REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

FOUNDEVER PHILIPPINES CORPORATION (formerly SITEL PHILIPPINES CORPORATION),
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2678
(CTA Case No. 10076)

Present:

DEL ROSARIO, ***P.J.***,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, ***JJ.***

Promulgated:
JUN 04 2024 4:20pm

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court *En Banc*'s resolution is the "Motion for Reconsideration (of the Decision dated December 13, 2023)"[1] (**MR**) filed by petitioner Foundever Philippines Corporation (formerly Sitel Philippines Corporation) (**petitioner**) on 02 January 2024, *sans* Comment or Opposition by respondent Commissioner of Internal Revenue (**respondent**).[2]

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[1] *Rollo*, pp. 481-498.
[2] See Records Verification dated 16 February 2024, id., p. 501.

The MR seeks the reversal of the Court *En Banc*'s Decision[3] dated 13 December 2023 (**assailed Decision**) which denied petitioner's Petition for Review.[4] The dispositive portion of the assailed Decision reads:

> ...
>
> **WHEREFORE**, in view of the foregoing, the instant Petition for Review filed by petitioner Foundever Philippines Corporation (formerly *Sitel Philippines Corporation*) on 21 September 2022 is hereby **DENIED** for lack of merit. Accordingly, the assailed Decision and Resolution dated 21 February 2022 and 15 August 2022, respectively, of the First Division in CTA Case No. 10076, entitled *Sitel Philippines Corporation v. Commissioner of Internal Revenue,* are **AFFIRMED**.
>
> **SO ORDERED.**
>
> ...

In the MR, petitioner opposes the Court's pronouncements in the assailed Decision. It maintains that it had sufficiently established its registration as a Value-Added Tax (**VAT**) taxpayer. It argues that the registration by its main office satisfies the requirements for a claim for refund of input taxes.

Moreover, petitioner is firm that it had adequately proven that it is engaged in zero-rated sales of services and that it actually performed its services in the Philippines.

We resolve.

At the onset, We readily observe that petitioner's arguments cover matters that both the First Division and the Court *En Banc* have already been passed upon. Nevertheless, for emphasis, We briefly revisit the issues raised to further enlighten petitioner as to why the Court could not validly uphold its refund claim.

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[3] Id., pp. 449-475.
[4] Filed on 21 September 2022, id., pp. 38-64.

The Consolidated VAT Regulations of 2005[5], in line with Section 236(G)[6] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, lays down the particulars relevant to the registration of VAT taxpayers.

The regulation mandates registration for every separate and distinct establishment of place of business, apart from a warehouse without sales transactions.[7] It further specifies that a taxpayer required to register but fails to do so loses the benefit of input tax credits (while still being liable for output taxes).[8]

As previously determined, the instant refund claim concerns sales generated from petitioner's Palawan site, which was not VAT-registered during taxable year (**TY**) 2016. To recall further, the said site was registered a Facility in the following TY. Therefore, as far as the present claim is concerned, the VAT registration requirement has not been met.

Meanwhile, in the determination of whether petitioner is engaged in zero-rated or effectively zero-rated sales, the lapse in VAT registration is likewise fatal. Particularly, in *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*[9], the Supreme Court held that in order for the sales of *other services* to be considered VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the taxpayer-claimant must prove the following conditions:

> ...
>
> ... *First*, **the seller is VAT-registered**. *Second*, the services are rendered "to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed." *Third*, the services are "paid for in acceptable foreign currency and accounted for in accordance with [BSP] rules and regulations.
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> ...

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5 Revenue Regulations (RR) No. 16-2005 dated 01 September 2005.

6 **SEC. 236**. *Registration Requirements*. –
(G) *Persons Required to Register for Value-Added Tax*. –

7 See Section 9.236-1(a) of RR No. 16-2005.

8 See Section 9.236-1(b) of RR No. 16-2005.

9 G.R. No. 234445, 15 July 2020; Citations omitted, emphasis supplied and italics in the original text.

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.[10] Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented as they are not intended to be liberally construed.[11]

Having previously established the crucial defect in registration, We shall no longer belabor to explore anew the matters considered in the assailed Decision of the Court *En Banc* as well as of the First Division. This Court finds no meritorious considerations in the MR that would warrant reversing the same.

WHEREFORE, the foregoing premises considered, petitioner's "Motion for Reconsideration (of the Decision dated December 13, 2023)" filed on 02 January 2024 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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10 *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue,* G.R. No. 222428, 19 February 2018.

11 Id.

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CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice