REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Third Division

CITCO INTERNATIONAL SUPPORT SERVICES LIMITED – PHILIPPINE ROHQ,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10403

Members:
RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

APR 22 2026
1:02 p.m.

x -- x

RESOLUTION

MODESTO-SAN PEDRO, J.:

For resolution is petitioner's Motion for Reconsideration,[1] seeking to reverse and set aside the Court's Decision dated April 18, 2024 ("Assailed Decision")[2] denying the Petition for Review filed on November 16, 2020, for lack of merit.

Petitioner contends that the Court erred in holding that it failed to establish that it performed zero-rated sales within the Philippines. Specifically, petitioner raises that:

1. The evidence on record, respondent's own actions, and the Rules on Evidence establish that petitioner's services rendered to its non-resident foreign affiliate-clients are not in the nature of "processing, manufacturing, or repacking goods."

2. The evidence on record, respondent's own actions, and the *Rules of Evidence* establish that petitioner's services rendered to its non-resident foreign affiliate-clients were performed in the Philippines.

[1] Docket Vol. 2, pp. 751-767..
[2] *Id.* at 728-750.

3. There is clear preponderance of evidence that entitles petitioner to recovery of excess and unutilized input VAT granted under the National Internal Revenue Code.

As regards the first issue, petitioner highlights that it is a Regional Operating Headquarter ("ROHQ"), which performs qualifying services described under *Executive Order No. 226*, as amended by *Republic Act No. 8756*, or the *Omnibus Investment Code*. It insists that there is no evidence on record that disputes such claim. It even highlights the report of Independent Certified Public Accountant ("ICPA") Atty. Edward M. Menor where it was stated that the latter was "able to determine that petitioner renders services only to its foreign affiliates and the services performed by petitioner are those services authorized by its charter as an ROHQ." In this regard, petitioner insists that ICPA Menor is an officer of the Court whose findings may be relied upon to guide Us in our ruling.

Petitioner further advances that the *Rules on Evidence* provide that it is presumed that the law has been obeyed and such presumption is satisfactory if uncontradicted. Therefore, according to petitioner, it should be held that petitioner obeyed the law and engaged in services that are within the scope of its license as a ROHQ. It should be presumed that the ordinary course of business has been followed.

For the second issue, petitioner again highlights that it is licensed to operate as a ROHQ in the Philippines. It insists that the fact that it is performing in the Philippines its services rendered to its non-resident foreign affiliate-clients is duly proven by its registration with the Securities and Exchange Commission as a ROHQ and with the Bureau of Internal Revenue ("BIR") as taxpayer for income tax, value-added tax ("VAT") and various withholding taxes.

Moreover, petitioner implores the Court to adopt ICPA Menor's finding that the sales of petitioner are zero-rated which necessarily entails a determination that the services were in fact performed in the Philippines. It even insists that it is a matter of judicial notice that services performed outside the Philippines are not VAT zero-rated sales and are entirely outside the taxing jurisdiction of the Philippines.

In addition, petitioner posits that its purchases which gave rise to the input taxes subject of the instant claim show that petitioner performs its services in the Philippines.

Finally, according to petitioner, the assertion of its witness that petitioner performs its services in the Philippines should not have been set aside. Petitioner insists that its witness stated such fact under oath and with the awareness of the possibility of criminal liability for false testimony or perjury.

We find these arguments insufficient to overturn Our earlier ruling.

Foremost, it must be emphasized that the question on whether petitioner performed qualifying services and whether these were performed in the Philippines are questions of fact. It must be proven by specific evidence. Petitioner cannot merely rely on the provision that ROHQs are licensed to do services not in the nature or processing, manufacturing, or repacking goods within the Philippines. It also cannot invoke any presumption that taxpayers perform services within the scope of its license as a ROHQ when the law, rules, and regulations on VAT refund mandate that every single requisite for such claim must be specifically proven by the taxpayer-claimant.

To reiterate Our findings in the Assailed Decision, petitioner submitted only one Service Agreement [with Citco Fund Administration (Cayman Islands)] and one Delegation Agreement (with Citco Bank and Trust Company Limited) – both of which describe the nature of the services performed by petitioner to its affiliates. Absent the submission of the agreements with its other non-resident customers, the Court finds no specific evidence to prove that the same types of services were rendered for these other clients.

Even so, the submitted Service Agreement and Delegation Agreement both failed to prove that the services were performed in the Philippines. Our observations and findings in relation to the insufficiency of these documents to prove the place of performance of the services were already discussed in the Assailed Decision and need not be echoed herein.

Next, as regards petitioner's insistence that the Court may rely on the ICPA Menor's findings, We emphasize that the Court ought to make its independent findings as to the compliance of petitioner's sales to the requisites provided by law for zero-rating. *Rule 13, Section 3 of the Revised Rules of the Court of Tax Appeals ("RRCTA")*[3] provides that the findings and conclusions of the ICPA shall not be conclusive upon the Court, which may, in whole or in part, adopt such findings and conclusion ***subject to verification***, to wit:

> SECTION 3. Findings of Independent CPA. – The submission by the independent CPA of pre-marked documentary exhibits shall be subject to verification and comparison with the original documents, the availability of which shall be the primary responsibility of the party possessing such documents and, secondarily, by the independent CPA. ***The findings and conclusions of the independent CPA may be challenged by the parties and shall not be conclusive upon the Court, which may, in whole or in part, adopt such findings and conclusions subject to verification.***

[3] A.M. No. 05-11-07-CTA.

(Emphasis and italics supplied)

Thus, for failure of petitioner to submit the agreements with other affiliate-clients, the Court is unable to confirm ICPA Menor's findings in relation to the nature of services performed by petitioner. We cannot therefore be expected to just blindly adopt the latter's recommendations.

Similarly, in relation to the second issue, petitioner cannot insist ICPA Menor's conclusion that the sales were indeed properly subjected to VAT zero-rating, thus, there was a prior determination on where the services were performed. It is for the Court to rule on whether zero-rating was duly applied on the subject sales based on evidence presented by petitioner. Petitioner cannot implore Us to just draw conclusions, such as performance of services within the Philippines, when it fails to even point out the part in the report which discusses the procedures, if any, performed by the ICPA, to verify the location of where the services were rendered. Further, petitioner need not remind this Court the rule that services performed outside the Philippines are not VAT zero-rated sales. What is at issue here is the lack of evidence to prove where the same services were executed.

Thirdly, the nature of the input taxes subject of the claim does not prove where the services in question were rendered. The documents related to input VAT merely show where petitioner utilized its purchases from its suppliers, not where the former performed the services to its own clients. The input taxes may prove petitioner's business operations in the Philippines but does not rule out having performed the subject services outside the country.

Lastly, petitioner insists that its witness stated under oath that it performs services in the Philippines. However, as discussed in the Assailed Decision, the Judicial Affidavit of Ms. Jocelyn Payuyo shows that no statement to such effect was categorically made. Instead, the nature of services was merely discussed there without mention as to where the services were performed.[4]

Consequently, petitioner failed to establish compliance with the *third* requisite for VAT refund claims, making the instant Motion for Reconsideration devoid of merit.

The Court emphasizes time and again that tax refunds are construed strictly against the taxpayer, and liberally in favor of the State. Thus, the law upon which the claim of refund is made, as well as the documents presented to prove such entitlement to the refund are construed *strictissimi juris* against the taxpayer. Accordingly, it is incumbent upon the claimant to establish the factual basis of his or her claim for tax credit or refund. This petitioner failed to do.

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[4] See Judicial Affidavit of Ms. Jocelyn L. Payuyo, Docket Vol. 1, p. 31.

ACCORDINGLY, premises considered, petitioner's Motion for Reconsideration (of the Decision promulgated on 18 April 2024) is **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

CORAZON G. FERRER-FLORES
Associate Justice