REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

BW SHIPPING PHILIPPINES, INC., *Petitioner,*	**CTA CASE NO. 10317**
	Members:
- versus -	**MANAHAN,** *Chairperson,* **REYES-FAJARDO, ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUN 10 2025 3:50 p.m.

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RESOLUTION

ANGELES, J.:

Before this Court is a *Motion for Reconsideration (of the Honorable Court's Decision dated 19 November 2024)* (MR)[1] personally and electronically filed by petitioner BW Shipping Philippines, Inc. on January 17, 2025. Petitioner prays that this Court reconsider its Decision dated 19 November 2024 (Assailed Decision) and grant the claim for refund of unutilized and unapplied input Value-Added Tax (VAT) attributable to zero-rated sales for the taxable year (TY) 2018 amounting to Six Million One Hundred Forty-Six Thousand Five Hundred Forty-Three Philippine Pesos and 28/100 Centavos (₱6,146,543.28). The dispositive portion[2] is reproduced as follows:

> **WHEREFORE,** in view of the foregoing, the present *Petition for Review* filed by petitioner BW Shipping Philippines, Inc. on August 17, 2020 is hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**

In sum, petitioner's appeal was denied in view of its failure to file an administrative claim for refund before the correct office of the Bureau of Internal Revenue (BIR). Instead of the VAT Credit Audit Division (VCAD) as required by prevalent and applicable rules, petitioner filed the same with Revenue District Office (RDO) No. 49-North Makati. Hence, this Court ruled that it is as if no proper

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[1] Docket, pp. 1338 to 1364.
[2] Decision, Docket, p. 1336.

administrative claim was filed. Thus, the judicial claim before the Court of Tax Appeals (CTA) must likewise necessarily fail.

In support of its MR, petitioner admits that while the administrative claim was indeed filed with RDO No. 49-North Makati, it argues that it should not be outrightly denied on the basis of such a sheer ground, considering that it was able to satisfy the requirements of the National Internal Revenue Code of 1997 (NIRC), as amended.

It contends that Section 4.112-1(c) of Revenue Regulations No. 13-2018 (RR 13-2018), as relied upon by this Court in the Assailed Decision is not applicable. The said provision states, to wit:

> **SEC. 4.112-1. Claims for Refund/Credit of Input Tax. —**
> **(c) Where to file the claim for refund/credit**
> Claims for refunds shall be filed with the appropriate Bureau of Internal Revenue (BIR) Office (Large Taxpayers Service (LTS), Revenue District Office (RDO)) having jurisdiction over the principal place of business of the taxpayer. **Claims for input tax refund of direct exporters shall be exclusively filed with the VAT Credit Audit Division (VCAD).**[3] *(Emphasis and underscoring supplied)*

Central to its present *Motion*, petitioner claims that the term "direct exporters" as used above is limited in the context of export sale of goods, and not of services – to which it is primarily engaged in. Thus, considering that it is not a direct exporter, petitioner should not be required to file its administrative claim for refund with the VCAD. It was sufficient that the same was filed with its own RDO.

Moreover, petitioner likewise asserts that since respondent already addressed its administrative claim for refund when it issued a denial letter,[4] respondent is therefore already estopped from claiming that petitioner is a direct exporter not entitled to the refund due to its failure to file the same with the VCAD.

Lastly, petitioner maintains that it complied with the requirements for the application for VAT Refund under the applicable tax laws.

By way of *Comment/Opposition (to Petitioner's Motion for Reconsideration to the Decision dated 19 November 2024)*,[5] respondent counters by stating that the Assailed Decision is congruent with the proper interpretation of the relevant and mandatory Revenue Memorandum Circulars (RMCs) which clearly and categorically

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[3] Regulations Implementing the VAT Provisions under the RA No. 10963, Further Amending RR No. 16-2005, as Amended, Revenue Regulations No. 13-18, March 15, 2018.
[4] Docket, pp. 73 to 75.
[5] Docket, pp. 1368 to 1373.

require direct exporters to exclusively file its VAT credit/refunds with the VCAD, to wit:

> REVENUE MEMORANDUM CIRCULAR NO. 017-18[6]
>
> B. Claims for VAT refund by direct exporters
> 1. All claims by direct exporters **shall be filed** with and processed by the VAT Credit Audit Division (VCAD), including direct exporters under the jurisdiction of the LTS. *(Emphasis and underscoring supplied)*
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> REVENUE MEMORANDUM CIRCULAR NO. 047-19[7]
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> 2. The "Application for VAT Credit/Refund Claims" (BIR Form No. 1914) shall be received by the processing offices, to wit:
>
> a. For **direct exporters**, regardless of the percentage of export sales to total sales and whose claims are anchored under Section 112 (A) of the Tax Code of 1997, as amended, the claim shall be filed at the **VAT Credit Audit Division (VCAD)**.
>
> b. For taxpayers engaged in other VAT zero-rated sales (*e.g.*, Renewable Energy Developers and those with indirect exports classified as effectively VAT zero-rated sales) whose claims are anchored under Section 112 (A) of the Tax Code of 1997, as amended, the claim shall be filed at the Revenue District Office (RDO) or LT Audit Division having jurisdiction over the taxpayer-claimant. *(Emphasis and underscoring supplied)*

Thus, in light of the foregoing, respondent maintains that petitioner, being a direct exporter, had no legal basis to file its administrative claim for refund with its RDO. It emphasized that the relevant rules pertaining to VAT Refund must therefore be strictly construed - bearing in mind that it partakes of the nature of a tax exemption.

We resolve to deny the present *Motion*.

From the plain and unequivocal wording of the relevant provisions as herein cited above, *direct exporters* must necessarily file the VAT Refund claim with the VCAD. Clearly, it is apparent that the rules **did not provide any qualification** as to the subject of the export sale – be it goods or services.

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[6] Amending RMC No. 89-2017 and Certain Provisions of RMC No. 54-2014 on Processing of Claims for Issuance of Tax Refund/TCC in Relation to Amendments Made in NIRC of 1997, as Amended by RA No. 10963, Revenue Memorandum Circular No. 017-18, February 27, 2018.

[7] Revised Guidelines and Mandatory Requirements for the Processing and Grant of Value-Added Tax (VAT) Refund Claims within the 90-day Period Pursuant to Section 112 of the Tax Code of 1997, as Amended, Revenue Memorandum Circular No. 047-19, April 16, 2019.

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We thus maintain our ruling that the term "direct exporter" must be plainly given its ordinary and literal meaning. Basic is the rule in statutory construction that when the law is clear and unambiguous, the only duty of the Court is to apply the same and not make any room for interpretation. Moreover, when the law does not distinguish, the courts must not distinguish - *ubi lex non distinguit nec nos distinguere debemus*. Therefore, a direct exporter of either goods or services must exclusively file an administrative claim for refund with the VCAD.

Likewise, it is relevant to highlight that this Court's pronouncement in the Assailed Decision, that the term "direct exporter" should be taken in its ordinary sense, is later spelled out by the BIR in a relatively recent issuance, where it apparently confirmed the plain meaning of "direct exporter" so as not to restrict but to expressly include **export sales of <u>goods</u> and <u>services</u>**. RMC No. 71-2023[8] provides:

> 2. The **"Application for VAT Credit/Refund Claims"** (BIR Form No. 1914) shall be **received by the processing offices**, to wit:
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> a. The **VAT Credit Audit Division (VCAD)** in the National Office **for claims of <u>direct exporters</u>, regardless of the percentage of export sales to total sales, pursuant to Section 106 (A) (2) (a) (1) and 106 (A) (2) (a) (6) <u>for sale of goods</u> and <u>Sections 108 (B) (2)</u>, 108 (B) (4), and 108 (B) (6) <u>for sale of services</u>**, and whose claims are anchored under Section 112 (A) of the Tax Code, as amended, except for claims with a mix of VAT zero-rated sales emanating from sales of power or fuel from renewable energy sources pursuant to Section 108 (B) (7) of the Tax Code, as amended, in which case, Item 2 (b) hereof shall apply;
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> b. Claims of taxpayer-claimants (1) engaged in other VAT zero-rated activities, other than **<u>direct exports mentioned in Section (I) (2) (a)</u>** of this Order, such as but not limited to renewable energy developers pursuant to Section 108 (B) (7) of the Tax Code, as amended, and those with indirect exports classified as effectively VAT zero-rated sales, pursuant to Section 112 (A) of the Tax Code, as amended; (2) whose VAT registration has been cancelled or change in the VAT registration status to non-VAT but with accumulated unutilized input taxes pursuant to Section 112 (B) of the Tax Code, as amended; and (3) those with claims for recovery of erroneously or illegally assessed or collected VAT pursuant to Sections 204 and 229 of the Tax Code, as amended, shall be filed at the following offices which have jurisdiction over the taxpayer-claimant: xxx *(Emphasis and underscoring supplied)*

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[8] Provides Streamlined Guidelines and Mandatory Requirements for Claims of Value-Added Tax (VAT) Credit/Refund Except Those under the Authority and Jurisdiction of the Legal Group, Revenue Memorandum Circular No. 71-2023, June 23, 2023.

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As may be gleaned therefrom, the use of the term "direct exporters" remains consistent with its plain, ordinary, and literal meaning which included both export sale of goods and services. The issuance even specifically enumerates the relevant provisions of the NIRC that are contemplated as direct exports. In fact, petitioner has anchored its refund claim on the cited Section 108(B)(2) with regard to the performance of manpower services to foreign shipping companies, *viz.*:

> Section 108. Value-added Tax on Sale of Services and Use or Lease of Properties. –
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> (B) Transactions Subject to Zero Percent (0%) Rate. – The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
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> (2) Services other than those mentioned in the preceding paragraph, rendered to a person engaged in business conducted outside the Philippines or to a non-resident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

While this Court is not unaware that a fairly recent issuance, which is not yet existing at the time the administrative claim was filed is inapplicable, this Court only purports to demonstrate how its previous ruling in upholding the ordinary meaning of the term "direct exporter" is consistent with and confirmed by such issuance.

Lastly, petitioner's contention that respondent is already estopped from raising the ground of improper venue in view of its issuance of a denial letter is of no moment. Settled is the general rule that estoppel cannot lie against the government, especially when it comes to tax cases:

> It is a well-settled rule that the government cannot be estopped by the mistakes, errors or omissions of its agents. It has been specifically held that estoppel does not apply to the government, especially on matters of taxation. Taxes are the nation's lifeblood through which government agencies continue to operate and with which the State discharges its functions for the welfare of its constituents.[9]

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[9] Visayas Geothermal Power Co. v. Commissioner of Internal Revenue, G.R. No. 197525, June 4, 2014.

We are to emphasize that aside from failing to file the administrative claim for refund with the proper BIR office, the purported denial letter was likewise signed by a person not otherwise authorized by the applicable rules relative to claims of VAT Refund. RMC No. 017-18 is instructive as to the officers authorized to sign a denial letter in relation to such claims:

> I. Claims for value-added tax (VAT) refund
>
> A. General Policies
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> xxx
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> **Should the claim be for denial**, such fact should be communicated in writing to the taxpayer within the 90-day period. The **denial letter shall be signed** by the **Commissioner (CIR)/Deputy Commissioner-Operations Group (DCIR-OG)/Assistant Commissioner (ACIR)/Regional Director**, as the case may be.[10] *(Emphasis supplied)*

A perusal of the denial letter[11] shows that it is signed by one Revenue District Officer (RDO) Frederico Q. Pilarca. As enumerated above, an RDO is not one of the officers authorized to sign a denial letter.

In light of the foregoing, absent any meritorious reason for Us to depart from our previous Decision, We find that the present *Motion* must necessarily fail. Although petitioner, a direct exporter of services, filed its administrative claim for VAT refund on time, it was remiss in its compliance of filing the same with the correct BIR office – the VCAD. To conclude, it is very much worthy to reiterate that the strict application of rules in relation to refund must therefore prevail in this case:

> Entrenched in our jurisprudence is the principle that tax refunds are in the nature of tax exemptions which are construed *strictissimi juris* against the taxpayer and liberally in favor of the government.
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> As well said in a prior case, revenue laws are not intended to be liberally construed. Considering that taxes are the lifeblood of the government and in Holmes's memorable metaphor, the price we pay for civilization, tax laws must be faithfully and strictly implemented.[12]

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[10] Amending RMC No. 89-2017 and Certain Provisions of RMC No. 54-2014 on Processing of Claims for Issuance of Tax Refund/TCC in Relation to Amendments Made in NIRC of 1997, as Amended by RA No. 10963, Revenue Memorandum Circular No. 017-18, February 27, 2018.

[11] Docket, p. 75.

[12] Commissioner of Internal Revenue v. Acosta, G.R. No. 154068, August 3, 2007.

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WHEREFORE, premises considered, the *Motion for Reconsideration (of the Honorable Court's Decision dated 19 November 2024)* is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice