

## FIRST DIVISION

[ G.R. No. 183421, October 22, 2014 ]

**COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS.  
AICHI FORGING COMPANY OF ASIA, INC., RESPONDENT.**

### DECISION

**SERENO, C.J.:**

This is a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the 1997 Rules of Civil Procedure filed by the Commissioner of Internal Revenue, (petitioner). The Petition assails the Decision<sup>[2]</sup> dated 30 April 2008 and Resolution<sup>[3]</sup> dated 12 June 2008 issued by the Court of Tax Appeals *En Banc* (CTA *En Banc*) in C.T.A. EB No. 324.

### THE FACTS

Aichi Forging Company of Asia, Inc. (respondent) is engaged in the business of manufacturing, producing, and processing all kinds of steel and steel by-products, such as closed impression die steel forging, and all automotive steel parts.

On 29 March 2005, respondent filed with the Bureau of Internal Revenue (BIR), Revenue District Office (RDO) No. 057, an application for tax credit/refund amounting to P5,057,120.95 representing the former's paid input value-added taxes (VAT) for the first quarter of taxable year 2003. Respondent claimed that it was entitled to a refund/credit of the input VAT paid on its purchases of goods, services, capital goods, and on its importation of goods other than capital goods that were attributable to zero-rated sales in the total amount of P149,174,477.94.

On 31 March 2005, respondent filed a Petition with the CTA docketed as C.T.A. Case No. 7187.

After trial, the CTA First Division rendered a Decision on 13 August 2007. It partly granted the Petition and ordered the refund to respondent of the reduced amount of P4,138,397.57. That amount represented the input VAT respondent paid on its purchases of goods, services, capital goods, and on its importation of goods other than capital goods.

On appeal, the CTA *En Banc* affirmed the CTA First Division after finding no reversible error. Respondent was found to have complied with all the requisites for claiming a refund under Section 112 (A) of the National Internal Revenue Code (NIRC) of 1997.

### THE ISSUES

Petitioner's appeal is anchored on the following grounds:

1. The Court of Tax Appeals sitting En Bane erred in holding that respondent is entitled to a refund considering that respondent failed to comply with the requirements of a valid application for a tax refund. Hence, the judicial claim made before the Court of Tax Appeals deserve outright dismissal for being premature.
2. Respondent has not sufficiently proven its entitlement to a tax refund in the reduced amount of P4,138,397.57 representing alleged input taxes paid by it for the period of January 1, 2003 to March 31, 2003.<sup>[4]</sup>

### **THE COURT'S RULING**

Section 112 of the NIRC of 1997 laid down the manner in which the refund or credit of input tax may be made, to wit:

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)(I), (2) and (B) and Section 108(B)(I) 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.

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(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.