REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

MARUBENI PHILIPPINES CORPORATION, Petitioner,	**C.T.A. CASE NO. 6514**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson* **UY,** *and* **PALANCA-ENRIQUEZ,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** JUN 27 2007

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AMENDED DECISION

CASTAÑEDA, JR., J.:

This resolves:

1. Petitioner's **"Motion For Reconsideration"** filed on March 14, 2006;
2. Petitioner's **"Supplemental Motion for Reconsideration"** filed on March 30, 2006; and
3. Respondent's **"Comment/Opposition (To Petitioner's Motion for Reconsideration)"** filed on July 21, 2006.

Petitioner seeks a reconsideration of the Decision of this Court promulgated on February 17, 2006, denying petitioner's claim for refund or for the issuance of tax credit certificate in the amount of P2,945,944.85 allegedly representing unutilized input Value-Added Tax (VAT) on domestic purchases of goods and services for the Second Quarter of taxable year 2000.

In the assailed Decision, although We found the amount of P706,798.46 appearing as refundable to petitioner, nonetheless, We still denied petitioner's claim for its failure to submit as evidence VAT returns for the quarters subsequent to the Third Quarter of 2000. Obviously, the Court cannot verify whether the reported excess input taxes for the Second Quarter of 2000 in the amount of P2,959,128.40 remained unapplied against any output tax liability in the succeeding taxable quarters.

The Amended VAT return for the Third Quarter[1] submitted by petitioner was found insufficient to justify a favorable decision on petitioner's claim.

Thus, the instant Motion for Reconsideration and Supplemental Motion for Reconsideration praying for the reversal and setting aside of the assailed Decision and issuance of a new Decision finding that:

1. Petitioner's sales of services to non-residents for the Second Quarter of 2000 in the amount of P51,481,344.99 qualify for VAT zero-rating;

2. Petitioner's excess input VAT was not carried over or applied against any output VAT liability in the succeeding quarters, or in the alternative, allowing petitioner to present in evidence its quarterly VAT returns for the Fourth Quarter of 2000, the four taxable quarters of 2001, and the first two quarters of 2002; and

3. Petitioner's input taxes for purchases of goods and services supported by VAT invoices or official receipts not dated within the Second Quarter of 2000, in the total amount of P22,294.68, may be the proper subject of a refund.

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[1] Exhibit "E"

In addition, petitioner moved in its "Motion for Reconsideration" that it be allowed to present in evidence its quarterly VAT returns for the Fourth Quarter of 2000, the four quarters of 2001, and the First and Second Quarters of 2002, which this Court granted in a Resolution issued on October 2, 2006.

Consequently, petitioner filed its "Supplemental Formal Offer of Evidence" on February 1, 2007, submitting to the Court the evidences required.

We shall discuss the prayers in petitioner's Motion for Reconsideration and Supplemental Motion for Reconsideration *in seriatim.*

Anent the first prayer, petitioner posits that the Court erred in excepting its zero-rated sales of services to non-residents in the amount of P51,481,344.99 for failure to comply with the substantiation requirements laid down in Section 237 of the 1997 National Internal Revenue Code (NIRC) and Section 4.108-1 of Revenue Regulations (RR) No. 7-95.

Petitioner submits that its non-resident clients are not covered by the Philippine VAT system for they are not engaged in any taxable transaction in the Philippines. In no instance will they claim refund or credits of any input tax that may be passed on to them. Thus, the evils sought to be avoided by Section 237 and RR 7-95 do not exist.

We do not agree.

Section 237 of the 1997 NIRC reads in part as follows:

> "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) 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. xxx"

On the other hand Section 4-108-1 of RR 7-95 provides that:

> "SEC. 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:
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> 1. the name, TIN and address of seller;
> 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.
>
> xxx xxx xxx
>
> Only VAT-registered persons are required to print their TIN followed by the word 'VAT' in their invoices or receipts and this shall be considered as 'VAT Invoice'. All purchases covered by invoices other than 'VAT Invoice' shall not give rise to any input tax." (*Emphasis supplied*)

Long standing is the principle that where the law is free from ambiguity, the court may not introduce exceptions or conditions where none is provided. A statute that is clear and unambiguous is not susceptible of interpretation. It should be applied regardless of who may be affected, even if the law may be harsh or onerous.[2]

In the case at bar, the above-quoted laws leave no room for argument. They require that all VAT-registered persons shall issue receipts or invoices. Said laws are concerned only with VAT-registered persons in their transaction of selling goods and/or services with no reference to the taxpayer's clients. Furthermore, the use of the word "shall" implies mandatory compliance. This

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[2] Statutory Construction by Ruben Agpalo, 2003 edition , page 62, citing the cases of: *UP, Board of Regents vs. Auditor General, 30 SCRA 5 (1969)*; *Ramos vs. CA 108 SCRA 728*; *Republic vs. Go Ban Lee 111 Phil 805 (1961); Velasco vs. Lopez 1 Phil 720 (1903); Nepomuceno vs. Rehabilitation Finance Corp. 110 Phil 42 (1960).*

means strict observance of the invoicing/substantiation requirements is mandated by VAT law and regulations regardless of whether the taxpayer deals exclusively with residents or non-resident clients.

We now proceed to the second argument. Petitioner likewise claimed that there was no carrying over of its excess input taxes for the Second Quarter of 2000; the period covered by petitioner's claim. In support of its allegation, petitioner submitted its Original Quarterly VAT Returns for the Third and Fourth Quarter of 2000[3], Amended Quarterly VAT Return for the Fourth Quarter of 2000[4], original Quarterly VAT Returns for the four taxable quarters of 2001[5] and the first two quarters of 2002[6].

We agree with petitioner at this point.

A review of the Original Quarterly VAT returns of the petitioner for the Third and Fourth Quarter of 2000[7] shows that petitioner carried over input taxes in the amount of P32,329,084.98 and P36,298,045.98 respectively. As testified by petitioner's witness Ms. Rosalyn Peret[8], the said amounts were inclusive of the input tax of P2,960,518.13, which is the subject of petitioner's claim.

Notwithstanding, however, a review of petitioner's Amended VAT returns for Third and Fourth Quarters of 2000[9] indicates that petitioner made the necessary corrections and left blank the space provided for "Input Tax Carried Over from Previous Quarter". This proves that petitioner did not carry

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[3] Exhibits "N" and "O"
[4] Exhibit "O-2"
[5] Exhibits "P", "Q", "R", and "S"
[6] Exhibits "T" and "U"
[7] Exhibits "N" and "O"
[8] Exhibit "V"
[9] Exhibits "E" and "O-2"

over its excess input tax for the Second Quarter of 2000 to the succeeding quarters.

We recognize the fact that petitioner's quarterly VAT returns for 2001 prove that for the First Quarter, no amount is likewise written in the space provided for "Input Tax Carried Over from Previous Quarter". In the Second Quarterly VAT return, the amount of P3,826,143.10 was carried over. However, the said amount pertains to the excess input tax for the First Quarter of 2001 without including therein the input tax of 2000, which is the subject of petitioner's claim.

The following are the pertinent data as shown in petitioner's VAT returns for the taxable quarters of 2001 and the first two quarters of 2002:

	Exhibit "P"	Exhibit "Q"	Exhibit "R"	Exhibit "S"
Taxable Quarters for 2001	1st	2nd	3rd	4th
Input Tax Carried Over from Previous Quarter		3,826,143.10	7,789,550.88	11,637,337.06
Total Amount Payable (Overpayment)	(3,826,143.10)	(7,789,550.88)	(11,637,337.06)	(11,928,343.89)

	Exhibit "T"	Exhibit "U"
Taxable Quarters for 2002	1st	2nd
Input Tax Carried Over from Previous Quarter		19,308,927.53
Total Amount Payable (Overpayment)	(19,308,927.53)	(23,218,238.39)

Clearly from above, the input taxes carried over in the year 2001 pertains only to the excess input taxes incurred within the same year. Likewise, the same holds true for the year 2002. Accordingly, petitioner did not carry over its excess input taxes for the Second Quarter of 2000, the period covered by the claim.

Regarding the third prayer, petitioner avers that the disallowed input taxes in the amount of P22,294.68 pertain to goods and services that may have been purchased during the quarter or quarters prior to the Second Quarter of 2000. However, they were recorded by petitioner in the 2nd quarter of 2000 when the zero-rated sales to which they were attributable were made.

Petitioner further argues that it is not the date when the purchase of goods and services are made that matters but rather the date when petitioner's zero-rated sales are made.

While the Court agrees with petitioner's argument, nevertheless, after going through the records of this case, the Court is of the opinion that petitioner has not satisfactorily proven that the subject purchases, regardless of the date they were made, pertained exclusively to the zero-rated sales for the Second Quarter of 2000 and not to the other sales such as those made at the time when said purchases were incurred.

To recapitulate, the Court disagrees with petitioner's arguments as regards its first prayer, since the law in requiring the issuance of invoice or receipt is unmindful of the kind of the taxpayer's clients. Likewise, with respect to the third prayer, petitioner failed to prove that the claimed input taxes pertained to its zero-rated sale. The Court, however, agrees with petitioner's claim that it did not carry over its input taxes for 2000, for the pieces of evidence presented in the instant case showed that there was indeed no carrying over of its input taxes.

WHEREFORE, petitioner's Motion for Reconsideration is hereby **PARTIALLY GRANTED.** Accordingly, the Decision dated February 17, 2006 denying petitioner's claim for refund for lack of merit is hereby **LIFTED** and **SET ASIDE** and another one entered ordering respondent to **REFUND** or to

ISSUE TAX CREDIT CERTIFICATE in favor of petitioner in the reduced amount of P706,798.46, representing unutilized input VAT on domestic purchases of goods and services for the Second Quarter of taxable year 2000.

SO ORDERED.

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

WE CONCUR:

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

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

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ERNESTO D. ACOSTA
Presiding Justice