REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

****

ACCENTURE, INC.,
Petitioner,

C.T.A. CASE NOS. 6626 and 6702

Members:

- versus -

ACOSTA, *Chairperson*
BAUTISTA, and
CASANOVA, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

MAR 13 2007 3:30 PM

x - x

DECISION

BAUTISTA, L., J.:

Before Us are consolidated Petitions for Review docketed as CTA Case Nos. 6626 and 6702 seeking a refund or issuance of a tax credit certificate in the total amount of Thirty Four Million Seventy Three Thousand One Hundred Eighty Six Pesos and 81/100 (P34,073,186.81) allegedly representing unutilized input value-added tax on domestic purchases of goods and services for the first quarter of year 2001 until the second quarter of 2002.

The material antecedent facts as culled from the records of this case:

Accenture, Inc. ("petitioner") is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with principal office located at MSE Building, Ayala Avenue, Makati City. It is duly registered with the Securities and Exchange Commission ("SEC") as evidenced by SEC Registration No. AS091-199207.[1] Petitioner is likewise a value-added tax ("VAT") registered entity evidenced by VAT Registration/Identification No. 000-845-543-000.[2]

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue, with authority, among others, to decide, approve and grant claims for refund or tax credit of internal revenue taxes, with office address at the Bureau of Internal Revenue ("BIR") National Office Building, Agham Road, Diliman, Quezon City.

Petitioner is primarily engaged in the business of providing management consulting and management information, consulting services, including but not limited to business strategic services, change management services, systems integrations, systems management, the development, sale and/or licensing of software, and the sale of hardware and related products, either as principal or agent and other business related activities.

For the four (4) quarters of 2001 until the second quarter of 2002, petitioner allegedly rendered services in the Philippines to foreign clients which were paid for in acceptable foreign currency inwardly remitted and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas. During the said period, petitioner filed with the BIR its Quarterly VAT Returns, including the amendments thereto, reflecting the following:

---

[1] Exhibit A.
[2] Exhibit B.

Exh	Quarter	Zero-Rated Sales	Exempt Sales	Taxable Sales	Output VAT	Transitional Input Tax	Input VAT previous Qtr.	Input VAT This Quarter	VAT Overpayment
	2001				(a)	(b)	(c)	(d)	(a) – [b+c+d]
F	1st	148,645,077.08	126,601,868.22	104,786,857.49	10,478,685.75	4,576,520.75	26,984,256.82	9,063,922.60	(30,146,014.42)
I	2nd	437,392,769.25	103,400,687.14	26,393,216.60	2,639,321.66	3,930,275.53	30,146,014.42	9,266,054.45	(40,703,022.74)
L	3rd	317,058,123.00	57,560,449.00	52,563,457.10	5,256,345.71	1,296,707.00	40,703,022.74	11,145,286.23	(47,888,670.26)
O	4th	215,915,664.00	73,359,748.00	20,583,366.40	2,058,336.64	2,774,362.00	47,888,670.26	6,842,926.88	(55,447,624.50)
	2002								
R	1st	399,850,783.00	69,101,761.00	13,878,269.70	1,387,826.97	1,688,603.00	55,447,624.50	6,287,712.29	(62,036,112.82)
U	2nd	436,501,921.06	100,869,960.12	41,349,068.10	4,134,906.81	5,804,197.00	62,036,112.82	6,932,955.11	(70,638,358.12)

Notwithstanding the application of its available input VAT against its output tax liabilities for each and every taxable quarter, petitioner incurred accumulated excess input VAT as of the second quarter of 2002 in the amount of P70,638,358.12. Out of the said excess input VAT, the amount of P34,073,186.81 allegedly represents input VAT arising from its zero-rated sales of services for the subject period.

In a letter dated January 13, 2003 addressed to the respondent, petitioner filed an administrative claim for refund and/or the issuance of a tax credit certificate for its alleged unutilized input VAT of P34,073,186.81 arising from domestic purchases of goods and services for the first quarter of 2001 until the second quarter of 2002.[3]

On March 31, 2003, petitioner filed a Petition for Review before this Court seeking a refund of its alleged unutilized input VAT amounting to P3,534,929.81 covering the first quarter of taxable year 2001 and docketed as CTA Case No. 6626.

On June 12, 2003, petitioner filed another Petition for Review before Us for the refund of its alleged excess input VAT in the amount of P30,538,257.00 covering the second quarter of 2001 up to the second quarter of 2002.

On August 29, 2003, petitioner filed a Motion to Consolidate CTA Case Nos. 6626 and 6702 considering that they both involve the same parties and common questions of law and fact which this Court granted on September 2, 2003.

---

[3] Exhibit V.

In his Answers, respondent alleged, *inter-alia*, that petitioner's claim for refund or issuance of tax credit certificate is still subject to administrative routinary investigation or examination by the BIR; taxes paid and collected are presumed to have been made in accordance with the law, hence, not refundable; the claimed amount of refund or tax credit was not fully substantiated; petitioner's sales of services are not subject to VAT at zero percent (0%) rate under Section 108(B)(2)(3) of the 1997 NIRC, as amended; the claim for refund has prescribed under Section 114 in relation to Section 229 of the 1997 NIRC, as amended; petitioner failed to comply with the requirements provided in Section 112 of the 1997 NIRC, as amended; it is incumbent upon petitioner to show it conformed with the provisions of Section 204(C) in relation to Section 229 of the 1997 NIRC, as amended, including the requirements specified in Revenue Regulations No. 5-87 as amended by Revenue Regulations No. 3-88 and Revenue Regulations No. 7-95, as amended; claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation.

Both parties submitted their respective documentary evidence. Moreover, petitioner offered the testimonies of Country Controller Loida S. Samson, Accountants Emmanuel Y. Mendoza and Emerita H. Escueta and Cash Disbursement Head Tina Samway; while the respondent presented Revenue Officers Gloria R. Morales and Christina D. David as witnesses.

In view of the filing of petitioner's Memorandum on August 22, 2006 and respondent's failure to file his memorandum within the period given by this Court, the consolidated cases were considered submitted for decision on November 22, 2006.

The parties mutually stipulated on the following issues for the consideration of this Court:

1. Whether or not petitioner's sales of goods and services are zero-rated for VAT purposes under Section 108(B)(2)(3) of the 1997 Tax Code;

2. Whether or not petitioner's claim for refund/tax credit in the amounts of P3,534,929.81 and P30,538,257.00 as alleged unutilized input VAT paid on its domestic purchases of goods and services for the first quarter ending March 31, 2001 and the second quarter of 2001 up to the second quarter of 2002 ending June 30, 2002, respectively, are duly substantiated;

3. Whether or not petitioner has carried over to the succeeding taxable quarter(s) or year(s) the alleged unutilized input VAT paid on its domestic purchases of goods and services for the first quarter of year 2001 up to the second quarter of year 2002 and applied the same fully to its output VAT liability for the said period; and

4. Whether or not petitioner is entitled to the refund of the total amount of P34,073,186.81 representing the unutilized input VAT on domestic purchases of goods and services for the first quarter of 2001 up to the second quarter of 2002 from its sales of services to various foreign clients.

Being interrelated, the issues shall be jointly discussed.

Records disclose that petitioner's administrative claim with the BIR filed on January 16, 2003 and the Petition for Review docketed as CTA Case Nos. 6626 filed on March 31, 2003 as well as the Petition for Review filed on June 12, 2003 and docketed as CTA Case No. 6702 were all made within the two (2)-year period allowed by law, reckoned from April 25, 2001, July 25, 2001, October 25, 2001, January 14, 2002, April 10, 2002 and July 10, 2002,[4] the filing of petitioner's respective Quarterly VAT Returns for the first quarter of 2001 to the second quarter of 2002.[5]

Anent the issue of whether petitioner's sales of goods and services are zero-rated for VAT purposes, petitioner asserts that the bulk of its sales for the subject claim, first quarter of 2001 up to the second quarter of 2002 are subject to zero (0%) percent VAT pursuant to Section 108(B)(2) of the 1997 National Internal

---

[4] Exhibits E, I, L, MM, R and U.
[5] see JIDECO Manufacturing Phil. Incorporated vs. Commissioner of Internal Revenue, CTA Case No. 6552, September 16, 2004.

Revenue Code ("NIRC") as the said sales pertain to petitioner's services to various foreign clients in providing consulting and management information consulting services, including but not limited to, business integration, strategic services, change management services, systems integration, system management, the development, sale/or licensing of software, and the sale of hardware and related products, either as principal or agent, and other business activities the consideration for which is paid for in acceptable foreign currency and duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas.

To bolster this fact, petitioner submitted the Schedule of Zero-Rated and Exempt Sales;[6] Billing Statements;[7] Official Receipts;[8] Schedule of Collections;[9] Bank Statements and Passbook Entries;[10] Interfirm Payment Requests[11] and Memo Invoices[12] and testimony of its Country Controller Ms. Loida S. Samson.

Value-added tax at zero percent rate (0%) is imposed on revenues derived from sale of services[13] aside from processing, manufacturing or repacking goods to other person doing business outside the Philippines which goods are subsequently exported, provided that the transaction is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas under Section 108(B)(2) of the 1997 NIRC, as amended, which states:

> SEC.108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* –
>
> x x x
>
> (B) *Transactions Subject to Zero Percent (0%) Rate.* – The following services performed in the Philippines by VAT registered persons shall be subject to zero percent (0%) rate:

---

[6]Exhibit FF.
[7] Exhibits GG-1 to GG-23.
[8] Exhibits II-1 to II-15.
[9] Exhibit HH.
[10] Exhibits Y to Y-43; JJ-1 to JJ-15.
[11] Exhibits KK-1 to KK-15.
[12] Exhibits LL-1 to LL-102.
[13]Noteworthy that in petitioner's letter-claim with the BIR, Petition for Review, Memorandum and as shown in its formally offered documentary evidence, such as the Billing Statements and Official Receipts, do not reveal that petitioner made an alleged zero-rated sale of goods. Hence, the inclusion of the word goods in the jointly stipulated issues is misplaced.

x x x

(2) Services other than those mentioned in the preceding paragraph, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP).

However, although Section 108(B)(2) of the 1997 NIRC in relation to Section 112 of the same Code allows tax refund or credit of the unutilized input tax attributable to zero-rated sales of a VAT registered person, these provisions of law should be read in conjunction with Section 113 of the same Code requiring a VAT-registered person (such as petitioner) engaged in every sale to issue an invoice or receipt containing the following information:

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.

Corollary thereto, Section 4.108-1 of Revenue Regulations No. 7-95, provides as follows:

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:

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.
(Emphasis supplied)

Considering that petitioner's present claim is founded on its alleged zero-rated sales of services to its foreign clients, it is imperative that the offered official receipts to prove said sales comply with the above requirements of the law and regulations.

A careful examination of the official receipts submitted by petitioner shows that they do not bear the imprinted word "zero-rated" in violation of Section 4.108-1 of Revenue Regulations No. 7-95 above-quoted. In view thereof, petitioner's reported sales of services to foreign clients for the first quarter of 2001 up to the second quarter of 2002 cannot qualify for VAT zero-rating. Consequently, the claimed unutilized input VAT attributable thereto, in the amount of P34,073,186.81 should be denied as it is clear from the provisions of Section 112(A) of the 1997 NIRC that there must be zero-rated or effectively zero-rated sales in order that a refund of input VAT could prosper.

The law and regulations are explicit in requiring strict compliance with the invoicing requirements. The reason being that for the same transaction, 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 word "zero-rated" be imprinted on the face of the covering invoices or official receipts.[14] The significance of imprinting the word "zero-rated" on the face of the invoice or official receipt of the seller is for the buyer or purchaser not to claim any input VAT from such purchase as ratiocinated by this Court in the case of ***J.R.A. Philippines, Inc. vs. Commissioner of Internal Revenue, C.T.A.***, *viz.*[15]

> Furthermore, Section 110 of the NIRC of 1997, as amended, provides that: "Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax: . . . ." If the invoice or official receipt was not imprinted with "zero-rated", there is a danger that the purchaser of the goods or services may be able to claim input tax on the sale to it by the taxpayer of the goods or services, as the case may be, notwithstanding the fact that no VAT was actually paid on such goods or services since the taxpayer is zero-rated. This is the rationale for the mandatory requirement in Revenue Regulations No. 7-95 that the words "zero-rated" be imprinted in the invoice or receipt, as the case may be. The zero-rated taxpayer should be entitled to a tax credit/refund on input taxes paid on its purchase of goods or services subject to the mandatory compliance with the invoicing requirements under the regulations. Otherwise, there may result the absurd situation where the government would be crediting/refunding non-existent input tax to purchasers of goods or services of such zero-rated taxpayer. *(Emphasis supplied)*

In the case of ***Taganito Mining Corporation vs. Commissioner of Internal Revenue, CTA EB No. 7***,[16] this Court ruled that the issuance of Revenue Regulations No. 7-95 was made pursuant to the respondent's duty of implementing the VAT provisions of the NIRC, thus:

> Revenue Regulations No. 7-95, otherwise known as the Consolidated Value-Added Tax Regulations, was promulgated by the Secretary of Finance pursuant to the authority granted by Section 245 of the National Internal Revenue Code of 1977, x x x
>
> xxx xxx xxx
>
> The above provision was re-enacted in toto under Section 244 of the 1997 NIRC. Moreover, to further strengthen the rule making power of the Secretary of Finance in coordination with the Bureau of Internal Revenue, an additional section (SEC. 245) was incorporated

---

[14]American Express International, Inc.., Philippine Branch vs. Commissioner of Internal Revenue, CTA EB No. 103, March 3, 2006.

[15]***CASE NO. 6454, June 30, 2005,*** affirmed in ***J.R.A. vs. Commissioner of Internal Revenue, CTA EB No. 128, January 15, 2007*** and cited in ***Hitachi Global Storage Technologies Philippines Corp. [formerly Hitachi Computer Products (Asia) Corp.] vs. Commissioner of Internal Revenue, CTA EB No. 54, March 22, 2006.***

[16]January 31, 2006.

defining the extent of such rule making power. Section 245, in pertinent part, provides:

> SEC. 245. **Specific provisions to be contained in rules and regulations.** — The rules and regulations of the Bureau of Internal Revenue shall, among other things, contain provisions specifying, prescribing or defining:
>
> xxx xxx xxx
>
> (g) The manner in which revenue shall be collected and paid, the instrument, document or object to which revenue stamps shall be affixed, the mode of cancellation of the same, **the manner in which the** proper books, records, **invoices** and other papers **shall be kept and *entries therein*** made by the person subject to the tax, as well as the manner in which licenses and stamps shall be gathered up and returned after serving their purposes; (Emphasis/italics supplied)

Considering 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 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 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].

xxx xxx xxx

Hence, the need for strict compliance with the mandatory requirement of imprinting the word "zero-rated" on sales invoices or official receipts regardless of whether or

not the business entity engages only in export sales since Revenue Regulations No. 7-95 did not make any distinction on the different kinds of zero-rated sales. *(Emphasis Ours)*

In sum, petitioner's reported sales of services to foreign clients for the first quarter of 2001 up to the second quarter of 2002 cannot qualify for VAT zero-rating as the official receipts presented to prove said sales do not bear the imprinted word "zero-rated". Thus, the claimed unutilized input VAT attributable thereto, in the amount of P34,073,186.81 cannot be granted for there must be first zero-rated or effectively zero-rated sales in order that a refund of input VAT can prosper.

WHEREFORE, premises considered, the consolidated Petitions for Review are hereby **DENIED** for lack of merit.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

(With Dissenting Opinion)
ERNESTO D. ACOSTA
Presiding Justice

CAESAR A. CASANOVA
Associate Justice

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division