REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

AVALOQ PHILIPPINES OPERATING HEADQUARTERS,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10491

Members:

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

Promulgated:

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RESOLUTION

RINGPIS-LIBAN, J.:

Submitted before the Court is petitioner's **Motion for Reconsideration (Re: Decision promulgated on 20 January 2025)** filed on February 11, 2025, with respondent's **Comment and Opposition (Re: Motion for Reconsideration dated 11 February 2025)** filed on February 26, 2025.

On January 20, 2025, the Court promulgated a Decision denying petitioner's claim for refund of its unutilized and/or excess input value-added tax (VAT) attributable to its zero-rated sales of service for the third and fourth quarters of calendar year 2018, in the amount of ₱4,351,724.28, for failing to sufficiently establish its entitlement thereto, the dispositive portion of which is quoted as follows:

> "**WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **DENIED** for lack of merit.
>
> **SO ORDERED**."

In its Motion, petitioner assails the above Decision by insisting that the Court erred in concluding that petitioner failed to prove that is engaged in zero-rated sales of services in accordance with Section 108(B)(2) of the National Internal Revenue Code (NIRC) of 1997, as amended. Petitioner contends that the services it rendered were paid for in acceptable foreign currency exchange via the intercompany offsetting agreement as testified by its witness, Ms. Mary Lalaine V. Munar. Petitioner argues that since it is a regional operating headquarters (ROHQ), the execution of a separate and individual offsetting arrangement agreement by and between petitioner and its various affiliates is not a requirement, if not counterproductive, to its existence and effectivity. Petitioner maintains that being an ROHQ –an administrative arm of its mother company, Avaloq Group AG, it may not therefore be treated as a separate entity.

Petitioner further asserts that it has sufficiently proven that the foreign currency exchange proceeds pursuant to its offsetting arrangement have been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP). Petitioner expounds that in billing and collecting the payment for the services it rendered to its foreign clients, the intent of the contracting parties in the *General Framework Services Agreement* and *Short Term Credit Facility Agreement* is to adopt the intercompany offsetting arrangement as an equivalent of the acceptable foreign currency payment and accounted for in accordance with the BSP rules and regulations for VAT zero-rating purposes.

Lastly, petitioner submits that the principle of *strictissimi juris* must conform to substantial justice, equity and fair play.

On the other hand, in his Comment, respondent submits that the arguments propounded by petitioner in its Motion raised no points of contention that would warrant the reversal of the Court's Decision. Respondent reiterates that the Court correctly ruled that petitioner is not entitled to the claimed refund since it failed to prove that it was engaged in zero-rated or effectively zero-rated sales of service during the period July 1, 2018 to December 31, 2018. Respondent also maintains that partaking the nature of an exemption, claims for refund are strictly construed against the claimant and the latter has the burden of proof to establish the factual of its claim for tax credit or refund.

After due consideration, the Court finds petitioner's Motion for Reconsideration bereft of merit.

An examination of the issues raised by petitioner reveals that the same were already exhaustively passed upon and duly considered and resolved by this Court.

Again, while the Court held that offsetting arrangements are recognized by the Bureau of Internal Revenue (BIR) as an alternative to proof of foreign currency inward remittances, the right to offset between petitioner and other affiliates cannot be presumed but must be established by evidence. If there is indeed an offsetting arrangement among Avaloq Group AG *affiliates*, the same should have been covered by a separate agreement executed between and among them. Unfortunately, petitioner was not able to establish before this Court that there exists a valid offsetting arrangement that may serve as an alternative to actual inward remittance of foreign currency in consideration for the services petitioner rendered to its non-resident foreign corporation clients. Notably, petitioner's Motion for Reconsideration does not address this problem. As it fails to refute the Court's findings, petitioner fails to convince the Court that the Decision it assails was rendered in error.

Time and again, it must be emphasized that tax refunds are in the nature of tax exemptions. To stress, the burden is on the taxpayer to show that it has strictly complied with the conditions for the grant of the tax refund since actions for tax refund, as in the present case, are in the nature of tax exemptions. They are regarded as derogation of sovereign authority and to be construed *strictissimi juris* against the person or entity claiming the refund.[1] The pieces of evidence presented entitling a taxpayer to an exemption are also *strictissimi* scrutinized and must be duly proven.[2] Hence, an applicant for a claim for tax refund or tax credit must not only prove entitlement to the claim but also compliance with all the documentary and evidentiary requirements.[3]

In view of the foregoing disquisitions, there being no new matter or substantial issue raised in petitioner's motion, the Court finds no compelling reason to reverse or modify the Decision promulgated on January 20, 2025.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration (Re: Decision promulgated on 20 January 2025), is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

We Concur:

MARIA ROWENA MODESTO SAN-PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

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1 *Commissioner of Internal Revenue v. Interpublic Group of Companies, Inc.*, G.R. No. 207039, August 14, 2019; *Commissioner of Internal Revenue v. S.C. Johnson and Son, Inc.*, G.R. No. 127105, June 25, 1999.

2 *Kepco Philippines Corporation v. Commissioner of Internal Revenue*, G.R. No. 179961, January 31, 2011, citing *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 159490, February 18, 2008.

3 *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015, citing *J.R.A. Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013.