REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

REGUS SERVICE CENTRE, PHILIPPINES B.V. – ROHQ, Petitioner,	**CTA CASE NO. 9962**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAY 06 2025 2:00 p.m.

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RESOLUTION

RINGPIS-LIBAN, J.:

Submitted before this Court is petitioner's **Motion for Reconsideration** filed on July 27, 2023, with respondent's **Comment/Opposition (To Petitioner's Motion for Reconsideration dated 27 July 2023)** filed through an accredited licensed courier service on February 18, 2025, and received by the Court on February 20, 2025.

On June 29, 2023, the Court promulgated a Decision denying petitioner's claim for refund of unutilized input value-added tax (VAT) for the second (2[nd]) to fourth (4[th]) quarters of calendar year 2016, in the amount of ₱7,834,310.94, for failing to sufficiently establish that it was engaged in zero-rated sales or effectively zero-rated sales, the dispositive portion of which states as follows:

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

In its Motion, petitioner primarily insists that it was able to sufficiently show that the services for the covered period of claim were rendered in the Philippines. Petitioner asserts that the Service Agreement indicates that the party involved is Regus Service Centre, Philippines B.V., which is a foreign corporation duly licensed to operate as a regional operating headquarters (ROHQ) in the Philippines as a provider of services. As a foreign corporation, petitioner continues that it has to strictly comply with provisions in its Certificate of Registration and License issued by the Securities and Exchange Commission, which includes the rendition of services here in the Philippines as an ROHQ and not elsewhere. Thus, petitioner avers that as a resident foreign corporation, it is only taxed on its income derived from sources within the Philippines pursuant to Section 23(F) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Petitioner also reiterates the testimony of the Independent Certified Public Accountant (ICPA) that the recorded sales subject to zero percent (0%) VAT pertain to the fees collected from petitioner's sole client, Franchise International S.A.R.L., for services rendered in the Philippines. Petitioner further points out that the testimony of the ICPA stating that petitioner's services were performed in the Philippines was unrebutted by respondent and that respondent never presented controverting evidence to prove otherwise. Lastly, petitioner submits that tax cases are civil in nature and require only preponderance of evidence to prove entitlement to the claimed refund. Petitioner likewise invokes the principle of *solutio indebiti* arguing that tax refunds are based on quasi-contracts.

On the other hand, in his Comment, respondent emphasizes that petitioner is not entitled to its claim for refund. He reiterates the Court's finding that the Service Agreement between petitioner's Head Office and Franchise International S.A.R.L. does not bear any indication that the subject services were to be performed by petitioner in the Philippines. Respondent further assails petitioner's reliance on the testimony of the ICPA, insisting that the ICPA has no personal knowledge of the Service Agreement since it is not privy to the said agreement. Lastly, respondent stresses that actions for tax refunds are in the nature of a claim for exemption and the law is construed in *strictissimi juris* against the claimant. Being such, the taxpayer claimant has the burden to prove that it strictly complied with the conditions for the grant of said tax refund.

After consideration, the Cour finds petitioner's Motion for Reconsideration bereft of merit.

At the outset, the issue as to whether or not petitioner performed services in the Philippines is a question of fact which must be proven by specific evidence. In proving a fact in issue, petitioner cannot merely rely on the definition stated in Republic Act (RA) No. 8756,[1] that ROHQs are licensed

[1] "AN ACT PROVIDING FOR THE TERMS, CONDITIONS AND LICENSING REQUIREMENTS OF REGIONAL OR AREA HEADQUARTERS, REGIONAL OPERATING HEADQUARTERS, AND REGIONAL WAREHOUSES OF MULTINATIONAL COMPANIES, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF EXECUTIVE ORDER NO. 226, OTHERWISE KNOWN AS THE OMNIBUS INVESTMENTS CODE OF 1987", approved on November 23, 1999.

to do business in the Philippines, without offering any evidence to corroborate that the said services were indeed performed in the Philippines.

In the assailed Decision, the Court noted that the Service Agreement between petitioner and Franchise International S.A.R.L. does not bear any indication that the subject services were to be performed by petitioner in the Philippines. Without any corroborating evidence offered to support the testimony of petitioner's witness, Ms. Krista V. Bambao, the court-commissioned ICPA, the statements proffered therein remains short to be considered as established facts.

Similarly, the Court rules time and again that petitioner cannot merely rely on the ICPA's findings to validate its claim, since the ultimate determination rests upon the Court based on the evidence submitted by the parties. Perforce, the Court is not bound by the findings of the ICPA, since the ICPA Report is but a tool or guide to aid the Court in the resolution of the case, it is only persuasive in nature and not conclusive upon the Court.[2] The Court will still examine, verify, and evaluate the documents audited by the ICPA, to which the Court, in its sound discretion, may render judgment without considering the ICPA report. Thus, petitioner cannot insist that the subject sales pertain to fees collected for services rendered in the Philippines – as found by the ICPA in her report– is already sufficient for the Court to conclude the same without being examined and verified by the Court.

To stress, the burden is on the taxpayer to show that it has strictly complied with the conditions for the grant of the tax refund since actions for tax refund, as in the present case, are in the nature of tax exemptions. They are regarded as derogation of sovereign authority and to be construed *strictissimi juris* against the person or entity claiming the refund.[3] The pieces of evidence presented entitling a taxpayer to an exemption are also *strictissimi* scrutinized and must be duly proven.[4] Hence, an applicant for a claim for tax refund or tax credit must not only prove entitlement to the claim but also compliance with all the documentary and evidentiary requirements.[5]

Lastly, as for petitioner's argument that its claim for VAT refund should be granted considering that tax cases are civil in nature and require only preponderance of evidence, following the principle of *solutio indebiti,* the Court finds petitioner's argument misplaced.

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2 Section 3, Rule 13 of the Revised Rules of the Court of Tax Appeals.

3 *Commissioner of Internal Revenue v. S.C. Johnson and Son, Inc.,* G.R. No. 127105, June 25, 1999.

4 *Kepco Philippines Corporation v. Commissioner of Internal Revenue*, G.R. No. 179961, January 31, 2011, citing *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 159490, February 18, 2008.

5 *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015, citing *J.R.A. Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013.

In the case of *Commissioner of Internal Revenue v. Manila Electric Co. (MERALCO),*[6] the Supreme Court had the occasion to discuss the grounds for the application of *solutio indebiti,* to wit:

> "There is solutio indebiti where: (1) *payment is made when there exists no binding relation between the payor, who has no duty to pay, and the person who received the payment*; **and** (2) the payment is made through mistake, and not through liberality or some other cause. Here, there is a binding relation between petitioner as the taxing authority in this jurisdiction and respondent MERALCO which is bound under the law to act as a withholding agent of NORD/LB Singapore Branch, the taxpayer. Hence, the first element of *solutio indebiti* is lacking."

Herein, the first element is likewise not present. There exists a binding relationship between the respondent, as the taxing authority, and petitioner, the taxpayer, arising from the legal obligation of the taxpayer to pay the VAT. As for the second element, the payment of the input taxes was not a mistake, since the taxpayer was legally obligated to pay for such liability. The entitlement to a refund of excess input tax is solely based on the nature of the VAT system, which in this case, the amount paid as input tax was correct and proper. Correspondingly, *solutio indebiti* does not apply.

Moreover, insofar as tax refunds are concerned, the NIRC of 1997, as amended, is a special law, which prevails over a general law, which is the New Civil Code. The power of taxation is an inherent attribute of sovereignty; hence, the dictum that "taxes are the lifeblood of the government." For this reason, the right of taxation cannot easily be surrendered; statutes granting tax exemptions are considered as a derogation of the sovereign authority and are strictly construed against the person or entity claiming the exemption. The taxpayer is charged with the heavy burden of proving that he has complied with and satisfied all the statutory and administrative requirements to be entitled to the tax refund.[7]

In view of the foregoing disquisitions, there being no new matter or substantial issue raised in petitioner's Motion for Reconsideration, the Court finds no compelling reason to reverse or modify the Decision promulgated on June 29, 2023.

SO ORDERED.

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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6 G.R. No. 181459, June 9, 2014.
7 *Commissioner of Internal Revenue v. Eastern Telecommunications Philippines, Inc.*, G.R. No. 163835, July 7, 2010.

We Concur:

(On Leave)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice