376 Phil. 495

THIRD DIVISION

[G.R. No. 134467, November 17, 1999]

ATLAS CONSOLIDATED MINING & DEVELOPMENT CORPORATION, PETITIONER, VS. COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.

DECISION

PANGANIBAN, J.:

A litigation is neither a game of technicalities nor a battle of wits and legalisms; rather, it is an abiding search for truth, fairness and justice. While stipulations of facts are normally binding on the declarant or the signatory thereto, a party may nonetheless be allowed to show that an admission made therein was the result of a "palpable mistake" that can be easily verified from the stipulated facts themselves and from other incontrovertible pieces of evidence admitted by the other party. A patently clerical mistake in the stipulation of facts, which would result in falsehood, unfairness and injustice, cannot be countenanced.

Statement of the Case

Before this Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, challenging in part the February 6, 1998 Decision[1] of the Court of Appeals[2] (CA) in CA-GR SP No. 34152 and its July 2, 1998 Resolution denying reconsideration.

The Court of Tax Appeals in CTA Case No. 4794 was reversed in the herein assailed CA Decision, which ruled as follows:

> "a. VAT Ruling No. 008-92, in imposing 10% VAT on sales of copper concentrates to PASAR, pyrite to PHILPHOS and gold to the Central Bank lacks legal bases, hence, of no effect.
>
> b. VAT Ruling No. 059-92 (dated April 20, 1992) which applies retroactively to January 1, 1988 VAT Ruling No. 008-92 (dated January 23, 1992) is contrary to law.
>
> c. Refund of input tax for zero-rated sale of goods to Board of Investment (BOI)-registered exporters shall be allowed only upon presentation of documents of liquidation evidencing the actual utilization of the raw materials in the manufacture of goods at least 70% of which have been actually exported (Revenue Regulations No. 2-88).
>
> d. Revenue Regulations that automatically disallow VAT refunds on account of failure to faithfully comply with the documentary requirements enunciated thereunder are valid.

e. A VAT-registered person shall, subject to the filing of an inventory as prescribed by regulations, be allowed transitional input tax which shall be credited against output tax. Be that as it may, current input tax, excluding the presumptive input tax, may be credited against output tax on miscellaneous taxable sales if the suspended taxes on purchasers and importations has not been fully paid. Further, direct offsetting of excess input over taxes against other internal revenue tax liabilities of the zero-rated taxpayer is not allowed.

f. Section 106(e) of the NIRC prescribing a sixty (60) day period from the date of filing of the VAT refund/tax credit applications within which the Commissioner shall refund the input tax is merely directory. Hence, no interest can be due as a result of the failure of the Commissioner to act on the petitioner's claim within sixty (60) days from the date of application therefor.

g. *Motu proprio* application of excess tax credits to other tax liabilities is not allowed.

"WHEREFORE, premises considered, the assailed decision and resolution of the Court of Tax Appeals in C.T.A. Case no. 4794 are hereby **REVERSED** and **SET ASIDE**. Let the records of this case be remanded to the court a quo for a proper computation of the refundable amount which should be remitted, without interest, to the petitioner within sixty (60) days from the finality of this decision. No pronouncement as to costs."[3]

Asking that the foregoing disposition be partially set aside, the instant Petition specifically prays for a new judgment declaring that:

"(1) Petitioner was VAT registered beginning January 1, 1988 and continued to be so for the first quarter of 1990;

"(2) In the computation of the amount to be refunded to petitioner, the totality of the sales to the EPZA-registered enterprise must be taken into account, not merely the proportion which such sales have to the actual exports of the enterprise.

"(3) Section 21 of Revenue Regulations No. 5-87 insofar as it disallows input taxes for purchases not covered by VAT invoices is invalid and contrary to law."[4]

The Facts

The facts are undisputed. They were culled by the Court of Appeals from the joint stipulation of the parties, which we quote:

"The antecedent facts of the case as agreed to by the parties in the Joint Stipulation of Facts submitted to the Court of Tax Appeals on January 8, 1993, follow:

"x x x x x x x x x

"2. Petitioner is engaged in the business of mining, production and sale of various mineral products, consisting principally of copper concentrates and gold and duly registered with the BIR [Bureau of Internal Revenue] as a VAT [Value Added Tax] enterprise per its Registration No. 32-A-6-002224. (p. 250, BIR Records).

"3. Respondent [BIR] duly approved petitioner's application for VAT zero-rating of the following sales:

a. Gold to the Central Bank (CB) [now referred to as the Bangko Sentral ng Pilipinas;]

b. Copper concentrates to the Philippines Smelting and Refining Corp. (PASAR); and

c. Pyrite [concentrated] to Philippine Phosphates, Inc. (Philphos).

"The BIR's approval of sales to CB and PASAR was dated April 21, 1988 while zero-rating of sales to PHILPHOS was approved effective June 1, 1988.

"4. PASAR and Philphos are both Board of Investments (BOI) and Export Processing Zone Authority (EPZA) registered export-oriented enterprises located in an EPZA zone.

"5. On April 20, 1990, petitioner filed a VAT return with the BIR for the first quarter of 1990 whereby it declared its sales described in par. 3 hereof, i.e., to the CB, PASAR and Philphos, as zero-rated sales and therefore not subject to any output VAT x x x.

"6. On or about July 24, 1990, petitioner filed a claim with respondent for refund/credit of VAT input taxes on its purchase of goods and services for the first quarter of 1990 in the total amount of P40,078,267.81 xxx.

"7. On or about September 2, 1992, petitioner filed an Amended Application for tax credit/refund in the amount of P 35,522,056.58 x x x.

"8. On September 9, 1992, respondent resolved petitioner's claim for VAT refund/credit by allowing only P2,518,122.32 as refundable/creditable while disallowing P33,003,934.26, to wit:

a. Amount claimed P 35,522,056.58
LESS: Disallowances

b. No O.R./Invoices/Proper Documents 1,384,172.48

c. Invoice without VAT Registration Number 474,606.87

d. Invoice with Sold to `Cash'	31,499.04	
e. Invoice without Authority to Print	326,374.23	
f. VAT No. stamped/typewritten/handwritten printed in 1988-1989	441,195.54	
g. Others	71,088.09	
h. Erroneous computation	85,382.58	
i.		2,814,318.83
j. ALLOWANCE INPUT P32,707,737.75 TAX		
OTHER DEDUCTIONS:		
k. Output tax due on miscellaneous taxable sales	972,535.67	
l. *Output tax due on sale of gold to the Central Bank (179,314,048.17 x 1/11)	16,301,277.11	
m. **Input tax attributable to sales to PASAR (submitted BOI certification did not qualify as required under RMO 22-92) (465,095,536.14 1,226,381,659.74 x 32,707,737.75)	12,404,150.65	
n. ***Input tax attributable to sales to PHILPHOS (No BOI certificate from the BOI) (18,809,519.07/ 1,226,381,659.74 x 32,707,737.75)	501,652.00	
o. Penalty for issuance of invoices without authority to use loose leaf sales invoices	10,000.00	30,189,615.43
ALLOWANCE INPUT TAX RECOMMENDED FOR ISSUANCE OF TAX CREDIT CERTIFICATE		P 2,518,122.32

"9. A supplemental report of investigation was submitted by the BIR examiners on October 15, 1992 recommending the

increase in allowable input tax credit from P 2,518,122.32 to P12,101,569.11 or an increment of P9,583,446.79 due to petitioner's submission of BOI certifications on the sales to PASAR which brought down the deduction of P12,404,150.65 to P2,518,122.32.

"The parties further stipulated that the issues to be resolved are:

'a. the validity of VAT Ruling No. 008-92 in connection with -

'i. the applicability of 10% VAT rating with regard to sales of copper concentrates to PASAR and pyrite to PHILPHOS; and

'ii. the application of 10% VAT on sales of gold to CB.

'b. the validity of VAT Ruling No. 59-92 dated April 20, 1992 which applies retroactively VAT Ruling No. 008-92 dated January 23, 1992;

'c. the applicability of Revenue Regulation 2-88 in that it requires the purchaser to export more than 70% of its total sales for the supplier, such as petitioner to be 100% zero-rated;

'd. the validity of the disallowance of input taxes in the amount of P2,814,318.83 on the ground that the petitioner has not complied with Article 108(a) of the NIRC;

'e. the validity of BIR Regulations that automatically disallow VAT refund for failure to present the required documents although the purchases can be substantiated by other documents;

'f. the propriety of deducting the `output tax on miscellaneous taxable sales' from the current input tax instead of against petitioner's presumptive input tax (PIT) which, as per BIR findings, are sufficient to cover the amount assessed;

'g. the mandatory nature of Section 106 (e) of the NIRC prescribing a specific period of sixty (60) days within which to process and grant applications for input VAT refund and the corresponding right given to claimants to apply VAT credits to other tax liabilities as allowed under Section 104(b) of the NIRC as well as interest for the delay in the grant of petitioner's claims for VAT refund/credit.

"On November 8, 1993, the [Court of Tax Appeals] rendered a decision x x x. The petitioner moved for reconsideration of the decision, which mo[tion] the respondent court denied."[5]

Ruling of the Court of Appeals