REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

MSCI HONG KONG LIMITED,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9392

Members:

FABON-VICTORINO, and
RINGPIS LIBAN, JJ.

Promulgated:

AUG 27 2019 3:34 p.m.

x- -x

RESOLUTION

***Fabon-Victorino, J.*:**

For action is respondent's *Motion for Partial Reconsideration* dated March 13, 2019,[1] impugning the Decision[2] dated February 20, 2019, the *fallo* of which reads as follows:

> **WHEREFORE**, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is hereby **DIRECTED** to **REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favour of petitioner MSCI Hong Kong Limited in the reduced amount of **₱5,377,036.52**, representing its unutilized and excess input VAT attributable to its zero-rated sales for the four quarters of calendar year 2014.
>
> **SO ORDERED**.

[1] Docket, pp. 1121-1126.
[2] Ibid. at pp. 1094-1119.

Respondent maintains that petitioner failed to convincingly prove that its sales of services to its clients are subject to zero-rating.

Besides, a fragment of the VAT official receipts (ORs) and/or invoices issued by petitioner's suppliers failed to indicate VAT as a separate item, some do not contain the quantity, unit cost, as well as description of goods, properties, or services in violation of Section 113 of the National Internal Revenue Code (NIRC), as amended. There are also no indications of authority to print (ATP). Some do not bear petitioner's tax identification number (TIN), as well as its registered address. For these reasons, respondent insists that petitioner's refund claim for the four (4) quarters of CY 2014 must be rejected.

In refutation,[3] petitioner counters that respondent's contentions are mere speculations to the effect that its evidence failed to prove that its sales of services are subject to zero-rating under Section 108(B)(2) of the NIRC, as amended. For petitioner, it has more than sufficient evidence to support the fact that it rendered management services to non-resident foreign corporation, i.e. MSCI Inc., and that it was paid in US Dollars duly accounted pursuant to prevailing rules and regulations. For petitioner, the Court correctly ruled that its sales of services are subject to VAT at zero percent (0%). And even granting that the said sales were subject to 12% VAT, respondent may not possibly impose taxes without a valid assessment as in this case.

Contrary to respondent's claim, the ORs issued relative to its zero-rated sales of service are compliant with the invoicing requirements under Section 113 of the NIRC, as amended. As found by the Court, the said ORs are: 1) original duplicate copies; 2) contains words "VAT REG" and "TIN;" 3) Amounts were shown under item "zero-rated sales;" 4) BIR's ATP was duly indicated in the documents; and 5) the name(s) of the customer(s) is also indicated.

The motion must be denied.

[3] Petitioner's Comment dated April 23, 2019, docket, unpaged.

It cannot be denied that the matters put forward by respondent in his Motion or Partial Reconsideration have been squarely addressed and meticulously passed upon by the Court in the impugned Decision of dated February 20, 2019. At the risk of being repetitive, let it be stressed that petitioner was able to satisfactorily discharged its burden of demonstrating its right for refund, albeit partially, of excess and unutilized input taxes imputable to its zero-rated sales covering the four (4) quarters of CY 2014 in the sum of ₱5,377,036.52 (out of ₱7,338,142.90). There being no formidable argument warranting a reversal, much less a modification of the impugned Decision dated February 20, 2019, respondent's *Motion for Partial Reconsideration* dated March 13, 2019 is **DENIED**.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

I Concur:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice