

SECOND DIVISION

[G.R. No. 209776, December 07, 2016]

**COMMISSIONER OF INTERNAL REVENUE, PETITIONER, V.
UNITED CADIZ SUGAR FARMERS ASSOCIATION MULTI-PURPOSE
COOPERATIVE, RESPONDENT.**

DECISION

BRION, J.:

Before us is the petition for review on *certiorari*^[1] (under Rule 45 of the Rules of Court) filed by the Commissioner of Internal Revenue (CIR) to assail the June 5, 2013 decision^[2] and the October 30, 2013 resolution^[3] of the Court of Tax Appeals (CTA) *en banc* in CTA EB No. 846 (CTA Case No. 7995).

In the assailed decision and resolution, the CTA *en banc* affirmed the decision^[4] and resolution^[5] of the CTA Second Division (CTA *division*).

The Facts

By law, the CIR is empowered, among others, to act on and approve claims for tax refunds or credits.

The respondent United Cadiz Sugar Farmers Association Multi-purpose Cooperative (UCSFA-MPC) is a multi-purpose cooperative with a Certificate of Registration issued by the Cooperative Development Authority (CDA) dated January 14, 2004.^[6]

In accordance with Revenue Regulations (RR) No. 20-2001, the Bureau of Internal Revenue (BIR) issued BIR Ruling No. RR12-08-2004,^[7] otherwise known as the "Certificate of Tax Exemption" in favor of UCSFA-MPC.

In November 2007, BIR Regional Director Rodita B. Galanto of BIR Region 12 - Bacolod City required UCSFA-MPC to pay in advance the value-added tax (VAT) before her office could issue the Authorization Allowing Release of Refined Sugar (AARRS) from the sugar refinery/mill. This was the first instance that the Cooperative was required to do so. This prompted the cooperative to confirm with the BIR^[8] whether it is exempt from the payment of VAT pursuant to Section 109(1) of the National Internal Revenue Code (NIRC).^[9]

The BIR responded favorably to UCSFA-MPC's query. In BIR Ruling No. ECCP-015-08,^[10] the CIR^[11] ruled that the cooperative "is considered as the **actual producer** of the members' sugarcane production, because it primarily provided the various inputs (fertilizers), capital, technology transfer, and farm management." (*emphasis supplied*) The CIR thus confirmed that UCSFA-MPC's sale of produce to members and non-members is **exempt from the payment of VAT**.

As a result, Regional Director Galanto no longer required the advance payment of VAT from UCSFA-MPC and began issuing AARRS in its favor, thereby allowing the cooperative to withdraw its refined sugar from the refinery. But, in November 2008, the administrative legal opinion notwithstanding, Regional Director Galanto, again demanded the payment of advance VAT from UCSFA-MPC. Unable to withdraw its refined sugar from the refinery/mill for its operations, UCSFA-MPC was forced to pay advance VAT under protest.

On November 11, 2009, UCSFA-MPC filed an administrative claim for refund with the BIR, asserting that it had been granted tax exemption under Article 61 of Republic Act No. (RA) 6938, otherwise known as the Cooperative Code of the Philippines (Cooperative Code),^[12] and Section 109(1) of the NIRC.^[13]

On November 16, 2009, it likewise filed a judicial claim for refund before the CTA division. During the trial, UCSFA-MPC presented, among other documents, its Certificates of Registration^[14] and Good Standing^[15] issued by the CDA; Certificate of Tax Exemption,^[16] and BIR Ruling No. ECCP-015-08 issued by the BIR,^[17] as well as its Summary of VAT Payments Under Protest, Certificates of Advance Payment, official receipts, and payment forms to substantiate its claim.

The CTA division ruled in UCSFA-MPC's favor,^[18] thus upholding the cooperative's exemption from the payment of VAT; the division held that the amount of P3,469,734.00 representing advance VAT on 34,017 LKG bags of refined sugar withdrawn from the refinery, was illegally or erroneously collected by the BIR. The CIR moved but failed to obtain reconsideration of the CTA division ruling.

The CIR then sought recourse before the CTA *en banc*. In its assailed decision,^[19] the CTA *en banc* affirmed the CTA division's ruling and ruled that UCSFA-MPC successfully proved its entitlement to tax exemption through its Certificate of Tax Exemption and BIR Ruling No. ECCP-015-08 (which confirmed its status as a tax-exempt cooperative). The CTA *en banc* also held that both its administrative and judicial claims for refund were timely filed, having been filed within the two-year prescriptive period,^[20] in accordance with the requirements of Sections 204(C) and 229 of the NIRC.

In denying the CIR's motion for reconsideration,^[21] the CTA *en banc* further ruled that the payment of VAT on sales necessarily includes the exemption from the payment of advance VAT. It also struck down the argument questioning the validity of UCSFA-MPC's Certificate of Good Standing for having been raised belatedly and thus considered waived.

Finally, it also held that as a tax-exempt cooperative, UCSFA-MPC is not required to file monthly VAT declarations. The presentation of these documents is therefore not essential in proving its claim for refund.

These developments gave rise to the present petition.

The Court's Ruling

We find the petition unmeritorious.

We have consistently ruled that claims for tax refunds, when based on statutes granting tax exemption, partake of the nature of an exemption.^[22] Tax refunds and

exemptions are exceptions rather than the rule and for this reason are highly disfavored.^[23] Hence, in evaluating a claim for refund, the rule of strict interpretation applies.

This rule requires the claimant to prove not only his entitlement to a refund, but also his due observance of the reglementary periods within which he must file his administrative and judicial claims for refund.^[24] Non-compliance with these *substantive* and *procedural* due process requirements results in the denial of the claim.^[25] It is then essential for us to discuss each requirement and evaluate whether these have been duly complied with in the present case.

Procedural requirements: Present claim for refund was timely filed.

UCSFA-MPC's claim for refund - grounded as it is on payments of advance VAT alleged to have been **illegally and erroneously** collected from November 15, 2007 to February 13, 2009 - is governed by Sections 204(C)^[26] and 229^[27] of the NIRC. These provisions are clear: within two years from the date of payment of tax, the claimant must first file an **administrative claim** with the CIR^[28] before filing its **judicial claim** with the courts of law.^[29] Both claims must be filed within a two-year reglementary period.^[30] Timeliness of the filing of the claim is mandatory and jurisdictional. The court^[31] cannot take cognizance of a judicial claim for refund filed either prematurely or out of time.

In the present case, the court *a quo* found that while the judicial claim was filed merely five days after filing the administrative claim, both claims were filed within the two-year reglementary period. Thus, the CTA correctly exercised jurisdiction over the judicial claim filed by UCSFA-MPC.

Substantive requirements: UCSFA MPC proved its entitlement to refund

As mentioned, the rule on strict interpretation requires the claimant to sufficiently establish his entitlement to a tax refund. If the claimant asserts that he should be refunded the amount of tax he has previously paid because he is exempted from paying the tax,^[32] he must point to the specific legal provision of law granting him the exemption. His right cannot be based on mere implication.^[33]

In this case, the cooperative claims that it is exempted — based on Section 61 of R.A. 6938 and Section 109(1) of the NIRC — from paying advance VAT when it withdraws refined sugar from the refinery/mill as required by RR. No. 6-2007. UCSFA-MPC thus alleges that the amounts of advance VAT it paid under protest from November 15, 2007 to February 13, 2009, were illegally and erroneously collected.

UCSFA-MPC's sale of refined sugar is VAT-exempt.

As a general rule under the NIRC, a seller shall be liable for VAT^[34] on the sale of goods or properties based on the gross selling price or gross value in money of the thing sold.^[35] However, certain transactions are exempted from the imposition of VAT.^[36] One exempted transaction is the sale of agricultural food products in their original state.^[37] Agricultural food products that have undergone simple processes

of preparation or preservation for the market are nevertheless considered to be in their original state.^[38]

Sugar is an agricultural food product. Notably, tax regulations differentiate between *raw sugar* and *refined sugar*.^[39]

For internal revenue purposes, the sale of *raw cane sugar* is exempt from VAT^[40] because it is considered to be in its original state.^[41] On the other hand, *refined sugar* is an agricultural product that can no longer be considered to be in its original state because it has undergone the refining process; its sale is thus subject to VAT.

Although the sale of refined sugar is generally subject to VAT, such transaction may nevertheless qualify as a VAT-exempt transaction if the sale is made by a cooperative. Under Section 109(1) of the NIRC,^[42] *sales by agricultural cooperatives* are exempt from VAT provided the following conditions concur, viz:

First, the seller must be an agricultural cooperative duly registered with the CDA.^[43] An agricultural cooperative is "duly registered" when it has been issued a **certificate of registration by the CDA**. This certificate is conclusive evidence of its registration.^[44]

Second, the cooperative must sell either:

- 1) exclusively to its members; or
- 2) to both members and non-members, *its produce*, whether in its original state or processed form.^[45]

The second requisite differentiates cooperatives according to its customers. If the cooperative transacts only with members, all its sales are VAT-exempt, regardless of what it sells. On the other hand, if it transacts with both members and non-members, the product sold must be the cooperative's own produce in order to be VAT-exempt. Stated differently, if the cooperative only sells its produce or goods that it manufactures on its own, its entire sales is VAT-exempt.^[46]

A cooperative is the producer of the sugar if it owns or leases the land tilled, incurs the cost of agricultural production of the sugar, and produces the sugar cane to be refined.^[47] It should not have merely purchased the sugar cane from its planters-members.^[48]

UCSFA-MPC satisfies these requisites in the present case.

First, UCSFA-MPC presented its Certificate of Registration issued by the CDA. It does not appear in the records that the CIR ever objected to the authenticity or validity of this certificate. Thus, the certificate is conclusive proof that the cooperative is duly registered with the CDA.^[49]

While its certificate of registration is sufficient to establish the cooperative's due registration, we note that it also presented the Certificate of Good Standing that the CDA issued. This further corroborates its claim that it is duly registered with the CDA.

Second, the cooperative also presented BIR Ruling No. ECCP-015-08, which states that UCSFA-MPC "is considered as the **actual producer** of the members' sugar cane production because it primarily provided the various productions inputs (fertilizers), capital, technology transfer, and farm management." It concluded that the cooperative "has **direct participation** in the sugar cane production of its farmers-members."

Thus, the BIR itself acknowledged and confirmed that UCSFA-MPC is the producer of the refined sugar it sells. Under the principle of equitable estoppel,^[50] the petitioner is now precluded from unilaterally revoking its own pronouncement and unduly depriving the cooperative of an exemption clearly granted by law.

With the UCSFA-MPC established as a duly registered cooperative and the **producer** of sugar cane, its sale of refined sugar is exempt from VAT, whether the sale is made to members or to non-members.

The VAT-exempt nature of the sales made by agricultural cooperatives under the NIRC is consistent with the tax exemptions granted to qualified cooperatives under the Cooperative Code which grants cooperatives exemption from sales tax^[51] on transactions with members and non-members.^[52]

These conclusions reduce the issue in the case to whether the granted exemption also covers the *payment* of advance VAT upon withdrawal of refined sugar from the refinery or mill.

*Exemption from VAT on **sale** of refined sugar by an agricultural cooperative includes the exemption from the requirement of **advance payment** thereof.*

The CTA *en banc* ruled that the cooperative is exempted from the **payment of advance VAT**.^[53] It also ruled that the exemption from the payment of VAT on sales necessarily includes the exemption from the payment of advance VAT.^[54]

The CIR argues that the exemption granted by the Cooperative Code and NIRC, on which the Certificate of Tax Exemption and BIR Ruling No. ECC-015-08 issued in favor of UCSFA-MPC were based, **only covers VAT on the sale of produced sugar**. It does not include the **exemption from the payment of advance VAT in the withdrawal of refined sugar** from the sugar mill.^[55]

The CIR's argument fails to persuade us.

As we discussed above, the sale of refined sugar by an agricultural cooperative is exempt from VAT. To fully understand the difference between VAT on the sale of refined sugar and the advance VAT upon withdrawal of refined sugar, we distinguish between the tax liability that arises from the **imposition of VAT** and the **obligation of the taxpayer to pay** the same.

Persons liable for VAT *on the sale of goods* shall pay the VAT due, in general, on a monthly basis. VAT accruing from the sale of goods in the current month shall be payable the following month.^[56] However, there are instances where VAT is required to be paid in advance,^[57] such as in the sale of refined sugar.^[58]