20-000354-0086

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10385

UNILEVER GLOBAL SERVICES B.V. PHILIPPINES REGIONAL OPERATING HEADQUARTERS (ROHQ),
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF RESOLUTION

To:

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

ATTY. FELIX PAUL R. VELASCO III
ATTY. SYLVIA R. ALMA JOSE
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ATTY. CLARISSA J. VIRTUDES-BABARAN
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High Street, South Corporate Plaza
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GREETINGS:

You are hereby notified by these presents that on **September 10, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **September 11, 2025.**

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

REPUBLIC OF THE PHILIPPINES
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FIRST DIVISION

UNILEVER GLOBAL SERVICES B.V. PHILIPPINES REGIONAL OPERATING HEADQUARTERS (ROHQ), Petitioner,	CTA Case No. **10385**
	Members:
	DEL ROSARIO, *P.J., Chairperson,* **BACORRO-VILLENA,** *and* **CUI-DAVID,** *JJ.*
- versus -	
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: SEP 10 2025 10:55 am

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution are:

1. petitioner Unilever Global Services B.V. Philippines Regional Operating Headquarters (ROHQ)'s (**petitioner**'s) *Motion for Reconsideration (Re: Decision dated January 17, 2025)* (**MR**) embodied in its "Notice of Appearance (Pursuant to Section 4(a) of the Resolution dated 20 August 2024) with Motion for Reconsideration (Re: Decision dated January 17,2025)"[1], filed personally on 06 February 2025 and *via* email on 07 February 2025, with respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) "Opposition (Re: Motion for Reconsideration of the Decision dated 17 January 2025)"[2] (**Opposition**), filed personally on 12 March 2025 and *via* email on 13 March 2025; and,

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[1] Division Docket, Volume III, pp. 1176-1214.
[2] Id., pp. 1243-1250.

2. respondent's "Motion for Partial Reconsideration (Re: Decision promulgated 17 January 2025)"[3] (**MPR**), filed personally on 06 February 2025 and *via* email on 07 February 2025, with petitioner's "Comment/Opposition (To Respondent's Motion for Partial Reconsideration Re: Decision dated January 17, 2025)"[4] (**Comment**), filed personally on 03 March 2025 and *via* email on 04 March 2025.

The MR and MPR assail the Court's Decision[5] promulgated on 17 January 2025 (**assailed Decision**). The dispositive portion of which reads:

> ...
>
> **WHEREFORE**, premises considered, the instant Petition for Review filed on 26 October 2020 by petitioner Unilever Global Services B.V. Philippines Regional Operating Headquarters (ROHQ) is hereby **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is **ORDERED TO REFUND** in the amount of **₱5,923,609.75**, representing petitioner's unutilized excess input Value-Added Tax for the four (4) quarters of CY 2018 which is attributable to its zero-rated sales for the same period.
>
> **SO ORDERED.**
>
> ...

In petitioner's MR, it argues that the Court erred in holding that the amount of ₱192,185,422.92 should be disallowed for failing to comply with the requisites of valid zero-rated sales. Petitioner likewise finds issue with the Court's affirmation of respondent's disallowance of the "ripened" portion of its deferred input tax in the amount of ₱2,113,803.96.

In respondent's Opposition to petitioner's MR, respondent agrees with the Court's disquisitions in the assailed Decision that reduced the amount of petitioner's valid zero-rated sales. For respondent, petitioner's failure to prove its entitlement to the refund sought is fatal to its claim.

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[3] Id., pp. 1218-1225.
[4] Id., pp. 1229-1239.
[5] Id., pp. 1121-1175.

Meanwhile, in respondent's MPR, respondent questions the Court's exercise of jurisdiction, stating that the same should be limited to the resolution of the issue of whether respondent's findings are consistent with law, and should only consider the same documents submitted during the administrative proceedings. Respondent cites *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*[6] in support of its position that the Court's jurisdiction becomes strictly appellate in nature as he or she rendered a decision in the administrative level. However, respondent had not pointed out the instances in the assailed Decision wherein the Court supposedly erred in this regard.

On another note, respondent also asks the Court to reconsider the cancellation of the value-added tax (**VAT**) findings disallowed and offset against petitioner's refundable amount. The Court originally set the same aside, finding that such disallowances amount to an assessment, which must be made in accordance with the requirements to issue an assessment under the National Internal Revenue Code (**NIRC**) of 1997, as amended, in order to meet the requirements in upholding petitioner's due process rights.

In petitioner's Comment to respondent's MPR, it calls the Court's attention to respondent's supposed failure to identify or establish specific pieces of evidence purportedly submitted to this Court but not before the Bureau of Internal Revenue (**BIR**).

As to the items previously disallowed but now stricken down, petitioner recalls that it mentioned in its Petition for Review that it was not given the opportunity to dispute the said findings during the administrative proceedings. For petitioner, respondent should not be able to automatically deduct the same from the refundable amount.

We resolve.

<u>PETITIONER'S MOTION FOR RECONSIDERATION</u>

As a precursor to the assailed Decision, in establishing the amount of petitioner's valid zero-rated sales of services, particularly, the *2nd* of

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6 G.R. No. 207112, 08 December 2015.

the ***four (4) conditions*** under Section 108(B)(2)[7] of the NIRC of 1997, as amended (to demonstrate that the "other services" were performed in the Philippines), the Court already conducted its own independent re-verification of petitioner's supporting documentation. In doing so, it found that a total of ₱409,496,725.54 out of the reported ₱601,682,148.46 represented petitioner's valid zero-rated sales (with the remainder of ₱192,185,422.92 warranting disallowance), as opposed to ₱157,357,454.30 that respondent originally found during the examination of petitioner's administrative claim.

As gleaned from the assailed Decision, We thus revisit the reasons for the items that the Court did not consider as sufficient proof that the entity involved is a nonresident foreign corporation (**NRFC**) doing business outside the Philippines.

First, as to the unauthenticated documents offered to prove foreign incorporation/registration/association, petitioner's position is that the consularization or apostille of the proofs of foreign registration is not expressly required (or otherwise explicitly discussed) under recent jurisprudence, citing the rulings in *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*[8] and *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue*[9] (**Chevron**). As stated in the assailed Decision, the Court is unable to give the same probative weight in the absence of proper authentication, in accordance with Section 24[10], Rule 132 of the Rules of Court.

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[7] **SEC. 108.** *Value-Added Tax on Sale of Services and Use or Lease of Properties.*

...

(B) *Transactions Subject to Zero Percent (0%) Rate.* The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

(1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

(2) Services other than those mentioned in the preceding paragraph, rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)[.]

[8] G.R. No. 234445, 15 July 2020.

[9] G.R. No. 215159, 05 July 2022.

[10] **SEC. 24.** *Proof of official record.* The record of public documents referred to in paragraph (a) of Section 19, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his or her deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. If the office in which the record is kept is in a foreign country, the certificate may be

Second, as to documents in an unofficial language offered to prove foreign incorporation/registration/association without a translation in English or Filipino, the Court is similarly unable to give probative weight to the specific documents offered, pursuant to Section 33[11], Rule 132 of the Rules of Court. In this regard, re-examination of the documents that petitioner submitted (as petitioner pointed out in the MR) revealed accompanying documents sequentially found amongst the documents in question lacking translations.[12] However, the same appears to be accompanied by other documents in a foreign language that have been translated, and not the supposed proofs of foreign registration themselves.

Third, as to documents offered to prove foreign incorporation/registration/association bearing a different name in the offered Securities and Exchange Commission (**SEC**) Certificates of Non-Registration of Company, the Court is unable to give probative weight to the said certificates despite the supposedly minor differences in the names indicated therein.

Analogous with the findings discussed in the immediately preceding paragraph, the variations in nomenclature between jurisdictions shroud the materiality of supposed minimal differences in the names. It is noted that the taxpayer-claimant generally applies for such SEC Certificates for its own use, such as in a VAT refund claim like in the present case. Petitioner is thus best positioned to match the names between the proofs of foreign registration and the SEC Certificates, or to proffer more evidence clarifying any purported linkage between the two.

Finally, as to Unilever (Malaysia) Holdings Sdn Bhd, which the Court did not also consider to be an NRFC doing business outside the Philippines (because petitioner's submitted document cannot be considered as a valid proof of foreign incorporation/registration) as it is merely the Confirmation of Submission e-C for Year of Assessment 2016 indicating its income tax and registration numbers, petitioner argues that the said Confirmation contains all the relevant information required

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made by a secretary of the embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office.

11 **SEC. 33.** *Documentary evidence in an unofficial language.* – Documents written in an unofficial language shall not be admitted as evidence, unless accompanied with a translation into English or Filipino.

12 Exhibits "P-2-11", "P-2-12-c", "P-2-27-d", "P-2-30-a" and "P-2-37", USB.

to establish where the entity is organized. Petitioner relies on the *Chevron*[13] case, where the Supreme Court accepted printed screenshots of the United States SEC website as acceptable supporting documents.

Given that the screenshot purportedly represents a transaction with an online filing system based in Malaysia, the Court is unable to confirm whether a submission with confirmation of receipt directly equates to a validation that the entity's details (as displayed in the respective fields in the screenshot) are accurate and existing, to the same extent as would have been laid out in a SEC Certificate of Non-Registration (*i.e.*, as opposed to the system simply having received the submission with the details provided by the applicant).

In this regard, in consonance with the foregoing, the Court found no sufficient grounds to relax the application of the applicable Rules. Accordingly, petitioner is bound to prove its allegations through sufficient evidence in satisfaction of the Rules. As We held in the assailed Decision:

> ...
> It is axiomatic that under the Revised Rules on Evidence, a party who alleges a fact has the burden of proving it. A mere allegation is not evidence, and the party who alleges has the burden of proving the allegation with the requisite quantum of evidence. Moreover, in civil cases, the burden of proof rests upon the plaintiff who must establish its case by preponderance of evidence. Preponderance of evidence is the evidence that is of greater weight, or more convincing, than the evidence offered in opposition to it. It is proof that leads the trier of facts to find that the existence of the contested fact is more probable than its non-existence.
>
> In the case at bar, to the extent disallowed, petitioner failed to prove by preponderant evidence, that its affiliates or clients (who are the recipient of its services) are performing business outside the Philippines pursuant to Section 108(B)(2) of the NIRC of 1997, amended. Evidently, petitioner also failed to prove that it is engaged in zero-rated or effectively zero-rated sales (as the 2^{nd} *requisite* for the entitlement to the tax refund so requires). To reiterate the Supreme Court's disquisition in the *Deutsche Knowledge Services*, the absence of the articles of association/certificates of incorporation (proving that the affiliates are not doing business here in the Philippines) shall be

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13 Supra at note 9.

> fatal to a refund claim of excess input VAT attributable to zero-rated sales.[14]
>
> ...

Then, as to the *3rd* ***condition*** that the proceeds of the zero-rated sales be in acceptable foreign currency exchange duly accounted for in accordance with rules and regulations set by the Bangko Sentral ng Pilipinas (**BSP**) and that they comply with the current invoicing requirements), the Court had already ruled on petitioner's remaining pool of valid zero-rated sales *vis-à-vis* respondent's own findings in the administrative level:

> ...
>
> Respondent's verification of petitioner's documents at the administrative level disclosed that petitioner's claimed zero-rated sales of services were supported by ORs wherein the word "zero-rated" was indicated, and that the proceeds for said zero-rated services were paid for in acceptable foreign currency, generally accounted for and inwardly remitted in accordance with the rules and regulations of the BSP, except for the following [.]
>
> ...
>
> However, none of the above exceptions/disallowances flagged by respondent pertained to the sales made by petitioner to its NRFC-clients (which satisfactorily met the other conditions for VAT zero-rating discussed earlier above) in the amount of ₱409,496,725.54, as detailed in petitioner's "Schedule of Zero-Rated Sale of Services" as follows[.][15]
>
> ...

From the foregoing, the Court made no further disallowances by reason of any noncompliance with the *3rd* ***condition***.

Lastly, petitioner contested the disallowance of "ripened" or amortized portion of the deferred input VAT in the amount ₱2,113,803.96 that the Court upheld from the BIR's findings.

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14 Citations omitted and italics in the original text.
15 Citations omitted.

Under Section II(4)(b) of Revenue Memorandum Circular (**RMC**) No. 47-2019[16], a claimant who has made a previous VAT refund claim of DIT need not submit the original ORs and invoices pertaining to its claim. Instead, the claimant must present the amortization schedule of DIT in the approved report for that previous VAT refund claim. The copy of the schedule should be authenticated by the **head of the processing office** by marking "Certified True Copy from the Original" on each page thereon to clearly show that the purchases have been duly verified in the previous VAT refund claim/s.

As found in the assailed Decision, while petitioner transmitted authenticated copies marked as "**Authenticated From: Original Copy**" for a portion of the required documentation, petitioner submitted a "**Authenticated From: Photocopy**" instead of a "**Certified True Copy from the Original**" *(or equivalent)* of the following documents: (1) "Summary of Findings – VAT Refund; (2) "Allocation of Input VAT and Computation of Refundable Amount"; (3) Excerpt of Annex A.1.6 Working Papers; and, (4) "Schedule of Amortization of Input Tax on Locally Purchased Capital Goods Exceeding ₱1 Million from Previous Quarter/Year for the Taxable Year 2016".

As petitioner represents, a number of the documents it needed for the instant 2018 VAT refund claim were in its 2017 VAT refund claim docket, which were at the time, already with the Commission on Audit (**COA**) Resident Auditor for review. As such, it was no longer possible at the time to seek authentication from the head of the processing office.

Pursuant to Revenue Memorandum Order (**RMO**) No. 38-2014[17], in processing a VAT refund claim for payment, a docket transmitted from

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[16] Revised Guidelines and Mandatory Requirements for the Processing and Grant of Value-Added Tax (VAT) Refund Claims Within the 90-Day Period Pursuant to Section 112 of the Tax Code of 1997, as Amended.

[17] Prescribing the Uniform Policies and Guidelines on the Implementation of Cash Disbursement for Tax Refunds Thru the Trust Receipt Fund.

...

III. Procedures

A. For Processing of Payment on Claims for Tax Refund Falling under the Jurisdiction of the National Office

...

2. The Accounting Division (AD) shall:

...

n. Transmit the entire docket of the claim for tax refund to the Resident Auditor of Commission on Audit (COA) for the review and appropriate action thereon[.]

the Finance Service into the Accounting Division is to be then transmitted to the COA Resident Auditor for review.

In this regard, authentication from the proper officer of the COA who had custody over the documents at the time, may be deemed substantial compliiance with the aforementioned requirement.

Meanwhile, as to the nature of the authentication, petitioner further argues that it had no control on how its VAT refund claim docket was prepared and compiled by the handling office in the BIR, before it was turned over to the COA Resident Auditor for review.

We disagree.

The regulations call for the transmission of the entire refund claim docket through the various offices it passes through for processing and verification. Additionally, as the docket is intended to reach the hands of the COA Resident Auditor for review, it is understood that he or she is equally expected to take into consideration the nature of the documents in the docket as part of the review process. This can likewise be gleaned from the COA Resident Auditor's own proactive distinction between originals and photocopies when authenticating petitioner's documents.

All told, We find no reason to reverse Our earlier pronouncements on this matter. The ₱2,113,803.96 disallowance must remain upheld.

<u>RESPONDENT'S MOTION FOR PARTIAL RECONSIDERATION</u>

As for respondent's MPR, he or she assails the Court's pronouncements striking down a number of disallowances or deductions from the partial refund granted to petitioner. We quote from the assailed Decision:

> ...
>
> Relatedly, to arrive at the partial refund of ₱16,671,353.86, respondent deducted as well, among others (apart from the disallowances discussed thus far), the following amounts:

Reason for disallowance/deduction	Amount deducted
1. Output tax on proceeds from disposal of Property Plant and Equipment (PPE)	₱60,821.52
2. Output tax on other VAT-able transactions	₱563,703.65
3. Withholding VAT on interest expense paid to foreign entity	₱1,858,886.88
4. Compromise penalty for failure to supply correct and accurate sales information in the Quarterly VAT Returns	₱25,000.00

The Court finds the deduction of the foregoing amounts aggregating ₱2,508,412.05 from petitioner's claim for refund improper.

Respondent's deduction of the said amounts is tantamount to an assessment of deficiency VAT, withholding VAT and compromise penalty, which cannot be made by respondent without following the proper procedures for the issuance of tax assessments under Section 228 of the NIRC of 1997, as amended, and RR No. 12-99, as amended, lest it violate petitioner's right to administrative due process. It would be unfair to allow respondent to use a claim for refund under Section 112 of the NIRC of 1997, as amended, to assess a taxpayer for any deficiency taxes, especially if the period to assess had already prescribed.[18]

...

Respondent insinuates that such deductions are *not* tantamount to an assessment of deficiency VAT and are permitted under RMC No. 17-2018[19] which declares that findings involving VAT "may result to the disallowance or denial of the claim."

We do not share respondent's view.

A further reading of the afore-cited RMC disclosed that it prescribes its own procedure for handling VAT assessments that may arise over the course of processing a VAT refund claim:

...

5. Any findings in the course of the verification/review of the VAT claims that may lead to a deficiency in internal revenue taxes, other than VAT, shall be communicated by the processing/reviewing office to

[18] Citations omitted and emphasis in the original text.

[19] Amending Revenue Memorandum Circular (RMC) No. 89-2017 and Certain Provisions of RMC No. 54-2014 Regarding the Processing of Claims for Issuance of Tax Refund/Tax Credit Certificate (TCC) in Relation to Amendments Made in the National Internal Revenue Code of 1997, as Amended by Republic Act No. 10963, Known as the Tax Reform for Acceleration and Inclusion (TRAIN).

> the concerned investigating office having jurisdiction over the taxpayer-claimant. **However, if the findings involve VAT, these may result to disallowance or denial of the claim, or if the case warrants, for possible assessment of VAT liability.**
>
> Should the claim be for denial, such fact should be communicated in writing to the taxpayer within the 90-day period. The denial letter shall be signed by the Commissioner (CIR)/Deputy Commissioner - Operations Group (DCIR - OG)/Assistant Commissioner (ACIR)/Regional Director, as the case may be.
>
> 6. **Cases where the results would be an assessment on VAT instead of a refund/TCC should be referred to the VATAS**, for Regional Offices where the VATAS is already in place, Revenue District Office, Large Taxpayers Audit Division or Large Taxpayers VAT Audit Unit (LTVAU), as the case may be. A copy of the Revenue Officer's memorandum report and documents relevant to the findings shall be furnished to the aforesaid offices. **The concerned Revenue District Officer/Chief of LT Audit Division/Head of VATAS/Head of LTVAU shall evaluate the report/findings referred to them and shall request for the issuance of an electronic Letter of Authority (eLA), if warranted.**
>
> However, if there is already an existing eLA covering the same period, the concerned office shall consolidate the findings referred to them with their findings and recommend the issuance of a Notice for Informal Conference/Preliminary Assessment Notice (PAN)/Final Assessment Notice (FAN) for the collection of the deficiency tax. Subsequently, a feedback on the action taken shall be sent to the VAT claim processing office within fifteen (15) days from receipt of the findings.[20]
>
> ...

Aligning with the Court's initial findings, the RMC directs the initiation of a formal investigation through an electronic Letter of Authority (eLA) leading to a possible assessment, veering away from outright disallowances.

As such, We maintain Our original ruling that the disallowances are improper, finding no cogent reason to deviate therefrom.

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[20] Emphasis supplied.

WHEREFORE, in view of the foregoing, petitioner Unilever Global Services B.V. Philippines Regional Operating Headquarters (ROHQ)'s Motion for Reconsideration embodied in its "Notice of Appearance (Pursuant to Section 4(a) of the Resolution dated 20 August 2024) with Motion for Reconsideration (Re: Decision dated January 17,2025)" and respondent Commissioner of Internal Revenue's "Motion for Partial Reconsideration (Re: Decision promulgated 17 January 2025)", both filed on 06 February 2025, are both **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LANEE S. CUI-DAVID
Associate Justice