REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

MAERSK GLOBAL SERVICES CENTRES (PHILIPPINES) LTD., Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE, Respondent.

CTA EB NO. 2541
(CTA Case No. 9537)

x- x

COMMISSIONER OF INTERNAL REVENUE, Petitioner,

- versus -

MAERSK GLOBAL SERVICES CENTRES (PHILIPPINES) LTD., Respondent.

CTA EB NO. 2547
(CTA Case No. 9537)

Present:

DEL ROSARIO, *P.J.*,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, and
FERRER-FLORES, *JJ.*

Promulgated:

JUL 27 2023 3:42 p.m.

x- x

RESOLUTION

DEL ROSARIO, P.J.:

Before the Court *En Banc* is the Motion for Reconsideration filed by the Commissioner of Internal Revenue (CIR) on May 17, 2023, with the Comment/Opposition (On the Motion for Reconsideration of the Commissioner of Internal Revenue dated 17 May 2023) filed by Maersk Global Services Centres (Philippines) Ltd. (Maersk) on June 5, 2023.

The CIR prays for the reversal and setting aside of the Court in Division's Amended Decision dated January 13, 2021 and Resolution dated September 16, 2021 and the Court *En Banc*'s Decision dated April 27, 2023 (assailed Decision). The dispositive portion thereof reads:

> "**WHEREFORE**, premises considered, Maersk Global Services Centres (Philippines) Ltd.'s Petition for Review is **PARTIALLY GRANTED** while the Commissioner of Internal Revenue's Petition for Review is **DENIED** for lack of merit.
>
> The Amended Decision dated January 13, 2021 rendered by the Court in Division is hereby **AFFIRMED** with **MODIFICATION** as to the computation of the refund. The Commissioner of Internal Revenue is **ORDERED** to refund or issue a tax credit certificate in favor of Maersk Global Services Centres (Philippines) Ltd. in the amount of **₱34,607,696.24**, representing its unutilized input VAT attributable to zero-rated sales for the four quarters of TY 2015.
>
> **SO ORDERED.**"

The CIR submits that the Court *En Banc* erred in denying its Petition for Review for lack of merit and in affirming the Court in Division's Amended Decision dated January 13, 2021 and Resolution dated September 16, 2021. He maintains that there must be a determination on the attributability of the input tax subject of the claim for refund to the zero-rated sale and that the input tax must come from purchases of goods and services that form part of the finished product or service of the taxpayer. He asserts that the connection between the purchases and finished product must be concrete and not imaginary or remote, and the creditable input tax due or paid must be attributable to the zero-rated sales, citing Section 112 of the National Internal Revenue Code of 1997, as amended (NIRC), and *Philippine Gold Processing and Refining Corporation vs. Commissioner of Internal Revenue.*[1]

The CIR posits that assuming *arguendo* that all revenue regulations pertaining to VAT including Revenue Regulations Nos. 5-87 and 3-88 were deemed revoked due to the enactment of Republic Act No. 9337, the intent behind Section 112 of the NIRC is still clear that a determination as to the attributability of the creditable input tax

[1] G.R. No. 222904, July 15, 2020.

due or paid is necessary, specifically the causal relation between the input tax and zero-rated sale. Further, there is nothing in the assailed Decision explaining the evidence showing the direct connection of the purchases or input tax to the finished product or service which were allegedly zero-rated sales.

The CIR emphasizes that it is elementary rule that the burden is on the taxpayer to show that it has strictly complied with the conditions for the grant of the tax refund or credit and that tax refunds are in the nature of tax exemptions which must be construed *strictissimi juris* against the taxpayer and liberally in favor of the government.

Maersk, on the other hand, points out that the CIR's motion should be perfunctorily denied as it does not raise any new, cogent or substantial ground to warrant a reversal or modification of the assailed Decision. It notes that despite the unequivocal rejection of his argument, the CIR reiterated the same argument in the present motion. Further, a simple comparison of the CIR's Petition for Review in CTA EB No. 2547 and the present motion reveals that the arguments in the latter are identical repetition of the arguments in the former. The petition, in turn, is simply a rehash of his motion for partial reconsideration filed on August 20, 2020 in CTA Case No. 9537.

Maersk counters that the *proviso* in Section 112(A) of the NIRC and *Philippine Gold Processing and Refining Corporation vs. Commissioner of Internal Revenue* do not support his position that input value-added tax (VAT) must be directly attributable to zero-rated sales.

It submits that the Court *En Banc*'s finding that it is entitled to refund of its excess and unutilized input tax is supported by the report of the Independent Certified Public Accountant and its annexes. Thus, the Court *En Banc* did not err in finding that it is entitled to the refund of **₱34,607,696.24.**

Upon due deliberation, the Court *En Banc* finds the CIR's Motion for Reconsideration bereft of merit. The CIR's motion indeed is a mere reiteration of his arguments already submitted to and pronounced without merit by the Court in Division and the Court *En Banc.* Thus, the Court *En Banc* shall no longer reiterate its discussion in the assailed Decision.[2]

---

[2] *Social Justice Society (SJS) Officers, et al., vs. Alfredo S. Lim, in his capacity as Mayor of the City of Manila*, G.R. Nos. 1887836 and 187916, March 10, 2015.

Even so, it is worthy to cite the Supreme Court's unequivocal disquisition in *Republic of the Philippines, represented by Commissioner of Internal Revenue vs. Taganito HPAL Nickel Corporation,*[3] which rejects the CIR's submission that Section 112(A) of the NIRC requires direct attributability for input tax to be refundable, *viz.:*

> "Tellingly, **Section 112 (A) does not require direct attributability for input tax to be creditable or refundable**. In sooth, the law allows as tax credit an allocable portion of a taxpayer's input tax that is not directly and entirely attributable to their zero-rated sales. In such instance, what the law requires is for the creditable input tax to be attributable to the zero-rated or effectively zero-rated sales.
>
> At any rate, creditable input tax does not arise solely from purchases that form part of the finished goods. A plain reading of Section 110 of the Tax Code readily reveals that it did not limit creditable input tax to purchases or importation of goods which are to be converted into or intended to form part of a finished product for sale, or to be used in the chain of production. In particular, Section 110(A) also treats as input tax all VAT due from or paid by a VAT-registered person in the course of their trade or business on the importation of goods or local purchase of goods or services, including lease or use of property, from a VAT-registered person. Corollary thereto, even if the purchased goods do not find their way into the taxpayer's finished product, the input tax incurred therefrom can still be credited against the output tax as long as it is (1) incurred or paid in the course of the VAT-registered taxpayer's trade or business, and (2) supported by a VAT invoice issued in accordance with the invoicing requirements of the law.
>
> xxx xxx xxx
>
> Veritably, in a plethora of analogous cases involving claims for input tax refund or issuance of tax credit certificate, the CTA is steadfast in its posture that Section 112 of the Tax Code does not require direct attributability of input taxes to zero-rated sales. This posture becomes all the more significant when juxtaposed with the well-entrenched principle that the factual findings and conclusions of the CTA, as a highly specialized court, are accorded respect and deemed final and conclusive. Therefore, this Court perceives no cogent reason to diverge from the judgment reached by the CTA *En Banc* in this case." (Boldfacing added)

Manifestly, there is no compelling reason to warrant a modification much more a reversal of the assailed Decision.

WHEREFORE, premises considered, the CIR's Motion for Reconsideration is **DENIED** for lack of merit.

[3] Resolution, G.R. No. 259024, September 28, 2022.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ON LEAVE
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice