REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

MAERSK GLOBAL SERVICES CENTRES (PHILIPPINES), LTD., *Petitioner,*	CTA EB No. 1804 (CTA CASE No. 9015)
-versus-	
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	

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COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	CTA EB No. 1805 (CTA CASE No. 9015)
-versus-	*Present*: DEL ROSARIO, P.J., CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, and MODESTO-SAN PEDRO, *JJ.*
MAERSK GLOBAL SERVICES CENTRES (PHILIPPINES), LTD., *Respondent.*	Promulgated: NOV 14 2019 10:37 a.m.

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RESOLUTION

MINDARO-GRULLA, J.:

Before the Court *En Banc* is the Motion for Reconsideration filed by Maersk Global Services Centres (Philippines) Ltd. (Maersk-GSCPL)[1] on May 22, 2019,

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[1] *En Banc* No. 1804 Docket, pp. 260-279.

seeking to set aside this Court's Decision promulgated on April 29, 2019,[2] the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the Petitions for Review are hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**"

In its motion, Maersk-GSCPL merely reiterates that the official receipts (ORs) for its export sales of services from July to December 2013 bear the pre-printed words "zero-rated sales" and were printed and issued strictly in compliance with the new invoicing requirements and format prescribed under Revenue Regulations (RR) No. 18-2012 and Revenue Memorandum Order (RMO) No. 12-2013; and that in the interest of justice, Maersk-GSCPL repeats that the judicial affidavits and the cashier's copy of the ORs be considered in deciding the merits of this case. Moreover, it assails that there is no separate invoicing requirements for value-added tax (VAT) refund purposes and that RR No. 18-2012 and RMO 12-2013 conforms to the invoicing requirements under Section 113 of the National Internal Revenue Code (NIRC) of 1997, as amended.

The CIR failed to file his comment to the Motion for Reconsideration as *per* Records Verification[3] dated September 18, 2019.

After a careful review of the grounds raised in the Motion for Reconsideration, the Court finds Maersk-GSCPL's arguments without merit.

The arguments raised by Maersk-GSCPL's have been scrutinized and explicitly ruled upon both by the Court in Division and in the *En Banc's* assailed Decision. No other than the provisions of Section 113 of the NIRC of 1997 mandates that if the sale is subject to zero-percent VAT, the term "zero-rated sale" shall be written or printed

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[2] *Ibid.,* pp. 238-253.
[3] *Ibid.,* p. 286.

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prominently on the invoice or receipt and non-compliance therewith entails that the said sales cannot qualify for VAT zero rating.

Maersk-GSCPL contends that the application of Section 113 of the 1997 NIRC is not limited to VAT refunds. Nonetheless, the wordings of the Supreme Court as to this matter could not be any clearer, to wit:

> "The provisions of Sections 113 xxx of the NIRC of 1997, as amended, xxx are clear in enumerating the invoicing requirements necessary to be shown in order to qualify as duly registered receipts or sales or commercial invoices issued by VAT-registered entities, such as petitioner herein, for the purpose of claiming for refund of creditable input tax due or paid attributable to any zero-rated or effectively zero-rated sales. Absent compliance, the unavoidable result is immediate denial of the claim."[4]

Maersk-GSCPL should bear in mind the ruling enunciated by the Supreme Court in *Microsoft Philippines, Inc. vs. Commissioner of Internal Revenue,*[5] *viz.*:

> "We have ruled in several cases that the printing of the word "zero-rated" is required to be placed on VAT invoices or receipts covering zero-rated sales in order to be entitled to claim for tax credit or refund. xxx Absent such word, the government may be refunding taxes it did not collect.
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> Here, both the CTA Second Division and CTA En Banc found that Microsoft's receipts did not indicate the word "zero-rated" on its official receipts. The findings of fact of the CTA are not to be disturbed unless clearly shown to be unsupported by substantial evidence. We see no reason to disturb the CTA's findings. Indisputably, Microsoft failed to comply with the invoicing requirements of the NIRC and its

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[4] *Miramar Fish Company, Inc., vs. Commissioner of Internal Revenue,* G.R. No. 185432, June 4, 2014.
[5] G.R. No. 180173, April 06, 2011.

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implementing revenue regulation to claim a tax credit or refund of VAT input tax for taxable year 2001."

To reiterate, Section 113 of the NIRC of 1997 provides the mandatory invoicing requirement for purposes of VAT refund, as enunciated by the Supreme Court in several cases, as opposed to RR No. 18-2012 and RMO No. 12-2013, which are mere regulations intended to govern the Processing of Authority to Print (ATP), ORs, SIs and Other Commercial Invoices (CIs) in the Interim Period until the Online ATP System pursuant to RR No. 18-2012 is fully developed.

As to Maersk-GSCPL's failure to offer the judicial affidavits and cashier's copy of the disallowed ORs, the Court has always decreed that tax refunds are in the nature of tax exemptions which represent a loss of revenue to the government.[6] As such, the Court cannot merely rely on the findings in the ICPA Report when such report contradicts what is shown on the face of the evidence presented.

Clearly, there is no cogent reason to disturb the assailed Decision.

WHEREFORE, premises considered, the Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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[6] *Kepco Philippines Corporation vs. Commissioner of Internal Revenue,* G.R. No. 181858, November 24, 2010.

Juanito C. Castañeda Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice