SECOND DIVISION

[G.R. No. 230016, November 23, 2020]

COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS. PHILEX MINING CORPORATION, RESPONDENT.

D E C I S I O N

LOPEZ, J.:

While the tax law requires mandatory compliance with the keeping of subsidiary journals and the filing of monthly value-added tax (VAT) declarations, the Court will not deny the request for refund on the sole basis that the taxpayer failed to comply with these requirements when the law does not provide for its compliance by the taxpayer to be entitled for refund. The Court may not construe a statute that is free from doubt; neither can we impose conditions or limitations when none is provided for.[1]

This Petition for Review on *Certiorari*[2] under Rule 45 of the Rules of Court seeks to set aside the Decision[3] dated October 19, 2016 and Resolution[4] dated February 14, 2017 of the Court of Tax Appeals (CTA) *En Banc* in CTA EB No. 1334, which affirmed the CTA Division's Decision[5] dated March 31, 2015 and Resolution[6] dated June 24, 2015 in CTA Case Nos. 8553 and 8562, ordering the Commissioner of Internal Revenue (CIR) to refund in favor of Philex Mining Corporation (Philex Mining) the amount of P51,734,898.99, representing its unutilized input VAT attributable to its zero-rated sales for the second and third quarters of the taxable year (TY) 2010.

ANTECEDENTS

Philex Mining is a domestic corporation engaged in the mining business, such as the exploration and operation of mining properties and the commercial production, marketing, and exportation of mineral products.[7] It is a VAT-registered taxpayer with duly approved Application for Zero-Rate effective April 12, 1998.[8] During the second and third quarters of TY 2010, Philex Mining sold and shipped mineral products to Pan Pacific Copper Co., Ltd., Louise Dreyfus Commodities Metals Suisse SA, and Heraeus Ltd.[9]

On February 13, 2012, Philex Mining filed its amended quarterly VAT returns for the second and third quarters to reflect excess input tax arising from its zero-rated sales.[10] On June 7, 2012 and June 22, 2012, it filed claims for refund of P45,048,921.68 and P51,464,383.81 with the Department of Finance's One-Stop Shop Center (DOF-OSS) and attached to the Claimant Information Sheet Nos. 62442 and 22002, the letters dated May 4, 2012, containing a list of documents to support its claims.[11]

Thereafter, Philex Mining filed two (2) separate petitions for review before the CTA Division on October 9, 2012 (docketed as CTA Case No. 8553) and on October 25, 2012 (docketed as CTA Case No. 8562).[12] The Court granted the motions to consolidate the two (2) cases and to commission an Independent Certified Public Accountant (ICPA) on February 14, 2013.[13] Thereafter, trial ensued.

Ruling of the CTA

On March 31, 2015, the CTA Division partly granted Philex Mining's petitions.[14] It held that Philex Mining timely filed its administrative and judicial claims for a refund within the period prescribed under Sections 112 (A) and (C) of the 1997 National Internal Revenue Code (NIRC), as amended[15] (Tax Code), and that it attached to the Claimant Information Sheets the required documents to support its claims. The CTA Division examined the pieces of documentary evidence submitted by Philex Mining and evaluated the report issued by the ICPA, and concluded that Philex Mining sufficiently proved its entitlement to a refund for its unutilized input VAT attributable to its zero-rated sales for the second and third quarters of TY 2010, but in the reduced amount of P51,734,898.99. The dispositive portion of the Decision reads:

> **WHEREFORE**, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, [the Commissioner of Internal Revenue] is hereby **ORDERED** to **REFUND** in favor of [Philex Mining Corporation] the amount of P51,734,898.99, representing its unutilized and excess input VAT attributable to its zero-rated sales for the second and third quarter[s] of 2010.
>
> **SO ORDERED.**[16] (Emphases in the original.)

The CIR moved for reconsideration alleging that the judicial claim for refund was premature, Philex Mining did not submit to the DOF-OSS the required checklist of documents, and Philex Mining failed to comply with the accounting requirements, specifically the keeping of subsidiary sales journal and subsidiary purchase journal, and the filing of monthly VAT declarations.

On June 24, 2015, the CTA Division denied the CIR's motion for reconsideration for lack of merit.[17] The CTA Division reiterated that the judicial claim was timely filed and that Philex Mining submitted complete documents to support its claims. As regards non-compliance with the accounting requirements, the CTA Division held that there was nothing in Section 112 (A) of the Tax Code that required the presentation of subsidiary journals or the filing of monthly VAT declarations so that the taxpayer may be entitled to a refund or the issuance of tax credit certificate of its claimed excess input tax.

Discontented, the CIR appealed to the CTA *En Banc* reiterating the arguments raised in his motion for reconsideration filed with the CTA Division. On October 19, 2016, the CTA *En Banc* affirmed the CTA Division's findings and conclusion and disposed: [18]

> **WHEREFORE**, the Petition for Review filed by [the] Commissioner of Internal Revenue on August 5, 2015, is hereby **DENIED**, for lack of

> merit. Accordingly, the assailed Decision and Resolution dated March 31, 2015 and June 24, 2015, respectively promulgated by [the] Court in Division in CTA Case Nos. 8553 & 8562, are hereby **AFFIRMED**.
>
> **SO ORDERED.**[19] (Emphases in the original.)

Failing at reconsideration,[20] the CIR, through the Office of the Solicitor General, filed the instant petition with this Court, raising the sole issue:

> CONTRARY TO THE FINDINGS OF THE CTA EN BANC, TAX DECLARATIONS AND SUBSIDIARY JOURNALS FORM PART OF THE REQUIREMENTS OF THE LAW FOR THE GRANT OF TAX CREDIT OR REFUND, AND IT IS THE OBLIGATION OF RESPONDENT TO PROVE COMPLIANCE THERET0.[21]

RULING

The petition is bereft of merit.

First off, it is not disputed that Philex Mining was engaged in zero-rated export sales under Section 106 (A)(2)(a)(1)[22] of the Tax Code and that it imported goods other than capital goods and purchased services in relation to such sales for the second and third quarters of TY 2010.[23]

Under Section 112 (A),[24] a taxpayer engaged in zero-rated sales may apply for the issuance of a tax credit certificate, or refund of excess input tax due or paid, attributable to the sale, subject to the following conditions: (1) the taxpayer must be VAT-registered; (2) the taxpayer must be engaged in sales which are zero-rated or effectively zero-rated; (3) the claim must be filed within two (2) years after the close of the taxable quarter when such sales were made; (4) the creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax;[25] and (5) in case of zero-rated sales under Section 106 (A)(2)(a)(1), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with *Bangko Sental ng Pilipinas* rules and regulations.[26]

The issue hinges on the fourth requisite.

The CIR posits that Philex Mining did not comply with the requirement of Section 4.113-3[27] of Revenue Regulations (RR) No. 16-2005[28] to keep, preserve, and maintain subsidiary sales and purchase journals. Likewise, Philex Mining failed to prove that it filed the monthly VAT declarations required under Section 114 (A)[29] of the Tax Code, as implemented by Section 4.114-1[30] of RR No. 16-2005. The CIR opines that prior compliance with these requirements is a condition *sine qua non* in claiming unutilized zero-rated input VAT because the subsidiary journals and monthly VAT declarations will assist the CIR and the courts in determining whether Philex Mining incurred input taxes in connection with its zero-rated sales and whether the input taxes were not applied against any output tax liability.[31]

The CIR is mistaken.

It is elementary rule in statutory construction that when the words of a statute are clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.[32] The plain-meaning rule or *verba legis*, expressed in the maxim *index animi sermo*, or speech is the index of intention, rests on the valid presumption that the words employed by the legislature in a statute correctly express its intention or will, and preclude the court from construing it differently.[33] *Verba legis non est recedendum.* From the words of a statute there should be no departure. Furthermore, every part of the statute must be interpreted with reference to the context, *i.e.* that every part of the statute must be considered together with the other parts, and kept subservient to the general intent of the whole enactment.[34]

Guided by the foregoing principles, we see no reason to depart from the findings and conclusion of the CTA. As the CTA aptly held, and as will be discussed below, there was nothing in the Tax Code or in RR No. 16-2005 that would suggest that the subsidiary journals and monthly VAT declarations are part of the substantiation requirements that must be complied with to support a claim for tax refund or credit. [35]

Under Section 110 (A)[36] of the Tax Code, creditable input taxes must be evidenced by a VAT invoice or official receipt, which must, in turn, be issued in accordance with Sections 113[37] and 237.[38] Related to these provisions, Sections 4.110-8, 4.113-1 (A) and (B) of RR No. 16-2005 enumerate the documents required and information that must appear on the face of the official receipt, to substantiate the input tax on importation of goods other than capital goods and on domestic purchases of services, *viz*.:

> SEC. 4.110-8. *Substantiation of Input Tax Credits*. -
>
> (a) **Input taxes for the importation of goods or the domestic purchase** of goods, properties or **services** is made in the course of trade or business, whether such input taxes shall be credited against zero-rated sale, non-zero-rated sales, or subjected to the 5% Final Withholding VAT, **must be substantiated and supported by the following documents**, x x x:
>
> (1) For the importation of goods - import entry or other equivalent document showing actual payment of VAT on the imported goods.
>
> x x x x
>
> (4) For the purchase of services - official receipt **showing the information required under Secs. 113 and 237** of the Tax Code.
>
> x x x x
>
> SEC. 4.113-1. *Invoicing Requirements*. -
>
> (A) A VAT-registered person shall issue: -
>
> x x x x

(2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.

Only VAT-registered persons are required to print their TIN followed by the word "VAT" in their invoice or official receipts. Said documents shall be considered as a "VAT Invoice" or VAT official receipt. All purchases covered by invoices/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

x x x x

(B) **Information contained in VAT invoice or VAT official receipt.** - The following information shall be indicated in VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his TIN;

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; Provided, That:

x x x x

(c) If the sale is subject to zero percent (0%) VAT, the term "zero-rated sale" shall be written or printed prominently on the invoice or receipt[.] x x x. (Emphases supplied.)

From the foregoing, it is apparent that importation of non-capital goods must be evidenced by import entry declarations or any equivalent document; and the domestic purchase of services, by VAT official receipts showing: (1) that the seller is a VAT-registered person; (2) the Tax Identification Number (TIN) of the seller; (3) the word "zero-rated sale" was written or printed prominently on the receipt in case of zero-rated sales; (4) the date of transaction, nature of service, as well as the name, business style, if any, and address of the purchaser; and (5) the TIN of the purchaser.[39] Case law states that failure to comply with the *invoicing requirements* is sufficient ground to deny the claim for refund or tax credit.[40] Too, Revenue Memorandum Circular No. 42-2003[41] only provides for non-compliance with the *invoicing requirements* as a ground for denial of the claim for refund or credit, *viz*.:

Q-13: Should penalty be imposed on TCC application for failure of claimant to comply with certain **invoicing requirements**, (e.g., sales invoices must bear the TIN of the seller)?

A-13 Failure by the supplier to comply with the **invoicing requirements** on the documents supporting the sale of goods and services will result to the disallowance of the claim for input tax by the purchaser-claimant.

If the claim for refund/TCC is based on the existence of zero-rated sales by the taxpayer but it fails to comply with the