REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner, - versus – **MASTERCARD TRANSACTION SERVICES (PHILIPPINES) INC. (FORMERLY, NEW YORK BAY PHILIPPINES, INC.),** Respondent.	**CTA EB NO. 3062** (CTA Case No. 10628)

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MASTERCARD TRANSACTION SERVICES (PHILIPPINES) INC. (FORMERLY, NEW YORK BAY PHILIPPINES, INC.), Petitioner, - versus - **COMMISSIONER OF INTERNAL REVENUE,** Respondent.	**CTA EB NO. 3066** (CTA Case No. 10628) Present: **RINGPIS-LIBAN,** *P.J.,* **BACORRO-VILLENA,** **MODESTO-SAN PEDRO,** **REYES-FAJARDO,** **CUI-DAVID,** **FERRER-FLORES,** *and* **ANGELES,** *JJ.* Promulgated: MAR 18 2026 4:30pm

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DECISION

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

The Case

Before the Court are the following:

1) Petition for Review[1] filed by the Commissioner of Internal Revenue ("CIR"), docketed as CTA EB No. 3062, which prays for the cancellation and setting aside of the Decision[2] dated July 11, 2024 ("Assailed Decision") and Resolution[3] dated December 27, 2024 ("Assailed Resolution") promulgated by the Court of Tax Appeals ("CTA") Third Division, and that a new one be rendered denying the entire claim for refund of Mastercard Transaction Services (Philippines) Inc. (formerly New York Bay Philippines, Inc.[4]) ("MTSP Inc."); and

2) Petition for Review[5] filed by MTSP Inc., docketed as CTA EB No. 3066, which prays for the:

   a. reversal and setting aside of the Assailed Decision and Assailed Resolution insofar as it denied MTSP Inc.'s claim for refund of excess and unutilized input Value-added Tax ("VAT") in the amount of Php7,155,551.43, and

   b. the issuance of a new decision ordering the CIR to refund or issue in favor of MTSP Inc. a tax credit certificate in the aggregate amount of Php9,311,595.17 representing its excess and unutilized input VAT for the four (4) quarters of calendar year 2019.

The Parties

MTSP Inc. is a domestic corporation organized and existing under the laws of the Philippines with principal place of business at Level 28, IBP Tower, Julia Vargas Avenue, Ortigas Center, Pasig City. It is a VAT-registered taxpayer under tax identification number (TIN) 000-217-994-000.[6]

On the other hand, the CIR is the duly appointed commissioner of the Bureau of Internal Revenue ("BIR"), vested by law to enforce and implement

1 Rollo (CTA EB No. 3062), pp. 9-32.
2 Penned by Associate Justice Catherine T. Manahan with Associate Justice Marian Ivy F. Reyes-Fajardo and Associate Justice Henry S. Angeles concurring. Docket, pp. 888-911.
3 *Id.*, pp. 969-975.
4 Amendment of name in the Securities and Exchange Commission Amended Articles of Incorporation, *See* Rollo (CTA EB No. 3066), Minute Resolution dated January 23, 2025, p. 24.
5 Rollo (CTA EB No. 3066), pp. 25-47.
6 Docket, Decision dated July 11, 2024, The Parties, p. 888.

the provisions of the National Internal Revenue Code ("NIRC") of 1997, as amended, related laws, and their implementing rules and regulations. He holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.[7]

The Facts

The facts as found by the Third Division are as follows:

"[MTSP Inc.] filed its original Quarterly VAT Returns (BIR Form No. 2550-Q) for the 1st to 4th quarters of CY 2019 through the BIR's Electronic Filing and Payment System (eFPS) on the following dates:

2019	FILING REFERENCE NO.	DATE OF FILING
1st Quarter	101900030142915	April 25, 2019
2nd Quarter	101900031410465	July 23, 2019
3rd Quarter	101900032691542	October 21, 2019
4th Quarter	102000034126824	January 21, 2020

Thereafter, [MTSP Inc.] filed amended Quarterly VAT Returns for the 1st to 3rd quarters on the following dates:

2019	FILING REFERENCE NO.	DATE OF FILING
1st Quarter	102000035177299	March 13, 2020
2nd Quarter	101900033621889	December 17, 2019
3rd Quarter	101900033623307	

On May 5, 2021, [MTSP Inc.] filed an *Application for Tax Credits/Refunds* (BIR Form No. 1914) with the BIR-VAT Credit Audit Division, requesting the refund of or issuance of tax credit certificate for its excess and unutilized input VAT for the four quarters of CY 2019 in the amount of [Php]33,386,031.16.

On July 29, 2021, New York Bay received the *VAT Refund Notice* dated July 9, 2021 partially granting its administrative claim in the amount of [Php]22,892,645.58. The BIR disallowed the amount of [Php]10,493,385.58 on the following grounds:

Violation of invoicing requirements pursuant to Sec. 113 in relation to Sec. 110 of the NIRC of 1997, as amended	[Php]1,665,009.28
Disallowed input tax on big-ticket purchases	642,502.04
Disallowed per BIR Integrated System (ITS)	1,125.00

[7] *Id.*, p. 889.

Additional output tax assessed on sale of real property	63,248.40
Disallowed ripened portion of prior years' DIT	312,596.85
Input tax discrepancy per BIR Form No. 1914 vs. Schedule of Purchases	636,352.58
Input VAT Allocated to Unqualified Zero-Rated Sales	7,155,551.43
Compromise Penalty pursuant to Sec. 264 of the Tax Code, as amended	10,000.00
Compromise Penalty pursuant to Sec. 255 of the Tax Code, as amended	25,000.00
	[Php]10,511,385.58

New York Bay filed the present *Petition for Review* through electronic mail on August 31, 2021, and physically filed the same on October 25, 2021. The Commissioner of Internal Revenue ("CIR") filed his *Answer (Re: Petition for Review dated 31 August 2021)* on February 11, 2022, and transmitted the BIR Records of the case on March 9, 2022."[8]

The Ruling of the Third Division

On July 11, 2024, the CTA Third Division promulgated the Assailed Decision partially granting the Petition for Review, to wit:

> "**ACCORDINGLY**, the present *Petition for Review* is **PARTIALLY GRANTED**. Respondent is ordered to refund or issue a tax credit certificate in favor of petitioner in the amount of **[Php]2,156,043.74** representing its unutilized excess input VAT attributable to its zero-rated sales for the four quarters of CY 2019.
>
> **SO ORDERED**."[9]

On July 29, 2024, the CIR filed a "Motion for Partial Reconsideration (Re: Decision promulgated on 11 July 2024)"[10] while MTSP INC. filed a "Motion for Reconsideration (Re: Decision dated July 11, 2024)"[11] on July 31, 2024. Both were denied by the CTA Third Division in the Assailed Resolution, to wit:

> "Accordingly, the Decision of the Court in the above-captioned case dated February 5, 2024 is hereby **AFFIRMED**.

[8] *Id.*, Decision dated July 11, 2024, pp. 889-890.
[9] *Id.*, Decision dated July 11, 2024, pp. 909-910.
[10] *Id.*, pp. 912-926.
[11] *Id.*, pp. 927-935.

SO ORDERED."[12]

The Proceedings in the Court of Tax Appeals En Banc

On January 15, 2025, the CIR filed a "Motion for Extension to File Petition for Review"[13], docketed as CTA EB No. 3062, which the court granted in a Minute Resolution[14] on January 17, 2025.

On February 03, 2025, the CIR filed its "Petition for Review".[15]

Meanwhile, MTSP Inc. filed a "Motion for Extension to File Petition for Review (with Motion to Amend Petitioner's Name)"[16] on January 22, 2025, docketed as CTA EB No. 3066, praying for an additional fifteen (15) days or until February 06, 2025 within which to file the petition for review. The Court granted the same in a Minute Resolution[17] dated January 23, 2025.

On February 06, 2025, MTSP Inc. filed its "Petition for Review"[18].

On February 07, 2025, a Minute Resolution[19] was issued consolidating CTA EB No. 3062 with CTA EB No. 3066. Thereafter, on March 11, 2025, the Court issued a Minute Resolution[20] ordering:

1) MTSP Inc. to file its comment on the CIR's "Petition for Review" in CTA EB No. 3062, within ten (10) days from notice; and

2) the CIR to file its comment on the MTSP Inc.'s "Petition for Review" in CTA EB No. 3066, within the same period.

The CIR filed his "Comment and Opposition (Re: Petition for Review dated 03 February 2025)"[21] ("Comment/Opposition") on October 15, 2024, while MTSP Inc. filed its "Comment (Re: Petition for Review in CTA EB No. 3062 dated February 3, 2025)"[22] ("Comment") on March 31, 2025.

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12 *Id.*, Resolution dated December 27, 2024, p. 975.
13 Rollo (CTA EB No. 3062), pp. 1-6. Record shows that the Commissioner of Internal received the Assailed Resolution on January 06, 2025; Docket, p. 968.
14 *Id.*, p. 8.
15 *Id.*, pp. 9-25.
16 Rollo (CTA EB No. 3066), pp. 1-6. Record shows that MTSP Inc. received the Assailed Resolution on January 07, 2025; Docket, p. 968.
17 *Id.*, p. 24.
18 *Id.*, pp. 25-47.
19 *Id.*, p. 67.
20 *Id.*, p. 68.
21 *Id.*, pp. 69-78.
22 *Id.*, pp. 80-93.

On April 15, 2025, a Minute Resolution was issued noting the comments filed by the CIR and MTSP Inc. and submitting the instant cases for decision.

Assignment of Errors

The CIR assigned the following errors in its "Petition for Review" in CTA EB No. 3062:

1) The CTA Third Division erred in ruling that MTSP Inc.'s input tax in the amount of Php4,415,655.04 is attributable to its zero-rated sales;

2) The CTA Third Division erred in ruling that the claimed input VAT subject of the instant case remained unutilized;

3) The CTA Third Division erred in ruling that MTSP Inc. is partially entitled to the refund sought. [23]

Conversely, MTSP Inc. raised a single assignment of error in CTA EB No. 3066:

The CTA Third Division erred in denying MTSP Inc.'s claim for refund amounting to Php7,155,551.43[24]

The Arguments of the Parties

CTA EB No. 3062

The CIR's arguments:

The CIR avers that there should be a determination whether the input VAT paid by MTSP Inc. is attributable to its zero-rated sales or effectively zero-rated sales. Simply stated, the excess input VAT being claimed for refund must not only be allocable to MTSP Inc.'s zero-rated sales, but should be directly attributable to the zero-rated sales.

The CIR points out that MTSP Inc. failed to present the VAT returns for the succeeding quarters of calendar year 2020 and 2021. This Court cannot rule that the same remained unutilized solely on the Amended Quarterly VAT Return for the 1st quarter of calendar year 2020. The VAT Returns for the

[23] Rollo (CTA EB No. 3062), Petition for Review, Assignment of Error, pp. 13-14.
[24] Rollo (CTA EB No. 3066), Petition for Review, Assignment of Errors and Summary of Arguments, par. 18, p. 32.

succeeding quarters of taxable year 2020 and 2021 should have been presented by MTSP Inc. to prove the subject claim is no longer included in the "Input Tax Carried Over from previous Period".

The CIR finally asserts that MTSP Inc. failed to show its entitlement to the refund sought since it submitted documents not in compliance with the requirements provided by law.

MTSP Inc.'s counter-arguments:

MTSP Inc. contends that Sections 110(A)(1)(3) and 112(A) of the NIRC of 1997, as amended, explicitly provides that creditable input VAT which cannot be directly and entirely attributed to VAT zero-rated, taxable, and/or exempt sales may be allocated proportionately on the basis of the volume of the taxpayer's sales.

MTSP Inc. also maintains that it was able to prove by sufficient evidence that its excess and unutilized input VAT for the four quarters of calendar year 2019 were not carried over and applied against any output VAT.

Lastly, MTSP Inc. claims that it has complied with the requisites for claiming a refund or tax credit of excess and unutilized input VAT attributable to zero-rated sales or effectively zero-rated sales.

CTA EB No. 3066

MTSP Inc.'s arguments:

MTSP Inc. submits that there is nothing in the NIRC of 1997, as amended, which implies that an invoice or an official receipt may not be antedated. According to MTSP Inc., the disallowed official receipts are valid even though they were antedated to May 2019, because they are duly-registered with the BIR pursuant to Section 238 of the NIRC of 1997, as amended, under the Authority to Print ("ATP") dated June 03, 2019.

In any case, MTSP Inc. declares that there is no basis for the court *a quo*'s conclusion that the antedating of the subject official receipts will negate the VAT-zero rating of an otherwise zero-rated transaction.

The CIR's counter-argument:

The CIR stresses that MTSP Inc. failed to demonstrate that it is entitled to a refund of unutilized input VAT for the period January 01 to December 31, 2019.

The Ruling of the Court

Timeliness of Petitions

The Court in Division issued the Assailed Resolution, denying the CIR's "Motion for Partial Reconsideration (Re: Decision promulgated on 11 July 2024)" and MTSP Inc.'s "Motion for Reconsideration (Re: Decision dated July 11, 2024)", on December 27, 2024. The CIR received said Resolution on January 08, 2025[25] whereas MTSP Inc. received it on January 07, 2025[26]. Pursuant to Rule 4, Section 2(a)(1)[27] in relation to Rule 8, Section 3(b)[28] of the Revised Rules of the Court of Tax Appeals[29] ("RRCTA"), the CIR and MTSP Inc. had fifteen (15) days from date of receipt of the resolution or until January 23, 2025 and January 22, 2025, respectively, within which to file their petitions for review.

On January 15, 2025, the CIR filed a "Motion for Extension to File Petition for Review"[30], praying for an extension of fifteen (15) days to file. The Court granted the same in a Minute Resolution[31] on January 17, 2025. On February 03, 2025, the CIR timely filed its "Petition for Review"[32].

Meanwhile, MTSP Inc. filed a "Motion for Extension to File Petition for Review (with Motion to Amend Petitioner's Name)"[33] on January 22, 2025, praying for an extension of fifteen (15) days to file. The Court granted the same

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25 Docket, p. 968.
26 *Id.*
27 **Sec. 2.** *Cases within the jurisdiction of the Court en banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:

xxx xxx xxx

(1) Cases arising from administrative agencies – Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture; x x x

28 **Sec. 3.** *Who may appeal; period to file petition.* — x x x

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (Rules of Court, Rule 42, sec. 1a)

29 A.M. No. 05-11-07-CTA, November 22, 2005.
30 Rollo (CTA EB No. 3062), pp. 1-6.
31 *Id.*, p. 8.
32 *Id.*, pp. 9-25.
33 Rollo (CTA EB No. 3066), pp. 1-6. Record shows that MTSP Inc. received the Assailed Resolution on January 07, 2025; Docket, p. 968.

in a Minute Resolution[34] dated January 23, 2025. On February 06, 2025, MTSP Inc. timely filed its "Petition for Review"[35].

Hence, the Court *En Banc* validly acquired jurisdiction over the two (2) petitions.

We now proceed with the merits of the case.

At the outset, it must be emphasized that the issues raised by the CIR and MTSP, Inc. in their petitions are mere reiterations of the same issues which had already been duly considered, passed upon and resolved by the Third Division in the Assailed Decision and Assailed Resolution.

CTA EB No. 3062

The Third Division did not err in partially granting MTSP Inc.'s claim for refund

We do not subscribe to the CIR's argument that there should be direct attributability of the purchases or input VAT to the finished product whose sale is zero-rated.

Section 112(A) of the NIRC of 1997, as amended, allows allocation of input taxes in case the same cannot be directly and entirely attributed to any of the sales, *viz*.:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* —
>
> (A) Zero-rated or Effectively Zero-rated Sales. Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax:...Provided further, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid **cannot be directly and entirely attributed to any one of the transactions**, it shall be allocated proportionately on the basis of the volume of sales: Provided

[34] *Id.*, p. 24.
[35] *Id.*, pp. 25-47.

> finally, That for a person making sales that are zero-rated under Section 108(8)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales."[36]

Contrary to the CIR's argument, the provision above only mandates that the input tax paid or incurred is attributable to a taxpayer's zero-rated sales, and in this case, the court *a quo* already found that the excess and unutilized input VAT of MTSP Inc. amounting to Php25,048,689.32 is attributable to its valid zero-rated sales based on the evidence presented. The law does not require that the input tax be directly attributable to MTSP Inc.'s zero-rated sales. Input taxes that bear a direct or indirect connection with a taxpayer's zero-rated sales satisfy the requirement of the law. *Ubi lex non distinguit nec nos distinguere debemos.*[37] It is a well-recognized rule that where the law does not distinguish, courts should not distinguish.

Furthermore, there is no need for MTSP Inc. to present its VAT Returns for the 2nd quarter of calendar year 2020 and onwards. As emphasized by the court *a quo*, MTSP Inc. already presented its Amended Quarterly VAT Return for the 1st quarter of calendar year 2020. Therein, the total amount of Php33,386,031.16 representing MTSP Inc.'s input VAT claim was already deducted as "VAT Refund/TCC claimed", thereby establishing that it did not carry over and utilize the amount claimed for refund in the succeeding quarters.

As to the CIR's argument that MTSP Inc. failed to show its entitlement to the refund sought since it submitted documents not in compliance with the requirements provided by law, suffice it to say that We find the Third Division's conclusions and computations on the matter in order.

From the foregoing, the CIR's assertions are devoid of merit.

<u>CTA EB No. 3066</u>

The Third Division properly disallowed the input VAT amounting to Php 156,708,471.36

To reiterate, MTSP Inc. avers that the NIRC of 1997, as amended, does not prohibit the antedating of invoices or official receipts, and that the disallowed official receipts remain valid despite being antedated to May 2019, as they were duly registered with the BIR under ATP dated June 03, 2019.

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[36] *Emphasis and underscoring supplied.*

[37] Philippine Free Press, Inc. v. Court of Appeals (12th Division), et al., G.R. No. 132864, October 24, 2005.

Nonetheless, the fact of antedating of the subject official receipts is not the issue in this case.

As pointed out by the Third Division, the subject official receipts were disqualified because they are not "duly registered receipts" "at the point of each sale", which constitutes non-compliance with the invoicing and substantiation requirements under the law.

Section 237 of the NIRC of 1997, as amended, clearly requires that the taxpayer issue a duly registered receipt or invoice at the point of each sale. The official receipts issued by MTSP Inc. for the transactions dated May 9, 2019, May 10, 2019, and May 30, 2019 must pertain to a valid and subsisting ATP which cover the said dates. And yet, the official receipts in question bear serial numbers outside the ATP dated June 03, 2019. Said ATP covers only the official receipts with serial numbers 12751 to 13250.

All in all, We find no sufficient basis for MTSP Inc.'s Petition for Review.

ACCORDINGLY, the instant Petitions for Review filed by Mastercard Transactions Services (Philippines) Inc. and the Commissioner of Internal Revenue are both **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

WE CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the cases were assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice