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FIRST DIVISION

[G.R. No. 173241, March 25, 2015]

SILICON PHILIPPINES, INC. (FORMERLY INTEL PHILIPPINES MANUFACTURING, INC.), PETITIONER, VS. COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before the Court is a Petition for Review on *Certiorari* filed by petitioner Silicon Philippines, Inc. (SPI) seeking the reversal and setting aside of the following: (1) the Decision[1] dated January 27, 2006 of the Court of Tax Appeals (CTA) en banc in CTA EB Case No. 24, which affirmed the Decision[2] dated November 24, 2003 and Resolution[3] dated August 10, 2004 of the CTA Division in CTA Case No. 6170; and (2) Resolution[4] dated June 26, 2006 of the CTA *en banc* also in CTA EB Case No. 24, which denied the Motion for Reconsideration of SPI. The CTA Division only granted the claim of SPI for tax credit/refund of input Value-Added Tax (VAT) on its purchases of capital goods, but not the input VAT attributable to its zero-rated sales.

SPI, formerly known as Intel Philippines Manufacturing, Inc., is a corporation duly organized and existing under Philippine laws, and engaged in the business of designing, developing, manufacturing, and exporting advance and large-scale integrated circuit components, commonly referred to in the industry as Integrated Circuits or "ICs." It is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer and with the Board of Investments as a preferred pioneer enterprise enjoying a six-year income holiday, in accordance with the provisions of the Omnibus Investments Code.

SPI filed on May 6, 1999 with the One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance an Application for Tax Credit/Refund of Value-Added Tax Paid covering the Third Quarter of 1998.[5] SPI sought the tax credit/refund of input VAT for the said tax period in the sum of P25,531,312.83, broken down as follows:

	Amount
Tax paid on Imported/Locally Purchased Capital Equipment	P 2,425,764.00
Total VAT Paid on Purchases per Invoices Received During the Period for which this Application is Filed	23,105,548.83
Amount of Tax Credit/Refund Applied For	P 25,531,312.83

When respondent Commissioner of Internal Revenue (CIR) failed to act upon its aforesaid Application for Tax Credit/Refund, SPI filed on September 29, 2000 a Petition for Review before the CTA Division, which was docketed as CTA Case No. 6170.

The CTA Division rendered a Decision on November 24, 2003 only partially granting the claim of SPI for tax credit/refund. The CTA Division disallowed the claim of SPI for tax credit/refund of input VAT in the amount of P23,105,548.83 for failure of SPI to properly substantiate the zero-rated sales to which it attributed said taxes. The CTA Division particularly pointed out the failure of SPI to comply with invoicing requirements under Sections 113, 237, and 238 of the National Internal Revenue Code of 1997 (1997 Tax Code) and Section 4.108-1 of Revenue Regulations No. 7-95, *i.e.,* registration of receipts or sales or commercial invoices with the BIR; securing an authority to print receipts or sales or commercial invoices from the BIR; and imprinting the words "zero-rated" on the invoices covering zero-rated sales. As for the claim of SPI for tax credit/refund of input VAT on its purchases of capital goods in the amount of P2,425,764.00, the CTA Division held that Section 112(B) of the 1997 Tax Code did not require that such a claim be attributable to zero-rated sales; and that SPI was able to comply with all the requirements under said provision. The CTA Division decreed in the end:

> **WHEREFORE**, in view of the foregoing, the instant petition for review is hereby ***PARTIALLY GRANTED***. [CIR] is **ORDERED** to **ISSUE A TAX CREDIT CERTIFICATE** in favor of SPI in the amount of P2,425,764.00 representing input VAT on importation of capital goods. However, the claim for refund of input VAT attributable to [SPI's] alleged zero-rated sales in the amount of P23,105,548.83 is hereby **DENIED** for lack of merit.[6]

SPI filed a Motion for Partial Reconsideration and Supplemental Motion for Partial Reconsideration of the foregoing Decision dated November 24, 2003 of the CTA Division. In a Resolution dated August 10, 2004, the CTA Division additionally noted that the claim of SPI covered the period of July 1, 1998 to September 30, 1998 and it was issued a permit to generate computerized sales invoices and official receipts only on August 31, 2002. Hence, the CTA Division resolved:

> **WHEREFORE**, the instant motion of [SPI] is hereby **DENIED** for lack of merit. The pronouncement in the assailed decision is **REITERATED**.[7]

SPI sought recourse from the CTA *en banc* by filing a Petition for Review assailing the Decision dated November 24, 2003 and Resolution dated August 10, 2004 of the CTA Division. The Petition was docketed as CTA EB Case No. 24.

In its Decision dated January 27, 2006, the CTA *en banc* found no cogent justification to disturb the conclusion spelled out in the assailed Decision dated November 24, 2003 and Resolution dated August 10, 2004 of the CTA Division. The dispositive portion of the CTA *en banc* judgment reads:

WHEREFORE, the instant Petition is hereby **DENIED DUE COURSE** and **DISMISSED** for lack of merit.[8]

SPI filed a Motion for Reconsideration but said Motion was denied for lack of merit by the CTA *en banc* in a Resolution dated June 26, 2006.

SPI now comes before this Court via the instant Petition for Review, assigning three errors on the part of the CTA *en banc*, to wit:

I

THE HONORABLE COURT OF TAX APPEALS EN BANC ERRED IN DENYING [SPI'S] CLAIM FOR REFUND ON THE GROUNDS THAT [SPI] FAILED TO IMPRINT [CIR'S] BUREAU'S PERMIT TO PRINT NUMBER AND THE WORDS "ZERO-RATED" ON ITS SALES INVOICES THAT WERE PRESENTED AND FORMALLY OFFERED IN EVIDENCE[.]

II

THE HONORABLE COURT OF TAX APPEALS *EN BANC* ERRED IN DISREGARDING THE ENTIRE EVIDENCE OF [SPI] IN PROVING ITS CLAIM FOR TAX CREDIT/REFUND[.]

III

THE HONORABLE COURT OF TAX APPEALS *EN BANC* ERRED IN NOT GRANTING THE WHOLE CLAIM OF [SPI] FOR REFUND OF ITS EXCESS AND UNUTILIZED INPUT VAT FOR THE PERIOD JULY 1, 1998 TO SEPTEMBER 30, 1998 IN THE TOTAL AMOUNT OF PhP25,531,312.83 BY DENYING ITS CLAIM ATTRIBUTABLE TO ZERO-RATED EXPORT SALES IN THE AMOUNT OF PHP23,105,548.83[.][9]

During the pendency of the present Petition, this Court en banc promulgated on February 12, 2013 its Decision in the consolidated cases of *Commissioner of Internal Revenue v. San Roque Power Corporation, Taganito Mining Corporation v. Commissioner of Internal Revenue*, and *Philex Mining Corporation v. Commissioner of Internal Revenue*[10] (hereinafter collectively referred to as San Roque). In San Roque, the Court settled the rules on the prescriptive periods for claiming credit/refund of input VAT under Section 112 of the 1997 Tax Code.

The pertinent provisions of the 1997 Tax Code[11] provided:

SEC. 110. **Tax Credits**. –

x x x x

(B) *Excess Output or Input Tax.* – If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-

registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters. Any input tax attributable to the purchase of capital goods or to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.

SEC. 112. **Refunds or Tax Credits of Input Tax.** –

(A) *Zero-Rated or Effectively Zero-Rated Sales*. – Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however*, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (B) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP): *Provided, further*, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales.

(B) *Capital Goods.* – A VAT-registered person may apply for the issuance of a tax credit certificate or refund of input taxes paid on capital goods imported or locally purchased, to the extent that such input taxes have not been applied against output taxes. The application may be made only within two (2) years after the close of the taxable quarter when the importation or purchase was made.

x x x x

(D) *Period Within Which Refund or Tax Credit of Input Taxes Shall be Made*. – In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred **twenty (120) days** from the date of submission of complete documents in support of the application filed in accordance with Subsections (A) and (B) hereof.

In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within **thirty (30) days** from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals. (Emphases supplied.)

The Court interpreted the aforequoted provisions, as well as the seemingly conflicting jurisprudence and administrative rulings on the same provisions, in *San*

Roque, thus:

> At the time San Roque filed its petition for review with the CTA, the 120+30 day mandatory periods were already in the law. Section 112(C) expressly grants the Commissioner 120 days within which to decide the taxpayer's claim. The law is clear, plain, and unequivocal: "x x x the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents." Following the *verba legis* doctrine, this law must be applied exactly as worded since it is clear, plain, and unequivocal. The taxpayer cannot simply file a petition with the CTA without waiting for the Commissioner's decision within the 120-day mandatory and jurisdictional period. The CTA will have no jurisdiction because there will be no "decision" or "deemed a denial" decision of the Commissioner for the CTA to review. In San Roque's case, it filed its petition with the CTA a mere 13 days after it filed its administrative claim with the Commissioner. Indisputably, San Roque knowingly violated the mandatory 120-day period, and it cannot blame anyone but itself.
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> Section 112(C) also expressly grants the taxpayer a 30-day period to appeal to the CTA the decision or inaction of the Commissioner, thus:
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> > x x x the taxpayer affected may, **within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period,** appeal the decision or the unacted claim with the Court of Tax Appeals.
>
> This law is clear, plain, and unequivocal. Following the well-settled verba legis doctrine, this law should be applied exactly as worded since it is clear, plain, and unequivocal. As this law states, the taxpayer may, if he wishes, appeal the decision of the Commissioner to the CTA within 30 days from receipt of the Commissioner's decision, or if the Commissioner does not act on the taxpayer's claim within the 120-day period, the taxpayer may appeal to the CTA within 30 days from the expiration of the 120-day period.
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> x x x x
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> Section 112(A) and (C) must be interpreted according to its clear, plain, and unequivocal language. The taxpayer can file his administrative claim for refund or credit at anytime within the two-year prescriptive period. If he files his claim on the last day of the two-year prescriptive period, his claim is still filed on time. The Commissioner will have 120 days from such filing to decide the claim. If the Commissioner decides the claim on the 120th day, or does not decide it on that day, the taxpayer still has 30 days to file his judicial claim with the CTA. This is not only the plain meaning but also the only logical interpretation of Section 112(A) and (C).
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> x x x x