491 Phil. 317

THIRD DIVISION

[G.R. NO. 153866, February 11, 2005]

COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS. SEAGATE TECHNOLOGY (PHILIPPINES), RESPONDENT.

DECISION

PANGANIBAN, J.:

Business companies registered in and operating from the Special Economic Zone in Naga, Cebu -- like herein respondent -- are *entities* exempt from all internal revenue taxes and the implementing rules relevant thereto, including the value-added taxes or VAT. Although export sales are not deemed exempt *transactions*, they are nonetheless zero-rated. Hence, in the present case, the distinction between exempt *entities* and exempt *transactions* has little significance, because the net result is that the taxpayer is not liable for the VAT. Respondent, a VAT-registered enterprise, has complied with all requisites for claiming a tax refund of or credit for the input VAT it paid on capital goods it purchased. Thus, the Court of Tax Appeals and the Court of Appeals did not err in ruling that it is entitled to such refund or credit.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, seeking to set aside the May 27, 2002 Decision[2] of the Court of Appeals (CA) in CA-GR SP No. 66093. The decretal portion of the Decision reads as follows:

> "WHEREFORE, foregoing premises considered, the petition for review is DENIED for lack of merit."[3]

The Facts

The CA quoted the facts narrated by the Court of Tax Appeals (CTA), as follows:

> "As jointly stipulated by the parties, the pertinent facts x x x involved in this case are as follows:
>
> 1. [Respondent] is a resident foreign corporation duly registered with the Securities and Exchange Commission to do business in the Philippines, with principal office address at the new Cebu Township One, Special Economic Zone, Barangay Cantao-an, Naga, Cebu;
>
> 2. [Petitioner] is sued in his official capacity, having been duly appointed and empowered to perform the duties of his office, including, among others, the duty to act and approve claims for refund or tax credit;

3. [Respondent] is registered with the Philippine Export Zone Authority (PEZA) and has been issued PEZA Certificate No. 97-044 pursuant to Presidential Decree No. 66, as amended, to engage in the manufacture of recording components primarily used in computers for export. Such registration was made on 6 June 1997;

4. [Respondent] is VAT [(Value Added Tax)]-registered entity as evidenced by VAT Registration Certification No. 97-083-000600-V issued on 2 April 1997;

5. VAT returns for the period 1 April 1998 to 30 June 1999 have been filed by [respondent];

6. An administrative claim for refund of VAT input taxes in the amount of P28,369,226.38 with supporting documents (inclusive of the P12,267,981.04 VAT input taxes subject of this Petition for Review), was filed on 4 October 1999 with Revenue District Office No. 83, Talisay Cebu;

7. No final action has been received by [respondent] from [petitioner] on [respondent's] claim for VAT refund.

"The administrative claim for refund by the [respondent] on October 4, 1999 was not acted upon by the [petitioner] prompting the [respondent] to elevate the case to [the CTA] on July 21, 2000 by way of Petition for Review in order to toll the running of the two-year prescriptive period.

"For his part, [petitioner] x x x raised the following Special and Affirmative Defenses, to wit:

1. [Respondent's] alleged claim for tax refund/credit is subject to administrative routinary investigation/examination by [petitioner's] Bureau;

2. Since 'taxes are presumed to have been collected in accordance with laws and regulations,' the [respondent] has the burden of proof that the taxes sought to be refunded were erroneously or illegally collected x x x;

3. *In Citibank, N.A. vs. Court of Appeals*, 280 SCRA 459 (1997), the Supreme Court ruled that:

> "A claimant has the burden of proof to establish the factual basis of his or her claim for tax credit/refund."

4. Claims for tax refund/tax credit are construed in 'strictissimi juris' against the taxpayer. This is due to the fact that claims for refund/credit [partake of] the nature of an exemption from tax. Thus, it is incumbent upon the [respondent] to prove that it is indeed entitled to the refund/credit sought. Failure on the part of the [respondent] to prove the same is fatal to its claim for tax credit. He who claims exemption must be able to justify his claim by the clearest grant of organic or statutory law. An exemption from

the common burden cannot be permitted to exist upon vague implications;

5. Granting, without admitting, that [respondent] is a Philippine Economic Zone Authority (PEZA) registered Ecozone Enterprise, then its business is not subject to VAT pursuant to Section 24 of Republic Act No. ([RA]) 7916 in relation to Section 103 of the Tax Code, as amended. As [respondent's] business is not subject to VAT, the capital goods and services it alleged to have purchased are considered not used in VAT taxable business. As such, [respondent] is not entitled to refund of input taxes on such capital goods pursuant to Section 4.106.1 of Revenue Regulations No. ([RR])7-95, and of input taxes on services pursuant to Section 4.103 of said regulations.

6. [Respondent] must show compliance with the provisions of Section 204 (C) and 229 of the 1997 Tax Code on filing of a written claim for refund within two (2) years from the date of payment of tax.'

"On July 19, 2001, the Tax Court rendered a decision granting the claim for refund."[4]

Ruling of the Court of Appeals

The CA affirmed the Decision of the CTA granting the claim for refund or issuance of a tax credit certificate (TCC) in favor of respondent in the reduced amount of P12,122,922.66. This sum represented the unutilized but substantiated input VAT paid on capital goods purchased for the period covering April 1, 1998 to June 30, 1999.

The appellate court reasoned that respondent had availed itself only of the fiscal incentives under Executive Order No. (EO) 226 (otherwise known as the Omnibus Investment Code of 1987), not of those under both Presidential Decree No. (PD) 66, as amended, and Section 24 of RA 7916. Respondent was, therefore, considered exempt only from the payment of income tax when it opted for the income tax holiday in lieu of the 5 percent preferential tax on gross income earned. As a VAT-registered entity, though, it was still subject to the payment of other national internal revenue taxes, like the VAT.

Moreover, the CA held that neither Section 109 of the Tax Code nor Sections 4.106-1 and 4.103-1 of RR 7-95 were applicable. Having paid the input VAT on the capital goods it purchased, respondent correctly filed the administrative and judicial claims for its refund within the two-year prescriptive period. Such payments were -- to the extent of the refundable value -- duly supported by VAT invoices or official receipts, and were not yet offset against any output VAT liability.

Hence this Petition.[5]

Sole Issue

Petitioner submits this sole issue for our consideration:

"Whether or not respondent is entitled to the refund or issuance of Tax Credit Certificate in the amount of P12,122,922.66 representing alleged unutilized input VAT paid on capital goods purchased for the period April 1, 1998 to June 30, 1999."[6]

The Court's Ruling

The Petition is unmeritorious.

Sole Issue:
Entitlement of a VAT-Registered PEZA Enterprise to a Refund of or Credit for Input VAT

No doubt, as a PEZA-registered enterprise within a special economic zone,[7] respondent is entitled to the fiscal incentives and benefits[8] provided for in either PD 66[9] or EO 226.[10] It shall, moreover, enjoy all privileges, benefits, advantages or exemptions under both Republic Act Nos. (RA) 7227[11] and 7844.[12]

Preferential Tax Treatment Under Special Laws

If it avails itself of PD 66, notwithstanding the provisions of other laws to the contrary, respondent shall not be subject to internal revenue laws and regulations for raw materials, supplies, articles, equipment, machineries, spare parts and wares, except those prohibited by law, brought into the zone to be stored, broken up, repacked, assembled, installed, sorted, cleaned, graded or otherwise processed, manipulated, manufactured, mixed or used directly or indirectly in such activities.[13] Even so, respondent would enjoy a net-operating loss carry over; accelerated depreciation; foreign exchange and financial assistance; and exemption from export taxes, local taxes and licenses.[14]

Comparatively, the same exemption from internal revenue laws and regulations applies if EO 226[15] is chosen. Under this law, respondent shall further be entitled to an income tax holiday; additional deduction for labor expense; simplification of customs procedure; unrestricted use of consigned equipment; access to a bonded manufacturing warehouse system; privileges for foreign nationals employed; tax credits on domestic capital equipment, as well as for taxes and duties on raw materials; and exemption from contractors' taxes, wharfage dues, taxes and duties on imported capital equipment and spare parts, export taxes, duties, imposts and fees,[16] local taxes and licenses, and real property taxes.[17]

A privilege available to respondent under the provision in RA 7227 on tax and duty-free importation of raw materials, capital and equipment[18] -- is, ipso facto, also accorded to the zone[19] under RA 7916. Furthermore, the latter law -- notwithstanding other existing laws, rules and regulations to the contrary -- extends[20] to that zone the provision stating that no local or national taxes shall be imposed therein.[21] No exchange control policy shall be applied; and free markets for foreign exchange, gold, securities and future shall be allowed and maintained.[22] Banking and finance shall also be liberalized under minimum Bangko Sentral

regulation with the establishment of foreign currency depository units of local commercial banks and offshore banking units of foreign banks.[23]

In the same vein, respondent benefits under RA 7844 from negotiable tax credits[24] for locally-produced materials used as inputs. Aside from the other incentives possibly already granted to it by the Board of Investments, it also enjoys preferential credit facilities[25] and exemption from PD 1853.[26]

From the above-cited laws, it is immediately clear that petitioner enjoys preferential tax treatment.[27] It is not subject to internal revenue laws and regulations and is even entitled to tax credits. The VAT on capital goods is an internal revenue tax from which petitioner as an entity is exempt. Although the *transactions* involving such tax are not exempt, petitioner as a VAT-registered person,[28] however, is entitled to their credits.

Nature of the VAT and the Tax Credit Method

Viewed broadly, the VAT is a uniform tax ranging, at present, from 0 percent to 10 percent levied on every importation of goods, whether or not in the course of trade or business, or imposed on each sale, barter, exchange or lease of goods or properties or on each rendition of services in the course of trade or business[29] as they pass along the production and distribution chain, the tax being limited only to the value added[30] to such goods, properties or services by the seller, transferor or lessor.[31] It is an indirect tax that may be shifted or passed on to the buyer, transferee or lessee of the goods, properties or services.[32] As such, it should be understood not in the context of the person or entity that is primarily, directly and legally liable for its payment, but in terms of its nature as a tax on consumption.[33] In either case, though, the same conclusion is arrived at.

The law[34] that originally imposed the VAT in the country, as well as the subsequent amendments of that law, has been drawn from the *tax credit method*.[35] Such method adopted the mechanics and self-enforcement features of the VAT as first implemented and practiced in Europe and subsequently adopted in New Zealand and Canada.[36] Under the present method that relies on invoices, an entity can credit against or subtract from the VAT charged on its sales or outputs the VAT paid on its purchases, inputs and imports.[37]

If at the end of a taxable quarter the output taxes[38] charged by a seller[39] are equal to the input taxes[40] passed on by the suppliers, no payment is required. It is when the output taxes exceed the input taxes that the excess has to be paid.[41] If, however, the input taxes exceed the output taxes, the excess shall be carried over to the succeeding quarter or quarters.[42] Should the input taxes result from zero-rated or effectively zero-rated *transactions* or from the acquisition of capital goods, [43] any excess over the output taxes shall instead be refunded[44] to the taxpayer or credited[45] against other internal revenue taxes.[46]

Zero-Rated and Effectively