CTA Form No. 8 (For DCC)

22-000042-0057

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10752

AIR DRILLING ASSOCIATES PTE LTD.,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St., Legazpi Village
Makati City

ATTY. ALBERT C. ARPON
ATTY. CARL FITRI A. HUSSIN
ATTY. JOCELYN P. LUMBRES
Bureau of Internal Revenue - Revenue Region No. 8A
Legal Division, 36th Floor, Export Bank Plaza Building
Sen. Gil Puyat Avenue corner Chino Roces Avenue
Makati City

AGAN MONTENEGRO MALASAGA & CO.
7th Floor, Electra House Building
115-117 Esteban Street, Legazpi Village
1229 Makati City

GREETINGS:

You are hereby notified by these presents that on **February 6, 2026,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **February 9, 2026.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

AIR DRILLING ASSOCIATES PTE LTD., *Petitioner*,

- versus -

COMMISSIONER OF INTERNAL REVENUE, *Respondent*.

CTA CASE NO. 10752

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:

FEB 0 6 2026, 10:05 AM

x- -x

RESOLUTION

CUI-DAVID, J.:

For resolution is petitioner's ***Motion for Reconsideration*** [1] filed on September 5, 2025, and respondent's ***Comment/Opposition (to Petitioner's Motion for Reconsideration dated September 3, 2025)*** [***Comment/Opposition***],[2] which was belatedly filed on October 30, 2025.

Petitioner seeks reconsideration of the *Decision* dated August 13, 2025 (**assailed *Decision***),[3] wherein the Court denied petitioner's *Petition for Review*. The dispositive portion of the assailed *Decision* states:

> **WHEREFORE,** premises considered, the instant *Petition for Review* is **DENIED** for lack of merit.[4]

The assailed *Decision* denied petitioner's claim for value-added tax (**VAT**) refund for failure to prove that it was engaged in zero-rated or effectively zero-rated sales during the third (**3rd**)

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1 Docket – Vol. II, pp. 753–764.
2 *Id.*, unpaged.
3 *Id.* at 727–752.
4 *Id.* at 451.

and fourth (**4th**) quarters of taxable year (**TY**) 2019. The Court found that petitioner failed to establish the Board of Investment (**BOI**) registration of Philippine Geothermal Production Company (**PGPC**) as a Renewable Energy (**RE**) Developer, and likewise failed to substantiate its sales of services to the Energy Development Corporation (**EDC**) and prove its BOI registration for all its projects with EDC. Hence, its claim for value-added tax (VAT) zero-rating on services rendered to PGPC and EDC was disallowed.

In its *Motion for Reconsideration*, petitioner contends that:

1. Tax refunds are civil in nature and need only be established by a preponderance of evidence;

2. The testimony of witness Rosebelle Liu (**Ms. Liu**) established petitioner's zero-rated sales to EDC and PGPC for the 3rd and 4th quarters of TY 2019;

3. The service agreement between petitioner and EDC for the 3rd and 4th quarters of TY 2019 constitutes a contract that may be established by oral evidence;

4. The existence of a contract between petitioner and EDC for the 3rd and 4th quarters of TY 2019 may also be established by the conduct of the parties; and

5. Petitioner established that it rendered services subject to VAT zero-rate and substantiated the present claim with relevant supporting documents.

On the other hand, in his *Comment/Opposition*, respondent maintains that petitioner failed to establish its zero-rated sales for the 3rd and 4th quarters of TY 2019. As regards Ms. Liu's testimony, respondent argues that the admissibility of evidence should not be confounded with its probative value. Citing *Government Service Insurance System v. The Court of Appeals*,[5] respondent contends that testimonial evidence is easy to fabricate and that, in general, documentary evidence prevails over testimonial evidence.

Further, respondent reiterates the arguments in his *Memorandum*[6] that: (1) there is no concrete proof of sale

[5] G.R. No. 52080, May 28, 1993 [Per J. Melo, Third Division].
[6] Docket – Vol. II, pp. 695–706.

between EDC, PGPC and the petitioner for the subject claim period; (2) petitioner's sales to EDC and PGPC for the subject claim period are not zero-rated; and (3) petitioner failed to comply with invoicing requirements under Section 113 of the National Internal Revenue Code (NIRC) of 1997, as amended and Revenue Regulations (RR) No. 16-2005.

Finally, respondent reiterates that a claim for refund is strictly construed against the taxpayer, as it partakes of the nature of a tax exemption.

The instant *Motion for Reconsideration* lacks merit.

After a careful and thorough evaluation of the arguments proffered by petitioner, the Court finds no cogent reason to modify or overturn the assailed *Decision*. The issues and arguments now reiterated have already been thoroughly considered, resolved, and addressed in the assailed *Decision*. In the absence of any new or significant grounds in petitioner's plea for reconsideration, the Court maintains its conclusion in the assailed *Decision* that petitioner failed to establish its zero-rated sales for the 3rd and 4th quarters of TY 2019.

Contrary to petitioner's claim that the Court relied solely on documentary evidence, the Court evaluated all the facts, circumstances, and evidence on record submitted by both parties, including the testimony of Ms. Liu, in determining whether petitioner satisfied the applicable quantum of proof in the present case, *i.e.* preponderance of evidence. An entitlement to a tax refund is for the taxpayer to prove and not for the government to disprove.[7] Petitioner, however, failed to discharge this burden.

Furthermore, it bears emphasis that the Court adheres to the well-settled rule that claims for tax refunds partake of the nature of tax exemptions and, as such, the statutes governing them must be construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority.[8] Consequently, even if the Court takes a second look at the facts of the case and the totality of the evidence presented, it will still reach the same conclusion, consistent with this controlling rule.

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7 *Commissioner of Internal Revenue v. Far East Bank & Trust Company (Now Bank of the Philippine Islands)*, G.R. No. 173854, March 15, 2010 [Per J. Del Castillo, Second Division].

8 *Philippine Phosphate Fertilizer Corp. v. Commissioner of Internal Revenue*, 500 Phil. 149-169 (2005) [Per J. Austria-Martinez, Second Division] citing *Commissioner of Internal Revenue v. Seagate Technology*, G.R. No. 153866, February 11, 2005 [Per J. Panganiban, Third Division].

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

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice