Development Corporation (EDC) cannot yet be considered as zero-rated since the DOE Certificate of Endorsement was issued only on June 23, 2020. Respondent expounds that the prevailing implementing rule that time was DOE Department Circular (DC) No. DC2009-05-0008 of 2009, which requires certain conditions for the availment of incentives under Republic Act (RA) No. 9513, and not the one relied on by the Court in its Decision, DC No. DC2021-12-0042, which was issued only in 2021.

Lastly, respondent further contends that petitioner likewise failed to establish the kind of services it rendered that would qualify as zero-rated sales, citing a similar ruling in CTA Case No. 10545, *Air Drilling Associates Pte. Ltd. v. Commissioner of Internal Revenue*, promulgated on September 20, 2024.

On the other hand, in its *Comment*, petitioner submits that with the physical closure of the Court, Supreme Court Administrative Order No. 56-2021 dated July 30, 2021, among others, suspended the period and extended the time for filing and service of pleadings and motions. The Office of the Court Administrator only resumed the filing and service of pleadings and motions after seven calendar days counted from the first day of the physical reopening of this Court on October 20, 2021. As such, petitioner avers that since the present *Petition for Review* was filed on October 8, 2021 through registered mail, and in consideration of the foregoing issuances, the said *Petition* was filed on time.

Moreover, petitioner also points out that the DOE Certificate of Endorsement is necessary only for importations made by Renewable Energy (RE) Developers. In cases of domestic sales, the DOE Certificate of Registration is deemed already sufficient. Petitioner further asserts that it was able to establish by a preponderance of evidence that it rendered aerated drilling services to EDC, an RE developer, during the first quarter of TY 2019. As such, petitioner maintains that it has satisfied the requirement to prove that it was engaged in zero-rated or effectively zero-rated sales during the said relevant period.

After due consideration, the Court finds respondent's *Motion for Partial Reconsideration* bereft of merit.

To clarify, in the year 2021, the filing of initiatory pleadings was not entirely suspended but, rather, the period for filing was generally suspended **only** when the relevant court was physically closed due to specific community quarantine classifications, and resumed seven calendar days after their physical reopening.[1] As already discussed in the Decision, all appellate collegiate courts within the National Capital Region reopened on October 20, 2021, and the filing of pleadings and motions resumed on October 27, 2021. Since the present *Petition for Review* was filed on October 8, 2021, through registered mail, the Court has jurisdiction to take cognizance of the present case.

At this point, it must be emphasized that the rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed. Even the Rules of Court reflect this principle.[2]

The Court finds respondent's contention that the DOE DC No. DC2009-05-0008 of 2009 was the prevailing implementing rule at the time of petitioner's claim and not DOE DC No. DC2021-12-0042, which was issued only in 2021, untenable.

Verily, in the recent case of *Maibarara Geothermal, Inc. v. Commissioner of Internal Revenue,*[3] the Supreme Court has already thoroughly addressed the issue that the DOE cannot impose additional certification requirements on RE suppliers, *i.e.*, Certificate of Endorsement, seeking VAT refund for zero-rated sales under Republic Act (RA) No. 9513

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[1] *See* Supreme Court Administrative Circulars No. 56-2021 dated July 30, 2021; No. 72-2021 dated September 15, 2021; No.75-2021 dated October 1, 2021; No.83-2021 dated October 18, 2021.
[2] *Arnold Ginete, et al., v. Hon. Court of Appeals, et. al.,* G.R. No. 127596, September 24, 1998.
[3] G.R. No. 256720, August 07, 2024.

or the Renewable Energy Act.[4] The Supreme Court still applied the legal interpretation under DOE DC No. DC2021-12-0042 even though the taxable year involved in the said case is 2013, to wit:

> Pursuant to this authority, the DOE promulgated the IRR of Republic Act No. 9513 or DOE Department Circular No. 2009-05-0008 on May 25, 2009, which required RE Developers to secure a Certificate of Endorsement from the DOE, on a per transaction basis in order to be qualified to avail of the incentives provided by the law.
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> The Court notes that on December 24, 2021, the DOE has issued Department Circular No. DC2021-12-0042, which amended DOE Department Circular No. 2009-05-0008. This amendment removed the requirement under Section 18(C) of Department Circular No. 2009-05-0008 for RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment to secure a Certificate of Endorsement from the DOE on a per transaction basis to avail of the incentives provided under the RE Law. **Under DC2021-12-0042, RE Developers are automatically qualified to avail of the incentives under Republic Act No. 9513** after securing a Certificate of Registration from the DOE, with the exception of duty-free importation of RE machinery, equipment and materials.
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> **It is important to note that this amendment came after the taxable year for which the refund in this case is claimed, *i.e.*, 2013.**
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> As pointed out by Justice Japar B. Dimaampao (Justice Dimaampao), **the Court must determine whether, prior to the issuance of DOE Department Circular No. DC2021-12-0042, the DOE could validly impose a Certificate of Endorsement as a requirement for RE developers to enjoy VAT zero-rating in their sale of fuel or power generated from renewable sources of energy.**
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> x x x
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> To recall, Section 26 of Republic Act No. 9513 was originally Section 27 of Senate Bill No. 2046. In the original provision, it enumerates the fiscal incentives found in Section 15 to which the DOE must certify in favor of the RE developer:
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> I. AUTHORITY TO IMPORT AND ENTITLEMENT TO DUTY FREE IMPORTATION OF MACHINERY, EQUIPMENT AND MATERIALS AND PARTS THEREOF;
> II. ENTITLEMENT TO TAX CREDIT ON DOMESTIC CAPITAL EQUIPMENT AND SERVICES;
> III. ENTITLEMENT TO SPECIAL REALTY TAX RATES ON EQUIPMENT AND MACHINERY;
> IV. ENTITLEMENT TO INCOME TAX HOLIDAY AND EXEMPTION AND/OR THE USE OF NET OPERATING LOSS CARRY-OVER (NOLCO);
> V. ENTITLEMENT TO ACCELERATED DEPRECIATION;
> VI. EXEMPTION FROM UNIVERSAL CHARGE;

[4] AN ACT PROMOTING THE DEVELOPMENT, UTILIZATION AND COMMERCIALIZATION OF RENEWABLE ENERGY RESOURCES AND FOR OTHER PURPOSES.

VII. EXEMPTION FROM PROVINCIAL ENVIRONMENTAL COMPLIANCE CERTIFICATE;
VIII. EXEMPTION FROM WATER PERMIT FROM THE NATIONAL WATER RESOURCES BOARD (NWRB);
IX. ALL OTHER NECESSARY MATTERS THAT SHOULD BE INDICATED IN THE CERTIFICATION.

The VAT zero-rating incentive for the sale of fuel or power generated from renewable sources of energy is not among the foregoing enumeration.

One of the fundamental statutory construction principles is that a person, object, or thing omitted from an enumeration must be held to have been omitted intentionally—*casus omisus pro omisso habendus est*. It applies when there is a reasonable certainty that a particular person, object, or thing has been omitted from a legislative enumeration.

As observed by Justice Dimaampao, the Senate introduced the certification provision and took great pains to enumerate every other incentive under Section 15, but left out the VAT zero-rating provision. Concededly, some argument may be made that this omission may be due to the fact that the VAT zero-rating provision was introduced after Section 27 was inserted, as the Madrigal Amendment occurred in the succeeding session day, or that the catch-all provision under sub-paragraph (IX) suffices to cover that particular incentive. Entertaining this argument though does not match the deliberateness that is expected and, in fact, must be presumed by the Court from the Legislature when it enacts laws. Certainly, it would have been a simple matter to insert the VAT zero-rating provision in the enumeration in Section 27, but the Senate opted not to do so. Errors are not presumed, and the Court should accord respect to the deliberateness exhibited by Congress.

Consequently, while the DOE may impose further requirements before it can qualify the RE developer or their transactions to the fiscal incentives under Section 15, it cannot impose other certification requirements, such as a certificate of endorsement, to the VAT zero-rating incentive. In requiring RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment to obtain a Certificate of Endorsement on a per transaction basis to avail of the incentives provided under Republic Act No. 9513, the DOE exceeded the authority intended to be granted by the lawmakers. DOE DC2021-12-0042 has since removed this requirement.

Thus, as it stands, the only other requirement for VAT zero-rating qualification, aside from the conditions imposed by the NIRC, is the RE Developer's registration with the DOE. As MGI pointed out, it has complied with this requirement, as evidenced by its Certificate of Registration No. GRESC 2011-01-025. *(Emphases supplied and citations omitted)*

Apparently, the Supreme Court had thoroughly established that the Certificate of Endorsement on a per transaction basis for availment of the incentives provided under RA No. 9513 was never a valid requirement for VAT zero-rating under the original law. The Supreme Court found that

Congress intentionally excluded VAT zero-rating from incentives requiring additional certifications. Correspondingly, the requirement for a Certificate of Endorsement for VAT zero-rating, as previously imposed by the implementing rules and regulations, exceeded the mandate of the RA No. 9513 itself.

Furthermore, even assuming that the proper provision to be applied is Section 18(C), Rule 5, Part III of DOE DC No. 2009-05-0008,[5] reading the same with Section 15(b) of RA No. 9513, it becomes apparent that a DOE Certificate of Endorsement is crucial only when the incentive sought to be claimed is the duty-free importation of RE machinery, equipment, materials, and parts thereof, and tax- and duty-free exemption in the event the same was subsequently sold, transferred, or disposed. Herein, petitioner is not seeking incentives related to importation of RE equipment; instead, it seeks refund for unutilized VAT zero-rating. As such, the submission of a DOE Certificate of Endorsement is not required.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by respondent in his *Motion for Partial Reconsideration*, the Court finds no compelling reason to reverse or modify the conclusions reached in the Decision promulgated on July 3, 2025.

WHEREFORE, premises considered, respondent's **Motion for Partial Reconsideration (Re: Decision dated July 3, 2025)** is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

[5] Rules and Regulations Implementing Republic Act No. 9513, May 25, 2009.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice