729 Phil. 156

SECOND DIVISION

[G.R. No. 169778, March 12, 2014]

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

D E C I S I O N

PEREZ, J.:

To obviate the possibility that its decision may be rendered void, the Court can, by its own initiative, rule on the question of jurisdiction, although not raised by the parties.[1] As a corollary thereto, to inquire into the existence of jurisdiction over the subject matter is the primary concern of a court, for thereon would depend the validity of its entire proceedings.[2]

Before the Court is a Petition for Review on *Certiorari* seeking to reverse and set aside the 16 September 2005 Decision[3] of the Court of Appeals (CA) in CA-G.R. SP No. 80886 granting respondent's claim for refund of input Value Added Tax (VAT) on domestic purchases of goods and services attributable to zero-rated sales in the amount of P21,338,910.44 for the period covering 1 April 1998 to 30 June 1998.

The Facts

The factual antecedents of the case are as follows:

Petitioner is the duly appointed Commissioner of Internal Revenue empowered to perform the duties of said office including, among others, the power to decide, approve and grant refunds or tax credits of erroneously or excessively paid taxes.

Respondent Silicon Philippines, Inc., on the other hand, is a corporation duly organized and existing under and by virtue of the laws of the Philippines, engaged primarily in the business of designing, developing, manufacturing, and exporting advance and large-scale integrated circuits components (ICs).

On 6 May 1999, respondent filed with the One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance (DOF) an application for Tax Credit/Refund of VAT paid for the second quarter of 1998 in the aggregate amount of P29,559,050.44, representing its alleged unutilized input tax.

Thereafter, since no final action has been taken by petitioner on respondent's administrative claim for refund, respondent filed a Petition for Review before the Court of Tax Appeals (CTA) on 30 June 2000 docketed as CTA Case No. 6129.

The Ruling of the CTA

In a Decision dated 26 May 2003,[4] the CTA partially granted respondent's Petition and ordered petitioner to issue a tax credit certificate in favor of the former in the reduced amount of P8,179,049.00 representing input VAT on importation of capital goods, the dispositive portion of which are quoted hereunder as follows:

> **WHEREFORE**, the instant petition is ***PARTIALLY GRANTED***. [Petitioner] is hereby **ORDERED** to **ISSUE A TAX CREDIT CERTIFICATE** to [respondent] in the amount of P8,179,049.00 representing input VAT on importation of capital goods. However, petitioner's (respondent's) claim for refund of input VAT in the sum of P21,338,910.44 attributable to zero-rated sales is hereby **DENIED** for lack of merit.[5]

The CTA denied respondent's claim for refund of input VAT on domestic purchases of goods and services attributable to zero-rated sales on the ground that the export sales invoices presented in support thereto do not have Bureau of Internal Revenue (BIR) permit to print, while the sales invoices do not show that the sale was "zero-rated," all in violation of Sections 113[6] and 238[7] of the National Internal Revenue Code (NIRC) of 1997, as amended, and Section 4.108-1 of Revenue Regulations (RR) No. 7-95.[8]

As to respondent's claim for refund of input VAT on capital goods, the CTA looked into respondent's compliance with the requirements set forth in the case of *Air Liquid Philippines v. Commissioner of Internal Revenue and Commissioner of Customs, CTA Case No. 5652, 26 July 2000*, and held that said claim be partially denied considering that only the amount of P8,179,049.00 have been validly supported by documentary evidence such as suppliers' invoices, official receipts, import declarations, import remittances and airway bills, showing the actual payment of VAT on the importation of capital goods as required by Section 4.104-5(b) of RR No. 7-95.[9]

Relevant thereto, the CTA likewise made a factual finding that both the administrative and judicial claims of respondent were timely filed within the two-year prescriptive period required by the NIRC of 1997, as amended, reckoned from the date of filing the original quarterly VAT Return for the second quarter of taxable year 1998, or on 27 July 1998.[10]

On 4 November 2003, the CTA denied respondent's Partial Motion for Reconsideration (on the denial of its claim for tax credit or refund of input VAT paid in the sum of P21,338,910.44) for lack of merit.[11]

Aggrieved, respondent appealed to the CA by filing a Petition for Review under Rule 43 of the Rules of Court on 10 December 2003, docketed as CA-G.R. SP No. 80886.

The Ruling of the CA

The CA found that respondent's failure to secure a BIR authority or permit to print invoices or receipts does not completely destroy the integrity of its export sales

invoices in support of its claim for refund, since the BIR permit to print is not among those required to be stated in the sales invoices or receipts to be issued by a taxpayer pursuant to Sections 113 and 237 of the NIRC of 1997, as amended. In addition, the BIR permit to print was only mentioned under Section 238 of the same code, which merely stated that the securement of the BIR authority to print by all persons engaged in business is necessary before a printer can print receipts or sales or commercial invoices issued in the course of one's business. Clearly, it does not state that the same must be shown in the receipts or invoices. Thus, the omission to indicate the said BIR authority or permit to print does not totally militate against the evidentiary weight of respondent's export sales invoices as to defeat its claim for refund.

Moreover, it was the CA's ruling that the omission to reflect the word "zero-rated" in its invoices is not fatal to respondent's case considering that the absence of the word "zero-rated" in the invoices, although truly helpful in facilitating the determination of whether the sales are subject to the normal rate of ten percent (10%) tax or the preferential rate at zero percent, does not necessarily mean that the sales are not in fact "zero-rated." Sections 113 and 237 of the NIRC of 1997, as amended, are silent on the requisite of printing the word "zero-rated" in the invoices.

Accordingly, upon its findings of compliance with Section 112(A) of the NIRC of 1997, as amended, the CA reversed and set-aside the CTA decision dated 26 May 2003, and granted respondent's claim for tax refund/credit in the total amount of P21,338,910.44 in its Decision dated 16 September 2005.[12]

Consequently, this Petition for Review wherein petitioner seeks the reversal of the aforementioned decision on the sole ground that the CA gravely erred on a question of law when it ordered a refund of respondent's VAT Input taxes on the basis of unauthorized and illegally printed receipts in violation of the provisions of the NIRC of 1997, as amended.[13]

The Issue

The core issue for the Court's resolution is whether or not respondent is entitled to its claim for refund or issuance of a tax credit certificate in its favor in the amount of P21,338,910.44 representing its unutilized creditable input taxes for the period covering 1 April 1998 to 30 June 1998 (second quarter), pursuant to the applicable provisions of the NIRC of 1997, as amended.

Our Ruling

At the outset, it bears emphasis that the determination of the issue presented in this case requires a review of the factual findings of the CTA, and of the CA.

It is well settled that in a petition for review on *certiorari* under Rule 45 of the Rules of Court, only questions of law may be raised.[14] The Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial of the case considering that the findings of facts of the CA are conclusive and binding on the Court[15] – and they carry even more weight when the CA affirms the factual findings of the trial court.[16]

However, the Court had recognized several exceptions to this rule, to wit: (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) **when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.**[17]

Records of this case reveal that the CTA made a factual finding that both the administrative and judicial claims of respondent were timely filed within the two-year prescriptive period required by the NIRC of 1997, as amended, reckoned from the date of filing the original quarterly VAT Return for the second quarter of taxable year 1998, or on 27 July 1998.[18] This was the CTA's legal basis why it took cognizance of the appeal, tried the case on the merits, and rendered its judgment on 26 May 2003.[19] Likewise, the same finding was affirmed and adopted by the CA in the assailed 16 September 2005 decision[20] by expressing that respondent "filed the application for tax refund or credit within the prescribed period of two (2) years after the close of the taxable quarter when the sales were made"[21] in accordance with Section 112(A) of the NIRC of 1997, as amended.

However, upon an assiduous review of the said factual findings, applicable provisions of the NIRC of 1997, as amended, and existing jurisprudential pronouncements, this Court finds it apropos to determine whether or not the CTA indeed properly acquired jurisdiction over respondent's instant claim taking into consideration the timeliness of the filing of its judicial claim as provided under Section 112 of the NIRC of 1997, as amended. Simply put, a negative finding as to the timeliness of respondent's judicial claim, once properly considered, would definitely result in a different conclusion, being jurisdictional in nature.

It should be recalled that the CTA is a court of special jurisdiction. As such, it can only take cognizance of such matters as are clearly within its jurisdiction.[22] In view thereof, although the parties have not raised the issue of jurisdiction, nevertheless, this Court may *motu proprio* determine whether or not the CTA has jurisdiction over respondent's judicial claim for refund taking into consideration, the factual and legal allegations contained in the pleadings filed by both parties and found by the court *a quo.*

Section 7 of Republic Act (RA) No. 1125,[23] which was thereafter amended by RA No. 9282,[24] defines the appellate jurisdiction of the CTA. The said provision, in part, reads:

> ***Section 7. Jurisdiction***. - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided.
>
> (1) **Decisions of the Collector of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue;
>
> x x x x[25] (Emphasis supplied)

Furthermore, Section 11 of the same law prescribes how the said appeal should be taken, to wit:

> **Section 11. *Who may appeal; effect of appeal*.** – Any person, association or corporation adversely affected by a decision or ruling of the Collector of Internal Revenue, the Collector of Customs or any provincial or city Board of Assessment Appeals **may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling.**
>
> x x x x[26] (Emphasis and underscoring supplied)

Pertinent to the instant case, it is worth mentioning that Section 112 of the NIRC of 1997, as amended, was already the applicable law at the time that respondent filed its administrative and judicial claims, which categorically provides as follows:

> Section 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: x x x
>
> x x x x
>
> (D)[27] 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) 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**