REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

<u>SPECIAL THIRD DIVISION</u>

SITEL PHILIPPINES CORPORATION, *Petitioner,*	**CTA CASE NO. 10136**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson, and* **MODESTO-SAN PEDRO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: SEP 04 2023 11:26 a.m.

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RESOLUTION

RINGPIS-LIBAN, J.:

Before this Court is petitioner's **Motion for Reconsideration (of the Decision dated May 19, 2023)** filed on June 19, 2023, with respondent's **Opposition (Re: Motion for Reconsideration of the Decision dated 19 May 2023)** filed on July 11, 2023.

On May 19, 2023, the Court promulgated a Decision denying petitioner's claim for refund of unutilized input value-added tax (VAT) arising from domestic purchases of goods and services attributable to its zero-rated sales for failing to prove that it is a VAT-registered taxpayer, the dispositive portion of which reads as follows:

> "**WHEREFORE**, the present *Petition for Review* is **DENIED** for lack of merit.
>
> **SO ORDERED**."

In its Motion, petitioner insists that it has established with sufficient evidence all the mandatory documentary requirements needed for an administrative claim to prosper. Nonetheless, petitioner asserts that as a mere facility, the Palawan site need not have a separate VAT registration as all sales generated by said site is accounted, recorded, and reported by the Main Office.

Petitioner continues that it registered its Palawan site as a facility since it is a mere cost center unit where services are produced or performed, akin to a place of production. Lastly, petitioner argues that fairness and equity dictate that belated application for issuance of Certificate of Registration of Facility should only be meted with administrative penalty but not complete disregard of the zero-rated sales and the refundable nature of the input VAT attributable thereto.

On the other hand, in his comment, respondent reiterates the ruling of the Court in the Decision, wherein it found that petitioner has not shown that respondent should not have denied its administrative claim in the first place and that petitioner cannot be considered as a VAT-registered person. As such, respondent prays that petitioner's Motion for Reconsideration be denied for lack of merit.

On July 13, 2023, petitioner filed its Manifestation stating that it changed its corporate name from the current Sitel Philippines Corporation to Foundever Philippines Corporation which the Securities and Exchange Commission (SEC) approved on April 27, 2023.

The Court finds petitioner's Motion for Reconsideration bereft of merit.

To stress, the Court of Tax Appeals (CTA) has exclusive appellate jurisdiction to review by appeal the decision of the Commissioner of Internal Revenue (CIR) in cases involving, among others, refunds of internal revenue taxes.[1]

In *Luzon Hydro Corporation v. Commissioner of Internal Revenue*,[2] the Supreme Court reiterated that a judicial claim for refund before the CTA is not an original action but an appeal by way of petition for review of the taxpayer's unsuccessful administrative claim for refund, hence, the taxpayer has to convince the CTA that the quasi-judicial agency *a quo* should not have denied the said claim, to wit:

> "Verily, the Court has emphasized in Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue that **a judicial claim for tax refund or tax credit brought to the CTA is by no means an original action but an appeal by way of a petition for review of the taxpayer's unsuccessful administrative claim; hence, the taxpayer has to convince the CTA that the quasi-judicial agency a quo should not have denied the claim, and to do so the taxpayer should prove every minute aspect of its case by presenting, formally offering and submitting its evidence to the CTA, including whatever was required for the successful prosecution of the administrative claim as the means of demonstrating to the**

[1] Section 7(a)(1) of Republic Act (RA) No. 1125, as amended.
[2] G.R. No. 188260, November 13 2013.

> **CTA that its administrative claim should have been granted in the first place.**" *(Emphasis supplied)*

In the present case, petitioner appealed to this Court its unsuccessful administrative claim for refund with the CIR. Thus, it is imperative for petitioner to prove before this Court that not only is it entitled to refund, but also show that the CIR should not have denied its claim in the first place.

A cursory look of the appealed administrative decision show that respondent denied petitioner's claim for refund, finding that petitioner's Puerto Princesa, Palawan Site was registered only as a "Facility" instead of a "Branch" – as such it was not authorized to conduct sales transactions. Moreover, considering that the registration of the said Site as a "Facility" was effected only on August 9, 2017, which is beyond the said period of claim, the declared sales transactions for the Site has no force and effect and could not be considered as VAT zero-rated as contemplated under Section 108(B)(2) in relation to Section 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Form the foregoing, petitioner should have shown to this Court that respondent committed a patent error in arriving at his decision in the administrative claim. Unfortunately, same as in the administrative proceeding, petitioner did not present evidence that it was properly registered with the BIR during the period of the claim, *i.e.*, January to March 2017. Evidently, by not being able to show that respondent erred in finding that the declared sales transactions in petitioner's Palawan Site could not be considered as VAT zero-rated under Section 108(B)(2) in relation to Section 112(A) of the NIRC of 1997, as amended, petitioner's appeal should be denied.

As for petitioner's contention that fairness and equity dictate that belated registration of a facility should only be meted with administrative penalty but not complete disregard of the zero-rated sales and the refundable nature of the input VAT attributable thereto, the Court is not convinced. As held by the Supreme Court in *Commissioner of Internal Revenue v. San Roque Power Corporation, et seq.*:[3]

> "A final word. Taxes are the lifeblood of the nation. The Philippines has been struggling to improve its tax efficiency collection for the longest time with minimal success. Consequently, the Philippines has suffered the economic adversities arising from poor tax collections, forcing the government to continue borrowing to fund the budget deficits. This Court cannot turn a blind eye to this economic malaise by being unduly liberal to taxpayers who do not comply with statutory requirements for tax refunds or credits. *xxx.*"

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[3] G.R. Nos. 187485, 196113, and 197156, February 12, 2013.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by petitioner in its Motion for Reconsideration, the Court finds no compelling reason to reverse, amend, or modify the Decision promulgated on May 19, 2023.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration (of the Decision dated May 19, 2023), is **DENIED** for lack of merit.

Petitioner's Manifestation dated July 13, 2023 is **NOTED.**

SO ORDERED.

MA. BELEN M. RIGPIS-LIBAN
Associate Justice

I Concur:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice