

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

EN BANC

**COMMISSIONER OF INTERNAL
REVENUE,**

Petitioner,

**CTA EB NO. 2468
(CTA Case No. 9378)**

Present:

-versus-

**DEL ROSARIO, P.J.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, and
CUI-DAVID, JJ.**

**FINANCIAL TIMES ELECTRONIC
PUBLISHING PHILIPPINES, INC.,**
Respondent.

Promulgated:

OCT 05 2022

3:48pm

X- - - - - X

D E C I S I O N

MANAHAN, J.:

This resolves the *Petition for Review*¹ filed by petitioner Commissioner of Internal Revenue (CIR) on May 22, 2021 by registered mail and received by this Court on May 27, 2021 pursuant to Section 4(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA), as amended,² which prays for the reversal and setting aside of the *Decision* dated September 17, 2020³ (Assailed Decision) and the *Resolution* dated February 16, 2021⁴ (Assailed Resolution) promulgated by the Third Division of the Court of Tax Appeals (CTA) in CTA Case No. 9378 entitled "*Financial Times Electronic Publishing*

¹ Rollo, CTA EB No. 2374, pp. 5-17.

² Rules of the Court of Tax Appeals – approved by the Supreme Court on November 22, 2005 (A.M. No. 05-11-07-CTA); Amendments to the 2005 Rules of Court of the Court of Tax Appeals – approved by the Supreme Court on September 16, 2008 (A.M. No. 05-11-07-CTA); and Additional Amendments to the 2005 Revised Rules of the Court of Tax Appeals – approved by the Supreme Court on February 10, 2009 (A.M. No. 05-11-07-CTA).

³ Rollo, pp. 19-41.

⁴ *Id.*, pp. 43-49. 

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Philippines, Inc. vs. Commissioner of Internal Revenue", the dispositive portion of which reads as follows:

Assailed Decision

"**WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, Respondent is ordered to issue a tax credit certificate in favor of Petitioner the amount of **Php1,225,701.00**, representing the latter's unutilized excess input VAT arising from its local purchases of goods and services directly attributable to its zero-rated sales for the 2nd quarter of calendar year 2014.

SO ORDERED."

Assailed Resolution

"**WHEREFORE**, premises considered, Respondent's Motion for Partial Reconsideration is **DENIED** for lack of merit.

SO ORDERED."

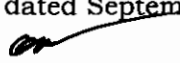
The Facts

Petitioner CIR is empowered to perform the duties of his office, including acting upon protest cases and approval of claims for refund or tax credit as provided by law and implementing regulations.⁵

Respondent Financial Times Electronic Publishing Philippines, Inc. (FTEPPI) is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines. It is duly registered with the Bureau of Internal Revenue (BIR) with Certificate of Registration No. 8RC0000057578 and with Tax Identification Number (TIN) 204-611-007-000.⁶

On February 12, 2016, respondent filed with the BIR its administrative claim and Application for Tax Credits/Refunds (BIR Form No. 1914) of input value-added tax (VAT) in the

⁵ *Rollo*, Decision dated September 17, 2020, p. 20.

⁶ *Id.*, pp. 19-20. 

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aggregate amount of Php1,890,422.04, for the period April 01, 2014 to June 30, 2014.⁷

Subsequently, the Letter of Authority (LOA) No. eLA201200035789 dated March 02, 2016 was issued by the BIR, authorizing Revenue Officer Angeline Ifurung and Group Supervisor Roderick Cantillana of Revenue Region No. 8 - Revenue District Office No. 50 South Makati, to examine respondent's books of accounts and other accounting records for VAT for the period April 01, 2014 to June 30, 2014, pursuant to Section 6(A) and 10(C) of the 1997 National Internal Revenue Code (NIRC), as amended.⁸

On June 30, 2016, respondent filed a Petition for Review with the Court in Division.⁹

After the trial, the Court in Division rendered the Assailed Decision partially granting the claim for refund of excess input VAT of respondent.

Petitioner then moved for the partial reconsideration¹⁰ of the Assailed Decision but was denied anew under the Assailed Resolution.

Hence, the instant Petition for Review was posted by petitioner on March 22, 2021 and received by this Court on May 27, 2021¹¹ after posting his Motion for Extension of Time to File Petition for Review¹² on March 15, 2021 which was likewise received by the Court on May 27, 2021.

On June 30, 2021, this Court deemed petitioner's Motion for Extension of Time to File Petition for Review granted and respondent was ordered to submit its comment on said petition.¹³

On July 12, 2021, respondent submitted its *Comment and Opposition (to the Petition for Review dated 16 March*

⁷ *Id.*, p. 20.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Rollo*, Annex "C", Motion for Partial Reconsideration, pp. 50-57.

¹¹ *Id.*, Petition for Review, p. 5.

¹² *Id.*, pp. 1-3.

¹³ *Id.*, Resolution dated June 30, 2021, pp. 61-62. 

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2021).¹⁴ Hence, the case was submitted for decision on October 21, 2021.¹⁵

The Issue

Whether the Court in Division erred in granting respondent's claim for refund in the amount of Php1,225,701.00, representing the latter's unutilized excess input VAT arising from its local purchases of goods and services directly attributable to its zero-rated sales for the 2nd quarter of calendar year 2014.

Arguments of Petitioner¹⁶

Petitioner avers that the Securities and Exchange Commission (SEC) Certificate of Non-Registration of respondent dated March 7, 2019 does not prove that such entity is a non-resident foreign corporation doing business outside the Philippines and that respondent's authenticated Articles of Incorporation dated February 13, 2017 issued by the Companies Registration Office for England and Wales cannot be given probative value.

Petitioner also argues that the amount of respondent's tax liability should be computed and deducted from any refundable amount that it seeks to claim from the Bureau of Internal Revenue.

Argument of Respondent¹⁷

On the other hand, respondent counter-argues that the instant Petition for Review is just a reiteration of the allegations and arguments of the petitioner which the Court in Division had already ruled upon in the Assailed Decision and Resolution.

Respondent insists that the Court in Division had correctly resolved the issue that it was engaged in zero-rated sales or effectively zero-rated sales during the 2nd quarter of 2014.

¹⁴ *Id.*, pp. 63-71.

¹⁵ *Id.*, Resolution dated October 21, 2021, pp. 74-75.

¹⁶ *Supra*, Note 1.

¹⁷ *Supra*, Note 14. 

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Respondent further posits that the Court in Division had correctly resolved that the doctrinal pronouncements in the cited cases by petitioner is not applicable in resolving the issues at hand.

Ruling of the Court *En Banc*

This Court shall determine first whether the instant petition is filed on time. Sections 1 and 3(b), Rule 8 of the RRCTA provide that:

SECTION 1. *Review of cases in the Court en banc.*- In cases falling under the exclusive appellate jurisdiction of the Court *en banc*, the petition for review of a decision or resolution of the Court in Division must be preceded by the filing of a timely motion for reconsideration or new trial with the Division.

xxx

xxx

xxx

SEC. 3. *Who may appeal; period to file petition.*- (a) xxx
xxx xxx

(b) **A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution.** Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (*Emphasis supplied*)

As borne by the records of the case, the instant petition was preceded by a Motion for Partial Reconsideration which is the subject of the assailed *Resolution* dated February 16, 2021. Petitioner received a copy of said resolution on March 2, 2021.

Applying the above-cited provisions, petitioner had fifteen (15) days from March 2, 2021 or until March 17, 2021 to file its appeal to the Court *En Banc*. However, pursuant to Supreme Court (SC) Administrative Circular Nos. 14-2021, 15-2021, and 29-2021, the Court had to close its premises until May 14, 2021 due to another surge of COVID-19 pandemic. 

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Pursuant to SC Administrative Circular Nos. 29-2021 and 33-2021, the filing and service of the pleadings due during such closure shall be done seven (7) calendar days after the physical reopening of the Courts which was last May 17, 2021. Petitioner then had 7 calendar days from May 17, 2021 or until May 24, 2021 to file the instant Petition for Review. Thus, the Petition for Review posted on March 22, 2021 which was received by this Court on May 27, 2021 was timely filed.

Going now into the merits of the instant appeal, petitioner's arguments¹⁸ reveal that they are substantially the same as those raised in his Motion for Partial Reconsideration¹⁹ which have already been passed upon and exhaustively discussed in the Assailed Decision of the Court in Division and reiterated in the Assailed Resolution.

Further, the arguments raised by petitioner CIR that respondent did not comply with all the requisites for such refund albeit the modification of the refundable amount, must fail.

In the absence of any empirical evidence of grave abuse of discretion on the part of the Court in Division, this Court cannot disturb said Assailed Decision and Resolution as held in *Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation)*,²⁰ to wit:

“... it is fundamental that the findings of fact by the CTA in Division are not to be disturbed without any showing of grave abuse of discretion considering that the members of the Division are in the best position to analyze the documents presented by the parties.”

In the instant petition, petitioner CIR failed to adduce any contrary or corroborative evidence or raise any grounds that will show any indication of grave abuse of discretion on the part of the Court in Division in rendering the Assailed Decision and Resolution.

¹⁸ *Rollo*, Petition for Review, pp. 7-13.

¹⁹ *Id.*, Annex “C”, pp. 50-55.

²⁰ G.R. No. 188016, January 14, 2015. 

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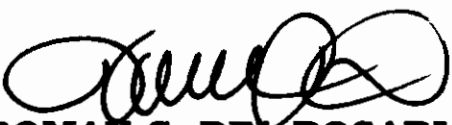
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WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED**. Accordingly, the *Decision* dated September 17, 2020 and the *Resolution* dated February 16, 2021 are hereby **AFFIRMED**.

SO ORDERED.

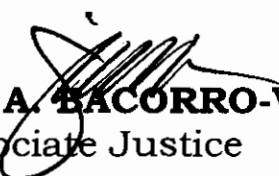

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

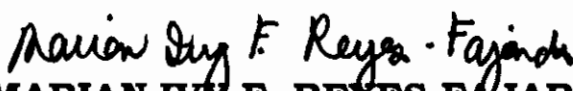

ROMAN G. DEL ROSARIO
Presiding Justice


ERLINDA P. UY
Associate Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice


MARIAN IVY F. REYES-FAJARDO
Associate Justice


LANEE S. CUI-DAVID
Associate Justice

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CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

A handwritten signature in black ink, appearing to read 'Roman G. Del Rosario', with a large, stylized flourish at the end.

ROMAN G. DEL ROSARIO

Presiding Justice

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