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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

INTEL PHILIPPINES MANUFACTURING, INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 4987

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
DEC 09 1996

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# DECISION

This case involves a claim for tax credit of value added tax (VAT) paid by petitioner on domestic purchase of taxable goods and services in the amount of P3,423,428.36 for the period covering June 1, 1991 to August 31, 1991.

Petitioner alleged in its petition for review, that it is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with principal office at 1321 Apolinario Street, Bangkal, Makati, Metro Manila.

It is engaged primarily in the business of designing, developing, manufacturing and exporting advanced and large-scale integrated circuit components, commonly referred to in the industry as "VLSI" components or "IC's". As such, it registered as a VAT entity and was issued a VAT Registration Certificate No. 32A-3-002649.

For the quarter period from June 1, 1991 to August 31, 1991, it generated and recorded zero-rated export sales in the amount of P238,637,646.17. This amount was paid to petitioner in acceptable foreign currency and was inwardly remitted in accordance with Central Bank regulations pursuant to Sec. 100(a) (1) of the Tax Code and Sec. 8(b) (1) of Revenue Regulations No. 5-87.

For the same quarter, it filed its VAT return (p. 18, CTA rec.) on September 20, 1991 which was stamped "received" by the Development Bank of the Philippines. Subsequently, petitioner amended such return (p. 19, ibid.) which was filed and received by United Coconut Planters Bank, Makati Branch on March 20, 1992.

Petitioner alleged that of the P3,531,067.66 VAT input taxes paid which are directly attributable to zero-rated sales, P3,423,428.36 had not been applied to any VAT output tax liability of petitioner during said taxable quarter or any succeeding quarters in accordance with Sec. 106(a) of the Tax Code and Sec. 16(a) of Revenue Regulations No. 5-87.

As petitioner's export sales of P238,637,646.17 for the period from June 1, 1991 to August 31, 1991 are not subject to 10% VAT but to 0% rate of VAT, petitioner filed with the BIR on April 15, 1992, a claim for tax credit of all its VAT input taxes paid for the period in the total amount of P3,377,047.92. Then on July 24, 1992, it filed with respondent an amended application for tax credit, adding the amount of P46,380.44 to the original amount of P3,377,047.92, thus increasing the total amount claimed to P3,423,428.36.

Considering that the two-year period within which a claim for tax credit may be filed is about to expire, petitioner filed on May 11, 1993 the instant petition for review.

The sole factual issue confronting the Court in this case is whether or not petitioner is entitled to the tax credit claimed in the amount of P3,423,428.36 as VAT input taxes paid during the period from June 1, 1991 to August 31, 1991.

The Court rules in favor of petitioner on two grounds.

First, in the hearings conducted, petitioner has submitted substantial evidence to prove its claim for tax credit. Among the most important ones were the receipts or invoices proving payments of VAT input taxes for the period involved (Exhs. "K" to "K-4229", inclusive), VAT registration certificate of petitioner (Exh. "A"), VAT returns filed for the subject quarter (Exh. "B" and "B-

1"), applications for VAT refund/tax credit filed with the BIR (Exhs. "C", "C-1" and "C-2"), and the sales invoices, airway bills and bank credit memos for the same subject quarter (Exhs. "L" to "L-777", inclusive). All of these documents or exhibits were properly identified by Mrs. Nenita Saligumba and Mr. Luisito Reyes, the witnesses presented by petitioner.

Second, while the case was pending hearing before this Court, respondent has acted favorably upon petitioner's claim. Thus, on May 28, 1993 respondent issued to petitioner Tax Credit Certificate with Serial Number 001899 in the amount of P850,516.54 (Exh. "H", Pet.; p. 182, CTA rec. and Exh. "2", Resp., p. 270, BIR rec.). Then on February 28, 1994, respondent's examiner, Criscela A. Manalo, came out with a memorandum report of her investigation (Exh. "I", Resp.; p. 277, CTA rec.) stating therein that the amount allowable, per verification is P2,630,246.27, details of which are contained in the following schedule (Exh. "1-A", Resp.; p. 276, BIR rec.), to wit:

"SCHEDULE TO ACCOMPANY PROGRESS REPORT

| Period | Allowed Input Tax | Disallowed Input Tax | Total Input Tax |
|---|---|---|---|
| Second Quarter | | | |
| A to C | P 632,521.81 | P194,745.15 | P 827,266.96 |
| D to F | 371,391.63 | 150,475.87 | 521,867.50 |
| G to M | 903,046.83 | 133,783.08 | 1,036,829.91 |
| N to Z | 723,286.00 | 354,183.57 | 1,077,469.57 |
| TOTAL | P2,630,246.27 | P833,187.67 | P3,463,433.94" |

During the direct examination of her witness, conducted on January 31, 1995 by Atty. Abad, Ms. Manalo explained that the input tax in the total amount of P833,187.67 was disallowed due to violation of the invoicing requirements. Thus:

"Atty. Abad

Q. Miss Witness, on page 2 of this report there is a figure appearing under the heading disallowed input tax in the total amount of P833,187.67. Will you inform this Honorable Court why did you disallow this input tax?

A. I disallowed these input taxes as being claimed by the petitioner by reason of violation of the invoicing requirements.

x x x x x x

Q. x x x Will you explain to this Honorable Court what particular violation of the invoicing regulation of the Bureau was violated by petitioner?

A. For having no VAT registration number, others have no BIR permit, that's all.
x x x" (pp. 11-12, TSN, hearing of Jan. 31, 1995)

In the cross-examination done by Atty. Ong, Ms. Manalo further testified as follows:

"Q. Are there any other violations aside from these two?

A. There are invoices which are not in the name of the company.

Q. In whose name were the invoices issued?

A. It was issued in general, sold to cash.

Q. Could you please tell us how much will be the disallowed input taxes for each violation?

A. I have no copy of the disallowances with me.

Q. Where is the copy of your disallowances?

A. It is right there with the main docket. x x x" (p. 12, Ibid.)

As respondent's examiner personally examined all the original copies of petitioner's purchase invoices, sales invoices, official receipts, journal vouchers and general ledgers (see TSN, 1-31-95, pp. 16-18), the Court could not find any irregularity in the investigation conducted relative to petitioner's claim. It, therefore, adopts the factual findings of respondent's examiner following the well-entrenched rule that:

> "Findings of administrative or quasi-judicial agencies which have acquired expertise/special knowledge because their jurisdiction is confined to specific matters are accorded not only respect but also finality." (Latchme Motoomul vs.

> Dela Paz, 187 SCRA 743; Villanueva vs. Court of Appeals, 205 SCRA 537; Sesbreno vs. Ala, 208 SCRA 359; Villanueva vs. Leodegario, Jr., 215 SCRA 835).

However, considering that the amount of P2,630,246.27 which was recommended as allowable input tax has not been diminished by P850,516.54, the amount of tax credit certificate earlier issued to petitioner, the Court grants to petitioner a tax credit in the reduced amount of P1,779,729.73. This fact has been confirmed by no less than the counsel for petitioner, Atty. Ong, when he stated during the hearing of January 31, 1995 that:

> "Atty. Ong
>
> The 2.6 million, your Honor, is the total amount allowable <u>without deducting</u> first the tax credit certificate which was previously issued." (p. 38, TSN, 1-31-95; underscoring supplied)

**WHEREFORE**, in view of all the foregoing, the Court grants petitioner's claim for tax credit but only in the amount of P1,779,729.73 (P2,630,246.27 less P850,516.54). The Court hereby **ORDERS** respondent to issue in favor of petitioner a Tax Credit Certificate in the amount of P1,779,729.73 as VAT input taxes paid on domestic purchase of goods and services for the period from June 1, 1991 to August 31, 1991.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

I CONCUR:

RAMON O. DE VEYRA
Associate Judge

## CERTIFICATION

I hereby certify that this decision was reached after due consultation with the member of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals