

THIRD DIVISION

[G.R. NO. 166732, April 27, 2007]

**INTEL TECHNOLOGY PHILIPPINES, INC., PETITIONER, VS.
COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.**

DECISION

CALLEJO, SR., J.:

Before the Court is a Petition for Review on *Certiorari* filed by Intel Technology Philippines, Inc. (petitioner) seeking to reverse and set aside the Decision^[1] dated August 12, 2004 of the Court of Appeals (CA) in CA-G.R. SP No. 79327. The assailed decision affirmed that of the Court of Tax Appeals denying petitioner's claim for a refund or issuance of a tax credit certificate in the amount of P11,770,181.70, allegedly representing the value-added input taxes it had paid on domestic purchases of goods and services for the period of April 1, 1998 to June 30, 1998. Likewise sought to be reversed and set aside is the appellate court's Resolution^[2] dated January 14, 2005 denying petitioner's Motion for Reconsideration.

The Antecedents

Petitioner is a domestic corporation engaged primarily in the business of designing, developing, manufacturing and exporting advanced and large—scale integrated circuit components (ICs).^[3] It is registered with the Bureau of Internal Revenue (BIR) as a value-added tax (VAT) entity in 1996 under Certificate of Registration RDO Control No. 96-540-000713.^[4] It is likewise registered with the Philippine Economic Zone Authority (PEZA) as an Ecozone export enterprise.^[5]

As a VAT-registered entity, petitioner filed with the Commission of Internal Revenue its Monthly VAT Declarations and Quarterly VAT Return for the second quarter of 1998 declaring zero-rated export sales of P2,538,906,840.16 and VAT input taxes from domestic purchases of goods and services in the total amount of P11,770,181.70. Petitioner alleged that its zero-rated export sales were paid for in acceptable foreign currency and were inwardly remitted in accordance with the regulations of the *Bangko Sentral ng Pilipinas* (BSP).

On May 18, 1999, petitioner filed with the Commission of Internal Revenue, through its One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance, a claim for tax credit/refund of VAT input taxes on its domestic purchases of goods and services directly used in its commercial operations. Petitioner's claim for refund amounted to P11,770,181.70 covering the period April 1, 1998 to June 30, 1998.^[6]

On June 30, 2000, when the two-year prescriptive period to file a refund was about to lapse without any action by the Commission of Internal Revenue on its claim,

petitioner filed with the Court of Tax Appeals (CTA) a petition for review with the Commissioner of Internal Revenue (Commissioner) as respondent.^[7] Petitioner alleged therein that:

3. Petitioner is engaged primarily in the business of designing, developing, manufacturing and exporting advanced and large-scale integrated circuit components, commonly referred to in the industry as Integrated Circuits or "ICs." As such, [it] has registered itself as a value-added tax entity pursuant to Section 107 of the Tax Code effective January 30, 1996, pursuant to which it was issued Certificate of Registration No. 96-540-000713. Being engaged in said business, Petitioner registered itself with the Philippine Economic Zone Authority (PEZA) as an export enterprise and was issued Certificate of Registration No. 95-133 by the Philippine Economic Zone Authority. Photocopies of Petitioner's Certificate of Registration (BIR Form 1556) and PEZA Certificate of Registration are hereto attached as *Annexes "A" and "B,"* and made as integral parts hereof;
4. For the period covering April 01 to June 30, 1998, petitioner generated and recorded zero-rated export sales in the amount of PhP2,538,906,840.16, Philippine Currency;
5. The above amount of P2,538,906,840.16 was paid to petitioner in acceptable foreign currency and was inwardly remitted in accordance with existing regulations of the Central Bank of the Philippines pursuant to Sec. 106(A)(2)(a)(1) of the Tax Code;
6. For the period covering April 01, 1998 to June 30, 1998, petitioner paid VAT input taxes amounting to PhP11,770,181.70 for domestic purchases of goods and services which were attributable to petitioner's zero-rated sales of PhP2,538,906,840.16. Photocopies of petitioner's quarterly VAT returns and monthly declarations for the second taxable quarter of 1998 which was duly filed with the Respondent, and received by Respondent's collection agents, RCBC — Gateway Branch are hereto attached as Annex "C," "D," "E" and "F" forming as integral parts hereof;
7. The above VAT input taxes were paid in connection with the Petitioner's trade or business and were duly supported by invoices and/or receipts showing the information required under Sections 113 and 237 of the Tax Code, and had not been applied against any VAT output tax liability of the Petitioner during the same period from April 1, 1998 to June 30, 1998, or any succeeding period or periods;

x x x x

8. Being a VAT-registered entity, Petitioner is subject to the Value-Added Tax imposed under Title IV of the Tax Code.

x x x x

9. The export sales of the petitioner are not subject to 10% value-added tax but are zero-rated. Hence, such zero-rated sales will not result to any VAT output tax pursuant to Sec. 106(A)(2)(a)(1) and Sec. 108(B)(1) of the Tax Code;
10. Petitioner, for the period covering April 01, 1998 to June 30, 1998, having generated zero-rated sales and paid VAT input taxes in the course of its trade or business, which VAT input taxes are attributable to the zero-rated sales and have not been applied to any VAT output tax liability of the Petitioner for said period or any succeeding quarter or quarters nor has been issued any tax credit certificate, it follows that petitioner is entitled to the issuance of a tax credit certificate for VAT input taxes in the amount of PhP11,770,181.70 x x x.

x x x x

11. On May 18, 1999, petitioner in compliance with the requisites provided for by law for the issuance of a tax credit certificate filed a claim for tax credit in the total amount of PhP11,770,181.70, with respondent through the One Stop Shop Inter-Agency Tax Credit and Duty Drawback Center per BIR Form No. 2552 entitled "APPLICATION FOR TAX CREDIT/REFUND OR VALUE-ADDED TAX PAID" and Claimant Information Sheet No. 35418. x x x
12. Respondent, however, despite such application for the issuance of a tax credit certificate above-mentioned and notwithstanding presentation of documentary evidences in support of such application, failed to grant the tax credit applied for. x x x^[8]

Petitioner prayed that, after due proceedings, judgment be rendered in its favor, as follows:

WHEREFORE, it is respectfully prayed that this Honorable Court after trial render judgment:

1. Declaring Petitioner entitled to the issuance of tax credit certificate in the amount of PhP11,770,181.70 representing VAT input taxes paid by it during the period from April 01, 1998 to June 30, 1998, for which no tax credit certificate was issued;
2. Ordering respondent to issue the tax credit certificate in favor of petitioner in the amount of PhP11,770,181.70 referred to above; and
3. Granting petitioner such other reliefs as may be just and equitable under the premises.^[9]

The Commissioner, as respondent, opposed the petition and prayed for its dismissal. The following special and affirmative defenses were raised:

4. Petitioner, being allegedly registered with the Philippine Economic Zone Authority, is exempt from all taxes, including value-added tax, pursuant to Section 24 of Republic Act No. 7916, in relation to Section 103 of the Tax Code, as amended by RA 7716. Since its sales are not zero-rated but are exempt from VAT, petitioner is not entitled to refund of input tax pursuant to Section 4.106-1 and 4.103-1 of Revenue Regulations No. 7-95;
5. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau;
6. The amount of P47,582,813.72 being claimed by petitioner as alleged VAT input taxes for the period of 01 July 1997 to 31 December 1997 was not properly documented;
7. In an action for refund the burden of proof is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund/credit;
8. Petitioner must show that it has complied with the provisions of Sections 204(c) and 229 of the Tax Code on the prescriptive period for claiming tax refund/credit;
9. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation.^[10]

The CTA commissioned the services of an independent auditor, Eliseo Aurellado, to conduct an audit and evaluate petitioner's claim. On March 22, 2001, he submitted a Report to the CTA with the following conclusion:

In performing the above procedures, except for the net effect of the Input VAT paid on its purchases as compared to the results of my review of supporting documents, as shown in Annex "B" no other matters came to my attention that cause me to believe that the attached Schedule of Input VAT Paid should be adjusted. We believe that only the amounts of P9,688,809.39 is a valid claim for tax credit. This report relates only to the application of Intel Technology Philippines, Inc. for tax credit/refund specified on page 1 of this report and does not extend to the Financial Statements, taken as a whole, for any period where the aforementioned tax refund is present.^[11]

Appended thereto were the summary of purchases, statements of input VAT exception, and statements of zero-rated export sales.^[12]

Petitioner adduced testimonial evidence and offered the following documents in evidence:

EXHIBIT	DESCRIPTION	PURPOSE
"A"	A copy of Petitioner's Certificate of Registration No. 95-133 issued by	To prove that Intel Technology Philippines, Inc. is registered with

	Philippine Economic Zone Authority (PEZA). This was already subject of stipulation of facts.	PEZA as Ecozone Export Enterprise.
"B"	A copy of Petitioner's BIR Certificate of Registration with RDO Control No. 96-540-000713 issued on January 30, 1996 by Revenue District Office No. 54. This was already subject of stipulation of facts.	To prove that Petitioner is duly registered with the Bureau of Internal Revenue. To prove that Petitioner is a duly registered VAT entity.
"C" & "D"	Copies of the Monthly VAT Returns for the month of April and May of 1998. These were already subjects of stipulation of facts.	To prove that Petitioner filed its Monthly VAT Declaration for the month of April and May of 1998.
"C-1" & "D-1"	Signature of Pablo V. Pablo.	To prove that the monthly VAT Returns was duly signed by Petitioner's authorized agent.
"E"	Copies of Petitioner's Quarterly VAT Return for the second quarter of 1998.	To prove that Petitioner filed its Quarterly VAT return for the second quarter of 1998.
"E-1"	Signature of Pablo V. Pablo This was already subject to stipulation of facts	To prove that Petitioner's authorized agent properly signed the Quarterly VAT Return for the second quarter of 1998.
"F" & "F-2"	Copies of Petitioner's Amended Quarterly VAT Return for the second quarter of 1998.	To prove that Petitioner filed its Amended Quarterly VAT return for the second quarter of 1998.
"F-1"	Signature of Pablo V. Pablo This was already subject to stipulation of facts.	To prove that Petitioner's authorized agent properly signed the Amended Quarterly VAT Return for the second quarter of 1998.
"F-3"	Box No. 16A of the Amended Quarterly VAT return for the	To prove that Petitioner properly reported its sales subject to zero-