**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

**SECOND DIVISION**

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| **NIPPON EXPRESS PHILIPPINES CORPORATION,** Petitioner, | **CTA CASE NO. 10416** |
| | Members: |
| - versus - | **RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.* |
| **COMMISSIONER OF INTERNAL REVENUE,** Respondent. | Promulgated: ______________ 3:41 pm |

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# RESOLUTION

***FERRER-FLORES, J.:***

Before the Court is petitioner's **Motion for Reconsideration** *(MR)* filed on March 20, 2025, with respondent's **Comment/Opposition (Re: Motion for Reconsideration dated 19 March 2025)** filed on April 10, 2025.

To recall, the Court promulgated on February 27, 2025 the Decision denying petitioner's claim for refund of unutilized input value-added tax (VAT) attributable to its zero-rated sales of services for the first quarter of taxable year 2018, in the aggregate amount of ₱18,748,240.85, for failure to indicate the nature of services it performed, the dispositive portion of which reads:

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

In its *MR*, petitioner prays for the Court to reconsider the conclusions reached in the above Decision based on the findings of the court-commissioned Independent Certified Public Accountant (ICPA), Atty. Conrado M. Briones. Petitioner insists that the ICPA report found petitioner to have sufficiently complied with the substantiation and invoicing requirements under Sections 113 (A) and (B) of the National Internal Revenue Code (NIRC) of 1997, as amended, in relation to Section 4.113-1 of Revenue Regulations (RR) No. 16-2005, as amended. It cites the testimony of Atty. Briones in finding that: (i) the VAT zero-rated sales of services to ecozone registered enterprises customers enjoying VAT zero-rating incentive on their purchases amounting to ₱201,184,149.98 and ₱430,579.25 were supported by Bureau of Internal Revenue (BIR)-registered VAT zero-rated official receipts (ORs), Certificate of VAT zero-rating from the Philippine Economic Zone Authority, Clark Development Corporation, and Subic Bay Metropolitan Authority with quick response code, service contracts, and service quotations; and, (ii) the nature of petitioner's services for its zero-rated sales can be found in the corresponding service contracts and service quotations that have been verified by him or otherwise can be cross-referenced with petitioner's Articles of Incorporation.

Petitioner further reiterates that Atty. Briones also confirmed and verified the reconciliation schedule (Exhibit "P-148") it prepared, stating that: (a) petitioner's freight revenue amounting to ₱144,780,467.91 for the first quarter of taxable year ended December 31, 2018 pertains to the excess of the freight cost plus 5% freight commission billed by petitioner to its customers, and actual freight billed by the airlines and shipping lines; and, (b) that the VAT zero-rated sales should be adjusted to ₱414,969,631.00. For these reasons, it emphasizes that Atty. Briones has recommended the refund of ₱2,250,613.66 for the first quarter of taxable year 2018. Lastly, petitioner submits that it has complied with the minimum statutory requirements of the law and should therefore be considered to have successfully discharged the burden to prove its entitlement to the refund sought.

Respondent, on the other hand, counters that petitioner failed to sufficiently support its claim for refund with documents required to be submitted under Revenue Memorandum Circular No. 47-2019 and Revenue Memorandum Order No. 47-2020, in relation to Section 112 of the NIRC of 1997, as amended. He expounds that petitioner did not only fail to substantiate its "Freight Revenue in excess of 5% of freight", but also its various local zero-rated sales with zero-rating certification. Respondent, thus, deducted the amount of ₱18,452,382.69 from petitioner's output VAT for being unsubstantiated. Finally, respondent avers that petitioner failed to comply with the invoicing requirements under Section 113 of the NIRC of 1997, as amended, and that tax refunds are strictly construed against the taxpayer and in favor of the government.

After a careful consideration of the records and the parties' arguments, the Court finds petitioner's *MR* bereft of merit.

A cursory reading of the petitioner's *MR* reveals that the same arguments were already raised in its *Memorandum* filed on February 29, 2024,[1] which have

[1] Docket – Vol. II, pp. 959 to 1035.

already been exhaustively considered, weighed, and resolved in the assailed Decision. Nonetheless, the Court deems necessary to emphasize that petitioner cannot merely rely on the ICPA's findings to validate its claim, since the ultimate determination rests upon the Court based on the evidence submitted by the parties during the trial of the case.

Time and again, it bears stressing that while the ICPA is commissioned to assist the Court in determining the merits of a taxpayer's case, the Court is not bound by its findings since the ICPA Report is but a tool or guide to aid the Court in the resolution of the case, it is only persuasive in nature and not conclusive upon the Court.[2] The Court still examines, verifies, and evaluates the documents audited by the ICPA, to which the Court, in its sound discretion, may render judgment without considering or adopting the ICPA Report.

At this juncture, the Court stresses that in claims for VAT refund/credit, applicants must satisfy the substantiation and invoicing requirements under the NIRC of 1997, as amended, and other implementing rules and regulations.[3] Invoicing and substantiation requirements should be followed because it is the only way to determine the veracity of the taxpayer's claim.[4] As such, compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.[5] The burden of proof to show that the person or the entity is ultimately entitled to the grant of such tax refund or credit rests on the taxpayer.[6]

Lamentably, despite the ICPA's finding that the amount of ₱323,364,461.33 was duly supported by BIR-registered VAT ORs, the same was still disallowed by the Court for failure to indicate in said ORs the "nature of service" performed by petitioner, as required under Sections 113 (B)(3)[7] and 237[8] of the NIRC of 1997, as amended by Republic Act (RA) No. 10963, or the

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[2] Section 3, Rule 13 of the Revised Rules of the Court of Tax Appeals.

[3] *Team Energy Corporation v. Commissioner of Internal Revenue, et seq.*, G.R. Nos. 197663 and 197770, March 14, 2018.

[4] *Nippon Express (Philippines) Corporation vs. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018. *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.

[5] *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.

[6] *BPI Leasing Corporation v. Court of Appeals*, G.R. No. 127624, November 18, 2003.

[7] SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* -

x x x

(B) *Information Contained in the VAT Invoice or VAT Official Receipt.* - The following information shall be indicated in the VAT invoice or VAT official receipt:

x x x

(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; xxx

[8] SECTION 237. *Issuance of Receipts or Sales or Commercial Invoices.* — 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 (P25.00) 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:"

Tax Reform for Acceleration and Inclusion (TRAIN) Law.[9] As discussed in the assailed Decision, the said ORs only contain the phrase "various invoices" or certain reference number(s) for which the payments received by petitioner were made, but these invoices, which could have indicated the services being paid for, were not submitted in evidence. Ultimately, the Court cannot ascertain whether the payments received were indeed for the claimed services rendered by petitioner.

Petitioner's claim that the Court should have referred to the corresponding services contracts, service quotations, and articles of incorporation in ascertaining the nature of services it rendered is unmeritorious. Referring to these documents does not cure petitioner's non-compliance with the invoicing requirements. The law is clearly worded in stating that the "nature of service", among others, is required to be indicated in the duly registered VAT invoice or official receipt.

It is well-settled that tax refunds 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.[10] The pieces of evidence presented entitling a taxpayer to an exemption are also *strictissimi* scrutinized and must be duly proven.[11] 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.[12]

All told, petitioner failed to convince the Court that certain findings or conclusions in the Decision are contrary to law or have been erroneously made. The present *MR* does not raise any substantial ground or reason to justify the reconsideration sought.

**WHEREFORE**, premises considered, petitioner's **Motion for Reconsideration** is **DENIED** for lack of merit.

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9 Effective January 1, 2018.

10 *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.

11 *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.

12 *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.

**SO ORDERED.**

**CORAZON G. FERRER-FLORES**
Associate Justice

We Concur:

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

(On Official Business)

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice