716 Phil. 566

SECOND DIVISION

[G.R. No. 171307, August 28, 2013]

J.R.A. PHILIPPINES, INC., PETITIONER, VS. COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.

R E S O L U T I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*[1] are the Decision[2] dated September 20, 2005 and Resolution[3] dated January 27, 2006 of the Court of Tax Appeals (CTA) *En Banc* in C.T.A. E. B. No. 35 which denied petitioner J.R.A. Philippines, Inc.'s (petitioner) claim for refund of its unutilized input value-added tax (VAT) for the calendar year 1999 in the amount of P7,786,614.04.

The Facts

Petitioner is a VAT and Philippine Economic Zone Authority (PEZA) registered corporation engaged in the manufacture and export of ready-to-wear items.[4] It claimed to have paid the aggregate sum of P7,786,614.04 as excess input VAT for the calendar year 1999, which amount it purportedly used to purchase domestic goods and services directly attributable to its zero-rated export sales.[5] Alleging that its input VAT remained unutilized as it has not engaged in any business activity or transaction for which it may be liable for output VAT, petitioner filed four separate applications for tax refund with the One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance.[6] When the same was not acted upon by respondent Commissioner of Internal Revenue (CIR) – and in order to toll the two-year prescriptive period under Section 229[7] of Republic Act No. (RA) 8424,[8] as amended, otherwise known as the National Internal Revenue Code (NIRC) – petitioner filed a petition for review[9] before the CTA, docketed as CTA Case No. 6249.

In its Answer,[10] the CIR contended that since petitioner is registered with the PEZA, its business was not subject to VAT as provided under Section 24[11] of RA 7916,[12] otherwise known as "The Special Economic Zone Act of 1995," in relation to Section 109(q)[13] of the NIRC. Hence, it is not entitled to credit its input VAT under Section 4.103-1 of Revenue Regulations No. (RR) 7-95.[14] Besides, petitioner's alleged unutilized input VAT for 1999 was not properly documented.[15]

The Proceedings Before the CTA

On March 16, 2004, the CTA Division[16] rendered a Decision[17] denying petitioner's claim for input VAT refund on the ground that all of its export sales

invoices: (*a*) have no Bureau of Internal Revenue (BIR) Permit to Print; (*b*) did not contain its Taxpayer's Identification Number-VAT (TIN-V); and (*c*) the word "zero-rated" was not imprinted thereon in violation of Section 113(A)[18] in relation to Section 238 of the NIRC and Section 4.108-1 of RR 7-95.[19] Having thus failed to comply with the invoicing requirements, petitioner's evidence was deemed insufficient to establish its zero-rated export sales for input VAT refund purposes.[20]

Dissatisfied, petitioner filed a motion for reconsideration[21] which was, however, denied in a Resolution[22] dated September 20, 2004.

Unperturbed, petitioner elevated the matter before the CTA *En Banc*, arguing that the export sales invoices are not the sole basis to prove export sales.[23] In this accord, it posited that its export sales should be deemed properly documented and substantiated by the bills of lading, airway bills, and export documents[24] as these documents are the best evidence to prove the actual exportation of the goods.[25]

On September 20, 2005, the CTA *En Banc* issued the assailed Decision,[26] denying petitioner's claim for input VAT refund. It ruled that petitioner failed to establish the fact that its 1999 export sales were "zero-rated" for VAT purposes as it failed to comply with the substantiation requirements under Section 113(A) in relation to Section 238 of the NIRC, as well as Section 4.108-1 of RR 7-95.[27] Further, it affirmed the earlier finding that petitioner's export sales invoices had no BIR Permit to Print and did not contain its TIN-V and the words "zero-rated." As such, the documents it submitted were insufficient to prove the zero-rated export sales of the goods for input VAT refund purposes.[28]

Petitioner moved for reconsideration which was, similarly, denied in a Resolution dated January 27, 2006.[29] Hence, the instant petition.

The Issue Before the Court

The sole issue in this case is whether or not the CTA erred in denying petitioner's claim for tax refund.

The Court's Ruling

The petition lacks merit.

Case law dictates that in a claim for tax refund or tax credit, the applicant must prove not only entitlement to the claim but also compliance with all the documentary and evidentiary requirements therefor.[30] Section 110(A)(1)[31] of the NIRC provides that creditable input taxes must be evidenced by a VAT invoice or official receipt, which must, in turn, comply with Sections 237[32] and 238[33] of the same law, as well as Section 4.108.1[34] of RR 7-95. The foregoing provisions require, *inter alia*, that an invoice must reflect, as required by law: (*a*) the BIR Permit to Print; (*b*) the TIN-V of the purchaser; and (*c*) the word "zero-rated" imprinted thereon. In this relation, failure to comply with the said invoicing requirements provides sufficient ground to deny a claim for tax refund or tax credit.[35]

In this case, records show that all of the export sales invoices presented by petitioner not only lack the word "zero-rated" but also failed to reflect its BIR Permit to Print as well as its TIN-V. Thus, it cannot be gainsaid that it failed to comply with the above-stated invoicing requirements, thereby rendering improper its claim for tax refund. Clearly, compliance with all the VAT invoicing requirements is required to be able to file a claim for input taxes attributable to zero-rated sales. As held in *Microsoft Philippines, Inc. v. CIR*:[36]

> The invoicing requirements for a VAT-registered taxpayer as provided in the NIRC and revenue regulations are clear. **A VAT-registered taxpayer is required to comply with all the VAT invoicing requirements to be able to file for a claim for input taxes on domestic purchases for goods or services attributable to zero-rated sales.** A "VAT invoice" is an invoice that meets the requirements of Section 4.108-1 of RR 7-95. Contrary to Microsoft's claim, RR-7-95 expressly states that "[A]ll purchases covered by invoice other than a VAT invoice shall not give rise to any input tax. Microsoft's invoice, lacking the word "zero-rated," is not a "VAT invoice," and thus cannot give rise to any input tax.[37] (Emphasis supplied)

All told, the CTA committed no reversible error in denying petitioner's refund claim.

WHEREFORE, the petition is **DENIED**. Accordingly, the Decision dated September 20, 2005 and Resolution dated January 27, 2006 of the Court of Tax Appeals *En Banc* in C.T.A. E.B. No. 35 are hereby **AFFIRMED**.

SO ORDERED.

Carpio (Chairperson), Peralta,[*] *Del Castillo,* and *Perez, JJ.*, concur.

---

[*] Designated Acting Member per Special Order No. 1525 dated August 22, 2013.

[1] *Rollo*, pp. 11-51.

[2] Id. at 54-65. Penned by Associate Justice Caesar A. Casanova, with Associate Justices Lovell R. Bautista, Olga Palanca-Enriquez, concurring; Associate Justice Juanito C. Castañeda, Jr., separate concurring; and Presiding Justice Ernesto D. Acosta, concurring and dissenting.

[3] Id. at 88-93. Issued by Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, and Olga Palanca-Enriquez, with Presiding Justice Ernesto D. Acosta, dissenting.

[4] Id. at 55.

[5] Id. at 56.

[6] Id.