REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

<u>EN BANC</u>

REGUS SERVICE CENTRE PHILIPPINES B.V.,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA *EB* NO. 2640
(CTA Case No.10124)

Present:

DEL ROSARIO, *P.J.*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, *and*
FERRER-FLORES, *JJ.*

Promulgated:
SEP 15 2023 1:20pm

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DECISION

MANAHAN, J.:

Before the Court of Tax Appeals *En Banc* is a Petition for Review filed by petitioner Regus Service Centre Philippines B.V. on June 20, 2022 seeking the reversal of the Decision dated February 9, 2022 (assailed Decision) and the Resolution dated May 23, 2022 (assailed Resolution) of the Court's Second Division (Court in Division) in CTA Case No. 10124 entitled *Regus Service Centre Philippines B.V. – ROHQ vs. Commissioner of Internal Revenue.*[1]

[1] With Dissenting Opinion by Justice Jean Marie A. Bacorro-Villena.

The dispositive portions of the assailed Decision and Resolution are quoted hereunder:

Decision dated February 9, 2022

> **"WHEREFORE,** in light of the foregoing considerations, the instant Petition for Review is **DENIED** for lack of merit."
>
> **SO ORDERED."**

Resolution dated May 23, 2022

> **"WHEREFORE**, premises considered, petitioner's Motion for Reconsideration is **DENIED** for lack of merit."
>
> **SO ORDERED."**

THE PARTIES

Petitioner is licensed to do business in the Philippines as a regional operating headquarter (ROHQ) of Regus Service Centre, Philippines B.V., a corporation organized and existing under the laws of Netherlands.

Respondent is the duly appointed Commissioner of Internal Revenue (CIR), vested with the authority to carry out all the functions, duties and responsibilities of said office, including, *inter alia,* the power to decide, approve, and grant claims for refund or tax credit as provided by law. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

THE FACTS

The antecedent facts as narrated by the Court in Division are as follows:

> "On April 5, 2019, petitioner filed with the BIR its *Application for Tax Credits/ Refunds* (BIR Form No. 1914) for the refunds *(sic)* or tax credits of input VAT in the amount of P12,295,005.64, for calendar year 2017, pursuant to Section 112 (A) of the 1997 Tax Code, as amended by TRAIN law.

On June 21, 2019, petitioner received the letter dated May 30, 2019 from Ms. Ma. Luisa I. Belen, the OIC-Assistant Commissioner (ACIR), Assessment Service of the BIR, denying its application for VAT refund for calendar year 2017 in the amount of P12,295, 005.64.

Proceedings Before This Court

Petitioner filed the present *Petition for Review* on July 19, 2019.

On September 17, 2019, respondent posted his Answer xxx xxx xxx.

Respondent transmitted the BIR Records for the present case on September 19, 2019.

The Pre-Trial Conference was set and held on October 24, 2019. *Respondent's Pre-Trial Brief* was filed on October 17, 2019, while *Respondent's Pre-Trial Brief (sic)* and *Pre-Trial Brief (of Petitioner Regus Service Centre Philippine B.V.-ROHQ)* was submitted on October 21, 2019.

On November 6, 2019, the parties filed their *Joint Stipulation of Facts and Issues (JSFI).* In the Pre-Trial Order dated December 2, 2019, the Court approved and adopted the said JSFI, and deemed the termination of the pre-trial.

Trial then ensued.

During trial, petitioner presented documentary and testimonial evidence. It offered the testimonies of the following individuals, namely: (1) Atty. Juan R. Bernardino, Jr., petitioner's Senior Finance Manager; (2) Ms. Edelweiss Y. Chua, an Associate of the Tax Department of Isla Lipana & Co., and (3) Krista V. Bamabao, the Court-commissioned Independent Certified Public Accountant (ICPA).

The ICPA submitted her Report on January 14, 2020.

Petitioner filed its *Formal Offer of Evidence* on March 16, 2020. Respondent failed to file his comment thereon. In the Resolution dated February 2, 2021, the Court admitted petitioner's exhibits, *except* for: (1) Exhibit "P-3-1", for failure of the same to correspond to the document being offered; and (2) Exhibit "P-8-1", for not having been duly marked, and failure of any of petitioner's witnesses to identify the same.

> Petitioner filed its *Motion for Reconsideration with Motion to Set Commissioner's Hearing (Re: Resolution on the Formal Offer of Evidence dated 2 February 2021)* on February 18, 2021, praying *inter alia,* for the admission of Exhibit "P-3-11." During the hearing held on February 22, 2021, the said *Motion for Reconsideration* was, in effect, partially granted when the Court admitted the said Exhibit "P-3-1". In the same hearing, respondent's counsel manifested that he will no longer present any evidence in this case.
>
> The *Memorandum for Respondent* and petitioner's *Memorandum* were posted on March 23, 2021, and March 24, 2021, respectively.
>
> This case was considered submitted for decision on June 1, 2021." (Citation omitted)

The Court in Division promulgated a Decision on February 9, 2022 in CTA Case No. 10124 denying the Petition for Review for lack of merit, with Justice Jean Marie A. Bacorro Villena dissenting.

Petitioner then filed a Motion for Reconsideration on February 28, 2022 without respondent's comment.

The Court issued a Resolution on May 23, 2022 denying petitioner's Motion for Reconsideration.

On June 3, 2022, petitioner received the assailed Resolution denying its Motion for Reconsideration.

On June 20, 2023, petitioner filed a Petition for Review with the Court *En Banc* docketed as CTA *EB* No. 2640.[2]

On August 4, 2022, the Court issued a Resolution directing petitioner to submit within five (5) days from notice, the following documents:

1. Original or Certified True Copy of Director's Certificate;
2. Compliant Verification/Certification; and
3. Affidavit of Service,

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[2] EB Docket, pp. 1-13.

In that same Resolution, the Court ordered respondent to file his Comment, within ten (10) days from notice.

Respondent failed to file his comment within the period prescribed by the Court.[3]

In a Minute Resolution dated September 14, 2022, the instant case was deemed submitted for decision.[4]

THE ISSUES

Petitioner raises the following Assignment of Errors in support of its Petition for Review:

1. The administrative claim for refund for the first quarter of calendar year (CY) 2017 was filed within the prescribed period under the Tax Code and its implementing rules and regulations;
2. The services for the covered period were rendered by the petitioner within the Philippines; and,
3. Tax cases are civil in nature and require preponderance of evidence to prove entitlement to claim for refund.

Petitioner's Arguments

Petitioner disagrees with the Court in the assailed Decision and maintains that the Letter Application for Tax Credit/Refund dated March 29, 2019 admitted as Exhibit "P-8" shows that it attempted to timely file said application with the BIR VAT Credit Audit Division ("BIR-VCAD"). Petitioner alleges that the absence of the authorized signatories (from Revenue District Office No. 44) to sign the "Certificate of No Claim" prevented its timely release and explains the delay in submitting said document to complete its Application for Refund, through no fault of its own.

Petitioner argues that should its claim for refund for the first quarter of CY 2017 should be considered prescribed then it is a violation of its right to procedural due process because the BIR was responsible for the delayed

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[3] Records Verification dated August 30, 2022.
[4] EB Docket, page 65.

release of the "Certificate of No Claim" causing petitioner to file the same only on April 5, 2019.

Petitioner further remonstrates against the finding of the Court in Division that it failed to prove that the subject services were performed in the Philippines. Apart from submitting the Service Agreement between its head office and its sole foreign client, petitioner contends that its very nature as an ROHQ and as defined by Republic Act (RA) No. 8756[5], allows it to perform qualifying services here in the Philippines for its affiliates and subsidiaries abroad. According to petitioner, the fact that it reported and paid its income from rendition of services here in the Philippines would by itself vouch that these services were performed here because a foreign corporation is taxed only on its income derived from sources within the Philippines.

Petitioner encapsulates all of its arguments by stating that tax cases are civil in nature and require only a preponderance of evidence to prove entitlement to a claim for refund.

As stated earlier, respondent no longer filed a comment to petitioner's Petition for Review.

THE RULING OF THE COURT *EN BANC*

The petition is impressed with merits.

The instant claim for refund involves the alleged unutilized input value-added tax (VAT) attributable to its export sales for the first to fourth quarters of CY 2017. As an ROHQ, petitioner claims that it rendered VAT zero-rated services here in the Philippines for its non-resident client, Franchise International S.A.R.L., a company based in Luxembourg. Petitioner anchors the VAT zero-rating status of said services on the provisions of Section 108 (B) of the 1997 National Internal Revenue Code (NIRC), as amended.

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[5] An Act Providing For The Terms, Conditions And Licensing Requirements Of Regional Or Area Headquarters, Regional Operating Headquarters, And Regional Warehouses Of Multinational Companies, Amending For The Purpose Certain Provisions Of Executive Order No. 226, Otherwise Known As The Omnibus Investments Code Of 1987.

In analyzing the merits of the instant claim, the Court in Division used certain requisites and parameters based on Sections 112 and 108 (B) of the 1997 NIRC, as amended, and we quote:

"SEC. 112. *Refunds or Tax Credits of Input Tax.* —

(A) *Zero-Rated or Effectively Zero-Rated Sales.* — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.

xxx xxx xxx

(C) *Period within which Refund of Input Taxes shall be Made.* — In proper cases, the Commissioner shall grant a refund for creditable input taxes within ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof: *Provided,* That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.

In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals: *Provided, however,* That failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code."

"SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* –

XXX XXX XXX

(B) *Transactions Subject to Zero Percent (0%) Rate.* – **The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:**

(1) Processing, manufacturing or repacking goods for other persons doing business outside of the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

(2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance wuth the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

(3) Services rendered to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects the supply of such services to zero percent (0%) rate;"

(4) Services rendered to persons engaged in international shipping or international air transport operations, including leases of property for use thereof;

(5) 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.

(6) Transport of passengers and cargo by air or sea vessels from the Philippines to a foreign country, and

(7) Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels." (emphasis supplied)

We subscribe to the requisites used by the Court in Division to determine petitioner's entitlement based on the foregoing provisions and existing jurisprudence and for this purpose, apply the same in determining the merits of the instant Petition for Review.

We discuss in detail.

To successfully obtain a credit/refund of input VAT under the afore-quoted Section 112 (A) and (C) of the 1997 NIRC, as amended, a taxpayer must comply with the following:

1. The refund claim must be filed with the BIR within two (2) years after the close of the taxable quarter when the sales were made;[6]
2. In case of full or partial denial of the refund claim rendered within a period of ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application, the judicial claim shall be filed with this Court within thirty (30) days from receipt of the decision;
3. The taxpayer is a VAT-registered person;[7]
4. The taxpayer is engaged in zero-rated or effectively zero-rated sales;[8]
5. For zero-rated sales under Section 106(A)(2)(1) and (2); 106(B); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the *Bangko Sentral ng Pilipinas* (BSP) rules and regulations;[9]
6. The input taxes are not transitional input taxes;[10]
7. The input taxes are due or paid;[11]
8. The input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume;[12] and
9. The input taxes have not been applied against output taxes during and in the succeeding

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[6] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009; and *AT&T Communications Services Philippines*, Inc., G.R. No. 182364, August 3, 2010.
[7] Ibid.
[8] Ibid.
[9] Ibid.
[10] Ibid.
[11] Ibid.
[12] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.

quarters.[13]

The Court in Division, in its assailed Decision, studied and examined the evidence presented by petitioner in the light of these aforesaid requisites and found that it essentially complied with all of the aforesaid requisites except for the timely filing of its administrative claim for refund for the first (1st) quarter of CY 2017. We quote the relevant portions of the assailed Decision, to wit:

> "The first requisite pertains to the filing of a claim for tax credit of input VAT before the BIR, within two (2) years from the close of the taxable quarter when the supposed zero-rated or effectively zero-rated sales were made. Thus, petitioner's last day for filing its administrative claim for the four (4) quarters of calendar year 2017 respectively fell on the following dates, to wit:

Calendar year 2017	**Close of table quarter**	**Last day to file an administrative claim**
1st Quarter	March 31, 2017	March 31, 2019
2nd Quarter	June 30, 2017	June 30, 2019
3rd Quarter	September 30, 2017	September 30, 2019
4th Quarter	December 31, 2017	December 31, 2019

> Records show that petitioner filed its administrative claim for refund of input VAT for the said periods on April 5, 2019. Clearly, from the foregoing table, it can already be discerned that petitioner's administrative claim covering the 1st quarter of 2017 was belatedly filed, and only that pertaining to the 2nd 3rd and 4th quarters of the same year were seasonably filed within the two-year prescriptive period. Hence, petitioner complied with the above-stated first requisite but only insofar as the 2nd 3rd and 4th quarters of calendar year 2017 are concerned."

Petitioner argues otherwise and states that the belated filing of the application for tax credit/refund with the BIR was due to the delayed release by the latter of the "Certificate of No Claim" which is allegedly a supporting document required to be appended to said application.

We disagree with petitioner.

Records show that the administrative claim for refund for CY 2017 was filed on April 5, 2019,[14] and petitioner's allegation that it was actually filed on March 29, 2019 was

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[13] Supra, Note 6.
[14] Exhibit "P-9", Division Docket, Volume I, p. 340.

unsupported by concrete evidence. This issue was clearly disposed of by the Court in Division in its Resolution dated May 23, 2022 when it resolved petitioner's Motion for Reconsideration, and we quote:

> "Herein, records of the case reveal that the administrative claim for refund for CY 2017 was filed on April 5, 2019. However, petitioner insists that it was in fact on March 29, 2019 that it filed its administrative claim for refund but the VAT Credit Audit Division refused to accept the same because of *(sic)* it was not accompanied by a 'Certificate of No Claim.'
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> To stress, aside from the lone testimony of its witness, Ms. Edelweiss Y. Chua, petitioner did not present any evidence to substantiate or corroborate its allegations. Basic is the rule in evidence that the burden of proof lies upon him who asserts it, not upon him who denies, since, by the nature of things, he who denies a fact cannot produce any proof of it. Bare allegations which are not supported by any evidence, documentary or otherwise, sufficient to support a claim fall short to satisfy the degree of proof needed."

Upon a careful perusal of the evidence offered by petitioner as regards the allegation of timely filing of its administrative claim for refund, we agree with the above findings and conclusions of the Court in Division and find that only the claims for refund pertaining to the 2nd, 3rd and 4th quarters of CY 2017 were timely filed in accordance with afore-quoted provisions of Section 112 of the 1997 NIRC, as amended. It is clear from the evidence submitted particularly Exhibit "P-9"[15] that the Application for Tax Credits/Refunds (BIR Form No. 1914) was filed with the BIR on April 5, 2019. The Letter of petitioner to the BIR dated March 29, 2019[16] which petitioner claims to show that it "attempted" to file it on the same date fails to convince the Court to rule otherwise, as a mere attempt or an intention to file is an abstract term that cannot contravene a concrete and actual proof of filing.

As regards the second argument of petitioner on the performance of the subject services in the Philippines, we determine this by looking into the requirements of the afore-quoted Section 108 (B) (2) of the 1997 NIRC.

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[15] Ibid.
[16] Exhibit "P-8", Division Docket, Volume I, pp. 335-339.

Law and jurisprudence have dictated that there are certain essential elements that must exist for a sale or supply of services to be subject to the VAT rate of zero percent (0%) under Section 108 (B) (2) of the 1997 NIRC, as amended, to wit:

1. The recipient of the services is a foreign corporation, and the said corporation is doing business outside the Philippines, or is a non-resident person not engaged in business who is outside the Philippines when the services were performed;[17]

2. The services fall under any of the categories under Section 108(B)(2), [18] or simply, the services rendered should be other than "processing, manufacturing or repacking goods";[19]

3. The payment for such services should be in acceptable foreign currency accounted for in accordance with BSP rules;[20] and

4. The services must be performed in the Philippines[21] by a VAT-registered person.

The Court in Division found petitioner to have complied with most of the above requisites *except*, that it failed to prove that the subject services were performed in the Philippines (Requisite #4), hence, the **VAT zero-rating status of the services was not established**.

In the instant Petition for Review, petitioner disagrees with the above findings and alleges that it has presented sufficient proof in complying with this requisite.

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[17] *Sitel Philippines Corporation (Formerly Clientlogic Phils. Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 201326, February 8, 2017; *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007; *Accenture, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 190102, July 11,2012.

[18] *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, G.R. No. 152609, June 29, 2005.

[19] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra.

[20] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra; *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, supra.

[21] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra; *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, supra.

After a careful examination of the records of this case, this Court agrees with petitioner that the subject services were duly proven to have been performed here in the Philippines for the following reasons:

First, the Court in Division's preliminary discourse and affirmation that petitioner duly proved that the recipient of its services and sole client, Franchise International S.A.R.L, is a non-resident foreign corporation doing business outside the Philippines coupled with the provisions of the Service Agreement[22] between these two entities would result in an obvious and inevitable conclusion that the services were performed here in the Philippines unless objected to by respondent. In this case, respondent neither raised this defense in his Answer nor raised this issue in his Memorandum during trial of the instant case before the Court in Division. It bears stressing that when petitioner made its Formal Offer of Evidence on March 16, 2020, which included said Service Agreement, respondent did not submit any comment/opposition thereto.[23] He also waived his right to present evidence during the trial. Further, respondent also gave up on the opportunity to contest the allegations of petitioner in the instant Petition for Review with the Court *En Banc* when it opted not to file any comment/opposition.

Second, the unrebutted testimony of the Independent Certified Public Accountant (ICPA), Ms. Krista V. Bambao, that the services rendered to Franchise International S.A.R.L., were performed in the Philippines strengthens the allegation of petitioner,[24] and we quote:

> Q.- What is the reason why these were subjected/classified as zero-rated transactions by Petitioner?
>
> A- As discussed in Part III on page 6 of the Independent CPA Report, we verified the SLS (**Exhibit P-23),** GL Account No. 31510 (Sales) (**Exhibit P-24),** and the VAT registered O.R.s issued by Petitioner to substantiated *(sic)* the fees collected for the covered period **(Exhibits P-25 to P-36)** would show that the transactions were considered as sales subject to VAT at zero percent (0%) because these pertain to fees collected for services rendered in the Philippines for Franchise International S.A.R.L., an entity incorporated under the laws of Luxembourg and is not registered as a corporation nor partnership in the

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[22] Exhibit "P-41", Division Docket, Volume I, pp. 459-468.
[23] Records Verification dated June 30, 2020, Division Docket, Volume I, page 432.
[24] Judicial Affidavit of Krista V. Bambao, Division Docket, Volume I, pp.261-288.

Philippines as evidenced by the following: xxx xxx xxx"

xxx xxx xxx

Third, by its very nature as an ROHQ, petitioner is tasked to provide **qualifying services** to its foreign affiliates and is allowed to derive income in the Philippines by performing such services pursuant to Section (2) (3) of RA 8756, which amended Executive Order (EO) No. 226 and we quote:

> "Section 2. Definition of Terms. – For purposes of this Act, the term:
>
> xxx xxx xxx
>
> (3) Regional Operating Headquarters (ROHQ) shall mean a foreign business entity which is allowed to derive income in the Philippines by performing qualifying services to its affiliates, subsidiaries or branches in the Philippines, in the Asia-Pacific Region and in other foreign markets."

Fourth, petitioner as an ROHQ is considered as a resident foreign corporation which is taxable only on its income from sources within the Philippines pursuant to Section 23 (F) of the 1997 NIRC, as amended, quoted below:

> "Section 23. *General Principles of Income Taxation in the Philippines*- Except when otherwise provided in this Code:
>
> (F) A foreign corporation whether engaged or not in trade or business in the Philippines is taxable only on income derived from sources within the Philippines."

Records show that petitioner declared its income derived from rendition of services in the total amount of Php861,480,338 in its Annual Income Tax Return (ITR) for CY 2017,[25] revealing that it actually rendered services for said year and since petitioner only had one foreign client for the period covered by the claim for refund, it is most likely that such services were performed for said client.

In view of the foregoing reasons, the Court finds that petitioner duly satisfied the evidentiary requirements to prove that said services were performed in the Philippines. In stating thus, this Court stresses the important role of respondent in vigorously contravening petitioner's claim for

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[25] Exhibit "P-44", Division Docket, Volume I, pp.423-431.

refund in the face of proof presented by the latter. The Supreme Court's decision in the case of *Winebrenner and Iñigo Insurance Brokers vs. Commissioner of Internal Revenue,*[26] illustrates this point quite clearly, and we quote:

> "This mindset ignores the rule that the CIR has the equally important responsibility of contradicting petitioner's claim by presenting proof readily on hand once the burden of evidence shifts to its side. Claims for refund are civil in nature and as such, petitioner, as claimant, though having a heavy burden of showing entitlement, need only prove preponderance of evidence in order to recover excess credit in cold cash. To review, "[P]reponderance of evidence is [defined as] the weight, credit, and value of the aggregate evidence **on either side** and is usually considered to be synonymous with the term 'greater weight of the evidence' or 'greater weight of the credible evidence.' It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto."

WHEREFORE, premises considered, the Petition for Review is **PARTIALLY GRANTED.**

The assailed Decision and Resolution dated February 9, 2022 and May 23, 2022, respectively, are **MODIFIED** as regards the Court in Division's conclusion that petitioner failed to prove that the services were performed in the Philippines, for reasons above-stated.

Accordingly, let this case be **REMANDED** to the Court in Division for the determination of petitioner's compliance with the other requisites to merit a grant of its claim for refund of alleged unutilized input VAT for CY 2017.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

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[26] G.R. No. 206526, January 28, 2015.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice