REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

FILMINERA RESOURCES CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 1466
(CTA Case Nos. 8690 & 8716)

Present:

DEL ROSARIO, *PJ*;
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, *JJ*.

Promulgated:

APR 04 2018 4:27pm

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RESOLUTION

Fabon-Victorino, J.:

In the Decision promulgated on October 19, 2017, the Court denied the Petition for Review dated June 24, 2016 filed by petitioner Filminera Resources Corporation, ratiocinating that it failed to establish by competent proof that the amount of ₱106,466,244.56[1] subject of its claim for refund were not utilized or carried-over to the succeeding taxable quarters.

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[1] The amount of ₱78,982,003.52 pertains to petitioner's refund claim for periods April 1, 2011 to June 30, 2011, while ₱27,484,241.04 relates to the period July 1, 2011 to September 30, 2011 (₱78,982,003.52 + ₱27,484,241.04 = ₱106,466,244.56).

In its *Motion for Reconsideration* dated November 20, 2017, petitioner disagrees with the finding of the Court *En Banc* saying that on the contrary it was able to substantially comply with all the requirements mandated under Section 112 of the National Internal Revenue Code (NIRC), as amended. It argues that perusal of its Quarterly VAT Return for the 1st Quarter of FY 2012 would show that out of its existing total input VAT of ₱417,509,030.79, ₱360,739,406.31 pertains to its input VAT claim for the periods March 2010 to September 2011. Further, the amount of ₱106,466,244.56 subject of the claim for refund in the instant petition is but a part of the ₱360,739,406.31.

The detailed breakdown of the amount of ₱56,299,762.02[2] may also be dispensed with. Petitioner explains that the foregoing sum was incurred in 2009, or before Phil. Gold Processing and Refinery Corporation (PGPRC) generated zero-rated sales as a BOI-Registered Entity. Petitioner is not claiming the said amount for it is not legally feasible to utilize or claim it for being barred by the statute of limitations. Additionally, the possibility of selling its produce to non-BOI registered entities is nil since it solely deals its ore to PGPRC. In fine, the evidence it presented demonstrates that it did not claim, utilize or carry-over the subject claim to the succeeding taxable quarters, justifying the grant of its claim for refund.

On the foregoing, respondent counters that petitioner failed to satisfy all the requisites set forth in Section 112 of the NIRC, as amended, to merit the refund prayed for. In particular, no evidence was presented by petitioner to demonstrate that the amount of ₱106,466,244.56 was indeed not utilized or carried-over to the succeeding taxable quarters. That being the case, a total denial of petitioner's refund claim is in order.

That petitioner simply reiterated its previous arguments cannot be denied. All the issues raised in its Motion for Reconsideration had been fully addressed and discussed at length by the Court *En Banc* in the assailed Decision of

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[2] The said amount is the difference after subtracting the VAT Refund/TCC claimed and Input Tax on Purchase of Capital Goods Exceeding ₱1 Million deferred from succeeding periods from the existing input VAT of the taxable quarter concerned. Thus, ₱417,509,030.79 - (₱360,739,406.51+ ₱469,862.26) = ₱56,299,762.02.

October 19, 2017. To discuss them anew is a waste of time and resources of the Court.

WHEREFORE, the Motion for Reconsideration dated November 20, 2017, filed by petitioner Filminera Resources Corporation is **DENIED**. The Decision dated October 19, 2017 is **AFFIRMED**.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

(I maintain my Concurring Opinion)
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

(On Leave)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice