

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

SPECIAL SECOND DIVISION

**AIR DRILLING ASSOCIATES CTA CASE NO. 10608
PTE LTD.,**

Petitioner, Members:

- versus -

**RINGPIS-LIBAN, P.J., Chairperson,
MODESTO-SAN PEDRO, and
FERRER-FLORES, JJ.**

COMMISSIONER OF INTERNAL REVENUE, Promulgated:

Respondent. SEP 04 2026

2: 49 PM

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RESOLUTION

FERRER-FLORES, J.:

For resolution of this Court is respondent's **Motion for Partial Reconsideration (Re: Decision dated March 16, 2026)** filed via registered mail on April 7, 2026, and received by the Court on April 13, 2026, with petitioner's **Comment (To Respondent's Motion for Partial Reconsideration)** filed on May 19, 2026.

On March 16, 2026, the Court promulgated a Decision partially granting petitioner's claim for refund of creditable input value-added tax (VAT) attributable to its zero-rated sales for the second quarter of taxable year (TY) 2019, the dispositive portion of which reads as follows:

**ACCORDINGLY, the present Petition for Review is
PARTIALLY GRANTED.**

In view thereof, respondent is **ORDERED TO REFUND** in favor of petitioner, the reduced amount of **₱2,245,182.79**, representing unutilized input VAT attributable to its zero-rated sales for the second quarter of taxable year 2019.

SO ORDERED.

RESOLUTION

CTA Case No. 10608

Air Drilling Associates Pte Ltd. vs. Commissioner of Internal Revenue

Page 2 of 7

In his *Motion*, respondent argues that the Court erred in partially granting the *Petition for Review*, contending that petitioner failed to fully substantiate its claim for VAT refund considering that it is not engaged in zero-rated or effectively zero-rated sales. Respondent continues that, since petitioner is claiming that its sales of services to a renewable energy (RE) developer are zero-rated based on Republic Act (R.A.) No. 9513,¹ otherwise known as the *Renewable Energy Act of 2008*, the latter must secure a Certificate of Endorsement on a per transaction basis, and not just a Certificate of Registration, from the Department of Energy (DOE), through the Renewable Energy Management Bureau (REMB), to qualify for VAT zero-rating.

Respondent likewise insists that the application of the DOE Department Circular (DC) No. DC2021-12-0042 is misplaced considering that petitioner's claim for VAT refund covers the second quarter of TY 2019. He asserts that the prevailing implementing rule at the time of the subject transaction (*i.e.*, second quarter of TY 2019) was DC2009-05-0008 of 2009. Moreover, the DOE only issued the Certificate of Endorsement on June 23, 2020 even though petitioner's sale of services to Energy Development Corporation (EDC) was made in the second quarter of TY 2019. Respondent, thus, submits that petitioner's failure to properly secure the Certificate of Endorsement from the DOE, through the REMB, on a per transaction basis, covering the period April 1, 2019 to June 30, 2019, is sufficient ground to deny its claim for VAT refund as there was no proof of the alleged zero-rated transaction.

Lastly, respondent insists that petitioner also failed to present any evidence to establish that the services it rendered to EDC qualify as zero-rated sales, as it only presented the Contract for Aerated Fluids Drilling Works executed on January 14, 2014. Respondent maintains that the materiality and relevancy of the said contract is insufficient to prove entitlement to VAT zero-rating as it cannot establish with certainty whether petitioner's local purchases of goods and services, purchases of services rendered by non-residents, and importation of non-capital goods, are indeed attributable to its zero-rated sale of services to EDC, an RE Developer, for the second quarter of TY 2019. To bolster his claim, respondent cites the Court of Tax Appeals (CTA) ruling in CTA Case No. 10545 and CTA Case No. 10752, respectively promulgated on September 20, 2024 and August 13, 2025, both entitled *Air Drilling Associates Pte. Ltd. vs. Commissioner of Internal Revenue*.

On the other hand, in its *Comment*, petitioner points out that DC No. DC2021-12-0042, amending Section 18(c) of the Implementing Rules and Regulations (IRR) of R.A. No. 9513, provides that RE Developers, such as EDC, are automatically qualified to avail of the incentives provided for in

¹ AN ACT PROMOTING THE DEVELOPMENT, UTILIZATION AND COMMERCIALIZATION OF RENEWABLE ENERGY RESOURCES AND FOR OTHER PURPOSES, approved on December 16, 2008.

RESOLUTION

CTA Case No. 10608

Air Drilling Associates Pte Ltd. vs. Commissioner of Internal Revenue

Page 3 of 7

R.A. No. 9513 after securing a DOE Certificate of Registration, and that the Certificate of Endorsement is necessary only on importations by the RE developer.

Petitioner likewise submits that its Office Manager, Ms. Rosebelle Liu, provided testimonial evidence (marked as Exhibit “P-14” and P-14-1”), which established that for the second quarter of TY 2019, petitioner rendered aerated drilling services to EDC. According to petitioner, said witness is competent to testify on matters within her personal knowledge because of her position, and that there is no rule which excludes the testimony of a competent officer of the corporation to prove the zero-rated sales of services between petitioner and EDC. Petitioner also emphasizes that respondent interposed no timely objection to the testimony of Ms. Liu when it was offered. As such, petitioner submits that the testimony not objected to should be deemed admitted and may be considered by the Court. In any case, petitioner insists that the existence of service agreement between petitioner and EDC for the second quarter of TY 2019 is a contract which may be established by oral evidence, and by the conduct of the parties, particularly, by petitioner’s issuance of billing invoices and official receipts, and by EDC’s actual payments of petitioner’s services. Thus, having established by preponderance of evidence that it rendered aerated drilling service to EDC during the second quarter of TY 2019, petitioner accordingly satisfies the requirement that it is engaged in zero-rated or effectively zero-rated sales.

After due consideration, the Court finds respondent’s *Motion for Reconsideration* devoid of merit.

In the recent case of *Maibarara Geothermal, Inc. vs. Commissioner of Internal Revenue*,² the Supreme Court had the occasion to rule on the applicable DOE DC that should be implemented at the time of the subject transaction. In the said case, the High Court ruled that the legal interpretation under DOE DC No. DC2021-12-0042 may still be applied even though the taxable year involved therein was 2013. It was further ruled that the DOE cannot impose additional certification requirements on RE suppliers, *i.e.*, Certificate of Endorsement, in seeking VAT refund for zero-rated sales under R.A. No. 9513, to wit:

Pursuant to this authority, the DOE promulgated the IRR of Republic Act No. 9513 or DOE Department Circular No. 2009-05-0008 on May 25, 2009, which required RE Developers to secure a Certificate of Endorsement from the DOE, on a per transaction basis in order to be qualified to avail of the incentives provided by the law.

The Court notes that on December 24, 2021, the DOE has issued Department Circular No. DC2021-12-0042, which amended DOE

² G.R. No. 256720, August 7, 2024.

RESOLUTION

CTA Case No. 10608

Air Drilling Associates Pte Ltd. vs. Commissioner of Internal Revenue

Page 4 of 7

Department Circular No. 2009-05-0008. This amendment removed the requirement under Section 18(C) of Department Circular No. 2009-05-0008 for RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment to secure a Certificate of Endorsement from the DOE on a per transaction basis to avail of the incentives provided under the RE Law. Under DC2021-12-0042, RE Developers are automatically qualified to avail of the incentives under Republic Act No. 9513 after securing a Certificate of Registration from the DOE, with the exception of duty-free importation of RE machinery, equipment and materials.

It is important to note that this amendment came after the taxable year for which the refund in this case is claimed, *i.e.*, 2013.

As pointed out by Justice Japar B. Dimaampao (Justice Dimaampao), the Court must determine whether, prior to the issuance of DOE Department Circular No. DC2021-12-0042, the DOE could validly impose a Certificate of Endorsement as a requirement for RE developers to enjoy VAT zero-rating in their sale of fuel or power generated from renewable sources of energy.

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To recall, Section 26 of Republic Act No. 9513 was originally Section 27 of Senate Bill No. 2046. In the original provision, it enumerates the fiscal incentives found in Section 15 to which the DOE must certify in favor of the RE developer:

- I. AUTHORITY TO IMPORT AND ENTITLEMENT TO DUTY FREE IMPORTATION OF MACHINERY, EQUIPMENT AND MATERIALS AND PARTS THEREOF;
- II. ENTITLEMENT TO TAX CREDIT ON DOMESTIC CAPITAL EQUIPMENT AND SERVICES;
- III. ENTITLEMENT TO SPECIAL REALTY TAX RATES ON EQUIPMENT AND MACHINERY;
- IV. ENTITLEMENT TO INCOME TAX HOLIDAY AND EXEMPTION AND/OR THE USE OF NET OPERATING LOSS CARRY-OVER (NOLCO);
- V. ENTITLEMENT TO ACCELERATED DEPRECIATION;
- VI. EXEMPTION FROM UNIVERSAL CHARGE;
- VII. EXEMPTION FROM PROVINCIAL ENVIRONMENTAL COMPLIANCE CERTIFICATE;
- VIII. EXEMPTION FROM WATER PERMIT FROM THE NATIONAL WATER RESOURCES BOARD (NWRB);
- IX. ALL OTHER NECESSARY MATTERS THAT SHOULD BE INDICATED IN THE CERTIFICATION.

The VAT zero-rating incentive for the sale of fuel or power generated from renewable sources of energy is not among the foregoing enumeration.

One of the fundamental statutory construction principles is that a person, object, or thing omitted from an enumeration must be held to have been omitted intentionally — *casus omisus pro omissio habendus est*. It

RESOLUTION

CTA Case No. 10608

Air Drilling Associates Pte Ltd. vs. Commissioner of Internal Revenue

Page 5 of 7

applies when there is a reasonable certainty that a particular person, object, or thing has been omitted from a legislative enumeration.

As observed by Justice Dimaampao, the Senate introduced the certification provision and took great pains to enumerate every other incentive under Section 15, but left out the VAT zero-rating provision. Concededly, some argument may be made that this omission may be due to the fact that the VAT zero-rating provision was introduced after Section 27 was inserted, as the Madrigal Amendment occurred in the succeeding session day, or that the catch-all provision under sub-paragraph (IX) suffices to cover that particular incentive. Entertaining this argument though does not match the deliberateness that is expected and, in fact, must be presumed by the Court from the Legislature when it enacts laws. Certainly, it would have been a simple matter to insert the VAT zero-rating provision in the enumeration in Section 27, but the Senate opted not to do so. Errors are not presumed, and the Court should accord respect to the deliberateness exhibited by Congress.

Consequently, while the DOE may impose further requirements before it can qualify the RE developer or their transactions to the fiscal incentives under Section 15, it cannot impose other certification requirements, such as a certificate of endorsement, to the VAT zero-rating incentive. In requiring RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment to obtain a Certificate of Endorsement on a per transaction basis to avail of the incentives provided under Republic Act No. 9513, the DOE exceeded the authority intended to be granted by the lawmakers. DOE DC2021-12-0042 has since removed this requirement.

Thus, as it stands, the only other requirement for VAT zero-rating qualification, aside from the conditions imposed by the NIRC, is the RE Developer's registration with the DOE. As MGI pointed out, it has complied with this requirement, as evidenced by its Certificate of Registration No. GRESC 2011-01-025. *(Emphases supplied and citations omitted)*

Verily, the Supreme Court explained that the Certificate of Endorsement on a per transaction basis for availment of the incentives provided under R.A. No. 9513 was never a valid requirement for VAT zero-rating under the original law, as the Congress intentionally excluded VAT zero-rating from incentives requiring additional certifications. Consequently, the requirement for a Certificate of Endorsement for VAT zero-rating, as previously imposed by the implementing rules and regulations, exceeded the mandate of the R.A. No. 9513 itself.

Furthermore, as discussed in the assailed Decision, it can be inferred from the provision of Section 18(c), Rule 5, Part III of DOE DC No. 2009-05-0008, in relation to Section 15(b) of RA No. 9513, that a DOE Certificate of Endorsement is crucial only when the incentive sought to be claimed is the duty-free importation of RE machinery, equipment, materials, and parts thereof, and tax- and duty-free exemption in the event the same was

RESOLUTION

CTA Case No. 10608

Air Drilling Associates Pte Ltd. vs. Commissioner of Internal Revenue

Page 6 of 7

subsequently sold, transferred, or disposed. But since petitioner is only seeking for the refund of unutilized input VAT, and not incentives related to importation of RE equipment, petitioner is therefore not required to submit the DOE Certificate of Endorsement to avail of the benefits of VAT zero-rating for sales to RE developer under R.A. No. 9513.

Anent respondent's insistence that the presentation the Contract for Aerated Fluids Drilling Works executed on January 14, 2014 is insufficient to prove its entitlement to VAT zero-rating, the Court does not agree. As correctly pointed out by petitioner, the existence of service agreement between petitioner and EDC for the second quarter of TY 2019 is a contract which may be established by oral evidence, and by the conduct of the parties, particularly, by petitioner's issuance of billing invoices (indicating the nature of service as "Aerated Drilling Services") and official receipts, and by EDC's actual payments of petitioner's services. After all, jurisprudence provides that where a party has fulfilled its obligation, oral evidence will be admitted to prove the agreement.³ Thus, the absence of a written contract covering the subject period is not fatal to petitioner's case.

Lastly, with regard to the CTA ruling cited by respondent in both cases of *Air Drilling Associates Pte. Ltd. vs. CIR* promulgated on September 20, 2024 (CTA Case No. 10545) and August 13, 2025 (CTA Case No. 10752), suffice to state that this Court is not authorized to take judicial notice of the contents of the records of other cases, even when such cases have been tried or are pending in the same court, and notwithstanding the fact that both cases may have been heard or are actually pending before the same judge, unless these cases may be so closely interwoven, or so clearly interdependent, as to invoke a rule of judicial notice.⁴ Here, although the parties in the present case are the same as those in the cases relied upon respondent, the fact still remains that they are not closely interwoven, or so clearly interdependent, as the taxable periods involved therein are different, and the documents presented therein by Air Drilling Associates Pte. Ltd. were different with respect to the date of execution and contents of the said agreements.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by respondent in his *Motion for Partial Reconsideration*, the Court finds no compelling reason to reverse or modify the conclusions reached in the Decision promulgated on March 16, 2026. 

³ *Spouses Badilla vs. Bragat*, G.R. No. 187013, April 22, 2015.

⁴ *Estrada vs. Sandiganbayan*, G.R. Nos. 228374-84, 236268, 249296, 249919, 254892 & 254906-15, October 28, 2025.

RESOLUTION

CTA Case No. 10608

Air Drilling Associates Pte Ltd. vs. Commissioner of Internal Revenue

Page 7 of 7

ACCORDINGLY, respondent's **Motion for Partial Reconsideration**
(Re: Decision dated March 16, 2026) is **DENIED** for lack of merit.

SO ORDERED.


CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:


MA. BELEN M. RINGPIS-LIBAN
Presiding Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice