REPUBLIC OF THE PHILIPPINES

Court of Tax Appeals

QUEZON CITY

Third Division

DUMEX PHILIPPINES, INC., *Petitioner,*	**CTA CASE NO. 7790**
	Members:
-versus-	***Bautista,*** *Chairperson* ***Fabon-Victorino,*** *and* ***Ringpis-Liban,*** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: OCT 30 2015 11:30 a.m.

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R E S O L U T I O N

BAUTISTA, J:

For resolution is petitioner's "Motion for Reconsideration (of Petitioner Dumex Philippines, Inc. relative to the Decision of the Honorable Court dated 10 August 2015)" (hereinafter referred to as "Motion for Reconsideration") filed by registered mail on August 28, 2015; with no comment from respondent despite due notice.

On May 26, 2008, petitioner filed its "Petition for Review" seeking for the issuance of a tax credit certificate ("TCC") in the amount of Php59,970,799.48 representing unutilized/excess input value-added tax ("VAT") on importation of goods and domestic purchases of goods and services from the commencement of its operations until the cancellation of its VAT registration.[1]

On April 3, 2012, the Court rendered its Decision denying petitioner's claim for failure to present the Certificate of Tax Clearance ("CTC"), as prescribed by *Sections 52(C) and 235 of the 1997*

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[1] *Records, CTA Case No. 7790,* p. 908.

National Internal Revenue Code ("NIRC").[2] The Court also denied petitioner's Motion for Reconsideration on June 25, 2012 for lack of merit.[3]

On July 12, 2012, petitioner filed its Petition for Review with the CTA *En Banc*, alleging that it was able to secure a CTC; and praying for the Court *En Banc* take judicial notice thereof, for the April 3, 2012 Decision to be set aside, and for its refund to be granted.[4]

On June 25, 2013, the Court *En Banc* rendered a Decision setting aside the April 3, 2012 Decision and the June 25, 2012 Resolution of the Court, and ordering the case to be remanded to the latter for the reception of evidence.[5]

On August 10, 2015, the Court promulgated an Amended Decision, again denying the Petition for Review for petitioner's failure to comply with substantiation requirements.

In its Motion for Reconsideration filed on August 28, 2015, petitioner asserts that to substantiate a claim of refund relating to input VAT arising from importations, the presentation of an Import Entry and Internal Revenue Declaration ("IERD") or such other equivalent document showing actual payment of VAT on the imported goods is sufficient, as provided in *Section 113 of the 1997 NIRC, Section 4.104-5 of Revenue Regulations ("RR") No. 7-95 and Section 4.110-8 of RR No. 16-05.*[6] Petitioner likewise claims that the purchases involved were incurred for the period prior to the effectivity of *Republic Act ("RA") No. 9337* wherein the presentation of an invoice or receipt is sufficient to support purchases;[7] that *Section 4.108-1 of RR No. 07-95* states no requirement for the BIR's Authority to Print ("ATP") to be reflected on the official receipt;[8] that the Court erred in considering the amount of Php551,492.44 as excess input tax;[9] and that *BIR Ruling [DA-614-04] dated December 6, 2004* allowed as credit input VAT supported merely by debit notes/memos.[10]

[2] *Id.*, p. 911.
[3] *Id.*
[4] *Id.*
[5] *Id.*, p. 912.
[6] *Id.*, pp. 958-959.
[7] *Id.*, pp. 959-962.
[8] *Id.*, pp. 962-963.
[9] *Id.*, p. 963.
[10] *Id.*, pp. 963-965.

On September 23, 2015, the Court ordered respondent to file her comment to petitioner's Motion for Reconsideration within fifteen (15) days from notice.[11] Records reveal that the said Resolution was received by respondent through its Legal Division on September 29, 2015, hence, she has until October 14, 2015 to file the said comment.[12]

On October 16, 2015, the Judicial Records Division issued a Records Verification Report stating that respondent failed to file her comment on petitioner's Motion for Reconsideration.[13]

With regard to the IERDs, the Court sees no reversible error in disallowing the input tax credits relating to importations in the amount of Php29,248,610.67 based on the finding that the said importations do not provide a breakdown and proof of payment of the related input tax as discussed in the assailed Decision, *viz.*:[14]

> ***<u>VAT on Importations</u>***
>
> Pursuant to Section 4.104-5(b) of RR No. 7-95, as amended by RR No. 16-2005, "input tax on importations shall be supported with the import entry or other equivalent document showing actual payment of VAT on the imported goods."
>
> Per ICPA Report, the total allowable input tax on importations amount to PhP98,135,960.45, broken down as follows per year:

YEAR	PER ICPA REPORT
2000	3,383,207.00
2001	14,628,591.00
2002	8,859,261.00
2003	20,925,942.00
2004	26,956,745.00
2005	22,305,783.45
2006	1,076,431.00
TOTAL ALLOWABLE INPUT VAT PER ICPA REPORT	**PhP98,135,960.45**

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[11] *Id.*, p. 971.
[12] *Id.*, p. 970.
[13] *Id.*, p. 972.
[14] *Id.*, *"Amended Decision"* dated August 10, 2015, pp. 924-926.

A perusal of the Exhibits as marked by the ICPA, and considered by the ICPA as allowable input VAT on importations, show that there are importations which do not provide a breakdown and proof of payment of input VAT on importations. Below is a table that provides the allowable input VAT on importations per ICPA Report, per Court's further verification, and the allowable input VAT:

YEAR	ALLOWABLE INPUT VAT ON IMPORTATIONS PER ICPA	DISALLOWANCE PER COURT'S FURTHER VERIFICATION	ALLOWABLE INPUT VAT ON IMPORTATIONS
2000	3,383,207.00	3,383,207.00	0.00
2001	14,628,591.00	9,518,217.00	5,110,374.00
2002	8,859,261.00	348,892.00	8,510,369.00
2003	20,925,942.00	0.00	20,925,942.00
2004	26,956,745.00	899,567.00	26,057,178.00
2005	22,305,783.45	15,098,727.67	7,207,055.78
2006	1,076,431.00	0.00	1,076,431.00
TOTAL	PhP98,135,960.45	PhP29,248,610.67	**PhP68,887,349.78**

Thus, from the total allowable input VAT per ICPA Report in the total amount of PhP98,135,960.45, the Court shall disallow the total amount of PhP29,248,610.67 for failure to comply with the substantiation requirements *i.e.*, absence of breakdown of input VAT and absence of proof of payment, as prescribed by Section 4.104-5 of RR No. 7-95, as amended by RR No. 16-2005. Therefore, the total allowable input VAT on importations is PhP68,887,349.78.

As to the ATP requirement, *Revenue Audit Memorandum Order ("RAMO") No. 1-99 dated September 5, 1998* provides that in the audit of purchases and input tax, the printer's ATP is required to be indicated on the invoice or official receipt in order to substantiate a claim for input tax credit, to wit:

C. Audit of Purchases and Input Tax

xxx xxx xxx

4. Determine compliance with substantiation on requirements of claims for input tax credit.

4.1 For domestic purchases of goods, properties and services in the course of trade or business, these must be supported by VAT invoices and/or official receipts, showing the information required in Secs. 113 (A) and 237 of the NIRC,

> as amended by RA 8424, and Sec. 4.108-1 of RR 7-95. The printer's authority to print must likewise be indicated on the face of the invoice or receipt. A cash register machine tape shall constitute valid proof of input tax credit only if the name and TIN of the purchaser is indicated in the receipt and authenticated by a duly authorized representative of the seller.

Lastly, relating to petitioner's claim that the presentation of either an invoice or an official receipt is sufficient to support the purchases involved, the same was already raised by petitioner in its Memorandum[15] and fully passed upon by the Court in the assailed Decision. Related thereto are petitioner's arguments relating to the excess input VAT claims and that debit notes and memos should be allowed to substantiate creditable input VAT.

It must be emphasized that tax refunds are in the nature of tax exemptions, and are to be construed *strictissimi juris* against the taxpayer.[16] Therefore, the taxpayer has the heavy burden of proving compliance with all statutory and administrative requirements to be entitled to a tax refund.[17]

Considering the foregoing, the Court sees no justifiable reason to reverse its August 10, 2015 Amended Decision.

WHEREFORE, petitioner's "Motion for Reconsideration (of Petitioner Dumex Philippines, Inc. relative to the Decision of the Honorable Court dated 10 August 2015)" is hereby **DENIED** for lack of merit.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

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[15] *Id.*, *"Memorandum"* dated June 15, 2011, p. 647.
[16] *Commissioner of Internal Revenue v. Team Sual Corporation (formerly Mirant Sual Corporation)*, G.R. No. 194105, February 5, 2014; citing *Phil. Geothermal, Inc. v. Commissioner of Internal Revenue*, G.R. No. 154028, July 29, 2005, 503 Phil. 278.
[17] *Commissioner of Internal Revenue v. Team Sual Corporation (formerly Mirant Sual Corporation)*, G.R. No. 194105, February 5, 2014; citing *Commissioner of Internal Revenue v. Eastern Telecommunications Philippines, Inc.*, G.R. No. 163835, July 7, 2010, 624 SCRA 340.

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WE CONCUR:

(On Leave)	Ma. Belen
ESPERANZA R. FABON-VICTORINO	**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice	Associate Justice