547 Phil. 332

FIRST DIVISION

[G.R. NO. 145526, March 16, 2007]

ATLAS CONSOLIDATED MINING AND DEVELOPMENT CORPORATION, PETITIONER, VS. COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.

D E C I S I O N

CORONA, J.:

Petitioner Atlas Consolidated Mining and Development Corporation is engaged in the business of mining, production, and sale of various mineral products. On March 31, 1993, petitioner presented to respondent Commissioner of Internal Revenue applications for refund or tax credit of excess input taxes[1] for the second, third and fourth quarters of 1992 in the following amounts: P24,031,673 for the second quarter, P16,597,709.17 for the third quarter and P29,839,894.82 for the last. Petitioner attributed these claims to its sales of gold to the Central Bank, copper concentrates to Philippine Associated Smelting and Refining Corporation (PASAR) and pyrite to Philippine Phosphates, Inc. (Philphos) on the theory that these were zero-rated transactions resulting in refundable or creditable input taxes under Section 106(b) of the Tax Code of 1986.[2]

Owing to respondent's continuous inaction and the imminent expiration of the two-year period for beginning a court action for tax credit or refund, petitioner brought its claims to the Court of Tax Appeals (CTA) by way of a petition for review.

The CTA denied petitioner's claims on the grounds of prescription and insufficiency of evidence.[3] Petitioner appealed to the Court of Appeals (CA).[4] The appeal was docketed as CA-G.R. SP No. 47824. In a decision dated June 29, 2000,[5] the CA reversed the CTA's ruling on the matter of prescription but affirmed the latter's decision in all other respects. Petitioner's motion for reconsideration was denied for lack of merit.[6] Thereupon, petitioner filed this appeal by certiorari.[7]

It has always been the rule that those seeking tax refunds or credits bear the burden of proving the factual bases of their claims and of showing, by words too plain to be mistaken, that the legislature intended to entitle them to such claims.[8] The rule, in this case, required petitioner to (1) show that its sales qualified for zero-rating under the laws then in force and (2) present sufficient evidence that those sales resulted in excess input taxes.

There is no dispute that respondent had approved petitioner's applications for the zero-rating of its sales to the Central Bank, PASAR and Philphos prior to the transactions from which these claims arose. Thus, on the strength of this Court's ruling in *Atlas Consolidated Mining and Development Corp. v. Commissioner of Internal Revenue*[9] that respondent's approval of petitioner's application for zero-

rating of its sales to Philphos and PASAR "indubitably signified" that such sales qualified for zero-rating,[10] it could well be conceded that petitioner had complied with the first requirement. However, it was also incumbent on petitioner to submit sufficient evidence to justify the grant of refund or tax credit. It was here that petitioner fell short.

The CTA and the CA both found that petitioner failed to comply with the evidentiary requirements for claims for tax credits or refunds set forth in Section 2(c) of Revenue Regulations 3-88 and in CTA Circular 1-95, as amended by CTA Circular 10-97. The pertinent part of Section 2(c) of Revenue Regulations 3-88 stated:

> A photocopy of the purchase invoice or receipt evidencing the value added tax paid shall be submitted together with the application [for tax credit/refund of value-added tax paid]. The original copy of the said invoice/receipt, however, shall be presented for cancellation prior to the issuance of the Tax Credit Certificate or refund. xxx

CTA Circular 1-95 likewise required submission of invoices or receipts showing the amounts of tax paid:

> 1. The party who desires to introduce as evidence such voluminous documents must, after motion and approval by the Court, present: (a) a Summary containing, among others, a chronological listing of the numbers, dates and amounts covered by the invoices or receipts and the amount/s of tax paid; and (b) a Certification of an independent Certified Public Accountant attesting to the correctness of the contents of the summary after making an examination, evaluation and audit of the voluminous receipts and invoices. xxx
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> 2. The method of individual presentation of each and every receipt, invoice or account for marking, identification and comparison with the originals thereof need not be done before the Court or Clerk of Court anymore after the introduction of the summary and CPA certification. It is enough that **the receipts, invoices, vouchers or other documents covering the said accounts or payment to be introduced in evidence must be pre-marked by the party concerned and submitted to the Court** in order to be made accessible to the adverse party who desires to check and verify the correctness of the summary and CPA certification. Likewise the originals of the voluminous receipts, invoices or accounts must be ready for verification and comparison in case doubt on the authenticity thereof is raised during the hearing or resolution of the formal offer of evidence. (emphasis supplied)

Both courts correctly observed that petitioner never submitted any of the invoices or receipts required by the foregoing rules and held this omission to be fatal to its cause. Petitioner insists, however, that its failure to submit these documents should not have been held to bar the successful prosecution of its claims. Petitioner offers two propositions: (1) the documentary requirements imposed by Revenue Regulations 3-88 applied only to administrative claims for refund or tax credit and should have had no bearing in a judicial claim for refund in the CTA which was "entirely independent of and distinct from the administrative claim,"[11] and (2) the summary and certification of an independent certified public accountant required by