REPUBLIC OF THE PHILIPPINES

Court of Tax Appeals

QUEZON CITY

Third Division

IBEX PHILIPPINES INC. (FORMERLY TRG PHILIPPINES, INC.), *Petitioner,*	**CTA CASE NO. 9002**
	Members: **BAUTISTA,** *Chairperson,* **FABON-VICTORINO,** *and* **RINGPIS-LIBAN,** *JJ.*
- versus -	
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: MAR 20 2018 3:51 p.m.

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RESOLUTION

BAUTISTA, J.:

For resolution is petitioner's Motion for Partial Reconsideration (of Decision promulgated on January 5, 2018) filed on January 25, 2018 without respondent's comment despite due notice *per* Records Verification Report dated February 23, 2018.

On January 5, 2018, the Court promulgated a Decision (the "Assailed Decision") partially granting petitioner's claim for refund of unutilized input value-added tax ("VAT") from zero-rated sales for the third and fourth quarters of calendar year ("CY") 2012. The dispositive portion of the Assailed Decision reads:

> **WHEREFORE,** premises considered, the instant Petition for Review is **PARTIALLY GRANTED.** Respondent Commissioner of Internal Revenue is hereby **ORDERED** to refund in favor of petitioner Ibex Philippines Inc. the amount of **Fifty-Eight Thousand Nine Hundred Fifty-Six Pesos and Sixty-Five Centavos (Php58,956.65)** representing the latter's unutilized input value-added tax arising from its zero-rated sales for the third and fourth quarters of calendar year 2012.

SO ORDERED.

Aggrieved, petitioner filed the present Motion for Partial Reconsideration wherein it argues that the Court overlooked the Securities and Exchange Commission ("SEC") Certification of Non-Registration marked as petitioner's *Exhibit* "P-1-16" was issued for petitioner's customer, BPO Solutions, Inc. According to petitioner, the SEC Certification of Non-Registration for BPO Solutions, Inc. was offered and admitted in evidence. Thus, petitioner prays that the Court consider petitioner's sales to its non-resident customer, BPO Solutions, Inc., as zero-rated.

After a careful review of the grounds raised in the Motion for Partial Reconsideration, the Court finds that the disallowance of the zero-rated sales of services in favor of BPO Solutions, Inc. is proper.

In the Assailed Decision, the Court emphasized that each foreign corporation must be able to produce, at the least, both *(1)* a SEC certificate of non-registration of corporation/partnership, and *(2)* its certificate/articles of foreign incorporation/association/registration in order to be considered a non-resident foreign corporation. Considering the Court found in the Assailed Decision that petitioner was able to present a Certificate of Incorporation in favor of BPO Solutions, Inc., but, however, failed to present an SEC certificate of non-registration in favor of the same entity, the Court disallowed the zero-rated sales made to BPO Solutions, Inc.

Presently, a re-examination of petitioner's evidence indeed shows that petitioner was able to present an SEC Certification of Non-Registration of Company issued in favor of BPO Solutions, Inc.[1] Such Certification was likewise offered and admitted as part of petitioner's evidence.[2] However, a closer inspection of the Certificate of Incorporation of BPO Solutions, Inc.[3] shows that the same was not authenticated despite the same being a document executed outside the Philippines. Neither was such Certificate of Incorporation offered and admitted as part of petitioner's evidence.[4]

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[1] *See Records, CTA Case No. 9002, Vol. I, Exhibit "P-1-16," Securities and Exchange Commission Certification of Non-Registration of Company*, p. 252.
[2] *See Records, Vol. II, Formal Offer of Evidence*, pp. 554-569; *Records, Vol. II, Resolution*, pp. 709-710.
[3] *Records, Vol. 1, Exhibit "P-1-7," Certificate of Incorporation*, pp. 153-156.
[4] *See Records, Vol. II, Formal Offer of Evidence*, pp. 554-569; *Records, Vol. II, Resolution*, pp. 709-710.

In view of petitioner's failure to produce at least both BPO Solutions, Inc.'s SEC Certification of Non-Registration of Company and Certificate of Incorporation, the Court confirms that petitioner's sales of service to BPO Solutions, Inc. cannot be subject to VAT zero-rating.

WHEREFORE, premises considered, petitioner's Motion for Partial Reconsideration (of Decision promulgated on January 5, 2018) is hereby **DENIED** for lack of merit. The Decision promulgated on January 5, 2018 is **AFFIRMED**.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice