REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PHIL. GOLD PROCESSING & REFINING CORP., Petitioner,	**CTA CASE NO. 8652**
	Members:
- versus -	**DEL ROSARIO,** *Chairperson,* **UY,** *and* **MINDARO-GRULLA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: APR 27 2016 ; 2:10 p.m.

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RESOLUTION

MINDARO-GRULLA, *J.*:

For resolution is respondent's **Motion for Reconsideration (of the Amended Decision dated 01 December 2015)**, filed through registered mail on December 17, 2015 and received by the Court on January 6, 2016, with petitioner's **Comment (To the Motion for Reconsideration of the Amended Decision promulgated on 1 December 2015)**, filed on February 4, 2016.

Respondent seeks reconsideration of the Court's Amended Decision[1] dated December 1, 2015, the dispositive portion of which reads:

> "**WHEREFORE**, petitioner's Motion for Reconsideration is **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND OR**

[1] Docket, pp. 1336-1344.

ISSUE A TAX CREDIT CERTIFICATE in favor of petitioner in the amount of **SIXTY EIGHT MILLION ONE HUNDRED FORTY THREE THOUSAND EIGHT HUNDRED EIGHTY PESOS AND 38/100 (₱68,143,880.38)** representing its unutilized input VAT for the period covering January 1, 2011 to June 30, 2011 or the third and fourth quarters of fiscal year ended June 30, 2011.

SO ORDERED."[2]

Respondent maintains her position that petitioner's claim for refund of unutilized input VAT should be denied for failure to comply with the invoicing requirements which is fatal to its case. She contends that petitioner's sales invoices do not comply with the requirements of the law and regulations since the word "zero-rated" found on the sales invoices were not written or printed prominently therein, but was rubber stamped. Respondent also alleges that petitioner issued both official receipts and invoices to prove its alleged zero-rated sales to its clients. She contends that petitioner should have issued VAT invoices instead of VAT Official Receipts (VAT OR) for the sale of goods which in this case are sale of metals. Thus, respondent prays that petitioner's sales of metal supported by VAT ORs should be disallowed for failure to comply with the invoicing requirements.

On the other hand, petitioner claims that Section 113(2)(C) of the National Internal Revenue Code (NIRC) of 1997, as amended, does not make a categorical statement or standard as regards how the term "zero-rated sale" should be "written". Thus, it submits that the "rubber stamp" is within the coverage of the term "written" pursuant to the rule on Statutory Construction relative to the jurisprudentially settled legal maxim ***Ubi Lex Non Distinguit, Nec Nos Distinguire Debemos*** (When the law does not make any distinction, the Court must ought not make any distinction).

Respondent's Motion for Reconsideration lacks merit.

The issue on the imprinting of the term "zero-rated sale" on the invoice or receipt is no longer novel. At any rate, We revisit Section 113 (B)(2)(c) of the NIRC of 1997, as amended, and Section 4.113-1

[2] Docket, p. 1344.

(B)(2)(c) of Revenue Regulations (RR) No. 16-05 which provide the invoicing requirements for VAT-registered persons. The provisions state:

SEC. 113. **Invoicing and Accounting Requirements for VAT-Registered Persons. —**

xxx xxx xxx

(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:

xxx xxx xxx

(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: *Provided*, That:

xxx xxx xxx

(c) If the sale is subject to zero percent (0%) value-added tax, the term **'zero-rated sale'** shall be **written or printed prominently on the invoice or receipt**; (*Emphasis supplied*)

SEC. 4.113-1. ***Invoicing Requirements.*** —

xxx xxx xxx

(B) Information contained in VAT invoice or VAT official receipt. — The following information shall be indicated in VAT invoice or VAT official receipt:

xxx xxx xxx

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; *Provided*, That:

xxx xxx xxx

(c) If the sale is subject to zero percent (0%) VAT, the term "**zero-rated sale**" shall be **written or printed**

prominently on the invoice or receipt; (*Emphasis supplied*)

The rationale behind the requirement of printing the term "zero-rated" on the face of invoices covering zero-rated sales was discussed in the case of *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*[3] citing the case of *Panasonic Communications Imaging Corporation of the Philippines vs. Commissioner of Internal Revenue*[4]. The Supreme Court held:

> **Section 4.108-1 of RR 7-95 proceeds from the rule-making authority granted to the Secretary of Finance under Section 245 of the 1977 NIRC (Presidential Decree 1158) for the efficient enforcement of the tax code and of course its amendments. The requirement is reasonable and is in accord with the efficient collection of VAT from the covered sales of goods and services**. As aptly explained by the CTA's First Division, **the appearance of the word "zero-rated" on the face of invoices covering zero-rated sales prevents buyers from falsely claiming input VAT from their purchases when no VAT was actually paid**. If, absent such word, a successful claim for input VAT is made, the government would be refunding money it did not collect.
>
> **Further, the printing of the word "zero-rated" on the invoice helps segregate sales that are subject to 10% (now 12%) VAT from those sales that are zero-rated**. Unable to submit the proper invoices, petitioner Panasonic has been unable to substantiate its claim for refund.

Relative to this is the case of *Commissioner of Internal Revenue vs. Toledo Power Company*[5], where the Supreme Court categorically ruled that mere stamping of the words "zero-rated" on the VAT invoices/official receipts is sufficient compliance with the law, to wit:

[3] G.R. No. 183531, March 25, 2015.
[4] G.R. No. 178090, February 8, 2010.
[5] G.R. No. 183880, January 20, 2014.

> "In the present case, we agree with the CTA's findings that the words "zero-rated" appeared on the VAT invoices/official receipts presented by the TPI in support of its refund claim. **Although the same was merely stamped and not pre-printed, the same is sufficient compliance with the law**, since the imprinting of the word "zero-rated" was required merely 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 VAT provisions of the Tax Code." (*Emphasis ours*)

In this case, the term "zero-rated" appears on the face of petitioner's sales invoices, albeit, they are rubber stamped. Considering the foregoing, the Court finds that petitioner substantially complied with the requirement that the word "zero-rated" must prominently appear on the face of sales invoices covering zero-rated sales. The word "zero-rated", although rubber stamped, in petitioner's sales invoices serves the purpose of preventing its buyers from falsely claiming input VAT from their purchases when no VAT was actually paid. It also helps segregate sales that are subject to 12% VAT from those sales that are zero-rated.

As regards respondent's argument that petitioner's sales of metal are supported by VAT Official Receipts, hence, should be disallowed for failure to comply with the invoicing requirements, the Court finds the same to be without merit. A review of the records of this case shows that as proof of its VAT zero-rated direct export sales, petitioner presented its zero-rated VAT sales invoices[6], export documents[7] consisting of airway bills, export declarations, transport permits, packing lists and provisional invoices, and consolidated Bank Statements[8] from BNP Paribas Corporate & Investment Banking.

Considering the foregoing, the Court finds no cogent reason to reverse or modify the assailed Amended Decision promulgated on December 1, 2015.

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[6] Exhibits "P-35" to "P-55".
[7] Exhibits "P-56" to "P-159".
[8] Exhibits "P-24-B" to "P-24-I".

WHEREFORE, premises considered, respondent's **Motion for Reconsideration (of the Amended Decision dated 01 December 2015)** is **DENIED** for lack of merit.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ON LEAVE
ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice