CTA Form No. 8 (For DCC)

19-000592-0061

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10226

STEFANINI PHILIPPINES INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF RESOLUTION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. SYLVIA R. ALMA JOSE
ATTY. BRYAN ANTHONY C. DIEGO
ATTY. WILLIAM P. MANZANARES JR.
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

MENDOZA CALNEA MANGUNDAYAO AND ASSOCIATES
U-2310 Prestige Tower Condominium
F. Ortigas Jr. Road, Ortigas Center
Pasig City

GREETINGS:

You are hereby notified by these presents that on **January 26, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **January 29, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

STEFANINI PHILIPPINES, INC.,	**CTA Case No. 10226**
Petitioner,	Members:
- versus -	**DEL ROSARIO**, *P.J., Chairperson,* **MANAHAN,** and **REYES-FAJARDO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	**Promulgated:** JAN 26 2024, 2:40PM

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RESOLUTION

REYES-FAJARDO, J.:

For the Court's resolution is respondent Commissioner of Internal Revenue (CIR)'s Motion for Partial Reconsideration[1] of the Decision promulgated on August 23, 2023, which was filed on September 14, 2023 (Assailed Decision). In the Assailed Decision, the Court granted petitioner Stefanini Philippines, Inc. (Stefanini)'s claim for refund to the extent of ₱4,670,035.76, representing unutilized input VAT attributable to its zero-rated sales for the third and fourth quarters of calendar year (CY) 2017.

The CIR cites the following grounds in support of the instant Motion for Partial Reconsideration:

I.

WITH ALL DUE RESPECT, THE HONORABLE COURT ERRED IN RULING THAT IT CAN GIVE WEIGHT TO EVIDENCE NOT PRESENTED DURING THE INVESTIGATION DONE IN THE ADMINISTRATIVE LEVEL.

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[1] Docket – Vol. III, pp. 1661-1674.

II.

WITH ALL DUE RESPECT, THE HONORABLE COURT ERRED IN RULING THAT PETITIONER IS PARTIALLY ENTITLED TO THE REFUND SOUGHT.[2]

In particular, the CIR insists that pursuant to the Supreme Court's pronouncement in *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue* (*Pilipinas Total Gas*),[3] the Court of Tax Appeals (CTA)'s review in refund cases shall be limited to determining whether the CIR's decision/denial of the claim is proper; and that the declaration of the amount collected as "zero rated sales" in the breakdown portion (left side) on the face of each official receipt is insufficient compliance with the substantiation requirements under Section 113 of the National Internal Revenue Code of the Philippines, as amended (Tax Code).

Stefanini counters as follows: *First,* the CIR's arguments are a mere rehash or reiterations of those which have already been duly considered by the Court in the Assailed Decision.[4] *Second,* the doctrine in *Pilipinas Total Gas* does not apply in the present case.[5] *Third,* the Court duly considered all the evidence presented before it[6] and, thus, correctly ruled that Stefanini is entitled to a partial grant of refund.[7]

The instant motion was submitted for resolution on November 9, 2023.

After a careful review of the records of the present case, the Court finds no compelling reason to reverse or modify the Assailed Decision. The instant motion raises the same arguments already passed upon and discussed at length by the Court. Respondent CIR has not adduced any substantial argument to warrant reconsideration or modification of the Assailed Decision. It is already settled that if the issues raised in the motion for reconsideration are mere reiterations of those which have already been passed upon and, in fact, adjudged as unmeritorious by the Court, these cannot be regarded as substantial

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2 Docket - Vol. III, p. 1662.
3 G.R. No. 207112, December 8, 2015.
4 Docket - Vol. III, p. 1679.
5 Docket - Vol. III, p. 1684.
6 Docket - Vol. III, p. 1680.
7 Docket - Vol. III, p. 1687.

and no longer require another full-blown discussion. Any further discourse will only be unnecessary and repetitive.[8]

Be that as it may, We underscore that, in relation to an administrative claim for input VAT refund, *Pilipinas Total Gas* envisioned two (2) scenarios, namely: (1) dismissal thereof by the BIR due to the taxpayer's failure to submit complete documents, despite the former's notice or request; or (2) inaction tantamount to a denial, or denial other than due to taxpayer's failure to submit complete documents despite notice or request. In the first scenario, the refund claimant must show the Court its entitlement to a VAT refund under substantive law, and submission of complete supporting documents at administrative level requested by petitioner. In the second scenario, a taxpayer-claimant may present all evidence to prove its entitlement to a VAT refund, and the Court will consider all evidence offered even those not presented before respondent at the administrative level.

In the present case, the CIR's denial of Stefanini's administrative claim falls within the second scenario. To be precise, the CIR denied[9] the administrative claim for lack of legal and factual basis, after verifying that, among others: (a) documents submitted in support of the input VAT claim did not meet invoicing requirements under the law and regulations and (b) Stefanini failed to submit documents to substantiate its zero-rated sales.

Following *Pilipinas Total Gas*, the Court may give credence to all evidence presented by Stefanini in support its prayer for refund, irrespective of whether such evidence was presented at administrative level, as the case is being essentially decided in the first instance.

Lastly, the requirement Section 113(B)(2)(c) of the Tax Code and Section 4.113-1(B)(2)(c) of Revenue Regulations No. 16-05 was set out to distinguish among sales subject to VAT, either at the regular rate or at zero percent, and exempt sales[10] and to proscribe taxpayers from falsely claiming input VAT from their purchases when no VAT was

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8 *Social Justice Society (SJS) Officers, et al. v. Lim*, G.R Nos. 187836 & 187916, March 10,2015.

9 Through a letter dated October 29, 2019 issued by the BIR, through Ms. Maria Luisa I. Belen, OIC-Assistant Commissioner (ACIR) – Assessment Service. Exhibit "P-118" to "P-118-A-1."

10 *Commissioner of Internal Revenue. v. Toledo Power, Inc.*, G.R. No. 183880, January 20, 2014, 725 PHIL 66-83).

actually paid.[11] Thus, We find the breakdown portion in Stefanini's official receipts as compliance thereto, inasmuch as it provides a clear identification that the sale is zero-rated.

WHEREFORE, in light of the foregoing considerations, respondent CIR's Motion for Partial Reconsideration of the Decision promulgated on August 23, 2023 is **DENIED** for lack of merit.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

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[11] *Eastern Telecommunications Phils. Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015; *Panasonic Communications Imaging Corp. v. Commissioner of Internal Revenue*, G.R. No. 178090, February 8, 2010, 625 PHIL 631-644.