REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

MARUBENI PHILIPPINES CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. EB No. 231
(C.T.A. CASE No. 6297)

Present:

Acosta, *P.J.,*
Castañeda, Jr.,
Bautista
Uy,
Casanova,
Palanca-Enriquez, *JJ.*:

Promulgated:
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D E C I S I O N

CASTAÑEDA, Jr., *J.*:

STATEMENT OF THE CASE

For review before this Court *en banc* is the Decision and the Resolution of the First Division of this Court (Court in Division) promulgated on July 11 and November 14, 2006, respectively, in the case entitled "*Marubeni Philippines Corporation vs. Commissioner of Internal Revenue*" and docketed as C.T.A. CASE No. 6297. The assailed Decision and Resolution denied for lack of merit petitioner's claim for

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refund or tax credit of the total amount of Three Million Six Hundred Fifty One Thousand Seven Hundred Sixty Six and 26/100 Pesos (P3,651,766.26) representing: (1) Petitioner's excess and/or unutilized input VAT on domestic purchases of goods and services which are either directly attributable, or otherwise allocable, to petitioner's zero-rated sales of goods and services for the 1st Quarter of taxable year 1999; and (2) input VAT paid by petitioner on its local purchases of capital goods.

The dispositive portion of the assailed Decision reads, as follows:

> **IN VIEW OF ALL THE FOREGOING,** the instant petition is hereby **DENIED** for lack of merit..
>
> **SO ORDERED.**

The dispositive portion of the said Resolution reads:

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

STATEMENT OF THE FACTS

As found by the Court in Division, the following are the facts of this case:

> Petitioner is a corporation duly organized and existing under the laws of the Philippines, with office address at 6th Floor, LV Locsin Building, Ayala Avenue corner Makati Avenue, Makati City.[1]
>
> Respondent is the duly appointed Commissioner of Internal Revenue, with authority, among others, to decide, approve and grant tax credits and/or refunds of overpaid or erroneously paid internal revenue taxes, with office address at the 5th Floor, BIR National Office Building, Diliman, Quezon City.[2]

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1 Facts Admitted, par. 1, Records, page 78
2 *ibid.,* par. 2, Records, page 78

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Petitioner was organized to principally engage in the business of buying, selling, distributing, marketing at wholesale insofar as may be permitted by law, all kinds of goods, commodities, wares and merchandise of every kind and description, and to enter into all kinds of contracts for the export, import, purchase, acquisition, sale at wholesale and other disposition for its own account as principal or in representative capacity as manufacturer's representative, merchandise broker, indentor, commission merchant, factors or agents, upon consignment or all kinds of goods, wares, merchandise or products whether natural or artificial. As such, petitioner is duly registered with the Bureau of Internal Revenue (BIR) as a Value-added Tax (VAT) taxpayer, as evidenced by a copy of its BIR Certificate of Registration.[3]

For the first quarter ending March 31, 1999, petitioner filed with the BIR its Quarterly VAT Return on April 26, 1999 reflecting an excess input VAT for the said quarter in the amount of P3,094,668.05,[4] computed as follows:

			INPUT VAT		
ZERO-RATED SALES	TAXABLE SALES	OUTPUT VAT	DOMESTIC PURCHASES	IMPORTATION	EXCESS
		(a)	(b)	(c)	(b) + (c) -(a)
P29,181,490.18	P20,768,479.60	P2,076,856.17	P5,389,020.55	P(217,496.33)	P3,094,668.05

Petitioner, through its external auditor, filed on March 30, 2001 with the Bureau of Internal Revenue (BIR) within the period prescribed by law, a claim for refund and/or tax credit of its unutilized input VAT credits for the first quarter of 1999 in the amount of P3,312,164.38.[5]

On April 2, 2001, petitioner filed an amended VAT return for the first quarter of 1999 increasing its reported excess input VAT from P3,094,668.05 to P3,651,766.26,[6] computed as follows:

			INPUT VAT		
ZERO-RATED SALES	TAXABLE SALES	OUTPUT VAT	DOMESTIC PURCHASES	IMPORTATION	EXCESS
		(a)	(b)	(c)	(b) + (c) -(a)
P115,135,882.34	P16,774,897.10	P1,677,481.45	P5,248,037.71	P 81,210.00	P3,651,766.26

In view of the filing of the amended return for the first quarter of 1999, petitioner filed on the same date of April 2, 2001, an amended claim for refund/tax credit of unutilized input tax credits in the amount of P3,651,766.26.[7]

Unable to find any response from the respondent and in order to stop the running of the two-year prescriptive period, petitioner elevated the case through a Petition for Review with this Court on April 25, 2001.

On July 11, 2006, the Court in division promulgated the assailed decision. A copy of which was received by Petitioner Marubeni

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3 *Id.,* pars. 3 &4, Records, pages 78 & 79
4 Exhibit "A"
5 Exhibit "D"
6 Exhibit "B"
7 Exhibit "E"

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Philippines Corporation (Marubeni, for brevity) on July 20, 2006.Thereafter, Marubeni filed its motion for reconsideration on August 4, 2006. On the November 14, 2006 resolution, the Court in division denied for lack of merit the said motion.

Marubeni filed a motion for extension of time to file petition for review on December 8, 2006. The Court *En Banc* granted the motion. Within the period allowed by this Court, Marubeni filed the Petition for Review *En Banc* on December 21, 2006. On January 18, 2007 resolution, the Court En Banc ordered respondent Commissioner of Internal Revenue ("CIR") to file comment within ten (10) days from receipt of the said resolution. No comment was filed by respondent.

Hence, this case for decision.

GROUNDS FOR THE PETITION

I

THE FIRST DIVISION ERRED WHEN IT HELD THAT PETITIONER'S DIRECT EXPORT SALES AND SALES TO PEZA-REGISTERED ENTITIES CANNOT QUALIFY FOR VAT ZERO-RATING ON THE GROUND THAT PETITIONER'S INVOICES WERE NOT IMPRINTED WITH THE WORD "ZERO-RATED".

II

THE FIRST DIVISION ERRED WHEN IT HELD THAT PETITIONER'S SALES OF SERVICES TO ITS NON-RESIDENT FOREIGN AFFILIATES CANNOT QUALIFY FOR ZERO-RATING IN THE ABSENCE OF VAT OFFICIAL RECEIPTS AND INVOICES.

III

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IN CIVIL CASES, SUCH AS CLAIMS FOR REFUND, STRICT COMPLIANCE WITH TECHNICAL RULES OF EVIDENCE IS NOT REQUIRED. MOREOVER, MERE PREPONDERANCE OF EVIDENCE WILL SUFFICE TO JUSTIFY THE GRANT OF A CLAIM.

IV

THE PRINCIPLE OF SOLUTIO INDEBITI MANDATES THE RESPONDENT TO RETURN WHAT IS NOT RIGHTFULLY DUE IT.

Marubeni prays that this Court reverse, vacate and set aside the Decision dated July 11, 2006 and the Resolution dated November 14, 2006 issued by the Court in Division, and lieu thereof, issue a decision ordering CIR to refund or issue to herein petitioner Marubeni a tax credit certificate amounting to P3,651,766.26.

THIS COURT'S RULING

We deny the petition.

An excerpt of the assailed decision reads:

> To substantiate its direct export sales of P36,721,285.11, petitioner presented various sales invoices *(Exhibits "N-1, O-1, P-1, R-1, S-1, T-1, V-1, W-1, Y-1, Z-1, AA-1 and CC-1")*, export declarations *(Exhibits "N-2, O-2, P-2, R-2, S-2, T-2, V-2, W-2, Y-2, Z-2, ZZ-2 and CC-2")*, bills of lading *(Exhibits "FF, GG, HH, II, JJ, KK, LL, MM, NN, OO and PP")* and BPI Certificate of Inward Remittance *(Exhibit "P")* which showed that for the first quarter of 1999 petitioner exported goods to Marubeni Corporation, Tokyo, Japan in the amount of P36,721,285.11 which were paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP. **These direct export sales fall within those export sales transactions subject to zero percent (0%) VAT referred to under Section 106(A)(2)(a)(1) of the NIRC of 1997** xxx
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> xxx xxx xxx
>
> **A scrutiny of petitioner's sales invoices** *(Exhibits "N-1, O-1, P-1, R-1, S-1, T-1, V-1, W-1, Y-1, Z-1, AA-1 and CC-1")* **shows that the word "zero-rated" was not imprinted thereon in violation of Section 4.108-1 of Revenue Regulations No. 7-95, in relation to Section 113 of the NIRC of 1997**.

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xxx xxx xxx

xxx the inevitable conclusion is that without VAT sales invoices with the word "zero-rated" imprinted thereon, petitioner's direct export sales for the first quarter of 1999 in the amount of P36,721,285.11 cannot qualify for VAT zero-rating.

We now delve on petitioner's alleged zero-rating of **sale of services to PEZA registered companies in the amount of P1,204,792.89 and sale of services to non-resident affiliates/Marubeni Tokyo in the amount of P72,467,767.62.** xxx

xxx xxx xxx

Clearly, from the foregoing provisions of Section 108(B)(3) and as clarified under RMC No. 74-99, sales of services to PEZA registered entities by a VAT registered entity, like herein petitioner, are subject to zero percent (0%) VAT. However, petitioner's reported sales in the amount of P1,204,792.89 cannot qualify for VAT zero rating because petitioner **failed to substantiate the same with valid VAT official receipts.** Although petitioner was able to submit some official receipts *(Exhibits "WWWWW to ZZZZZ" and "AAAAAA to EEEEEE")*, still, the sales amounts reflected in the said documents cannot qualify for VAT zero-rating. **The word "zero-rated" was not imprinted on the corresponding official receipts in violation of Section 4.108-1 of Revenue Regulations No.7-95.**

We observed that **petitioner's sales of services to its non-resident affiliates and Marubeni Tokyo, Japan** for the first quarter of 1999 which were paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP fall under the category of services subject to zero percent (0%) VAT under Section 108(B)(2) of the NIRC of 1997. However, since, petitioner's reported sales of services in the amount of P72,467,767.62 **was not duly supported by VAT official receipts in accordance with Section 113 of the NIRC of 1997, the same shall not qualify for VAT zero-rating.**

In the light of the foregoing considerations and considering that petitioner **failed to prove that it had zero-rated or effectively zero-rated sales for the first quarter of 1999, petitioner's claimed input taxes which are directly attributable thereto in the amount of P3,616,538.35 cannot be granted**. *(Emphasis Supplied).*

Marubeni alleges that under the Tax Code, all VAT-registered taxpayers may claim refund of input taxes directly attributable, or otherwise allocable to zero-rated transactions, to the extent that such input taxes have not applied against output taxes within a period of two (2) years after the taxable quarter. Marubeni also alleges that the same Code does not require that invoices and/or receipts issued by a VAT-

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registered taxpayer should be imprinted with the word "zero-rated." Marubeni avers that while Revenue Regulation No.7-95 requires that the invoices and/or receipts issued by VAT-registered taxpayers should be imprinted with the word "zero-rated", failure to comply therewith does not justify the outright denial of a claim for refund where the zero-rated nature of the transactions covered by the said invoices/receipts is established by other equally relevant and competent evidence.

Marubeni likewise alleges that even assuming that petitioner did not imprint the word "zero-rated" on its invoices for its direct export sales to Marubeni-Tokyo, no prejudice can result to the government by reason thereof.

Marubeni further avers that it presented substantial evidence that unequivocally proved its zero-rated transactions for the first quarter of 1999.

Marubeni's allegations are bereft of merit. The first and second grounds will be discussed simultaneously for being interrelated.

Pertinent to this case is Section 112(A) of the 1997 National Internal Revenue Code (NIRC) and it reads, as follows:

> **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, however*, That in the case of zero-rated sales under Section 106 (A)(2)(a)(1), (2) and (B) and Section 108 (B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had

been duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP): *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.

Based on the foregoing, the Court in Division enumerated the requisites for refund/tax credit of unutilized input VAT on purchases of goods and services attributable to zero-rated sales or effectively zero-rated sales and We reiterate with approval, as follows:

1. that there must be zero-rated or effectively zero-rated sales;
2. that input taxes were incurred or paid;
3. that such input VAT payments are directly attributable to zero-rated sales or effectively zero-rated sales;
4. that the input VAT payments were not applied against any output VAT liability during and in the succeeding quarters; and
5. that the claim for refund was filed within the two-year prescriptive period.

It is clear that zero-rated or effectively zero-rated sales must be proven first before the claim for refund/ tax credit will be granted. In tax refund case, the burden of proof is on the taxpayer. This is line with well-settled principle that tax refunds are in the nature of tax exemptions and as such must be strictly construed against the claimant.[8] Thus, Marubeni bears the burden of proving the zero-rated or effectively zero-rated transactions as the first requisite in the grant of a refund or issuance of a tax credit certificate of unutilized input VAT on

[8] *Commissioner of Internal Revenue vs. S.C. Johnson and Son, Inc. and Court of Appeals*, G.R. No. 127105, June 25, 1999 (309 SCRA 87)

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purchases of goods and services attributable to zero-rated sales or effectively zero-rated sales.

We agree with the Court in Division's denial of Marubeni's claim for tax refund/tax credit on the ground that Marubeni's zero rated sales or effectively zero-rated sales were not substantiated with VAT invoices/official receipts with the word "zero-rated" imprinted thereon.

The issue on the imprinting of the word "zero-rated" on the VAT official receipts or invoices representing zero-rated sales or effectively zero-rated sales is not novel.

In a litany of cases, the Court En Banc has consistently ruled that the imprinting of "zero-rated sales" on the VAT official receipts or invoices is mandatory, pursuant to Section 4.108-1 of R.R. 7-95[9]. In the absence of the wordings, "zero-rated sales" imprinted on these VAT invoices and/or receipts, the claim for input VAT will be disallowed.[10]

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9 *Mirant (Navotas II) Corporation (Formerly: Southern Energy Navotas II Power, Inc) vs. Commissioner of Internal Revenue*, C.T.A. EB No. 226, September 11, 2007 citing the cases of *Southern Philippines Power Corporation vs. Commissioner of Internal Revenue*, C.T. A. EB No. 214, July 31, 2007, , *Panasonic Communications Imaging Corporation of the Philippines, (formerly, MATSUSHITA BUSINESS MACHINE CORPORATION OF THE PHILIPPINES) vs. Commissioner of Internal Revenue*, C.T.A. EB No. 239, May 23, 2007, *Kepco Philippines Corp. vs. Commissioner of Internal Revenue*, C.T.A. EB No. 186, May 17, 2007,*Kepco Philippines Corporation vs. Commissioner of Internal Revenue*, C.T. A EB No. 174, May 9, 2007, *Applied Food Ingredients Co., Inc. vs. Commissioner of Internal Revenue*, C.T.A. E.B. No. 220, May 7, 2007, *Intel Technology Philippines Inc. vs. Commissioner of Internal Revenue*, C.T. A. EB No. 181, March 27, 2007and *J.R.A. Philippines Inc. vs. Commissioner of Internal Revenue*, C.T.A. EB No. 128, January 15, 2007.

10 *ibid. citing the cases of Kepco Philippines Corporation vs. Commissioner of Internal Revenue*, E.B. No. 107, June 29, 2007, *Commissioner of Internal Revenue and Applied Food Ingredients Co., Inc. vs. Commissioner of Internal Revenue*, C.T.A. E.B. No. 220, May 7, 2007.

In connection with the invoicing requirements, Sections 113 and 237 of the 1997 National Internal Revenue Code (NIRC) and Section 4.108-1 of Revenue Regulations (RR) No. 7-95[11] read, as follows:

SEC. 113.*Invoicing and Accounting Requirements for VAT-Registered Persons.-*

(A) *Invoicing Requirements.*- A VAT-registered person **shall,** for every sale, **issue an invoice or receipt**. In addition to the information required under Section 237, the following information shall be indicated in the invoice or receipt:

1. A statement that the seller is a VAT-registered person, followed by his taxpayer's identification number (TIN); and

2. The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax.

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"SEC. 237. Issuance of Receipts or Sales or Commercial Invoices. -

All persons subject to an internal revenue tax **shall**, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, **issue duly registered receipts or sales or commercial invoices**, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: Provided, however, That in the case of sales, receipts or transfers in the amount of One hundred pesos (P100.00) or more, or regardless of amount, where the sale or transfer is made by a person liable to value-added tax to another person also liable to value-added tax; or where the receipt is issued to cover payment made as rentals, commissions, compensations or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client: Provided, further, That **where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer's Identification Number (TIN) of the purchaser.**

The original of each receipt or invoice shall be issued to the purchaser, customer or client at the time the transaction is effected, who, if engaged in business or in the exercise of profession, shall keep and preserve the same in his place of business for a period of three (3) years from the close of the taxable year in which such invoice or receipt was issued, while the duplicate shall be kept and preserved by the issuer, also in his place of business, for a like period.

The Commissioner may, in meritorious cases, exempt any person subject to internal revenue tax from compliance with the provisions of this Section." *(Emphasis supplied)*

SECTION 4.108-1. *Invoicing Requirements* — All VAT-registered persons **shall,** for every sale or lease of goods or properties or services, **issue duly registered receipts or sales or commercial invoices which must show**:

1. the name, TIN and address of seller;

11 The Consolidated Value-Added Tax Regulations.

2. date of transaction;
3. quantity, unit cost and description of merchandise or nature of service;
4. the name, TIN, business style, if any, and address of the VAT-registered purchaser, customer or client;
5. the **word "zero rated" imprinted** on the **invoice covering zero-rated sales**; and
6. the invoice value or consideration.

In the case of sale of real property subject to VAT and where the zonal or market value is higher than the actual consideration, the VAT shall be separately indicated in the invoice or receipt.

Only VAT-registered persons are required to print their TIN followed by the word "VAT" in their invoice or receipts and this shall be considered as a "VAT Invoice". All purchases covered by invoices other than "VAT" Invoice" shall not give rise to any input tax.

If the taxable person is also engaged in exempt operations, he should issue separate invoices or receipts for the taxable and exempt operations. A "VAT Invoice" shall be issued only for sales of goods, properties or services subject to VAT imposed in Sections 100 and 102 of the Code.

The invoice or receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records. *(Emphasis supplied)*

We emphasize as held in the case of *Mirant (Navotas II) Corporation (Formerly: Southern Energy Navotas II Power, Inc.) vs. Commissioner of Internal Revenue*[12] that the provisions of R.R. 7-95, particularly Section 4.108-1 issued by the Department of Finance have the force and effect of the law, as affirmed by the Supreme Court in the case of *Victorias Milling Co., Inc. v. Social Security Commission*[13], where it ruled that:

Rules and regulations when promulgated in pursuance of the procedure or authority conferred upon the administrative agency by law, partake of the nature of a statute, and compliance therewith may be enforced by a penal sanction provided in the law. This is so because statutes are usually couched in general terms, after expressing the policy, purposes, objectives, remedies and sanctions intended by the legislature. The details and the manner of carrying out the law are often times left to the administrative agency entrusted with its enforcement. In this sense, it has been said that rules and regulations are the product of a delegated power to create new or additional legal provisions that have the effect of law.

12 C.T.A. EB No. 226, September 11, 2007.
13 114 Phil. 555,558 (1962) cited in *CEMCO Holdings Inc. vs. National Life Insurance Company of the Philippines, Inc.*, G.R. No. 171815, August 7, 2007.

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In the recent Supreme Court case of *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*[14], this Court held that "Applications for refund/credit of input VAT with the BIR must comply with the appropriate revenue regulations." This Atlas case, *supra.*, even recognized that "In Revenue Regulations No. 7-95, the Consolidated VAT Regulations, as amended,[15[26]] the BIR defined with more precision what are zero-rated export sales –

> (1)The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);
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> (2)The sale of raw materials or packaging materials to a non-resident buyer for delivery to a resident local export-oriented enterprise to be used in manufacturing, processing, packing or repacking in the Philippines of the said buyer's goods and paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);
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> (3)The sale of raw materials or packaging materials to an export-oriented enterprise whose export sales exceed seventy percent (70%) of total annual production;
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> Any enterprise whose export sales exceed 70% of the total annual production of the preceding taxable year shall be considered an export-oriented enterprise upon accreditation as such under the provisions of the Export

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14 G.R. Nos. 141104 & 148763, June 8, 2007.
15[26] Section 4.100.2.

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Development Act (R.A. 7844) and its implementing rules and regulations;

(4)Sale of gold to the *Bangko Sentral ng Pilipinas* (BSP); and

(5)Those considered export sales under Articles 23 and 77 of Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, and other special laws, e.g. Republic Act No. 7227, otherwise known as the Bases Conversion and Development Act of 1992.

The Tax Code of 1997, as amended,[16][27] later adopted the foregoing definition of export sales, which are subject to 0% VAT." By analogy, We can conclude that since this case recognized Revenue Regulations 7-95 (RR 7-95), it follows that it also recognized the provision on the invoicing requirements particularly that "5.the **word "zero rated" imprinted** on the **invoice covering zero-rated sales**" included in the said Revenue Regulations.

Based on the foregoing provisions, it is clear in the NIRC that the issuance of VAT invoice/official receipt is required for VAT transactions and in the RR it is also required that those covering zero-rated sales the word "zero-rated" must be imprinted on the VAT invoice/ receipt.

It is basic in statutory construction that the word "shall" is imperative, commonly operating to impose an obligation or duty which may be enforced; it is a word of command that must be given a

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16[27] Section 106(A)(2)(a). Republic Act No. 9337 amending the Tax Code of 1997 added a sixth paragraph, listing "The sale of goods, supplies, equipment and fuel to persons engaged in international shipping or international air transport operations," also as export sales.

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compulsory meaning. Indeed, it is the duty of a seller-taxpayer to comply with the invoicing requirements laid down in the said NIRC provisions and Revenue Regulations.[17]

It has been repeatedly declared by the courts that where the law speaks in clear and categorical language, there is no room for interpretation or construction; there is only room for application.[18] A plain reading of the quoted provisions of NIRC and RR shows that the **issuance** of VAT invoice/ official receipt for every sale or lease of goods or properties or services is required. Finally, the invoicing requirement did not distinguish as to what kind of transaction it is applicable. Hence, it applies whether it is subject to 10%, 0%, or exempt transactions. Thus, the invoicing requirement applies in this case.

The Supreme Court case entitled ***"Atlas Consolidated Mining & Development Corporation vs. Commissioner of Internal Revenue"***[19], discussed the invoicing requirements for VAT-registered person by ruling that "[i]t is clear that a VAT invoice can be used only for the sale of goods or services that are subject to VAT." This means that the issuance of VAT invoices or official receipts are mandatory for Je

17 *American Express International, Inc., Philippine Branch vs. Commissioner of Internal Revenue*, C.T.A. EB No. 103, March 3, 2006.

18 Samson S. Alcantara, *Statutes*, 1997 Ed., p.32 citing *Cebu Portland Cement Co. vs. Mun. of Naga*, G.R. Nos. 24116-17, August 22, 1968 ; *Gonzaga vs. Court of Appeals*, G.R. No. 27455, June 28, 1973

19 G.R. No. 134467, November 17, 1999 (318 SCRA 386)

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sales that are subject to VAT either at 10% or 0% (zero-rated sales).[20] Thus, Marubeni should comply with this being a VAT registered entity engaged in zero-rated sales or effectively zero-rated sales.

The Rationale of Strict Compliance with invoicing requirements was discussed in the case of *AMERICAN EXPRESS INTERNATIONAL, INC., PHILIPPINE BRANCH vs. COMMISSIONER OF INTERNAL REVENUE*[21], as follows:

> The law and revenue regulations are explicit in emphasizing strict compliance with the invoicing requirements because for the same transactions, the output VAT of the seller becomes the input VAT of the purchaser. Pursuant to Sections 106(D)(1) and 108(C), in relation to Section 110 of the NIRC of 1997, as amended, the output or input tax on the sale or purchase of goods is determined by the total amount indicated in the invoice, while the output or input tax on the sale or purchase of services is determined by the total amount indicated in the official receipt. **In the case of zero-rated sales transactions,** the regulations further require that the words "zero-rated" be imprinted on the face of the covering invoices or official receipts. The rationale for the imprinting of words "zero-rated" be imprinted on the face of the covering invoice or official receipt of the seller is **for the buyer or purchaser not to claim any input VAT from such purchase and for the purpose of segregating those sales that are subject to 10% VAT from those sales that are zero-rated.** *(Emphasis supplied)*

Likewise, We quote a portion of the case of *Kepco Philippines Corp. vs. Commissioner of Internal Revenue*[22] as follows:

> It is noteworthy to state that the legislative grant of authority to the Secretary of Finance to promulgate all needful rules and regulations for the effective enforcement of the provisions of the NIRC, Section 4.108-1 of Revenue Regulations No. 7-95 requiring the imprinting of the words "zero-rated" on sales invoices or official receipts cannot be said as having no valid basis or legislative root. On the contrary, it is both reasonable and necessary for the effective implementation of the provisions of the NIRC concerning zero-rated sales. Hence, the requirement that sales invoices shall be imprinted with the word "zero-rated" cannot be taken as an enlargement or expansion of the law for the reason that it merely implements the provisions of the 1997 NIRC on sales that are subject to 10% VAT, zero-rated sales (0% VAT) and exempt sales. **The imprinting of "zero-rated" is necessary to distinguish sales subject to 10% VAT, those that are subject to 0% VAT (zero-rated) and exempt sales, to enable the**

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20 *Hitachi Global Storage Technologies Philippines Corp. [formerly Hitachi Computer Products (Asia) Corp.] vs. Commissioner of Internal Revenue*, C.T.A. EB No. 54 (C.T.A. CASE NO. 6312), March 22, 2006

21 *See* supra note 17.

22 C.T.A. EB No. 107, June 29, 2007.

Bureau of Internal Revenue to properly implement and enforce the other provisions of the 1997 NIRC on VAT, namely:

1. Zero-rated sales [Sec. 106 (A) 2 and Sec. 108 (B)];
2. Exempt transactions [Sec. 109] in relation to Sec. 112 (A);
3. Tax Credits [Sec. 110]; and
4. Refunds or tax credits of input tax [Sec. 112] *(Emphasis Supplied).*

From the two cases above-mentioned, We conclude that there are three reasons why the word "zero-rated" is required to be imprinted on the VAT invoice/ official receipt, as follows: (1) for the buyer or purchaser not to claim any input VAT from such purchase; (2) the purpose of segregating/distinguishing those sales subject to 10% VAT from those sales that are subject to 0% VAT (zero-rated) and exempt sales; and (3) to enable the Bureau of Internal Revenue to properly implement and enforce the other provisions of the 1997 NIRC on VAT, namely: (a) Zero-rated sales [Sec. 106 (A) 2 and Sec. 108 (B)]; (b) Exempt transactions [Sec. 109] in relation to Sec. 112 (A); (c) Tax Credits [Sec. 110]; and (d) Refunds or tax credits of input tax [Sec. 112] *(Emphasis Supplied).* Thus, We rule that contrary to the allegation of Marubeni, prejudice will result to the government when the word "zero-rated" is not imprinted on the invoice/ official receipt because the smooth implementation of the VAT system will be interrupted.

As to the third ground, We find the principle on preponderance of evidence inapplicable in this case considering that We have already discussed in the outset that the VAT invoice/official receipt is required by the NIRC to substantiate VAT transactions and in addition RR 7-95

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requires that in case of zero-rated sales, the word "zero-rated" be imprinted on the invoice/receipt. To rule otherwise and admit "other equally relevant and competent evidence" as Marubeni would like this Court to do is contrary to the mandatory requirement of both the NIRC and RR and thereby affect adversely the effective implementation of the VAT system.

As to fourth ground, We find it also inapplicable in this case. *Solutio indebiti* refers to the juridical relation which arises whenever a person unduly delivers a thing through mistake to another who has no right to demand it (Art. 2154, Civil Code). Its requisites[23] are as follows:

1. There must be a payment or delivery made by one person to another.

2. The person who made the payment or delivery was under no obligation to do so.

3. The payment or delivery was made by reason of a mistake.

In this case what is being claimed is the input VAT allegedly attributed to zero-rated or effectively zero-rated sales. The input VAT claimed was the output VAT (on the part of the seller) included in the price of purchased goods or services passed on by a VAT-registered seller to a VAT-registered buyer, Marubeni, in this case. Since this is part of the VAT system, there is no mistake in the payment of VAT

[23] Jurado, *Civil Law Reviewer*, 1996 Eighteenth Ed.

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included in the purchased goods and services of Marubeni, thus, We rule that the principle on *solutio indebiti* does not apply in this case.

Again, We stress that such a denial is not a harsh penalty. After all, the aforementioned invoicing requirements are not hard to comply with and if complied, would entail the benefit of VAT zero-rating and the privilege to refund the input tax attributable thereto.[24]

Although not raised as one of the grounds in this petition for review, We need to discuss the issue on whether or not Marubeni is entitled to the amount of P35,227.91 representing the unutilized excess input VAT on capital goods purchases for the first quarter of 1999 in order to justify the denial of the entire claim for tax refund or tax credit certificate.

Pertinent to this case are Sections 112(B) of the NIRC of 1997 and 4.106-1 of Revenue Regulations No. 7-95, to quote:

> "**SEC. 112.** ***Refunds or Tax Credits of Input Tax.-***
> (A) xxx xxx xxx
> (B) *Capital Goods.-* A VAT-registered person may apply for the issuance of a tax credit certificate or refund of input taxes paid on capital goods imported or locally purchased, to the extent that such input taxes have not been applied against output taxes. The application may be made only within two (2) years after the close of the taxable quarter when the importation or purchase was made."
>
> SECTION 4.106-1. Refunds or tax credits of input tax. —
>
> (a) xxx xxx xxx
>
> (b) Capital Goods — Only a VAT-registered person may apply for issuance of a tax credit certificate or refund of input taxes paid on capital goods imported or locally purchased. The refund shall be allowed to the extent that such input taxes have not been applied against output taxes. The application should be made within two (2) years after the close of the taxable quarter when the importation or purchase was made.

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24 *See supra note 22.*

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> Refund of input taxes on capital goods shall be allowed only to the extent that such capital goods are used in VAT taxable business. If it is also used in exempt operations; the input tax refundable shall only be ratable portion corresponding to the taxable operations.
>
> "Capital goods or properties" refer to goods or properties with estimated useful life greater than one year and which are treated as depreciable assets under Section 29 (f), used directly or indirectly in the production or sale of taxable goods or services.

Based on the above-quoted provisions, We agree with the Court in Division that "in order that the items purchased can be classified as capital goods or properties, petitioner must show that: (1) the goods or properties have economic useful life of more than one year; (2) such goods or properties are treated as depreciable assets under Section 29(f) [now 34F of the NIRC of 1997]; and (3) they are used directly or indirectly in the production or sale or sale of taxable goods or services."

We likewise agree to the findings and conclusion arrived by the Court in Division in this issue and We quote:

> "Evidence forwarded to this Court, such as VAT sales invoices/official receipts from petitioner's supplier SNBC Trading *(Exhibits "F-1, G-1, J, K, L and UUU")*, prove that the claimed input VAT of P35,227.91 relates to petitioner's purchases of computers. While these computers have estimated useful life of more than one year and used directly or indirectly by petitioner in its business, petitioner failed to submit documents such as detailed general ledger and audited financial statements to prove that these were capitalized in its books of accounts and subjected to depreciation. **Therefore, for petitioner's failure to prove that the subject computer purchases were treated as depreciable assets in its books of accounts, the related input VAT of P35,227.91 cannot be granted**." *(Emphasis Supplied).*

Clearly, the requisites in order for the computers to be considered as capital goods or properties should be fully complied with and the absence of one requisite is a ground for its exclusion from the definition of the capital goods or properties. Such being the case, the computer

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purchases do not fall under the definition for failure of Marubeni to treat the said purchases as depreciable assets. Hence, Marubeni's claim on the related input VAT of P35,227.91 cannot be granted.

Based on the foregoing discussions, We find no cogent justification to disturb the findings and conclusions spelled out in the July 11, 2006 Decision and November 14, 2006 Resolution.

WHEREFORE, premises considered, the petition for review is hereby **DENIED**. Accordingly, the assailed Decision and the Resolution dated July 11 and November 14, 2006, respectively, are hereby **AFFIRMED *in toto.***

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

We concur:

(with Concurring and Dissenting Opinion)
ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

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C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the above Decision has been reached in consultation with the members of the Court *En Banc* before the case was assigned to the writer of the opinion of the Court.

ERNESTO D. ACOSTA
Presiding Justice

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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

MARUBENI PHILIPPINES CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 231
(C.T.A. CASE NO. 6297)

Present:
Acosta, *P.J.*
Castañeda, Jr.,
Bautista,
Uy,
Casanova, and
Palanca-Enriquez, *JJ.*

Promulgated:

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CONCURRING AND DISSENTING OPINION

I, likewise, share with the majority view that petitioner's claim on the related input VAT of P35,227.91 cannot be granted for failure of petitioner to treat the subject purchases as depreciable assets. As already explained by the Court in Division, in order for the input tax on capital goods be refundable or be issued with tax credit certificate, the subject purchases must be classified as capital goods or properties. And to be classified as goods or properties, petitioner must prove that its purchases are qualified in accordance to the definition of capital goods or properties under **Section 4.106-1** of **Revenue Regulation No. 7-95** (*The*

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Implementing Rules and Regulations of the VAT law). Failure to do so would be fatal to its claim.

Well-grounded is the principle that tax refunds are in the nature of tax exemptions, and are to be construed *strictissimi juris* against the entity claiming the same. Thus, the burden of proof rests upon the taxpayer to establish by sufficient and competent evidence, its entitlement to a claim for refund.[1] In the instant case, for failure of petitioner to properly prove its stand, its claim must fail.

However, it is my view that the claim amounting to P3,616,538.35 representing unutilized input VAT attributable to petitioner's zero-rated sales, denied for not being supported by invoices/receipts bearing the word "zero-rated", should be granted.

Contrary to the majority view, (1) pertinent provisions of the 1997 National Internal Revenue Code (NIRC) do not require imprinting of the word "zero-rated"; (2) the absence of the term "zero-rated" in the invoice or official receipt does not affect its admissibility and competency as evidence in support of a refund claim; (3) assuming the propriety of imposing the alleged requirement, the invalidation of the invoices and official receipts and the denial of the refund claim are not the legally imposable penalties for failure to meet such alleged requirement;

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[1] *Philippine Geothermal Inc. vs. commissioner of Internal Revenue, G.R. No.154028; July 29, 2005*

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and (4) the presence of other equally valid pieces of evidence presented and formally offered are sufficient proof to justify the grant of the VAT refund claim attributable to its zero-rated transactions.

Petitioner has sufficiently established its right to the refund of its unutilized input VAT attributable to its zero-rated sales. By submitting as evidence export documents such as, sales invoices, export declarations, bills of lading, and BPI Certificate of Inward Remittances, petitioner satisfactorily complied with the substantive and main requirement of the NIRC and effectively proven its claim before the Court.

As I have stated in my dissenting to the majority opinion in the Division's Decision, under the significant provisions of the NIRC, namely, Section 113 in relation to Section 237 only the following information are required to appear in an invoice or official receipt, as a precondition for its validity and for claiming a refund or issuance of a tax credit certificate:

(1) A statement that the seller is a VAT-registered person;
(2) The taxpayers identification number (TIN);
(3) The total amount which the purchaser pays or is obligated to pay to the seller indicating the inclusion of the value-added tax;
(4) Transaction date;
(5) Quantity of merchandise;
(6) Description of merchandise or nature of service;
(7) Unit cost;
(8) The name, business style, if any, and address of the purchaser, customer or client in the case of sales, receipts or transfers in the

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amount of One hundred pesos (P100.00) or more, or regardless of amount, where the sale or transfer is made by a person liable to value-added tax to another person also liable to value-added tax; or where the receipt is issued to cover payment made as rentals, commissions, compensations or fees; and

(9) The TIN of the VAT-registered purchaser.

Section 112 (A) of the NIRC, lends corroboration to the above view, it states:

> "(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, however, That in the case of zero-rated sales under Section 106(A)(2)(a)(1),(2) and (B) and Section 108 (B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): 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."

Section 112 (A) grants to all VAT-registered enterprises engaged in zero-rated transactions the right to claim a refund of their creditable input tax due or paid to the extent that such input tax has not been applied against output tax within a period of two (2) years after the close of the taxable quarter. And

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nowhere is it shown that failure to imprint the word "zero-rated" in the invoice/official receipt will cause the outright rejection of the refund claim.

The lone provision requiring the imprinting the questioned information on the VAT invoice or receipt is **Section 4.108-1 of Revenue Regulations No. 7-95**. Then again, the said provision is merely a regulation created for the sole and limited purpose of implementing an otherwise very exact law. Long-settled is the rule that administrative rules and regulations cannot expand the letter and spirit of the law they seek to enforce. Such rules and regulations should be confined and limited by the power conferred by the legislature (**Commissioner of Internal Revenue vs. Court of Appeals**, *240 SCRA 368 (1995)*. And in case of conflict between the basic law and a rule or regulation issued to implement said law, the law prevails because said rule or regulation cannot go beyond the terms and provisions of the basic law (**People vs. Lim**, *108 Phil. 1091*).

To reiterate, the Supreme Court, in ***Commissioner of Internal Revenue vs. Seagate Technology (Philippines)***,[2] pointed out the need to focus only on the legally mandated requirements for claims for VAT refund and explained that, *a VAT-registered status, as well as compliance with the invoicing requirements (Section 113 (A) of the Tax Code), is sufficient for the effective zero rating of the transactions of a taxpayer. The nature of its business and transactions can easily be perused from, as*

[2] *G.R. No. 153866, February 11, 2005*

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already clearly indicated in, its VAT registration papers and photocopied documents attached thereto. Administrative convenience cannot thwart legislative mandate.

Consequently, there being sufficient proof of compliance with the substantive and main requirement of the NIRC, the claim should not be denied.

Moreover, in ***Intel Technology Philippines, Inc., vs. Commissioner of Internal Revenue,***[3] the Supreme Court declared that only the following items are required to be indicated in the receipts or invoices: (1) a statement that the seller is a VAT-registered entity followed by its TIN-V; (2) the total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax; (3) date of the transaction; (4) quantity of merchandise; (5) unit cost; (6) description of merchandise or nature of service; (7) the name, business style, if any, and address of the purchaser, customer or client in the case of sales, receipt or transfers in the amount of ₱100.00 or more, or regardless of the amount, where the sale or transfer is made by a person liable to VAT to another person also liable to VAT, or where the receipt is issued to cover payment made as rentals, commissions, compensations or fees; and (8) the TIN of the purchaser where the purchaser is a VAT-registered person.

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[3] *G.R. No. 166732, April 27, 2007.*

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While the controversy in the *Intel* case involved the outright invalidation of invoices or official receipts for the non-indication of the BIR authority to print, and the TIN-V, it applies to the present case by analogy. Here, there is also nothing in the law which provides for the outright denial of a claim for tax credit/refund for failure to imprint the term "zero-rated" on invoices or official receipts. And even granting for the sake of argument that there is, the penalties provided under **Section 264 of the NIRC,**[4] do not include the invalidation of the sales invoice/receipt and the outright rejection of the refund claim.

In fact, even the penal provisions of **Revenue Regulations No. 7-95**, as further amended by **Revenue Regulations No. 08-02**, particularly, **Sections 4.110-5 and 4.111-1**, exclude such harsh punishment of automatic denial of the claim for refund. These sections state:

> "SECTION 4.110-5. **Penalty Provision. - In accordance with the provisions of the Tax Code of 1997, a person who fails to file, keep or supply a statement, list, or information required**

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[4] ***Section 264. Failure or Refusal to Issue Receipts or Sales or Commercial Invoices, Violations Related to the Printing of such Receipts or Invoices or Other Violations. –***

(a) Any person who, being required under Section 237 to issue receipts or sales or commercial invoices, fails or refuses to issue such receipts or invoices, issues receipts or invoices that do not truly reflect and/or contain all the information required to be shown therein or uses multiple or double receipts or invoices, shall, upon conviction for each act or omission, be punished by a fine of not less than One thousand pesos (P1,000) but not more than Fifty thousand pesos (P50,000) and suffer imprisonment of not less than two (2) years but not more than four (4) years.

(b) Any person who commits any of the acts enumerated hereunder shall be penalized in the same manner and to the same extent as provided for in this Section:

(1) Printing of receipts or sales or commercial invoices without authority from the Bureau of Internal Revenue; or

(2) Printing of double or multiple sets of invoices or receipts;

(3) Printing of unnumbered receipts or sales or commercial invoices, not bearing the name, business style, Taxpayer Identification Number, and business address of the person or entity.

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herein on the date prescribed therefor shall pay, upon notice and demand by the Commissioner of Internal Revenue, an administrative penalty of One thousand pesos (P1,000) for each such failure, unless it is shown that such failure is due to reasonable cause and not to willful neglect. For this purpose, the failure to supply the required information for each buyer or seller of goods and services shall constitute a single act or omission punishable hereof. However, the aggregate amount to be imposed for all such failures during a taxable year shall not exceed Twenty-five thousand pesos (P25,000).

In addition to the imposition of the administrative penalty, willful failure by such person to keep any record and to supply the correct and accurate information at the time or times as required herein, shall be subject to the criminal penalty under the relevant provisions of the Tax Code of 1997 (e.g., Sec. 255, Sec. 256, etc.,) upon conviction of the offender.

The imposition of any of the penalties under the Tax Code of 1997 and the compromise of the criminal penalty on such violations, notwithstanding, shall not in any manner relieve the violating taxpayer from the obligation to submit the required documents.

Finally, the administrative penalty shall be imposed at all times, upon due notice and demand by the Commissioner of Internal Revenue. A subpoena *duces tecum* for the submission of the required documents shall be issued on the second offense. A third offense shall set the motion for a criminal prosecution of the offender." (*Emphasis supplied*)

"**SECTION 4.111-1. Administrative and penal provisions. (a) Suspension of business operations. – In addition to other administrative and penal sanctions provided for in the Code and implementing regulations, the Commissioner or his duly authorized representative may order suspension or closure of a business establishment for a period of not less than five (5) days for any of the following violations:**

(1) Failure to issue receipts and invoices.

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> (2) Failure to file value-added tax return as required under the provisions of Section 110.
> (3) Understatement of taxable sales or receipts by 30% or more of his correct taxable sales or receipts for the taxable quarter.
> (4) Failure of any person to register as required under the provisions of Sec. 107.
>
> (b) Surcharge, interest and other penalties. – The interest on unpaid amount of tax, civil penalties and criminal penalties imposed in Title XI of the Tax Code shall also apply to violations of the provisions of Title IV of the Code." (*Emphasis supplied*)

In other words, since there is no requirement of imprinting the term "zero-rated" on official receipts or invoices, its absence should not render such official receipts or invoices invalid for purposes of substantiating claims for refund or issuance of tax credit certificate of unutilized input VAT.

It is also noteworthy that this is a case seeking for the refund or issuance of tax credit certificate of petitioner's unutilized taxes for the first quarter of **1999** and it was only on November 1, 2005 with the effectivity of Republic Act No. 9337[5] that the requirement of writing or printing the term "zero-rated sale" was introduced, following the amendment of Section 113[6] of the National Internal Revenue Code. R.A. 9337 cannot apply retroactively so as to prejudice petitioner given the well-entrenched principle that statutes, including administrative rules and

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[5] *R.A. 9337 was supposed to take effect on July 1, 2005 but due to constitutionality issues, it became effective only on November 1, 2005 upon the finality of the Supreme Court's September 1, 2005 Decision upholding the said law's validity.*
[6] *(B)(2)(c) of Section 113*

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regulations, **operate prospectively only**, unless the legislative intent to the contrary is manifest by express terms or by necessary implication.[7]

Lastly, the majority failed consider that tax cases are civil in nature. And under **Section 1, Rule 133, Rules of Court**, in civil cases, the quantum of evidence required to sustain the proponent of an issue is mere preponderance of evidence. In ***Municipality of Moncada vs. Cajuigan***[8], it was explained that the phrase "preponderance of evidence" denotes the weight, credit and value of the aggregate on either side. This means that the testimony adduced by one side is more credible and conclusive than that of the other.

All told, the facts and the applicable laws and jurisprudence justify the reversal of the subject decision. As aptly stated by the Supreme Court[9]:

> "[S]ubstantial justice, equity and fair play are on the side of petitioner. Technicalities and legalisms, however exalted, should not be misused by the government to keep money not belonging to it and thereby enrich itself at the expense of its law-abiding citizens. If the State expects its taxpayers to observe fairness and honesty in paying their taxes, so must it apply the same standard against itself in refunding excess payments of such taxes. Indeed, the State must lead by its own example of honor, dignity and uprightness."

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[7] *BPI Leasing Corporation, vs. The Honorable Court of Appeals, et.al. G.R. No. 127624. November 18, 2003*
[8] *21 Phil. 184*
[9] *BPI-Family Savings Bank, Inc., vs. Court of Appeals, Court of Tax Appeals, and the Commissioner of Internal Revenue, 330 SCRA 507.*

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The government has no right to hold money that does not belong to it, especially given the unmistakable bias of our tax laws in severely penalizing delinquent taxpayers with surcharges, interests, fines and at times, even imprisonment. Hence, while taxes are the lifeblood of the government, the Court must likewise be sensitive of its responsibility to apply the principles of justice, equity and fairness as its guide in its delicate tasks of weighing the evidence and of deciding tax cases.

In view of the above, it is my position that petitioner's claim for the refund or the issuance of tax credit certificate of the amount of its unutilized input VAT attributable to its zero-rated sales in the amount of P3,616,538.35 should be granted, for the Court has no sufficient basis in law for its denial.

ERNESTO D. ACOSTA
Presiding Justice

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