**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

## THIRD DIVISION

| | |
|---|---|
| **SOUMAK COLLECTIONS, INC.,** Petitioner, | **CTA CASE NO. 8686** |
| | Members: |
| - versus - | **BAUTISTA,** *Chairperson,* **FABON-VICTORINO,** *and* **RINGPIS-LIBAN,** *JJ.* |
| **THE COMMISSIONER OF INTERNAL REVENUE,** Respondent. | Promulgated: JUL 28 2016 4:15 p.m. |

x- - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - -x

# RESOLUTION

**RINGPIS-LIBAN, *J.*:**

For resolution is petitioner's **Partial Motion for Reconsideration (Re: Decision dated 24 February 2016)**, filed on March 17, 2016, without respondent's comment despite notice as per Resolution dated May 20, 2016.

Petitioner seeks reconsideration of the Court's Decision dated February 24, 2016 (assailed Decision)[1] which upheld the assessments for deficiency income tax and value-added tax (VAT) for taxable year 2008 in the modified amount of ₱285,720.44, inclusive of surcharge. The dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. The deficiency EWT and DST assessments are **CANCELLED** in view of petitioner's payment of the same.

---
[1] Docket, pp. 866-885.

The deficiency income tax and VAT assessments for taxable year 2008 are **UPHELD** in the modified amount of **TWO HUNDRED EIGHTY-FIVE THOUSAND SEVEN HUNDRED TWENTY PESOS AND 44/100 (₱285,720.44)**. Accordingly, petitioner is **ORDERED TO PAY** the amount of **₱285,720.44**, inclusive of the twenty-five percent (25%) surcharge imposed under Sec. 248(A)(3) of the NIRC of 1997, as amended, computed as follows:

| TYPE OF TAX | BASIC TAX | SURCHARGE | TOTAL |
|---|---|---|---|
| Income Tax | ₱ 105,169.28 | ₱ 26,292.32 | ₱ 131,461.60 |
| Value-added Tax | 123,407.07 | 30,851.77 | 154,258.84 |
| **Total** | **₱ 228,576.35** | **₱ 57,144.09** | **₱ 285,720.44** |

In addition, petitioner is **ORDERED TO PAY**:

(a) Deficiency interest at the rate of twenty percent (20%) per annum on the basic deficiency income tax and value-added tax computed from the dates indicated below until full payment thereof pursuant to Section 249(B) of the NIRC of 1997, as amended:

| TYPE OF TAX | BASIC TAX | DEFICIENCY INTEREST COMPUTED FROM |
|---|---|---|
| Income Tax | ₱105,169.28 | April 15, 2009 |
| Value-added Tax | ₱123,407.07 | January 25, 2009 |

(b) Delinquency interest at the rate of 20% per annum on the total amount of **₱285,720.44** and on the 20% deficiency interest which have been accrued as afore-mentioned in (a), computed from August 23, 2013 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended.

**SO ORDERED**."[2]

In the Partial Motion for Reconsideration, petitioner's arguments are confined solely on the disallowed input VAT,

[2] Docket, pp. 884-885.

particularly the alleged input taxes arising from payments made to (1) Mr. Ramon Daniel Viloria, and (2) Luminaire Printing & Publishing Corp.

To recall, the Court partially upheld the deficiency VAT assessment and affirmed respondent's disallowance of petitioner's claimed input VAT in the amount of ₱10,044.98 for failure to properly substantiate with VAT invoices or official receipts in accordance with Section 110(A) in relation to Section 113(A)(1) and (2) of the National Internal Revenue Code (NIRC) of 1997, as amended. Below is the breakdown of the disallowed input VAT amounting to ₱10,044.98[3]:

| | **CV#** | **Disallowed Input VAT per this Court's verification** | **Reason for Disallowance** |
|---|---|---|---|
| Ramon Daniel Viloria | 3997 | ₱ 2,451.28 | Although supported by VAT OR, it cannot be determined from the OR whether the input VAT claim pertains to goods or services |
| Marina Nabejet/Office Warehouse | 3955 | 326.25 | Input VAT claim on purchase of goods supported by tape receipt instead of VAT invoice |
| Luminaire Printing | 3819 | 803.57 | Input VAT claim on purchase of services supported by VAT invoice instead of VAT OR |
| Eliza Reyes | 3832 | 6,463.89 | Input VAT claim merely supported by a receiving form |
| | **Total** | **₱ 10,044.99** | |

On the *first* transaction, petitioner maintains that the disallowed input VAT amounting to ₱2,451.28, under the name Ramon Daniel Viloria, is a valid input VAT as it pertains to purchase of goods. Petitioner argues that the Check Voucher No. 3997 marked as Exhibit "P-23-O"[4], issued in relation to the payment made to Mr. Ramon Daniel Villoria for the goods purchased in the amount of ₱20,427.35, shows an Expanded Withholding Tax (EWT) of ₱204.27 which is equivalent to one percent (1%) of the purchase price, the same rate of withholding tax for the purchase of goods.

Petitioner further explains that the Official Receipt No. 0301 marked as Exhibit "P-23-P"[5] mentions "DAV Bed & Bath Loft", as the

---

[3] Page 15 of the assailed Decision, docket, p. 880.
[4] Docket, p. 745.
[5] *Ibid.*

name of the supplier, which is owned by Mr. Viloria, and which sells goods such as scents and room sprays. Thus, petitioner submits that the purchases from Mr. Viloria were goods and not services, and that the amount of ₱2,451.28 should be allowed as input VAT.

The Court finds petitioner's contentions bereft of merit.

The check voucher, being an internal document prepared by petitioner, is self-serving. The EWT indicated therein cannot be considered as proof that the subject transaction pertained to petitioner's purchase of goods and not services. Even assuming the transaction refers to the purchase of goods, the same must be supported by a VAT sales invoice containing the following information, including the description of the goods, as prescribed by Sections 113(A)(1) and (B) of the NIRC of 1997, as amended:

"SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* —

(A) *Invoicing Requirements.* — A VAT-registered person shall issue:

(1) A VAT invoice for every sale, barter or exchange of goods or properties; and

(2) A VAT official receipt for every lease of goods or properties, and for every sale, barter, or exchange of services.

(B) *Information contained in the VAT Invoice or VAT Official Receipt.* — The following information shall be indicated in the VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that

such amount includes the value-added tax: *Provided*, that:

(a) The amount of the tax shall be shown as a separate item in the invoice or receipt;

xxx xxx xxx

(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and

(4) In the case of sales in the amount of One thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client."

Without a valid VAT sales invoice, the input VAT of ₱2,451.28 allegedly pertaining to petitioner's purchase of goods cannot be credited against its output tax pursuant to Section 110(A)(1) of the NIRC of 1997, as amended, *viz*:

"SEC. 110. *Tax Credits*. —

(A) *Creditable input Tax*. —

(1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax:

(a) Purchase or importation of goods:

(i) For sale; or
(ii) For conversion into or intended to form part of a finished product for sale including packaging materials; or
(iii) For use as supplies in the course of business; or

(iv) For use as materials supplied in the sale of service; or

(v) For use in trade or business for which deduction for depreciation or amortization is allowed under this Code.

(b) Purchase of services on which a value-added tax has actually been paid.

(2) The input tax on domestic purchase or importation of goods or properties by a VAT-registered person shall be creditable:

(a) To the purchaser upon consummation of sale and on importation of goods or properties; and

(b) To the importer upon payment of the value-added tax prior to the release of the goods from the custody of the Bureau of Customs."

On the *second* transaction, petitioner asserts that the Check Voucher No. 3819 marked as Exhibit "P-23-Q"[6] issued in relation to its payment to Luminaire Printing & Publishing Corp., shows that the related EWT payable of ₱66.96 is equivalent to 1% of the purchase price of ₱6,696.43, the rate of withholding for the purchase of goods. Petitioner further argues that Exhibit "P-23-R"[7] or Sales Invoice No. 15467 proved that the purchase of 50 boxes of calling cards with assorted designs or names is a transaction involving goods, and not of services.

The Court finds petitioner's argument untenable.

Contrary to petitioner's assertion, the purchase of calling cards with assorted designs or names is in the nature of a purchase of printing services. As such, the input VAT related thereto in the amount of ₱803.57, in order to be creditable against output tax, must be supported by a VAT official receipt pursuant to Section 110(A)(1)(b) in relation to Sections 113(A)(2) and (B) of the NIRC of 1997, as amended.

---

[6] Docket, p. 746.
[7] Docket, p. 747.

To emphasize, the invoicing requirements must be strictly observed, otherwise, non-compliance with the requirements under the law and its implementing regulations would lead to the denial of claims for refund. In the case of *Bonifacio Water Corporation (formerly Bonifacio Vivendi Water Corporation) vs. The Commissioner of Internal Revenue,*[8] the official receipts issued under the new corporate name of the taxpayer were disallowed on the ground that the use of said business name was without approval of the SEC. In firm adherence to the invoicing requirements under the law and regulations, the Supreme Court ruled as follows:

> "xxx the taxpayer, claiming the refund must comply with invoicing and accounting requirements mandated by the Tax Code, as well as the revenue regulations implementing them.
>
> Thus, the change of petitioner's name to "Bonifacio GDE Water Corporation," being unauthorized and without approval of the SEC, and the issuance of official receipts under the name which were presented to support petitioner's claim for tax refund, cannot be used to allow the grant of tax refund or issuance of a tax credit certificate in petitioner's favour. The absence of official receipts issued in its name is tantamount to non-compliance with the substantiation requirements provided by law and, hence, the CTA *en banc*'s partial grant of its refund on that ground should be upheld."

Similarly, in *Eastern Telecommunications Philippines, Inc. vs. The Commissioner of Internal Revenue,*[9] the implementing regulations on invoicing requirements, particularly Revenue Regulations (RR) No. 7-95 and Revenue Memorandum Circular (RMC) No. 42-2003, were recognized as valid and were given effect as follows:

> **Consequently, the following invoicing requirements enumerated in Section 4.108-1 of Revenue Regulations No. 7-95 must be observed by all VAT-registered taxpayers:**

---

[8] G.R. No. 175142, July 22, 2013, 701 SCRA 574.
[9] G.R. No. 168856, August 29, 2012, 679 SCRA 305.

> Sec. 4.108-1. Invoicing Requirements. — All VAT-registered persons shall, for every sale or lease of goods or properties or services, issue duly registered receipts or sales or commercial invoices which must show:
>
> 1. the name, TIN and address of seller;
> 2. date of transaction;
> 3. quantity, unit cost and description of merchandise or nature of service;
> 4. the name, TIN, business style, if any, and address of the VAT-registered purchaser, customer or client;
> 5. the word "zero-rated" imprinted on the invoice covering zero-rated sales; and
> 6. the invoice value or consideration.
>
> In the case of sale of real property subject to VAT and where the zonal or market value is higher than the actual consideration, the VAT shall be separately indicated in the invoice or receipt.
>
> **Only VAT-registered persons are required to print their TIN followed by the word "VAT" in their invoices or receipts and this shall be considered as a "VAT invoice." All purchases covered by invoices other than a "VAT Invoice" shall not give rise to any input tax.**
>
> xxx xxx xxx

**A consequence of failing to comply with the invoicing requirements is the denial of the claim for tax refund or tax credit, as stated in Revenue Memorandum Circular No. 42-2003**, to wit:

> A-13: Failure by the supplier to comply with the invoicing requirements on the documents supporting the sale of

> goods and services will result to the disallowance of the claim for input tax by the purchaser-claimant. (Emphases ours)

Thus, for failure of petitioner to present VAT official receipt and VAT sales invoice, respondent's disallowance of the input VAT in the amount of ₱2,451.28 and ₱803.57 for the purchase of goods and services, respectively, shall remain.

Time and again, "the Court recognizes, as it always has, that the burden of proof to establish entitlement to refund is on the claimant taxpayer. Being in the nature of a claim for exemption, refund is construed in *strictissimi juris* against the entity claiming the refund and in favor of the taxing power. This is the reason why a claimant must positively show compliance with the statutory requirements provided for under the NIRC in order to successfully pursue one's claim."[10]

**WHEREFORE**, premises considered, petitioner's **Partial Motion for Reconsideration (Re: Decision dated 24 February 2016)** is **DENIED** for lack of merit.

**SO ORDERED.**

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

WE CONCUR:

**LOVELL R. BAUTISTA**
Associate Justice

**ESPERANZA R. FABON-VICTORINO**
Associate Justice

---

[10] *Winebrenner & Iñigo Insurance Brokers, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 206526, January 28, 2015, 748 SCRA 591.