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ATTORNEYS AT LAW

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REPUBLIC ACT

RA No. 11569 enacted on June 30, 2021

- This RA extended the period for availment of Estate Tax Amnesty and amended Section 6 of the Tax Amnesty Act.

Highlights

- The executor or administrator of the estate, or if there is no executor or administrator appointed, the legal heirs, transferees, or beneficiaries, who wish to avail of the Estate Tax Amnesty shall, within June 15, 2021 until June 14, 2023, file a sworn Estate Tax Amnesty (ETA) Return with the Revenue District Office (RDO) of the Bureau of Internal Revenue (BIR), which has jurisdiction over the last residence of the decedent. The payment of the amnesty tax shall be made at the time the Return is filed.
- If the decedent is a non-resident of the Philippines, the ETA Return shall be filed and the amnesty tax shall be paid at RDO No. 39, or any other RDO which shall be indicated in the Implementing Rules and Regulations (IRR).
- The Secretary of Finance, in coordination with the CIR, shall issue the IRR of RA No. 11569 within 60 days from its effectivity.
- This RA shall take effect on July 15, 2021.

BIR ISSUANCES

REVENUE REGULATIONS (RR)

RR No. 8-2021 issued on June 11, 2021

- This RR amends certain provisions of RR No. 4-2021, which implemented the VAT and Percentage Tax provisions under CREATE Act.

Highlights

- Under the TRAIN Law, beginning January 1, 2021, VAT exemption on sale of real properties shall only apply to the following: (a) sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business; (b) sale of real property utilized for socialized housing; (c) sale of house and lot and other residential dwellings with a selling price of not more than *Php 2,000,000* as adjusted to *Php 3,199,200* in 2011 using 2010 Consumer Price Index.
- Importation of certain goods to fight COVID-19 shall not be subject to the requirement of issuance of Authority to Release Imported Goods (ATRIG).
- Refund of overpaid percentage tax as a result of the decrease of tax rate from 3% to 1% starting July 1, 2020 until effectivity of RR No. 4-2021 will be allowed for taxpayer who shifted from non-VAT to VAT-registered status or taxpayer who opted to avail the 8% income tax rate at the beginning of Taxable Year 2021.

RR No. 9-2021 issued on June 11, 2021

- This RR amends certain provisions of RR No. 16-2005, as amended by RR No. 13-2018 and as further amended by RR No. 26-2018, to implement the imposition of 12% VAT on transactions covered under Section 106 (A)(2)(a) subparagraphs (3), (4), and (5), and Section 108(B) subparagraphs (1) and (5) of the Tax Code, as amended by the TRAIN Law.

Highlights

- The BIR has pronounced the satisfaction of conditions set by the TRAIN Law. The conditions are as follows:

  a. The successful establishment and implementation of an enhanced VAT refund system that grants refunds of creditable input tax within 90 days from the filing of the VAT refund application; and
  b. All pending VAT refund claims as of December 31, 2017 shall be fully paid in cash by December 31, 2019.

- With the satisfaction of the conditions, TRAIN Law provides that the transactions enumerated below, and previously subject to 0% VAT, are now subject to 12% VAT:

  a) Sale of raw materials or packaging materials to a nonresident buyer for delivery to a resident local export-oriented enterprise to be used in manufacturing, processing, packing or repacking in the Philippines of the said buyer's goods and paid for in acceptable foreign currency;
  b) Sale of raw materials or packaging materials to export-oriented enterprise whose export sales exceed 70% of total annual production;
  c) Those considered export sales under Executive Order (EO) No. 226, otherwise known as the "Omnibus Investment Code of 1987", and other special laws;
  d) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency; and
  e) Services performed by subcontractors and/or contractors in processing, converting, or manufacturing goods for an enterprise whose export sales exceed seventy percent (70%) of total annual production.

REVENUE MEMORANDUM CIRCULAR (RMC)

RMC No. 76-2021 issued on June 15, 2021

- This Circular clarifies the illustration for proprietary educational institutions and ROHQ under RR No. 5-2021.

Highlights

- The income tax due and the gross income were inadvertently written to be in the amount of Php1,000,000 and Php558,500,000 instead of the correct amount of Php 100,000 and Php58,500,000, respectively.

- It likewise clarifies that the 1% income tax rate for proprietary educational institutions and the 1% Minimum Corporate Income Tax for ROHQ shall be imposed only for the period July 1, 2020 until June 30, 2023, and January 1, 2022 to June 30, 2023, respectively.

RMC No. 77-2021 issued on June 15, 2021

- This Circular clarifies certain provisions of RMO No. 14-2021 relative to the new policies and guidelines in securing TTRA.

HIghlights

- Only persons, natural or juridical, who are residents of one or both of the Contracting States, may avail of treaty benefits.
- Failure to submit the Tax Residency Certificate (TRC) duly issued by competent authority of the treaty partner would result in the denial of the nonresident's claim.
- Denial based on the issue of residency will not contravene the pronouncement of the Supreme Court in the case of *Deutsche Bank AG Manila Branch vs. CIR* (G.R. No. 188550, August 19, 2013). The issue in that case was premised on the nonresident's failure to file TTRA within the 15-day period prescribed under RMO No. 1-2000.
- Rulings involving the application and interpretation of tax treaties should originate from the International Tax Affairs Division (ITAD).
- If the nonresident submitted to the income payor a TRC and the appropriate BIR Form No. 0901 prior to the payment of income, the income payor may apply the provisions of the applicable treaty; provided that all the conditions for the availment, other than residency, have been satisfied. Otherwise, the regular rates imposed under the Tax Code should be applied.
- The withholding agent is required to file a Request for Confirmation (RFC) if the nonresident's income was not subjected to tax in the Philippines in accordance with the relevant tax treaty.
- If the treaty rate was applied on the nonresident's income, the income payor, domestic or foreign, should be the one to file the RFC with the ITAD. The income payor is not prevented, however, from authorizing the nonresident or any other person to file such request for and on its behalf, provided that the latter is equipped with a Special Power of Attorney (SPA).
- RFC with complete documentary requirements shall be filed by the withholding agent, domestic or foreign, on or before the dates prescribed below:
- Capital Gains-At any time after the transaction but shall not be later than the last day of the fourth (4th) month following the close of the taxable year when the income is paid or when the transaction is consummated.
- Other types of income-At any time after the close of the taxable year but not later than the last day of the fourth (4th) month following the close of such taxable year when the income is paid or becomes payable, or when the expense/asset is accrued or recorded in the books, whichever comes first.
- One consolidated RFC per nonresident income recipient, regardless of the number and type of income payments made during the year, shall be filed.
- One original and authenticated TRC shall be submitted to each income payor per year. In the alternative, a certified true copy of the original may be submitted to other payors of

income if the original copy is no longer available, with a notation as to whom the original copy was previously submitted.

- The same rule applies to the proof of establishment or incorporation, Certificate of Non-registration or License to Do Business in the Philippines duly issued by the Securities and Exchange Commission, and Certificate of Business Registration/Presence duly issued by the Department of Trade and Industry.
- The nonresident, or its authorized representative, should file a TTRA with complete documentary requirements and a claim for refund at any time after the payment of the withholding tax if the regular rate under the Tax Code was applied on the income instead of the treaty rates.
- Annual updating of long-term contracts is not mandatory.
- Applications with incomplete documents will no longer be accepted.
- All filers, other than the nonresident income recipient or withholding agent, are required to present a notarized SPA when filing an application with ITAD.
- The foreign enterprise may submit the Audited Financial Statements (AFS) of the permanent establishment (PE) to prove that the income is not effectively connected with its PE in the Philippines.
- The best proof of arm's length transfer prices for controlled transactions is the Transfer Pricing Documentation (TPD) of the non-resident creditor.
- The BIR prefers the Audited Interim FS when computing the real property interest of the issuing domestic corporation at the time of the transaction.
- There will be no automatic denial for the failure of the filer to file RFC within the prescribed period.
- In meritorious cases, the nonresident or withholding agent may be granted an extension within which to submit the required documents but in no case shall it exceed thirty (30) days.
- All taxpayers with pending TTRAs will still receive a "Final Notice to Submit Additional Documents" despite receiving notice prior to the effectivity of the new RMO and will be given three (3) months from receipt thereof to submit the required documents.
- If the RFC or TTRA is approved, the BIR will issue a Certificate of Entitlement to Treaty Benefit (COE) instead of the usual BIR Ruling.
- If income payments in 2020 and prior years with no TTRA or Certificate of Residence for Tax Treaty Relief (CORTT) Form filed were subjected to treaty rates, the withholding agent has until the last working day of this year to file an RFC with complete documentary requirements.
- A certified true copy of AFS as of the taxable year immediately preceding the date of declaration, which was duly filed with the BIR and SEC, must accompany each RFC or TTRA for dividends.
- TRC issued by the tax authority of the US confirming that all of the beneficiaries of the trust are residents of that state would suffice.

COURT DECISIONS

CTA DIVISION DECISIONS

Yan An Cargo Corporation vs. Commissioner of Internal Revenue
CTA Case No. 9865 promulgated on June 1, 2021

Facts:

On February 24, 2012, the BIR issued a Letter Notice (LN) to Petitioner Corporation A. The LN was based on computerized matching information or data allegedly from third-party sources, indicating discrepancies against the declaration in Petitioner Corporation A's VAT returns for taxable year 2010. On July 11, 2013, Petitioner Corporation A received a Preliminary Assessment Notice (PAN). Thereafter, a Formal Letter of Demand (FLD) was issued on September 3, 2013 assessing Petitioner Corporation A for deficiency income tax and VAT, in which Petitioner Corporation A filed its protest. A Final Decision on Disputed Assessment (FDDA) was issued denying Petitioner Corporation A's protest on January 24, 2014. On February 24, 2014, Petitioner Corporation A filed a Motion for Reconsideration on the FDDA before the CIR. On May 9, 2014, Respondent CIR denied the MR which was received by Petitioner Corporation A on May 31, 2014. Petitioner Corporation A filed a Petition for Review on June 29, 2014.

Petitioner Corporation A assails the validity of the assessment for want of authority on the part of the revenue officers (ROs) to conduct an audit investigation in the absence of a Letter of Authority (LOA). On the other hand, the Respondent CIR alleged that the Petition for Review was filed out of time since the Respondent CIR's decision denying the MR was dated May 9, 2014 and the cover letter was dated May 28, 2014. Hence, there is a possibility that the CIR's Decision was received by Petitioner Corporation A on May 28, 2014, hence counting 30 days therefrom, the Petition for Review should have been filed on June 27, 2014 and not June 29, 2014.

Issue:

1. Was the Petition for Review filed out of time?
2. Was the assessment valid?

Ruling:

1. No. The records show that the original copy of the May 28, 2014 cover letter was only mailed on May 31, 2014, the same day Petitioner Corporation A received the letter. Hence, the last day of filing was on July 2, 2014. Petitioner Corporation A filed the Petition for Review on June 29, 2014; hence, it was filed on time.

2. No. In this case, no LOA was issued to the ROs for the examination and audit of Petitioner Corporation A's books. The records show that what was issued was a mere LN. It is a well-settled rule based on jurisprudence that the absence of a LOA is a violation of the taxpayer's right to due process which renders the assessment null and void. Moreover, a LN s different from a LOA and the issuance of the former does not equate to the issuance of the latter to validate an otherwise void assessment. The Court cannot convert the LN into a LOA required under the law even if the same was issued by the CIR himself.

   The following differences between an LOA and LN are crucial. First, an LOA addressed to a revenue officer is specifically required under the Tax Code before an examination of a taxpayer may be had while an LN is not found in the Tax Code and is only for the

purpose of notifying the taxpayer that a discrepancy is found based on the BIR's RELIEF System. Second, an LOA is valid only for 30 days from the date of issue while an LN has no such limitation. Third, an LOA gives the revenue officer only a period of 120 days from receipt of LOA to conduct his examination of the taxpayer whereas an LN does not contain such a limitation. Simply put, LN is entirely different and serves a different purpose than an LOA. Due process demands that after an LN has served its purpose, the revenue officer should have properly secured an LOA before proceeding with the further examination and assessment of Petitioner Corporation A. Unfortunately, this was not done in this case.

Empress Dental Laboratories, Inc., vs. CIR
CTA Case No. 10186 promulgated on June 7, 2021

Facts:

Petitioner D Corp. filed a Petition for Review seeking refund of the alleged erroneously paid withholding tax on compensation in the amount of *Php 562,007.96.*

Petitioner D Corp. filed its Monthly Withholding Tax Return via BIR eFPS in the total amount of *Php 281,003.98* for the month of September.

During the course of the electronic payment, Petitioner encountered several technical errors or difficulties. On the same day on its third attempt, it was able to successfully process and paid its tax. It is likewise established that the BIR eFPS generated three (3) requests for confirmation with an amount of *Php 281,003.98* for each said transaction.

Petitioner D Corp. approved all pending payment instructions. Consequently, the last two (2) of the three (3) transactions have been successfully processed and paid in an amount of *Php 281,003.98* each or the total amount of *Php 562,007.96.*

Respondent CIR argued that the documents presented by Petitioner D Corp. do not necessarily prove its claim, as these are susceptible to different interpretations other than a case of multiple payment or multiple remittances and it could be that the second and third payments were for a different transaction.

Issue:

Is Petitioner D Corp. entitled to the tax refund/credit?

Ruling:

Yes. While Respondent CIR contends that the Petitioner D Corp. fell short of proving the veracity of its claim of alleged multiple payments of withholding tax on compensation, he, however, failed to present any evidence to prove such contention. This is despite his facility and/or opportunity in checking the BIR's own records to verify or determine the veracity of Petitioner's claim. Hence, under the principle of *solutio indebiti,* the Government has to restore to Petitioner the sums representing erroneous payments of taxes.

It must be emphasized that after the claimant has successfully established a *prima facie* right to the refund by complying with the requirements laid down by law, the burden is shifted to the opposing party, i.e., the BIR, to disprove such claim. To rule otherwise would be to unduly burden the claimant with additional requirements which have no statutory nor jurisprudential basis.

It is a well-settled rule that no one shall unjustly enrich oneself at the expense of another. This applies not only to individuals but to the State as well. Hence, under the principle of solution indebiti, the Government has to restore to Petitioner D Corp. the sums representing erroneous payments of taxes.

Ernesto Tamparong, Jr., as represented by Atty. Jose Voltaire Bautista vs. CIR
CTA Case No. 9520 promulgated on June 8, 2021

Facts:

Petitioner Ernesto Tamparong, Jr. filed a Petition for Review seeking the annulment of the Notice of Auction Sale and estate tax assessment against the estate of Briccio Tamparong and exclusion of a property from the list of properties subject of the auction sale for the satisfaction of the estate tax liabilities of Briccio.

Issue:

May Petitioner Ernesto, Jr. still question the assessment against the Estate of Briccio?

Ruling:

No. Petitioner is not a real party in interest with respect to the estate tax assessment against Briccio's estate pursuant to Section 2, Rule 3 of the Rules of Civil Procedure since records showed that the Petitioner is not an heir of Briccio. In tax assessments, it is the taxpayer who disputes the same. Here, Petitioner is neither the taxpayer nor acting for and on behalf of the estate of Briccio. The records even strongly confirmed that Petitioner was actually suing in his capacity as an heir of Felisa and claiming interest over a property that was allegedly mistakenly included in the estate of Briccio. It could hardly be concluded that Petitioner stood to be benefited or injured by the outcome of the appeal. His inchoate interest over the subject property, as heir of Felisa, could not be equated with having an interest over the estate tax assessment of Briccio's estate, to which the subject property was included. Likewise, injunction would not lie to exclude the subject property from the auction sale since the factual milieu of the case revealed that the injunctive relief contemplated in Section 11 of R.A. 1125 is not what was being sought. Further, the settlement of the estate of a deceased person lies with the probate court, to the exclusion of other courts.

CTA EN BANC DECISIONS

CIR vs. LANECO
CTA EB No. 2236 promulgated on June 9, 2021

Facts:

On December 11, 2009, COMPANY L received the LOA authorizing revenue officers to examine its books of accounts and other accounting records for all internal revenue taxes for the period from January 1, 2008 to December 31, 2008. On February 20, 2012, COMPANY L received the PAN dated February 8, 2012, with Details of Computation and Details of Discrepancies, assessing COMPANY L for deficiency VAT for CY 2008. On March 9, 2012, COMPANY L received the FLD dated February 29, 2012, with Details of Computation and Details of Discrepancies and Assessment Notice. Thereafter, COMPANY L filed its Protest against the FLD on September 6, 2012 and September 7, 2012 with the BIR.

On December 18, 2012, COMPANY L received the FDDA on November 13, 2012 denying COMPANY L's Protest on the ground that the assessment has already become final, executory and demandable for its failure to raise the objection within the prescribed period provided for by law. Thereafter, COMPANY L filed its Petition for Review.

Petitioner CIR alleges that COMPANY L failed to timely file a protest against the FLD and FAN dated February 29, 2012 which was stamped received by COMPANY L on March 9, 2012, and the same has already attained finality. COMPANY L filed its protest on September 6, 2012, which was roughly six months beyond the prescribed period provided under Section 228 of the Tax Code Moreover, Petitioner CIR alleged that the issuance of the PAN was on February 8, 2012, while that of the FLD was on February 29, 2012, which is equivalent to 21-days interval. Hence, there was no overlap in the issuance of PAN and the FLD. Likewise, if the basis would be the receipt, the PAN was received on February 20, 2012 while the FLD was received on March 9, 2012 equivalent to 17 days interval. In both cases of issuance and receipt, more than 15 days had already lapsed as mandated under RR No. 12-99.

On the other hand, COMPANY L alleges that it is but a basic rule that the counting of the prescribed period, in this case, the 15-day period, within which a party is directed to make a protest, answer, or any responsive pleading is counted from the receipt thereof.

Issue:

1. Does the Court have jurisdiction over the case?
2. Is the assessment against COMPANY L valid?

Ruling:

1. Yes. The alleged lack of jurisdiction of the Court in Division in CTA Case No. 8769 due to COMPANY L's purported failure to timely file a protest has already been categorically ruled upon by the Court En Banc in the Decision dated April 5, 2017 in CTA EB No. 1452. Said Decision has already become final and executory.

   In CTA EB No. 1452, the Court En Banc ruled that the Court in Division had jurisdiction over CTA Case No. 8769 under the term "other matters", stating that in determining the BIR's right to collect, the validity or invalidity of an assessment, in relation to the due process requirements; or prescription of the right to assess; or the fact of payment of said assessment; may also be reviewed and are properly included as "other matters". The failure to protest, or to raise said issues in a protest, should not result in a waiver of said defenses, for the reason that a void assessment bears no fruit. In this case, there was no motion for reconsideration or appeal interposed by the parties in CTA EB No. 1452, hence, the Decision became final and executory.

2. No. According to Section 3.1.2 of RR No. 12-99, a taxpayer is given a period of fifteen days from receipt of the PAN, to file a protest with the BIR. If the taxpayer fails to respond to the PAN within the said 15-day period, the taxpayer shall be considered in default. It is only then that Petitioner CIR can validly issue the FLD and FAN. Hence, Petitioner CIR is duty-bound to wait for the expiration of the fifteen-day period, reckoned from the date of receipt of the PAN, before it can issue the FLD and assessment notice.

   In this case, records show that COMPANY L received the PAN on February 20, 2012. It had until March 6, 2012, within which to file its protest to the PAN. On March 9, 2012, however, COMPANY L received the FLD and FAN from Petitioner CIR and the same was dated February 29, 2012. Hence, the Petitioner CIR already had a decision within 9 days from the receipt of COMPANY L of the PAN.

   Thus, Petitioner CIR's failure to observe the fifteen-day period to lapse before issuing the FLD is a clear violation of COMPANY L's right to due process. Consequently, the subject FLD and assessment notice are void and bear no valid fruit.

Rio Tuba Nickel Mining Corp. vs. CIR
CTA EB No. 2180 and 2182 promulgated on June 10, 2021

Facts:

On April 1, 2015, Corporation R filed its administrative claim for refund of excess VAT input taxes paid on its domestic purchases and importation of taxable goods and services and importation of goods including capital goods for the CY 2013. On July 29, 2015, the CIR issued a Decision partially granting the claim for refund. Thus, Corporation R filed its Petition for Review on August 26, 2015.

The CTA Division ruled that only the input VAT claim for the 2nd, 3rd, and 4th quarters of CY 2013 were seasonably filed, while the input VAT claim for the 1st quarter of 2013 has already prescribed. Moreover, following the pronouncement in *Coral Bay v. CIR*, only Rio Tuba Corp.'s input VAT from importations were given credit by the court. The input VAT on domestic purchases of goods and services were totally disallowed. Hence, the parties filed a Petition for Review.

Corporation R alleges that the ruling in *Coral Bay v. CIR* revolves around the cross-border doctrine as specifically applied to Philippine Economic Zone Area (PEZA) registered entities and finds no application to zero-rated BOI-registered export entities which are not similarly situated as VAT exempt PEZA entities. Moreover, Corporation R submits that while its claim for input VAT for the 1st of CY 2013 may be considered as prescribed, the same principle of prescription cannot also be applied to its zero-rated sales for lack of legal basis. On the other hand, CIR maintains that there should be a determination on whether the input VAT paid is directly attributable to the zero-rated sales of Corporation R.

Issue:

1. Is the case of *Coral Bay v. CIR* not applicable to zero-rated BOI-registered export entities such as Corporation R?
2. Should the claim for refund on the input VAT on the zero-rated sales for the first quarter of CY 2013 be considered prescribed?
3. Is it required that the input tax be directly attributable to Corporation R's zero-rated sales?

Ruling:

1. No. In pursuance to *Coral Bay v. CIR*, it is not the person or entity to whom the VAT was passed on who can legally claim the refund but the statutory taxpayer or the person who passed on the said tax. Hence, it is the seller who passed on the VAT who is entitled to the refund claim, not the purchaser enjoying a VAT-free incentive. Thus, even without the PEZA law, the rule is clear and can be applied to persons similarly situated, the proper party to seek the tax refund or credit of the passed-on VAT is the suppliers/sellers, and not the purchasers who enjoy a VAT free treatment.

2. Yes. Section 112 of the Tax Code clearly states that in order to validly claim a refund or tax credit of excess input VAT, the claim must be made within two years after the close of the taxable quarter when the sales were made. Moreover, the input VAT incurred or paid are directly attributable or otherwise allocable to the zero-rated sales made by the taxpayer. Failing proof to the contrary, Corporation R's input VAT claim for the first quarter of CY 2013 shall be considered attributable to its reported zero-rated sales for the same quarter. Given that the two-year prescriptive period for the filing of the administrative claim for input VAT refund is reckoned from the close of the taxable quarter when the related zero-rated

or effectively zero-rated sales were made, Corporation R's input VAT claim for the first quarter of CY 2013 had already prescribed. As a necessary consequence, Corporation R's declared zero-rated sales for the first quarter of CY 2013 related to the input VAT claim for the same quarter should also be disallowed.

3. No. Section 112 of the Tax Code only mandates that the input tax paid or incurred is attributable to a taxpayer's zero-rated sales, and in this case, the Court a quo already found that the excess and unutilized input VAT of Corporation Ris attributable to its valid zero-rated sales based on the evidence presented by it. The law does not require that the input tax be directly attributable to Corporation R's zero-rated sales. Input taxes that bear a direct or indirect connection with a taxpayer's zero-rated sales satisfy the requirement of the law. It is a well-recognized rule that where the law does not distinguish, courts should not distinguish.

CIR vs. Lepanto Consolidated Mining Company
CTA EB No. 2230 promulgated on June 14, 2021

Facts:

A Corp. claims that for CY 2015, it exported one hundred percent of its total sales volume/value of gold and silver to Corporation H, a corporation based in Hong Kong. The said transactions were paid for in U.S. Dollars, which was coursed through United Coconut Planters Bank (UCPB). By virtue of these export transactions, A Corp. asserts that it incurred input VAT. Consequently, on March 17, 2017, A Corp. filed an Application for Tax Credits/Refunds seeking a refund of its excess and/or unutilized input VAT arising from said export transactions. Due to Petitioner CIR's inaction, A Corp. filed a Petition for Review before the CTA Division which partially granted A Corp.'s claim for input VAT refund. Hence, Petitioner CIR filed a Petition for Review. Petitioner CIR alleges that the law requires that only "creditable input taxes" that are "directly attributable" may be refunded. No attributability was established between the input tax on purchases vis-a-vis the zero-rated sales and that the CTA Division merely assumed the same.

Issue:

Did the CTA Division err in partially granting the refund?

Ruling:

No. Mere allegations cannot overturn a ruling by the CTA Division duly supported by evidence on record. As a rule, allegations without corresponding proof cannot overturn a judgment which has been rendered painstakingly through the thorough examination of the pieces of evidence adduced during the trial. In this case, Petitioner CIR simply alleged principles regarding the VAT system as basis for its grant and the corresponding reversal of the input VAT refund allowed by the CTA Division. He did not specifically raise a particular error committed by the CTA Division which shows a misappreciation of the evidence presented and offered during the trial. Petitioner CIR simply alleged generally that A Corp. failed to prove direct attributability of the input VAT it seeks to refund with its zero-rated sales. This he did without presenting any supporting proof.

Moreover, Section 112 of the Tax Code does not require absolute direct attribution of the purchases (the input VAT of which is subject to a refund/TCC claim) to zero-rated sales. In fact, the said provision allows the allocation of input VAT that cannot be directly attributed to any of the taxpayer's sales. There is nothing in Section 112 of the Tax Code which states that the input tax needs to be directly attributable or a factor in the chain of production to the zero-rated sale in order for it to be creditable or refundable. In fact, the aforementioned provision allows as tax credit an allocable portion of a taxpayer's input tax that is not directly and entirely attributable to the zero-rated sales.

CTA EN BANC RESOLUTIONS

CTA En Banc Resolutions 02-2021 issued on January 7, 2021

- This Resolution provides for the guidelines on the format of the pleadings and the number of copies of pleadings to be submitted to CTA in Division, and/or in En Banc, which are as follows:

    1. All pleadings, motions and similar papers that need to be filed with the Court of Tax Appeals (CTA) shall be:
        a) Written in single space with a one-and-a half-space between paragraphs;
        b) Use an easily readable font style of the party's choice of fourteen (14)-size font; and
        c) Written on a legal-size white bond paper, that is, on a 13-inch by 8.5-inch white bond paper.
    2. All decisions, resolutions and orders issued by the CTA shall comply with the above-mentioned requirements. Similarly covered are the reports submitted to the Court and the transcripts of stenographic notes (TSN).
    3. On all CTA-bound papers, the parties shall maintain a left-hand margin of 1.5 inches from the edge; an upper margin of 1.2 inches from the edge; a right-hand margin of 1.0 inch from the edge; and, a lower margin of 1.0 inch from the edge. Every page must be consecutively numbered.
    4. The number of court-bound papers that a party is required to file with the CTA shall be as follows:
        a) Petition for Review to be filed with the Court in Division: six (6) copies, to be distributed as follows: one (1) for the original docket, one (1) for the Office of the Solicitor General, one (1) for the Bureau of Internal Revenue/Bureau of Customs and three (3) for the Justices;
        b) Petition for Review and other submissions to be filed with the Court *En Banc:* ten (1 0) copies, to be distributed as follows: one (1) for the original docket and nine (9) for the Justices;
        c) All other submissions to be filed with the Court in Division: four (4) copies, to be distributed as follows: one (1) for the original docket and three (3) for the Justices
    5. Only the original docket shall be considered as the **"official** copy of case records". The **"official** copy of case records" shall be disposed of in accordance with the prevailing records disposal procedures.
    6. The duplicate copies of pleadings, motions and all other submissions of the Justices are unofficial copies. The unofficial copies of case records of terminated cases, as determined by the Justices, can be disposed of without the observance of the seven (7)-year period from the termination of the case, subject only to the discretion of the Justices concerned.

CTA En Banc Resolutions 04-2021 issued on February 24, 2021

- This Resolution provides for the guidelines for submission of pleadings and other court submissions through email, which are as follows:

    1. Pleadings, motions, and other court submissions may be filed by email through the official email address of the CTA Judicial Records Division jrd.cta@judiciary.gov.ph copy furnished the official email address of the CT A

En Banc enbanc.cta@judiciarv.gov.ph for *en banc* cases or the email address of the concerned CTA Division for Division cases, as follows:

- First Division- 1stdiv.cta@judiciarv.gov.ph
- Second Division- 2nddiv.cta@judiciarv.gov.ph
- Third Division- 3rddiv.cta@judiciary.gov.ph;

2. The cut-off time for pleadings, motions, and other court submissions filed by email shall be at 4:30 p.m. which is the same cut-off time for the physical filing of pleadings, motions, and other court submissions. Pleadings, motions, and other court submissions filed by email after the 4:30 p.m. cut-off time shall be considered as filed on the next working day;
3. Considering that pleadings, motions, and other court submissions filed with the CTA oftentimes consist of a large number of pages including the annexes appended thereto and that each pleading, motion, and other court submission is required to be filed with the CTA, at the very least, in four (4) copies for Division cases and ten (10) copies for *En Bane* cases, litigants shall submit, by personal filing or licensed courier, the required number of hard copies of the pleadings, motions, and other court submissions within five (5) calendar days from date of filing by email;
4. In cases where there are filing fees or other legal fees that are required to be paid on the pleadings, motions, and other court submissions filed by email, litigants are required to submit the proof of payment of the filing fees or other legal fees due thereon within five (5) calendar days from the date of filing through email. After the lapse of the five-day period, the Court shall act on the pleading, motion, or other court submissions accordingly;
5. Payment of the filing fees and other legal fees due on the pleadings or motions filed through email by litigants/counsels of record whose offices are situated within the National Capital Region (NCR) shall be made directly with the Cash Division of the CTA. Litigants from the provinces may remit the filing fees and other legal fees due in the form of Postal Money Orders (PMO) by registered mail together with the required number of hard copies of the pleading, motion, or other court submissions; and
6. Failure to comply with paragraphs 1, 3, 4, and 5 of these guidelines shall be a ground for declaring the pleading, motion, and other court submissions as deemed not filed which may result in the dismissal of the petition for review, complaint, or information, and the imposition of other appropriate sanctions as may be determined by the Court.