REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA EB NO. 2918** (CTA CASE NO. 10422)
	Present:
- versus -	**RINGPIS-LIBAN,** *Acting P.J.,* **MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** and **ANGELES,** *JJ.*
	Promulgated:
AIR DRILLING ASSOCIATES PTE LTD., *Respondent.*	NOV 27 2025 4:20 p.m.

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DECISION

ANGELES, J.:

Before the Court of Tax Appeals (CTA) *En Banc* is a *Petition for Review* posted on May 7, 2024 by petitioner Commissioner of Internal Revenue,[1] seeking the reversal and setting aside of the Decision dated December 19, 2023 (Assailed Decision)[2] and the Resolution dated April 16, 2024 (Assailed Resolution),[3] promulgated by this Court's Special First Division in CTA Case No. 10422, entitled "*Air Drilling Associates Pte Ltd. vs. Commissioner of Internal Revenue,*" the dispositive portions of which respectively read:

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[1] Docket, pp. 1 to 12.

[2] Docket, pp. 18 to 58; Docket (CTA Case No. 10422) – Vol. II, pp. 716 to 756, Penned by Associate Justice Catherine T. Manahan, and concurred by Associate Justice Marian Ivy Reyes-Fajardo, Presiding Justice Roman G. Del Rosario was on leave.

[3] Docket, pp. 60 to 65; Docket (CTA Case No. 10422) – Vol. II, pp. 784 to 789.

Assailed Decision dated December 19, 2023:

"**WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED** to refund to petitioner, or to issue a tax credit certificate in its favor, the amount of **₱1,275,515.68**, representing petitioner's unutilized input VAT attributable to its zero-rated sales for the 2nd quarter of taxable year 2018.

SO ORDERED."

Assailed Resolution dated April 16, 2024:

"**WHEREFORE**, respondent's *Motion for Reconsideration* is hereby **DENIED** for lack of merit.

SO ORDERED."

THE PARTIES

Petitioner Commissioner of Internal Revenue is vested under the appropriate laws with the authority to carry out the functions, duties and responsibilities of said office, including, the power to grant tax refunds and issue tax credit certificates, pursuant to the provisions of the National Internal Revenue Code (NIRC) and other tax laws, rules and regulations.[4]

Respondent Air Drilling Associates Pte Ltd. is a foreign company organized and existing under the laws of the Republic of Singapore, duly licensed by the Philippine Securities and Exchange Commission to establish a branch office in the Philippines, to pursue geothermal aerated drilling services and related opportunities in the Philippines.[5] It is registered with the Bureau of Internal Revenue (BIR) as a value-added tax (VAT) taxpayer, under Taxpayer Identification No. 251-156-024-00000, with address at Unit D 3/F Glass Tower Building, 115 C. Palanca Street, Legaspi Village, San Lorenzo, City of Makati, Philippines.[6]

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[4] Par. 1, Facts Admitted, *Joint Stipulation of Facts and Issues* (JSFI), Docket (CTA Case No. 10422) – Vol. I, p. 229.
[5] Exhibit "P-2", Docket – Vol. I, pp. 325 to 377.
[6] Exhibit "P-1", Docket – Vol. I, p. 324.

THE ANTECEDENTS (ADMINISTRATIVE LEVEL)

On August 28, 2020, respondent filed with the BIR the letter dated August 24, 2020,[7] applying for the refund of ₱1,293,630.14, representing the unutilized input VAT credits arising from its local purchases of goods and services, purchases of services rendered by non-residents and importation of non-capital goods attributed to its VAT zero-rated sales of services to Energy Development Corporation (EDC), for the 2nd quarter (April 1, 2018 to June 30, 2018) of taxable year 2018.

Respondent subsequently received the letter dated November 4, 2020 issued by BIR Regional Director Maridur V. Rosario, denying in full its VAT refund application.[8]

THE PROCEEDINGS BEFORE THE COURT IN DIVISION

In view of the denial of its claim, respondent filed its *Petition for Review* on December 17, 2020 before the Court in Division,[9] praying for the refund or issuance of tax credit certificate in the said amount of ₱1,293,630.14. The case was docketed as CTA Case No. 10422.

Petitioner then posted his *Answer* on April 23, 2021,[10] interposing certain special and affirmative defenses.

Trial then ensued.

As previously stated, on December 19, 2023, this Court's Special First Division promulgated the Assailed Decision,[11] partially granting the *Petition for Review*.

Aggrieved, petitioner posted his *Motion for Reconsideration* on January 18, 2024,[12] while respondent filed its *Comment (To Respondent's Motion for Reconsideration)* on February 5, 2024.[13]

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[7] Exhibit "P-18", Docket – Vol. I, pp. 587 to 594.
[8] Exhibits "P-19" and "R-5", BIR Records, pp. 626 to 628.
[9] Docket (CTA Case No. 10422) – Vol. I, pp. 6 to 16.
[10] Docket (CTA Case No. 10422) – Vol. I, pp. 130 to 142.
[11] Docket (CTA Case No. 10422) – Vol. II, pp. 716 to 756.
[12] Docket (CTA Case No. 10422) – Vol. II, pp. 760 to 769.
[13] Docket (CTA Case No. 10422) – Vol. II, pp. 774 to 779.

However, the same was denied in the Assailed Resolution dated April 16, 2024.[14]

THE PROCEEDINGS BEFORE THE COURT *EN BANC*

Consequently, petitioner posted the present *Petition for Review* on May 7, 2024.[15]

In the Notice of Resolution dated July 12, 2024, the Court *En Banc* directed respondent to file its comment to the *Petition*.[16] Accordingly, respondent filed its *Comment* on July 19, 2024.[17]

Thus, the present case was submitted for decision on August 14, 2024.[18]

THE GROUNDS

Petitioner raises the following grounds in support of the present appeal, *viz.*:

> "I.
> **THE PETITIONER MAINTAINS THAT THE RESPONDENT MUST ALSO FULFILL THE PRESCRIBED REQUIREMENTS UNDER SECTION 18 (A), (B), AND (C), RULE 5, PART III OF THE IMPLEMENTING RULES OF RA 9513 TO QUALIFY FOR VAT ZERO-RATING, WHICH THE RESPONDENT FAILED TO COMPLY.**
>
> II.
> **RESPONDENT'S VAT OFFICIAL RECEIPTS NO. 0621 DATED MAY 23, 2018 (EXHIBIT 49) WAS NOT STAMPED WITH THE WORD 'ZERO-RATED' VIS-À-VIS RESPONDENT'S VAT OFFICIAL RECEIPTS NO. 0620 DATED MAY 18, 2018 (EXHIBITS P-47).**

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[14] Docket (CTA Case No. 10422) – Vol. II, pp. 784 to 789.
[15] Docket, pp. 1 to 12.
[16] Docket, p. 79.
[17] Docket, pp. 80 to 86.
[18] Notice of Resolution dated August 14, 2024, Docket, p. 87.

III.
RESPONDENT'S VAT OFFICIAL RECEIPTS NO. 0621 DATED MAY 23, 2018 (EXHIBIT 'P-49') LACK THE STAMP INDICATING 'ZERO-RATED' VIS-À-VIS TO RESPONDENT'S VAT OFFICIAL RECEIPTS NO. 0620 DATED MAY 18, 2018 (EXHIBITS 'P-47') IN VIOLATION OF VAT INVOICING REQUIREMENTS.

IV.
PERUSAL OF THE CONTRACT BETWEEN THE EDC AND RESPONDENT (EXHIBITS 'P-15,' 'P-16,' AND 'P-17') REVEALS NO CONNECTION TO 'AERATED DRILLING SERVICES NIGBU SITE PACKAGE #1' OR TO THE RESPONDENT'S VAT OFFICIAL RECEIPTS, NAMELY, NO. 0620 DATED MAY 18, 2018 (EXHIBIT 'P-47'), AND NO. 0621 DATED MAY 23, 2018 (EXHIBIT 'P-49')."[19]

THE ARGUMENTS

Petitioner's arguments:

Petitioner argues that respondent must also fulfill the prescribed requirements under Section 18 (A), (B) and (C), Rule 5, Part III of the Implementing Rules of Republic Act (RA) No. 9513 to qualify for VAT zero-rating, which the respondent failed to comply; that respondent's VAT *Official Receipt* No. 0621 dated May 23, 2018 (Exhibit "P-49") lack the stamp indicating "zero-rated" vis-à-vis to respondent's VAT *Official Receipt* No. 0620 dated May 18, 2018 (Exhibit "P-47"); and that perusal of the contract between EDC and respondent (Exhibits "P-15", "P-16" and "P-17") reveals no connection to "Aerated Drilling Services Nigbu Site Package #1" or to the respondent's VAT *Official Receipts*, namely, No. 0620 dated May 18, 2018 (Exhibit "P-47"), and No. 0621 dated May 23, 2018 (Exhibit "P-49").

Respondent's counter-arguments:

Respondent submits that the *Petition for Review* is a mere rehash of the arguments raised in his *Motion for Reconsideration*

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[19] Grounds for the Allowance of the Petition for Review, *Petition for Review*, Docket, pp. 3 to 4.

before the Special First Division, which was already exhaustively discussed therein; that it is not required under RA No. 9513 to register as a Department of Energy (DOE) or Board of Investments (BOI) accredited supplier to be entitled to VAT zero-rated on its sales to a Renewable Energy (RE) Developer; that the term "zero-rated" is imprinted on its *Official Receipt* No. 0621 dated May 23, 2018 (Exhibit "P-49"); that it submitted the necessary DOE Certificate of Registration, BOI Certificate of Registration and DOE Endorsement Letter of all relevant renewable energy projects of EDC; and that petitioner cannot issue a new issue in a motion for reconsideration or an appeal.

TIMELINESS OF THE APPEAL

The present Petition for Review was filed on time.

Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA)[20] provides:

> SEC. 3. *Who may appeal; period to file petition.* –
>
> xxx
>
> (b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review **within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.** *(Rules of Court, Rule 42, sec. 1a) (Emphasis supplied)*

According to the RRCTA, the timely filing of a motion for reconsideration or new trial before the CTA Division is a prerequisite before an appeal to the CTA En Banc may be made. Moreover,

[20] Rules of the Court of Tax Appeals - approved by the Supreme Court on November 22, 2005 (A.M. No. 05-11-07-CTA); Amendments to the 2005 Rules of Court of the Court of Tax Appeals - approved by the Supreme Court on September 16, 2008 (A.M. No. 05-11-07-CTA); and Additional Amendments to the 2005 Revised Rules of the Court of Tax Appeals – approved by the Supreme Court on February 10, 2009 (A.M. No. 05-11-07-CTA).

jurisprudence dictates that the failure to do so may be a ground for dismissal.[21]

In the present case, when petitioner received a copy of the Assailed Decision, it filed a *Motion for Reconsideration* which was eventually denied in the Assailed Resolution. The latter was received by the Officer of the Solicitor General (OSG), on April 26, 2024, while the BIR received the same on April 22, 2024.[22]

On May 7, 2024, or eleven (11) days from the OSG's receipt of the Assailed Resolution, and fifteen (15) days from the BIR's receipt of the same, the present *Petition for Review* before the CTA En Banc was filed.

Following the 15-day period to make an appeal to the CTA En Banc as required by the RRCTA, the present *Petition* was timely filed.

We now proceed to address the merits of the appeal.

THE RULING OF THE COURT *EN BANC*

The present appeal must fail.

At the outset, the Court notes that petitioner's arguments in the instant *Petition* are a mere rehash of his arguments in the *Motion for Reconsideration* that were already passed upon and resolved in the Assailed Resolution. Moreover, petitioner failed to raise any compelling reason to warrant the modification, much less reversal of the Court in Division's findings.

Nevertheless, the Court *En Banc* will address petitioner's arguments to put the issues raised to rest.

Respondent is not required to secure a DOE Certificate of Registration, BOI Certificate of Registration, and DOE Certificate of Endorsement, to qualify for VAT zero-rating

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[21] *Asiatrust Development Bank, Inc. v. Commissioner of Internal Revenue*, G.R. Nos. 201530 & 201680-81, April 19, 2017.
[22] *Notice of Resolution*, Docket (CTA Case No. 10422) – Vol. II, p. 783.

on its sales to EDC, an RE Developer.

Petitioner argues that respondent must also fulfill the prescribed requirements under Section 18 (A), (B) and (C), Rule 5, Part III of the Implementing Rules of RA No. 9513 to qualify for VAT zero-rating.

Respondent counter-argues that the RE Developer's entitlement of VAT zero-rating on its local purchase is contingent on its compliance with the documentary requirements under RA No. 9513 and Department Circular (DC) No. DC2009-05-08. However, there is no such requirement imposed upon a supplier or contractor of services of the RE Developer to secure prior registration or accreditation with the DOE or BOI. Respondent further contends that to avail of VAT zero-rating on respondent's sale of services to EDC, it must only establish the RE Developer's DOE Certificate of Registration, BOI Certificate of Registration, and DOE Endorsement Letter.

Petitioner's argument lacks merit.

Although the issue was already exhaustively discussed in the Assailed Decision and Resolution, We shall quote with approval the Court in Division's disquisition, to wit:

> "It is clear from the foregoing provisions of RA No. 9513 and its IRR that RE Developer's entitlement to the benefit of VAT zero-rating on its sales of renewable energy under Section 15 (g) of RA No. 9513, in relation to Section 108 (B) (7), NIRC, as amended, rests upon its compliance with the requirements prescribed in Section 18 (A), (B) and (C), Rule 5, Part III of DOE DO No. DC2009-05-0008, but nowhere in the said law and IRR does it require the seller/supplier/contractor of services to RE Developers to obtain prior registration or accreditation with the DOE. Thus, petitioner needs only to present EDC's DOE Certificate of Registration as an RE Developer, BOI Registration, and DOE Certificate of Endorsement for purposes of availing the zero percent (0%) VAT incentive under RA 9513."[23]
>
> Respondent may have been confused between the taxpayer rendering services to an exempt-entity through special law under Section 108(B)(3) of the 1997 National Internal Revenue Code (NIRC), as amended, and those RE entities selling such RE under Section 108(B)(7) of the same law.
>
> In the case of RE entities, their VAT exemption is not only provided in the 1997 NIRC, as amended, but also under Section 15 of

[23] Docket, pp. 33 to 34.

> RA No. 9513. The condition for such entitlement is also provided under Section 18 of the said law and its implementing rules and regulations (IRR).
>
> Thus, to avail of the VAT zero-rated transactions, RE entities are required to secure the required DOE Certificate of Registration, BOI Certificate of Registration, and DOE Certificate of Endorsement as provided in the IRR of RA No. 9513.
>
> On the other hand, the entitlement for a zero-rating transaction by service providers under Section 108(B)(3) of the 1997 NIRC, as amended, is provided by the same law itself.
>
> Considering there is no requirement for such entitlement under the 1997 NIRC, as amended, for as long as the service was rendered to exempt-entities, said service provider is not required to secure the DOE and BOI certifications.
>
> However, in a claim for refund of input tax by such service provider, it is necessary that the RE entity to which the former had rendered its services, must have the required DOE and BOI certifications, which, in this case, were filed and proven by petitioner during trial."[24]

Evidence not formally offered during the trial cannot be used for or against a party litigant by the trial court in deciding the merits of the case. Neither may it be taken into account on appeal.

Petitioner also asserts that the sub-contractor of an RE Developer must submit the latter's DOE Certificate of Registration, BOI Certificate of Registration, and DOE Certificate of Endorsement from its respective client RE Developer, for the purpose of enjoying the VAT zero-rating under Section 15 (g) of RA No. 9513. Failure to require the subcontractor's submission would put them in a better position than their principal.

Petitioner avers that the Court in Division noted that respondent submitted only EDC's DOE Certificate of Registration for the project located in Northern Negros, Negros Occidental. Relative thereto, petitioner claims that a perusal of the "Description" of respondent's *Billing Invoice* No. 0208 dated March 31, 2018 (Exhibit "P-48") and *Billing Invoice* No. 0207 dated February 28, 2018 (Exhibit "P50")

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[24] Docket, pp. 62 to 63.

shows that these refers to "Aerated Drilling Services NIGBU Site Package #1". Further, respondent's VAT *Official Receipts* No. 0620 dated May 18, 2018 (Exhibit "P-47") and No. 0621 dated May 23, 2018 (Exhibit "P-49") allegedly shows that these indicate payments for *Billing Invoice* Nos. 0208 and 0207, respectively. However, petitioner claims that NIGBU refers to Negros Island Geothermal Business Unit. Hence, petitioner contends that failure of respondent to submit the corresponding Registration with the BOI and Certificate of Endorsement by the DOE for respondent's VAT *Official Receipts* No. 0620 dated May 18, 2018 (Exhibit "P-47") and No. 0621 dated May 23, 2018 (Exhibit "P-49") is fatal to respondent's application for judicial tax refund.

In this case, petitioner cites as reference a webpage,[25] which allegedly states that NIGBU refers to Negros Island Geothermal Business Unit (NIGBU). Consequently, petitioner claims that it is evident that the respondent neglected and failed to submit the corresponding registration with the BOI and Certificate of Endorsement by the DOE for project located at Northern Negros, Negros Occidental or NIGBU Site.

On the other hand, respondent contends that petitioner, citing a webpage, which was not offered in evidence, claims that NIGBU stands for Negros Island Geothermal Business Unit. Respondent continues that petitioner's assertion that the NIGBU project was not located among those locations which have been found by this Court as duly supported with the DOE Registration, BOI Registration and DOE Letter of Endorsement, is a mere conjecture unsupported by a competent and admitted documentary proof. Moreover, respondent avers that information found on websites cannot be admitted as evidence by way of judicial notice as such information cannot be relied on, since there is no way to verify the author or creator who supplied the information found in the webpage.

The Court agrees with respondent.

The Supreme Court has already ruled that evidence not formally offered during the trial cannot be used for or against a party litigant by the trial court in deciding the merits of the case. Neither may it be taken into account on appeal. Since the rule on formal offer of evidence is not a trivial matter, failure to make a formal offer within a considerable period of time shall be deemed a waiver to submit it. Consequently, any

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[25] https://lopezlink.ph/hr-updates/business-excellence/4968-nigbu-s-road-to-success.html

evidence that has not been offered and admitted thereafter shall be excluded and rejected.[26]

Moreover, Sections 1, 2, and 3, Rule 129 of the Rules of Court provide:

> "SECTION 1. *Judicial notice, when mandatory.* — A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, the official acts of the legislative, executive and judicial departments of the National Government of the Philippines, the laws of nature, the measure of time, and the geographical divisions.
>
> SEC. 2. *Judicial notice, when discretionary.* — A court may take judicial notice of matters which are of public knowledge, or are capable of unquestionable demonstration, or ought to be known to judges because of their judicial functions.
>
> SEC. 3. *Judicial notice, when hearing necessary.* — During the pre-trial and the trial, the court, *motu proprio* or upon motion, shall hear the parties on the propriety of taking judicial notice of any matter.
>
> Before judgment or on appeal, the court, *motu proprio* or upon motion, may take judicial notice of any matter and shall hear the parties thereon if such matter is decisive of a material issue in the case."

The taking of judicial notice is a matter of expediency and convenience for it fulfills the purpose that the evidence is intended to achieve, and in this sense, it is equivalent to proof.[27]

In *Spouses Omar and Moshiera Latip vs. Rosalie Palaña Chua*,[28] the Supreme Court cited its ruling in the case of *State Prosecutors vs. Muro*,[29] stating that the power to take judicial notice must be exercised with caution, to wit:

> "On this point, *State Prosecutors v. Muro* is instructive:
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> I. **The doctrine of judicial notice rests on the wisdom and discretion of the courts. The**

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[26] *Pilipinas Shell Petroleum Corporation vs. Commissioner of Customs*, G.R. No. 195876, December 5, 2016.
[27] *Degayo vs. Magbanua-Dinglasan, et al.*, G.R. No. 173148, April 6, 2015.
[28] G.R. No. 177809, October 16, 2009.
[29] A.M. No. RTJ-92-876, September 19, 1994.

> **power to take judicial notice is to be exercised by courts with caution; care must be taken that the requisite notoriety exists; and every reasonable doubt on the subject should be promptly resolved in the negative.**
>
> Generally speaking, matters of judicial notice have three material requisites: (1) the matter must be one of common and general knowledge; (2) it must be well and authoritatively settled and not doubtful or uncertain; and (3) it must be known to be within the limits of the jurisdiction of the court. The principal guide in determining what facts may be assumed to be judicially known is that of notoriety. Hence, it can be said that judicial notice is limited to facts evidenced by public records and facts of general notoriety.
>
> To say that a court will take judicial notice of a fact is merely another way of saying that the usual form of evidence will be dispensed with if knowledge of the fact can be otherwise acquired. This is because the court assumes that the matter is so notorious that it will not be disputed. But judicial notice is not judicial knowledge. The mere personal knowledge of the judge is not the judicial knowledge of the court, and he is not authorized to make his individual knowledge of a fact, not generally or professionally known, the basis of his action. Judicial cognizance is taken only of those matters which are 'commonly' known.
>
> Things of 'common knowledge,' of which courts take judicial notice, may be matters coming to the knowledge of men generally in the course of the ordinary experiences of life, or they may be matters which are generally accepted by mankind as true and are capable of ready and unquestioned demonstration. Thus, facts which are universally known, and which may be found in encyclopedias, dictionaries or other publications, are judicially noticed, provided they are of such universal notoriety and so generally understood that they may be regarded as forming part of the common knowledge of every person." *(Emphasis supplied)*

Applying the foregoing provisions in the present case, the Court cannot mandatorily take judicial notice of an "information" found in the subject website considering that they do not fall within those enumerated matters under Section 1, Rule 129 of the Rules of Court. The same likewise cannot be considered of public knowledge, or capable of unquestionable demonstration, or ought to be known to judges because of their judicial functions as contemplated under Section 2, Rule 129 of the same Rules. Further, petitioner did not request that the aforesaid matter would be subject of the judicial notice, and the Court did not hear such request in accordance with Section 3, Rule 129 of the same Rules.

To reiterate, evidence not formally offered during trial cannot be used for or against a party litigant by the trial court in deciding the merits of the case. Neither may it be taken into account on appeal.

Moreover, it must be stressed that some articles appearing in the internet or on websites are easily edited and their sources are unverifiable, thus, sole reliance on those articles is greatly discouraged.[30]

As likewise found in the Assailed Decision, the Independent Certified Public Accountant (ICPA) confirmed that the NIGBU project is located in Palinpinon, Negros Oriental, to wit:

> "As reported by the Court-commissioned ICPA, the billing invoices, which supplement the ORs, show that these payments were for the services rendered at the NIGBU site, or the Negros Island Geothermal Business Unit of EDC located in Palinpinon, Negros Oriental. The said project of the DOE is duly supported with DOE Certificate of Registration No. GRESC 2009-10-002 dated October 23, 2009, and was earlier determined to have qualified for VAT zero-rating."[31]

Thus, We see no reason to give credence to petitioner's unfounded assertions.

Respondent complied with the invoicing requirements prescribed by law and regulations.

Petitioner contends that upon examination of the respondent's VAT *Official Receipt* No. 0621 dated May 23, 2018 (Exhibit "P-49") as compared to its *Official Receipt* No. 0620 dated May 18, 2018 (Exhibit "P-47"), the former lacked the required "ZERO-RATED" stamp and thus, a violation of the VAT invoicing requirements.

On the other hand, respondent maintains that Exhibit "P-49" is compliant with the invoicing requirements. A perusal of the same

[30] *Juan vs. Juan, et al.*, G.R. No. 221732, August 23, 2017.
[31] Docket, p. 48.

would clearly show that the term "zero-rated" was imprinted prominently on its face.

At the outset, while the Assailed Resolution emphasized that petitioner never raised this issue in his *Answer*, *Memorandum*, or even in his administrative findings, to wit:

> "Respondent raised the issue that OR Nos. 0621 dated May 23, 2018 (Exhibit 'P-49') and 0620 dated May 18, 2018 (Exhibit 'P-47') have not imprinted the word 'zero-rated' on its faces, or several of the contract agreements between petitioner and EDC were not connected to its Aerated Drilling Services or to the said ORs.
>
> However, a scrutiny of the respondent's Memorandum as well as his Answer in the instant petition, revealed that said issues were not raised as part of his defense nor indicated in his administrative findings for the denial of petitioner's claim for refund.
>
> The denial relative to the ORs pertains to the use of petitioner's business name in said ORs in accordance with the required business style and not on the alleged absence of the printed word 'zero-rated.' There were also no findings or questions as to the relationship of the contract agreements between petitioner's Aerated Drilling Services and EDC's project by the Bureau of Internal Revenue's Letter Denial dated November 4, 2020.
>
> In *Development Bank of the Philippines v. West Negros College, Inc.*, the Supreme Court ruled that a party cannot raise a new issue in a motion for reconsideration or during an appeal, to wit:
>
>> ". . . Moreover, it is a fundamental rule of procedure that higher courts are precluded from entertaining matters neither alleged in the pleadings nor raised during the proceedings below, but ventilated for the first time only in a motion for reconsideration or on appeal. On appeal, only errors specifically assigned and properly argued in the brief will be considered, with the exception of those affecting jurisdiction over the subject matter as well as plain and clerical errors.'"[32]

Nonetheless, the Court *En Banc* finds that herein petitioner, in its *Answer* before the Court in Division, included a discussion of the *"Required Information in VAT invoice or official receipt"* and the corresponding compliance thereto.[33] Furthermore, the aspect of substantiation and invoicing requirements under Section 113 (A) and (B) were likewise passed upon in the Assailed Decision.[34]

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[32] Docket, pp. 63 to 64.
[33] Docket (CTA Case No. 10422) – Vol. I, p. 139.
[34] Docket, pp. 44 to 47.

Proceeding to rule on the matter, the Court disagrees with petitioner and finds that the *Official Receipt* No. 0621 dated May 23, 2018 (Exhibit "P-49") is compliant with the invoicing requirements.

As a rule, respondent must show compliance with the pertinent invoicing requirements under Section 113(A) and (B) of the NIRC of 1997, as amended, which provide that a VAT taxpayer shall for every lease of goods or properties, and for every sale, barter or exchange of services, issue a VAT official receipt which must contain the information stated in the said provisions, to wit:

> "SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* —
>
> (A) *Invoicing Requirements.* — A VAT-registered person shall issue:
>
> (1) A VAT invoice for every sale, barter or exchange of goods or properties; and
>
> (2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.
>
> (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:
>
> (1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
>
> (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:
>
> (a) The amount of the tax shall be shown as a separate item in the invoice or receipt;
>
> (b) If the sale is exempt from value-added tax, the term 'VAT-exempt sale' shall be written or printed prominently on the invoice or receipt;
>
> (c) **If the sale is subject to zero percent (0%) value-added tax, the term 'zero-rated sale' <u>shall be written or printed prominently</u> on the invoice or receipt**;
>
> (d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: *Provided*,

That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

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

(4) In the case of sales in the amount of One thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client." *(Emphasis and underscoring added)*

The foregoing provisions are further implemented by Section 4.113-1(A) and (B) of Revenue Regulations (RR) No. 16-2005,[35] as amended, to wit:

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

(A) *A VAT-registered person shall issue:* —

(1) A VAT invoice for every sale, barter or exchange of goods or properties; and

(2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.

Only VAT-registered persons are required to print their TIN followed by the word 'VAT' in their invoice or official receipts. Said documents shall be considered as a 'VAT Invoice' or 'VAT official receipt'. All purchases covered by invoices/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

VAT invoice/official receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records.

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

(1) A statement that the seller is a VAT-registered person, followed by his TIN;

(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:

(a) The amount of tax shall be shown as a separate item in the invoice or receipt;

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[35] SUBJECT: Consolidated Value-Added Tax Regulations of 2005.

(b) If the sale is exempt from VAT, the term 'VAT-exempt sale' shall be written or printed prominently on the invoice or receipt;

(c) **If the sale is subject to zero percent (0%) VAT, the term 'zero-rated sale' <u>shall be written or printed prominently</u> on the invoice or receipt**;

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

(3) In the case of sales in the amount of one thousand peso (P1,000.00) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and TIN of the purchaser, customer or client, shall be indicated in addition to the information required in (1) and (2) of this Section." *(Emphasis and underscoring added)*

In addition to the above requirements, the sales invoices and official receipts (ORs) must be duly registered with the BIR as prescribed under Section 237, in relation to Section 238 of the NIRC of 1997, as amended by RA No. 10963, to wit:

"SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* —

(A) *Issuance.* — All persons subject to an internal revenue tax shall, at the point of each sale and transfer of merchandise or for services rendered valued at One hundred pesos (P100) or more, issue duly registered receipts or sale or commercial invoices, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: *Provided, however,* That where the receipt is issued to cover payment made as rentals, commissions, compensation or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client: *Provided, further,* That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser.

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SEC. 238. *Printing of Receipts or Sales or Commercial Invoices.* — All persons who are engaged in business shall secure from the Bureau of Internal Revenue an authority to print receipts or sales or commercial invoices before a printer can print the same.

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> No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.
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> xxx xxx xxx."

Simply put, petitioner is required to issue BIR-registered VAT ORs for the gross receipts derived from its sale of services, containing the above-stated information.

Our VAT system is invoice-based,[36] *i.e.*, taxation relies on sales invoices or official receipts.[37] To be sure, input VAT attributable to zero-rated sales constitutes creditable input VAT, *i.e.*, input VAT evidenced by VAT invoice or official receipt which is creditable against output tax.[38] The reason for strict compliance with invoicing requirements is only a "VAT invoice/ official receipt" can give rise to any input tax from domestic purchase of goods or service. Without input tax, there is nothing to refund.[39] So long as the input VAT being claimed for refund is supported by a VAT invoice or official receipt, which is issued in accordance with Section 113 of the NIRC of 1997, as amended, the same may be refunded, provided that all other conditions, under Section 112(A) of the same Code are met by the taxpayer-claimant.

Upon careful examination of Exhibit "P-49",[40] the term "zero-rated" was sufficiently printed on the said official receipt. The Court in Division likewise ruled in the Assailed Decision that:

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[36] Refer to *Panasonic Communications Imaging Corporation of the Philippines (Formerly Matsushita Business Machine Corporation of the Philippines) vs. Commissioner of Internal Revenue*, G.R. No. 178090, February 8, 2010; and *Applied Food Ingredients Company, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 184266, November 11, 2013.

[37] *Team Energy Corporation (formerly: Mirant Pagbilao Corporation and Southern Energy Quezon, Inc.) vs. Commissioner of Internal Revenue, et seq.*, G.R. Nos. 197663 and 197770, March 14, 2018.

[38] *Commissioner of Internal Revenue vs. Taganito Mining Corporation, et seq.*, G.R. Nos. 219630-31 and 219635-36, December 7, 2021.

[39] *Commissioner of Internal Revenue vs. Philex Mining Corporation*, G.R. No. 230016, November 23, 2020.

[40] USB (Exhibit "P-23").

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> "Upon scrutiny, We find that the ORs presented by petitioner complied with the invoicing requirements prescribed by law and regulations."[41]

Thus, petitioner has sufficiently proven that its sales of services to EDC during the 2nd quarter of taxable year 2018 in the amount of ₱11,802,624.77 is subject to VAT zero-rating.

On the other hand, it does not escape the Court's attention that petitioner is pointing out that respondent's VAT *Official Receipt* No. 0621 dated May 23, 2018 (Exhibit "P-49") has no stamp "ZERO-RATED" thereon, as compared with its VAT *Official Receipt* No. 0620 dated May 18, 2018 (Exhibits "P-47"), which has a "ZERO-RATED" stamp thereon, implying that the word "ZERO-RATED" must be stamped on the OR, aside from filling out the space beside the printed word "Zero-Rated" on the breakdown on the type of sales in the OR.

However, the Court finds that the requirement that "[i]f 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" is substantially complied with when the space provided for the "Zero-Rated" sales is filled out with the amount of zero-rated sales in the breakdown portion of the OR.

Furthermore, respondent's *Official Receipt* is compliant with the standard format prescribed by petitioner himself as shown in Section II(J)[42] and Annex C (showing sample receipts/invoices) of Revenue

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[41] Docket, p. 47.

[42] "J. The ORs/SIs/CIs shall be printed showing among others the following (see Annex C for sample receipts/invoices):

1. Taxpayer's (TP) Registered Name;
2. TP's Business Name/style (if any);
3. A statement that the taxpayer is VAT or Non VAT registered followed by the Taxpayers Identification Number (TIN) and 4-digit Branch Code. (Example: VAT Registered TIN 123-456-789-0000);
4. Business address where such ORs/SIs/CIs shall be used;
5. Date of transaction;
6. Serial number of the OR/SI/CI printed prominently;
7. A space provided for the Name, Address and TIN of the buyer;
8. Description of the items/goods or nature of service;
9. Quantity;
10. Unit cost;
11. Toal cost;
12. VAT amount (if transaction is subject to 12% VAT);
13. If the VAT taxpayer is engaged in mixed transactions, the amounts involved shall be broken down to: VATable Sales, VAT Amount, Zero Rated Sales, and VAT-Exempt Sales;
14. For Non-VAT ORs/SIs, and other CIs (VAT or Non-VAT) such as delivery receipts, order slips, purchase orders, provisional receipts, acknowledgment receipts,

Memorandum Order (RMO) No. 12-2013.[43] If the same was not compliant, then an Authority to Print (ATP) would not have been granted in the first place pursuant to Section 3(7) of RR No. 18-2012[44] which provides that "[n]o ATP shall be granted for the printing of principal and supplementary receipts/invoices unless the required information which shall be prescribed in a separate revenue issuance, are reflected therein."

Based on RMO No. 12-2013, which was issued in relation to RR No. 18-2012, prescribing the required information reflected in the receipts/invoices, if the term "zero-rated" was required to be written or printed separately, on top of filling out the space provided for zero-rated sales to indicate that the sale is zero-rated, then, the prescribed format would have provided for a space for such information or would have provided for a separate enumeration in Section II(J) of said RMO. Also, respondent cannot be faulted when it only followed the sample official receipt prescribed by petitioner.

Indeed, a reading of the requirements provided in Section 113(B)(2)(c) and (d), *i.e.*, *"(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;"* and *"(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the*

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collection receipts, credit/debit memo, job orders and other similar documents that form part of the accounting records of the taxpayer and/or issued to their customers, in addition to the above-enumerated applicable information, the phrase 'THIS DOCUMENT IS NOT VALID FOR CLAIM OF INPUT TAX' in bold letters, shall be conspicuously printed at the face of the Non VAT ORs/SIs and other CIs;

15. Taxpayers whose transactions are not subject to VAT or Percentage Tax shall issue non-VAT principal receipts/invoices indicating prominently at the face of such receipts/invoices the word 'EXEMPT';

16. If the taxpayer is subject to percentage tax under Title V of the NIRC as amended, but also sells goods/services under Section 109 (A) to (W), excluding (E) of the same Code, as amended by Republic Act No. 10378, the non-VAT principal receipts/invoices shall indicate the breakdown of Sales Subject to Percentage Tax (SSPT) and Exempt Sales."

[43] SUBJECT: Prescribing Work-Around Guidelines and Procedures in the Processing of Authority to Print (ATP) Official Receipts (ORs), Sales Invoices (SIs) and Other Commercial Invoices (CIs) in the Interim Period until the On-line ATP System Pursuant to Revenue Regulations (RR) No. 18-2012 is Fully Developed.

[44] SUBJECT: Regulations in the Processing of Authority to Print (ATP) Official Receipts, Sales Invoices, and Other Commercial Invoices Using the On-line ATP System and Providing for the Additional Requirements in the Printing Thereof.

invoice or receipt: xxx", can only be complied with separately and cannot be complied with simultaneously will only produce an absurdity which legislature could not have intended.

It is a fundamental rule in statutory construction that the clauses, phrases, sections and provisions of a law be read as a whole; never as disjointed or truncated parts, for a law is enacted as a single entity and not by installment of paragraphs here and subsections there.[45] Moreover, a law should not be so construed as to produce an absurd result. Statutes should receive a sensible construction, such as will give effect to the legislative intention and so as to avoid an unjust or an absurd conclusion.[46]

Respondent was able to establish that its services was related to the process of exploration and development of RE sources.

Petitioner alleges that respondent's failure to establish the connection of the contract (Exhibits "P-15", "P-16" and "P-17") with its VAT *Official Receipt* No. 0620 dated May 18, 2018 (Exhibit "P-47) and *Official Receipt* No. 0621 dated May 23, 2018 (Exhibit "P-49") is fatal considering that the transaction subject of zero-rating must be related to the process of exploring and developing renewable energy sources up to its conversion into power as required by RA No. 9513.

The Court again disagrees.

As mentioned earlier and as provided in the Assailed Resolution, this issue was never raised in petitioner's *Answer*, *Memorandum*, or even in his administrative findings, hence, petitioner cannot raise this issue in its *Motion for Reconsideration* or on appeal.

Nevertheless, as found in the Assailed Decision, aerated fluids drilling works were necessary in the production of geothermal energy by EDC, to wit:

> "A perusal of petitioner's and EDC's Contracts for Aerated Fluids Drilling Works show that petitioner undertook to provide EDC with 'works and techniques in connection with the

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[45] *Samar II Electric Cooperative, Inc., et al. vs. Quijano*, G.R. No. 144474, April 27, 2007.
[46] *Commissioner of Internal Revenue, et al. vs. Philippine Airlines, Inc.*, G.R. Nos. 245330-31, April 1, 2024.

> implementation of the Aerated Fluids Drilling Program for a Geothermal Well, including the Aerated Fluids Drilling Services and the supply of the specific Goods, Consumables or Contractor Personnel.' Considering that such aerated fluids drilling works were necessary in the production of geothermal energy by EDC, petitioner's sales or receipts derived therefrom in 2nd quarter of 2018 may qualify for VAT zero-rating."[47]

Moreover, "Aerated Fluids Drilling Services" is defined as the "use of techniques and services to achieve reduction in the specific gravity of a column of unweighted drilling fluid (water, oil, or synthetic based) by the injection of gas, thereby reducing the hydrostatic pressure in the wellbore."[48] From the foregoing, respondent's services to EDC were necessary for the production of geothermal energy by EDC.

In relation thereto, the *Billing Invoice* No. 0208 dated March 31, 2018 (Exhibit "P-48") and *Billing Invoice* No. 0207 dated February 28, 2018 (Exhibit "P-50") show that the description of works was "Aerated Drilling Services NIGBU Site Package #1", and correspondingly, respondent's sale of services to EDC clearly pertains to the exploration and development of RE sources.

In sum, the Court *En Banc* finds no reversible error to disturb the Assailed Decision and Resolution of this Court's Special First Division and thus, must be affirmed.

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

Accordingly, the Decision dated December 19, 2023 and the Resolution dated April 16, 2024, promulgated by this Court's Special First Division in CTA Case No. 10422, are **AFFIRMED.**

SO ORDERED.

HENRY S. ANGELES
Associate Justice

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[47] Docket, p. 42.
[48] Par. 1.3, Exhibit "P-15", Docket (CTA Case No. 10422) – Vol. I, p. 446.

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(ON OFFICIAL TIME)
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

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 was assigned to the writer of the opinion of the Court.

Ma. Belen M. R-L

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice