REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CBK POWER COMPANY LIMITED,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8784

Members:

DEL ROSARIO, *P.J., Chairperson*
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

JUL 11 2017 2:06 p.m.

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RESOLUTION

MINDARO-GRULLA, *J.*:

For the Court's resolution is petitioner's **Motion for Reconsideration**, filed on March 10, 2017, with respondent's **Comment/Opposition (Re: Motion for Reconsideration)**, filed on March 24, 2017.

Respondent moves for the reconsideration of the Decision promulgated on February 23, 2017, the dispositive portion of which is quoted as follows:

> "**WHEREFORE**, premises considered, the Petition for Review is **DENIED** for lack of merit.
>
> **SO ORDERED**."

Petitioner seeks reconsideration of the assailed Decision based on the following grounds:

a. Petitioner is entitled to the cash refund/Value-Added Tax (VAT) refund of the amount claimed as unutilized or excess input taxes attributable to zero-rated sales, for the period January 1, 2012 to December 31, 2012 pursuant to Sections 108(B)(7), and 112(A) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended;

b. Petitioner's domestic purchases of goods other than capital goods, importations of goods other than capital goods, domestic purchases of services, payments for services rendered by non-residents, purchases of capital goods not exceeding P1 million, and purchases of capital goods exceeding P1 million, for the period January 1, 2012 to December 31, 2012 are subject to the 12% VAT and are not zero-rated under Republic Act (RA) No. 9513;

c. The Coral Bay cases (G.R. No. 190506, June 13, 2016; CTA EB No. 403, May 29, 2009; CTA Case No. 7022, March 10, 2010) are not analogous to the instant case. Petitioner is not a PEZA-registered Ecozone Enterprise under RA No. 7916;

(1) BIR Revenue Memorandum Circular (RMC) No. 74-99 implementing RA No. 7916, as amended, is not applicable to local and foreign suppliers of petitioner because (a) the sale transactions of the said local and foreign suppliers are destined for consumption in the Customs Territory, contrary to the Cross Border Doctrine and Destination Principle of the VAT system, and (b) petitioner, purchaser of goods and services from local and foreign suppliers, is a not a PEZA-registered enterprise;

(2) Q-3/A-3 of BIR Revenue Memorandum Circular (RMC) No. 42-2003 is not applicable to petitioner's local suppliers of goods and services; importation of goods and services rendered by non-residents and petitioner; and

c

(3) Sales of petitioner's local suppliers of goods and services are VATable; no legal basis for petitioner to seek reimbursement of input taxes from its suppliers; no existing BIR issuances similar to RMC No. 74-99 and RMC No. 42-2003 issued to implement RA No. 9513; and

d. *Solutio indebiti* governs this case since respondent received something that it was not entitled to.

On the other hand, respondent claims that petitioner's contention is misplaced. He argues that the claimant has the burden of proof to establish the factual basis of a claim for tax credit or refund. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation.

Petitioner's motion lacks merit.

Petitioner contends that it is entitled to the issuance of a cash refund/VAT refund in the amount of ₱50,060,766.08 under Sections 108(B)(7) and 112(A) and (C) of the NIRC of 1997, as amended. Petitioner asserts that it has sufficiently proven and substantiated its compliance with all the basic requirements in order to be entitled to a cash refund/VAT refund of claimed amount of unutilized or excess input taxes for the period January 1, 2012 to December 31, 2012.

It is worthy to note that the Court found that petitioner is engaged in zero-rated or effectively zero-rated sales since the sale of power generated through renewable sources of energy is among the transactions subject to zero percent (0%) VAT. Nevertheless, petitioner is not entitled to claim input VAT considering that its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities and to the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors are zero-rated, as ruled in the assailed Decision, which reads:

"Petitioner is not entitled to input VAT; petitioner's purchases of local supply

of goods, properties and services needed for the development, construction and installation of its plant facilities are zero-rated.

It is clear that petitioner is engaged in zero-rated or effectively zero-rated sales for its sales of electricity to NPC. However, it is also worthy to note that petitioner's purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities are also zero-rated in accordance with Section 15(g) of RA No. 9513 or the Renewable Energy Act of 2008.

RA No. 9513, which was approved on December 16, 2008, provides that all renewable energy (RE) developers, such as herein petitioner, are entitled to zero-rated VAT on their purchases of local supply of goods, properties and services needed for the development, construction and installation of their plant facilities and to the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors, as follows:

> 'CHAPTER VII
> GENERAL INCENTIVES
>
> Section 15. *Incentives for Renewable Energy Projects and Activities.* - RE developers of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications, as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives:
>
> xxx xxx xxx
>
> (g) Zero Percent Value-Added Tax Rate. - The sale of fuel or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies

> such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337.
>
> **All RE Developers shall be entitled to zero-rated value added tax on its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities.**
>
> **This provision shall also apply to the whole process of exploring and developing renewable energy sources up to its conversion into power**, including but not limited to the services performed by subcontractors and/or contractors.' (*Emphasis supplied*)

The same is implemented by Part III, Rule 5, Section 13(G)(b) of DOE Circular No. DC2009-05-0008 issued by the Department of Energy (DOE) on May 25, 2009, which provides as follows:

PART III.
Incentives for Renewable Energy Projects and Activities

RULE 5.
General Incentives and Privileges for Renewable Energy Development

SEC. 13. *Fiscal Incentives for Renewable Energy Projects and Activities*

DOE-certified existing and new RE Developers of RE facilities, including Hybrid Systems, in proportion to and to the extent of the RE component, for both Power and Non-Power Applications, shall be entitled to the following incentives:

xxx xxx xxx

G. *Zero Percent Value-Added Tax Rate*

The following transactions/activities shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337:

(a) Sale of fuel from RE sources or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels;

(b) Purchase of local goods, properties and services **needed for the development, construction, and installation of the plant facilities** of RE Developers; and

(c) **Whole process of exploration and development of RE sources up to its conversion into power**, including, but not limited to, the services performed by subcontractors and/or contractors.' (*Emphasis supplied*)

The foregoing provisions are clear. Petitioner, being a RE developer, is entitled to zero-rated VAT on its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities and to the whole process of exploring and developing renewable energy sources up to its conversion into power."

To reiterate, RA No. 9513 provides that all renewable energy (RE) developers, such as herein petitioner, are entitled to zero-rated VAT on their purchases of local supply of goods, properties and services needed for the development, construction and installation of their plant facilities. The zero-rating also applies to the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors. Notably, RA No. 9513 does not specify the transactions/activities covered by the latter. Hence, petitioner's importation of goods other than capital goods and payments for services rendered by non-residents can be considered included as part of the whole process of exploring and developing of renewable energy sources until its conversion into power.

In the case of *Victoria vs. Commission on Elections and Calisin*[1], citing the case of *Globe-Mackay Cable and Radio Corporation v. National Labor Relations Commission*, the Supreme Court discussed the *verba legis* principle, as follows:

> "In the case of *Globe-Mackay Cable and Radio Corporation v. National Labor Relations Commission*, 206 SCRA 710 (1992), we held that:
>
> > . . . Under the principles of statutory construction, if a statue is clear, plain and free from ambiguity, it must be given it literal meaning and applied without attempted interpretation. This plain-meaning rule or *verba legis* derived from the maxim, *index animi sermo est* (speech is the index of intention) rests on the valid presumption that the words employed by the legislature in a statute correctly express its intent or will and preclude the court from construing it differently. The legislature is presumed to know the meaning of the words, to have used words advisely, and to have expressed its intent by the use of such words as are found in the statute. *Verba legis non est recedendum*, or from the words of a statute there should be no departure. . .
>
> Petitioner's contention is therefore untenable considering the clear mandate of the law, which leaves no room for other interpretation. We are not unmindful of the practicality of petitioner's interpretation but it must very

[1] G.R. No. 109005 January 10, 1994.

well be addressed to the legislative branch and not to this Court which has no power to change the law."

Moreover, in the case of *Pilar vs. Commission on Elections*[2], the Supreme Court discussed the principle of *Ubi lex non distinguit nec nos distinguere debemos*, as follows:

> "Well recognized is the rule that where the law does not distinguish, courts should not distinguish, *Ubi lex non distinguit nec nos distinguere debemos* (*Philippine British Assurance Co. Inc. v. Intermediate Appellate Court*, 150 SCRA 520 [1987]; *cf Olfato v. Commission on Elections*, 103 SCRA 741 [1981]). No distinction is to be made in the application of a law where none is indicated (*Lo Cham v. Ocampo*, 77 Phil. 636 [1946])."

RA No. 9513 makes no distinction as to what type of transactions are covered by the phrase "whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors". Also, it is observed that petitioner's alleged other sources of input taxes such as the importation of goods other than capital goods and payments for services rendered by non-residents are claimed to be attributable to petitioner's zero-rated sales. Thus, these other sources of input taxes can be considered as included in the whole process of exploring and developing of renewable energy sources until its conversion into power, and are therefore, zero-rated.

Petitioner further argues that the Coral Bay cases (G.R. No. 190506, June 13, 2016; CTA EB No. 403, May 29, 2009; CTA Case No. 7022, March 10, 2010) are not analogous to the instant case. Petitioner further states that it is not a PEZA-registered Ecozone Enterprise under RA No. 7916 and that the facts in these cases do not have any similarity, considering further that the law invoked by the Court is completely different.

In the assailed Decision, the Court already discussed the applicability of the principle in Coral Bay cases with the present case, as follows:

[2] G.R. No. 115245, July 11, 1995.

"The present case is analogous to the case of *Coral Bay Nickel Corp. vs. Commissioner of Internal Revenue*, wherein the Court's *En Banc* affirming the Decision of the Court in Division ruled that an entity located within the Ecozone cannot seek from the BIR a refund of its unutilized input taxes because under the law and the Cross Border Doctrine of the VAT system, sales of goods and services to PEZA-registered entities such as Coral Bay Nickel Corporation, are subject to zero percent (0%) VAT. The Court *En Banc* further held that in instances when petitioner Coral Bay paid input VAT, notwithstanding that under the law it is subject to VAT at zero percent rate, Coral Bay's recourse is not against the government, but against the seller who shifted to it the output VAT. xxx

xxx xxx xxx

The above-quoted ruling was affirmed in the case of *Coral Bay Nickel Corporation vs. Commissioner of Internal Revenue*, wherein the Supreme Court held that the proper party to seek the tax refund or credit should be the suppliers, not the petitioner (Coral Bay), as follows:

> 'We should also take into consideration the nature of VAT as an indirect tax. Although the seller is statutorily liable for the payment of VAT, the amount of the tax is allowed to be shifted or passed on to the buyer. However, reporting and remittance of the VAT paid to the BIR remained to be the seller/supplier's obligation. Hence, the proper party to seek the tax refund or credit should be the suppliers, not the petitioner.'

In the same vein, petitioner's recourse for its purchases of goods and services where it paid VAT is not a claim for refund against the BIR; but to seek reimbursement of its alleged input VAT paid from its suppliers of goods and services since its purchases of local goods, properties and services needed for the development, construction and installation of the plant facilities as well as its purchases of goods, properties and services for the whole process of exploration and development of renewable energy sources up to its conversion into power, including but not limited to the

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> services performed by subcontractors or contractors, are subject to zero percent (0%) VAT under RA No. 9513."

By analogy, the principle in Coral Bay cases may be applied insofar as petitioner cannot seek a refund from the BIR of its unutilized input taxes because under RA No. 9513, its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities as well as the whole process of exploring and developing renewable energy sources up to its conversion into power are zero-rated. For this reason, Part III, Rule 5, Section 13(G)(b) of DOE Circular No. DC2009-05-0008 issued by the Department of Energy (DOE) on May 25, 2009 implementing RA No. 9513 necessarily finds application to the present case. Similarly, the Court applied Revenue Memorandum Circular (RMC) No. 42-2003 dated July 15, 2003 but only with regard to the recourse of petitioner's claim for input tax credit concerning its zero-rated sale and purchases, that is, to seek reimbursement of the VAT paid, from its supplier.

Thus, the Court concluded that since no input VAT should be paid by petitioner, it is not, therefore entitled to a refund, or issuance of TCC from its purchases of goods and services needed for the development, construction, and installation of their plant facilities as well as to the whole process of exploration and development of RE sources up to its conversion into power, as follows:

> "Applying the foregoing provisions, it is evident that no output VAT shall be shifted to or passed on to RE developers, such as herein petitioner, in connection with their purchases of goods and services needed for the development, construction, and installation of their plant facilities as well as to the whole process of exploration and development of RE sources up to its conversion into power. Conversely, no input VAT shall be paid by RE developers on these transactions. There being no input VAT to be paid by RE developers, it necessarily follows that they are not entitled to refund, or issuance of TCC from the said purchases."

Well settled is the rule that tax refunds or credits, just like tax exemptions, are strictly construed against the taxpayer. The burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit.[3]

Based on the foregoing considerations, the Court finds no cogent reasons to reverse its assailed Decision, finding petitioner not entitled to the cash refund/VAT refund of its claim for unutilized or excess input VAT in the amount of ₱50,060,766.08, allegedly representing its unutilized or excess creditable input taxes paid or incurred on its domestic purchases of goods and services, including importation of goods other than capital goods and payments for services rendered by non-residents, all attributable to zero-rated sales for the calendar year 2012.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration** is **DENIED** for lack of merit.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

(With Concurring and Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

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[3] *Commissioner of Internal Revenue vs. Mindanao II Geothermal Partnership*, G.R. No. 189440, June 18, 2014.

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

CBK POWER COMPANY LIMITED,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8784

Members:

Del Rosario, *P.J., Chairperson,*
Uy, and
Mindaro-Grulla, *JJ.*

Promulgated:
JUL 11 2017

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CONCURRING AND DISSENTING OPINION

DEL ROSARIO, P.J.:

After carefully reviewing the parties' respective arguments, I am constrained to re-visit the concurrence I have given in the assailed Decision.

With respect to petitioner's claim for refund of input value-added tax (VAT) arising from local purchases of goods and services, I maintain that petitioner is not entitled thereto. Anent petitioner's claim for refund of input VAT arising from importation of goods (other than capital goods) and on services rendered by non-residents, with due respect, I submit that it should be granted, to the extent that the input VAT are duly substantiated and attributable to zero-rated sales.

Input VAT from local supply of goods, properties and services

As elucidated in the *ponencia*, petitioner is not entitled to refund of input VAT arising from its local purchases of goods, properties and services needed for the development, construction and installation of its plant facilities since the same are subject to zero-rated VAT pursuant to Section15(g) of Republic Act (RA) No. 9513, which provides:

> "**Section 15. *Incentives for Renewable Energy Projects and Activities*.** - **RE developers** of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications, **as duly certified by the DOE**, in consultation with the BOI, shall be entitled to the following incentives: xxx
>
> (g) Zero Percent Value-Added Tax Rate. - The sale of fuel or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337.
>
> **All RE Developers shall be entitled to zero-rated value added tax on its purchases of <u>local</u> supply of goods, properties and services needed for the development, construction and installation of its plant facilities**.
>
> This provision shall also apply to **the whole process of exploring and developing renewable energy sources up to its conversion into power**, including but not limited to the services performed by subcontractors and/or contractors. (Emphases supplied)

The provision is categorical in stating that RE Developers are entitled to zero-rated VAT on their purchases of **local** supply of goods, properties and services needed for the development, construction and installation of its plant facilities. Thus, it was erroneous for petitioner's suppliers to subject their sales to petitioner to 12% VAT. In the same vein, it is not correct for petitioner to recognize said passed-on VAT as input taxes.

Petitioner contends that registration by local suppliers with the Department of Energy (DOE) and the issuance to them of corresponding DOE certifications are indispensable before their sales to petitioner may be treated as zero-rated sales.

I submit that the proposition is erroneous.

The registration and accreditation with the DOE are requirements specifically imposed upon: (i) **RE Developers pursuant to Section 15, *supra*; as well as upon (ii) manufacturers, fabricators and suppliers of locally produced RE equipment and components under Section 21 of RA 9513**[1], for them to be entitled to zero-rating of the sales **made to them** by their local suppliers. Otherwise stated, the local suppliers are **not** themselves required under RA 9513 to register with or be accredited by the DOE in order that their sales to RE Developers and manufacturers, fabricators and suppliers of locally produced RE equipment and components may be considered as zero-rated.

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[1] SECTION 21. Incentives for RE Commercialization. — All manufacturers, fabricators and suppliers of locally-produced RE equipment and components duly recognized and accredited by the DOE, in consultation with the DOST, the DOF and the DTI, shall, upon registration with the BOI, be entitled to the privileges set forth under this section.

Consistent with Article 7, item (20) of Executive Order No. 226, the registration with the BOI, as provided for in Section 15 and Section 21 of this Act, shall be carried out through an agreement and an administrative arrangement between the BOI and the DOE, with the end-view of facilitating the registration of qualified RE facilities based on the implementing rules and regulations that will be developed by the DOE. It is further mandated that the applications for registration will be positively acted upon by the BOI on the basis of the accreditation issued by the DOE.

The Renewable Energy Sector is hereby declared a priority investment sector that will regularly form part of the country's Investment Priority Plan, unless declared otherwise by law. As such, all entities duly accredited by the DOE under this Act shall be entitled to all the incentives provided herein.

(a) Tax and Duty-free Importation of Components, Parts and Materials — All shipments necessary for the manufacture and/or fabrication of RE equipment and components shall be exempted from importation tariff and duties and value-added tax (VAT): Provided, however, That the said components, parts and materials are: (i) not manufactured domestically in reasonable quantity and quality at competitive prices; (ii) directly and actually needed and shall be used exclusively in the manufacture/fabrication of RE equipment; and (iii) covered by shipping documents in the name of the duly registered manufacturer/fabricator to whom the shipment will be directly delivered by customs authorities: Provided, further, That prior approval of the DOE was obtained before the importation of such components, parts and materials.

(b) Tax Credit on Domestic Capital Components, Parts and Materials — A tax credit equivalent to one hundred percent (100%) of the amount of the value-added tax (VAT) and custom duties that would have been paid on the components, parts and materials had these items been imported shall be given to an RE equipment manufacturer, fabricator, and supplier duly recognized and accredited by the DOE who purchases RE components, parts and materials from a domestic manufacturer: Provided, That such components, and parts are directly needed and shall be used exclusively by the RE manufacturer, fabricator and supplier for the manufacture, fabrication and sale of the RE equipment: Provided, further, That prior approval by the DOE was obtained by the local manufacturer.

(c) Income Tax Holiday and Exemption — For seven (7) years starting from the date of recognition/accreditation, an RE manufacturer, fabricator and supplier of RE equipment shall be fully exempt from income taxes levied by the National Government on net income derived only from the sale of RE equipment, machinery, parts and services.

(d) Zero-rated Value-Added Tax Transactions — All manufacturers, fabricators and suppliers of locally produced renewable energy equipment shall be subject to zero-rated value-added tax on its transactions with local suppliers of goods, properties and services.

Since petitioner's purchases are subject to zero-rated VAT, the 12% VAT passed-on by petitioner's local suppliers formed part of petitioner's purchase price. Petitioner is therefore precluded from claiming a refund of the input VAT passed on to it by its local suppliers.

Input VAT from Importation of Goods (other than capital goods) and from Services Rendered by Non-Residents

Anent the conclusion reached in the *ponencia* that, under RA 9513, zero-rating applies to importations made by petitioner, I am obliged to withhold my assent.

To support the aforementioned conclusion, the *ponencia* interpreted the aforequoted paragraphs 2 and 3 of Section 15 (g) of RA 9513 in this manner:

> "To reiterate, R.A. No. 9513 provides that all renewable energy (RE) developers, such as herein petitioner, are entitled to zero-rated VAT on their purchases of local supply of goods, properties and services needed for the development, construction and installation of their plant facilities. **The zero-rating also applies to the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors. Notably, RA No. 9513 does not specify the transactions/activities covered by the latter.** Hence, petitioner's importation of goods other than capital goods and payments for services rendered by non-residents can be considered included as part of the whole process of exploring and developing renewable energy sources until its conversion into power.
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> xxx xxx xxx
>
> RA No. 9513 makes no distinction as to what type of transactions are covered by the phrase "whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors". Also, it is observed that petitioner's alleged other sources of input taxes such as importation of goods other than capital goods and payments for services rendered by non-residents are claimed to be attributable to petitioner's zero-rated sales. Thus, these other sources of input taxes can be considered as included in the whole process of exploring and developing of renewable energy sources until its

> conversion into power, and are therefore, zero-rated." (Boldfacing supplied)

I submit that the VAT zero-rating under Section 15 (g) is confined only to RE Developer's purchases of **local** supply of goods, properties and services. It does not contemplate the grant of VAT zero-rating on **RE Developer's importation**. The **third** paragraph of Section 15(g) merely expanded the coverage of **"zero-rated VAT on purchases of local supply of goods, properties and services**" of an **RE Developer** to the **whole process** of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors" **apart from those covered by the second paragraph pertaining to an RE Developer's purchases needed for the development, construction and installation of its plant facilities**.

Interestingly, under Section 15 (b) of RA 9513, **RE Developers are entitled to duty-free (but not VAT-free) importation of RE machinery, equipment and materials**. Thus, insofar as those importations and services by non-residents are concerned, RE Developers remain subject to 12% VAT

Considering that importation by RE Developers is not subject to zero-rated VAT, the VAT paid by petitioner on its importation of goods other than capital goods and from services rendered by non-residents which are attributable to petitioner's zero-rated sales may be refunded pursuant to Section 112 of the NIRC, as amended.

All told, I vote to partially grant petitioner's Motion for Reconsideration. The Court should accordingly proceed to determine the amount refundable to petitioner relating to its claimed input tax on on its importation of goods (other than capital goods) and on services rendered by non-residents to the extent that they are duly substantiated and attributable to zero-rated sales.

ROMAN G. DEL ROSARIO
Presiding Justice