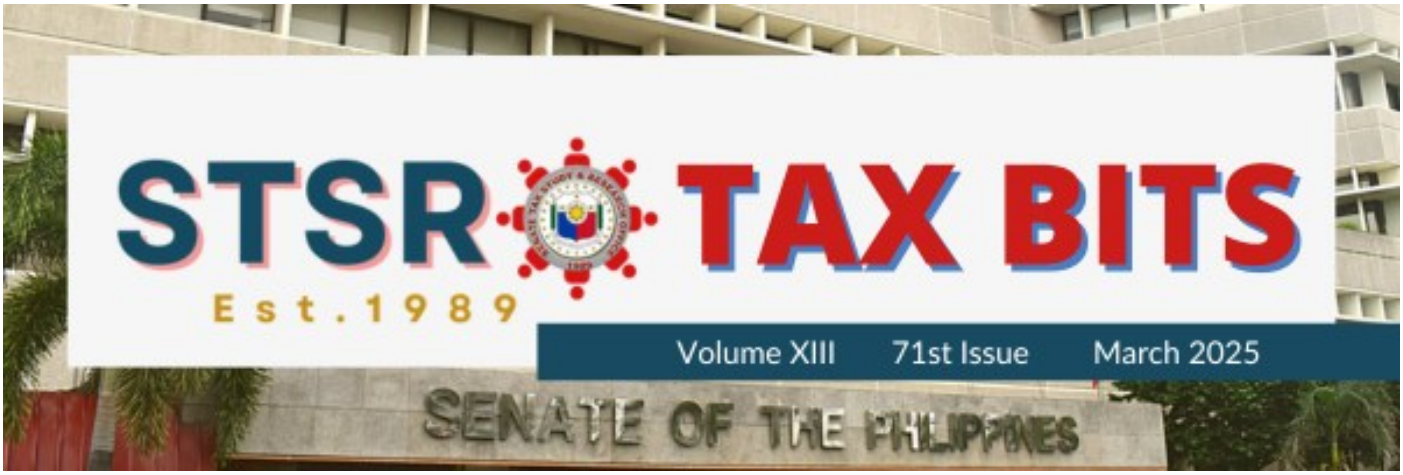

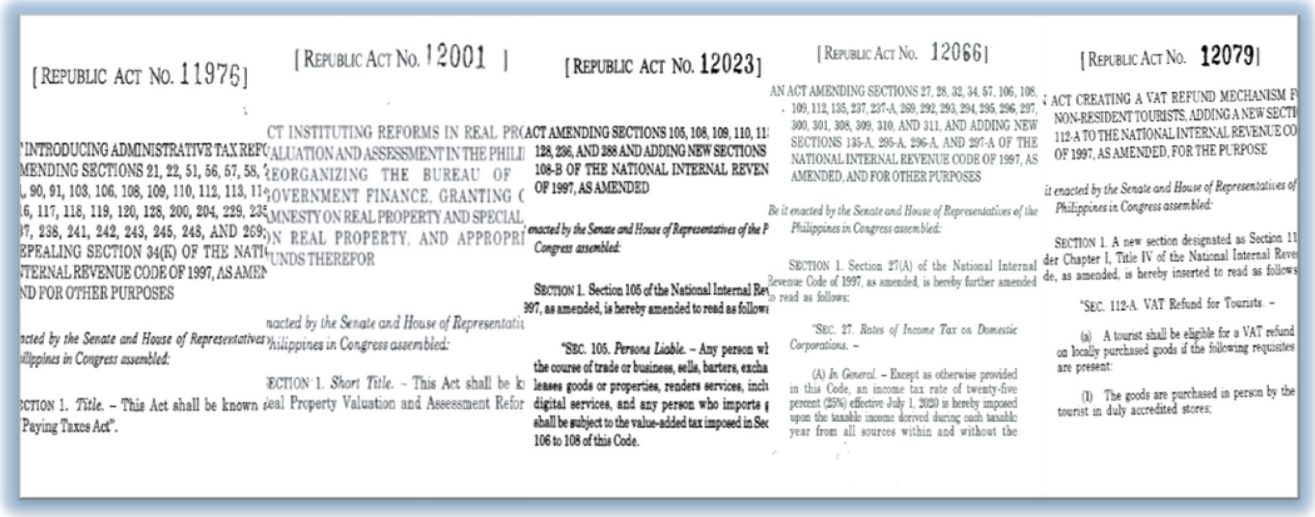
[REPUBLIC ACT NO. 11976]

[REPUBLIC ACT NO. 12001]

[REPUBLIC ACT NO. 12023]

[REPUBLIC ACT NO. 12066]

[REPUBLIC ACT NO. 12079]

STSRO Achieves Historic Milestone in 2024

by the STSRO Technical Staff *

In yet another landmark year, the Senate Tax Study and Research Office (STSRO), the support arm of the **Senate Committee on Ways and Means**, successfully advocated for and secured the passage of five (5) pivotal tax measures in 2024. These measures are aimed to enhance taxpayer welfare, improve real property valuation, level the playing field between local and foreign digital service providers, and attract investments and tourists into the country. This achievement underscores STSRO's dedication in providing technical and administrative support to the Senate of the Philippines.

On 05 January 2024, ***Republic Act No. 11976***, or the ***"Ease of Paying Taxes Act (EOPT)"*** was signed into law. The EOPT is aimed to modernize tax administration by removing antiquated processes and improving efficiency in tax compliance. Moreover, EOPT law classifies taxpayers based on their gross sales for the taxable year:

1. Micro taxpayers are those with less than Php3 million gross sales;

2. Small taxpayers are those with Php3 million to less than Php20 million gross sales;

3. Medium taxpayers are those with Php20 million to less than Php1 billion gross sales; and

4. Large taxpayers are those with gross sales of Php1 billion and above.

Among the notable features of the EOPT are the submission of returns, electronic or manual, to the Bureau of Internal Revenue (BIR) through any authorized agent bank or tax software provider; the value-added tax (VAT) system shifting from gross receipts to gross sales; and special concessions to micro and small taxpayers.

On 13 June 2024, ***Republic Act No. 12001***, or the "***Real Property Valuation and Assessment Reform Act (RPVARA)"*** was enacted. The RPVARA is set to improve our system of real property valuation and assessment by standardizing appraisal procedures. RPVARA strengthened the requirement to update the schedule of market values (SMV), as mandated by the Local Government Code of 1991, by insulating the technical function of updating the SMVs every two (2) years from the political function of setting assessment levels. It institutionalizes the use of the Philippine Valuation Standards (PVS) as basis for

valuation of real properties, with Bureau of Local Government Finance (BLGF) as the head implementing agency. The SMV is also selected as the single system of real property valuation for taxation and as baseline of values for other government agencies.

To provide a 'clean slate' for the property owners and LGUs during the initial implementation of RPVARA, a grant of one-time real property tax amnesty, and the capping of the increase in real property taxes to a maximum of six percent (6%) for the first year of effectivity of the approved SMV are also put in place.

RPVARA Ceremonial Signing on June 13, 2025
Photo from RTVM

On 02 October 2024, ***Republic Act No. 12023***, or the "***VAT on Digital Services Law"*** was approved by President Ferdinand "Bongbong" R. Marcos, Jr. The law aims to boost tax collections by clarifying the scope of digital services under Philippine taxation and ensuring that local and foreign digital service providers are subjected to the same taxation laws. VAT on Digital Services Law is a measure that imposes a 12% VAT on digital services consumed in the Philippines and aims to ensure equitable tax treatment for local and foreign digital service providers. Digital services include cloud services, online media and advertising, and digital goods. It is expected to generate revenue amounting to Php105 billion over the next five (5) years. Assuming a 50% compliance rate, the projected revenue for 2025 is Php7.25 billion. Furthermore, RA No. 12023 designates 5% of the expected total revenue to the Malikhaing Pinoy program to boost the Philippine creative sector, which will benefit over 7.26 million Filipinos who are employed in the Philippine creative industries.

The BIR has issued Revenue Regulation No. 03 -2025 on 16 January 2025 to prescribe the policies and guidelines for the implementation of the VAT on Digital Services Law.

On 07 November 2024, ***Republic Act No. 12066***, or the ***"CREATE MORE Act"*** was signed into law. CREATE MORE addresses long-standing concerns on the inefficiencies of a complex tax incentive system with the end in view of attracting foreign direct investments (FDI) in our country.

CREATE MORE introduces key reforms to streamline and enhance the country's tax incentive system. Processes for availing of tax incentives are simplified, expanding coverage of incentives to more industries and domestic enterprises, fostering a more competitive business environment. Fiscal support is strengthened through extended Income Tax Holiday (ITH) and reduced corporate income tax rates for qualified businesses. Governance and accountability mechanisms are strengthened to improve ease of doing business.

Investment Promotion Agencies (IPAs) are granted greater flexibility in approving and administering incentives, while stricter monitoring and compliance measures are implemented to prevent abuse. By harmonizing incentive policies across different sectors, CREATE MORE strengthens the country's attractiveness as a destination for foreign investments while fostering sustainable economic growth.

Bicameral Conference Committee of CREATE MORE on September 10, 2024
Photo from senate.gov.ph (Joseph B. Vidal / OSP)

On 06 December 2024, **Republic Act No. 12079**, or the ***"VAT Refund for Non-Resident Tourists Act"*** was enacted to attract more non-resident foreign tourists to visit the Philippines and spend their monies on local goods, on top of their usual expenses for services, accommodations, tours, and other forms of entertainment. Republic Act No. 12079 establishes a VAT Refund System on locally purchased goods. It introduced a new Section 112-A to the National Internal Revenue Code. Under this law, tourists can claim a refund on the VAT for goods purchased locally, provided that "tourist" is defined as a non-resident passport holder. Tourists can avail the VAT refund if the goods are purchased in person at duly accredited stores, the goods are taken out of the Philippines within 60 days from the date of purchase, and the value of the purchased goods amounts to at least Php3,000. It may be processed either electronically or in cash.

With the enactment of RA No. 12097, an estimated increase of 30% in tourist spending is projected which will benefit large-scale industries; and micro, small, and medium enterprises (MSMEs). According to the National Economic and Development Authority (NEDA), the law is projected to generate Php3.3 to Php5.7 billion in additional revenues from 2024 to 2028, and create 4,400 to 7,100 jobs in a year.

Building on this momentum, the STSRO shall continue to advocate for the passage of measures on passive income, capital markets, and mining fiscal regime until the close of the 19th Congress.

Contributing writers: Atty. Harold Ian Bartolome, Ms. Robynne Ann Albaniel, Ms. Kristine May Moredo, and Ms. Edlyn Almojuela

TAX EXEMPTIONS: THE ROMIG CASE AND THE FCDU LAW

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Director III, Legal and Tariff Branch

It is a settled doctrine that *tax exemptions are strictly construed against the taxpayer and liberally in favor of the government.* The rationale behind this rule is the **lifeblood theory of taxation** and the government's inherent power to tax. It means that the sovereign has the right to impose taxes on its subjects and that these taxes are essential for its survival as a nation.

Numerous pieces of legislation already grant tax exemptions to different entities, goods, services, and causes. Some exemptions are based on the Constitution itself, while others were given based on the notions of general welfare and public necessity. One such law is Republic Act No. 6426, as amended, or the "*Foreign Currency Deposit Act*," which exempted from all taxes all foreign currency deposits, including interest and all other income or earnings of such deposits. This was enacted into law on 4 April 1974 and was last amended on 21 November 1977 through *Presidential Decree No. 1246*. The FCDU law aimed to draw more foreign currency deposits into the country, attract more foreign capital, and increase our gross international reserves.

The FCDU tax exemption on deposits came into question in a recent Supreme Court ruling involving the settlement of a decedent's estate who owned a USD Savings Account with a local bank[1]. In the said case, the Estate filed an amended estate tax return and paid an additional estate tax on the dollar deposit amounting to P4,565,349.07. However, two years later, the Estate filed an administrative claim for a refund of the erroneously paid estate tax amounting to P4,565,349.07 with the BIR. The Estate likewise filed a Petition for Review with the CTA. The Tax Court sided with the Estate and ordered the BIR to refund said amount on the ground that the 1997 NIRC has not revoked the tax exemption provided in Section 6 of RA No. 6426. The CTA *En Banc* affirmed this ruling, and the case was elevated to the Supreme Court. After hearing the arguments of both sides, the High Tribunal decided in favor of the Estate and ruled that the decedent's dollar account is covered by the tax exemption provided under the FCDU law; as such, it is exempt from all taxes, including estate taxes. The *ponencia* cited that the FCDU law is a special law, while the 1997 NIRC is a general law, thus, the former prevails over the latter following the rules of statutory construction. This is "because a special law reveals the legislative intent more clearly than a general law does".[2] The Tribunal also noted no express repeal of the tax exemption under the FCDU law in the 1997 NIRC. It should be pointed out that the 1997 NIRC only provided for a *general repealing clause*.

The precedent set by the *Romig* case created ripples in various levels of our society, from the banking industry to the public sector. This ruling, in effect, made dollar deposits under the FCDU exempt from all taxes even after the depositor's death. Thus, the same can now be used as an instrument for estate planning. Bank account owners can simply convert and transfer their deposits to a dollar-denominated account and thus be covered by the tax exemption following the *Romig doctrine*. As a result, taxpayers can then avoid paying higher estate taxes upon their demise by this simple conversion. This is a serious implication of the decision as it will undoubtedly encourage many people to take advantage of this scheme.

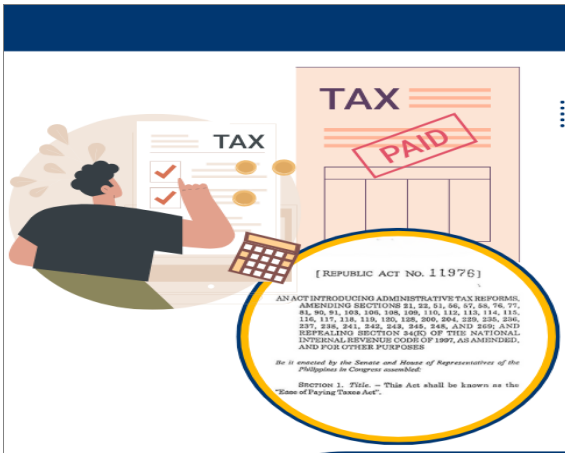
Another implication of this ruling is the requirement that tax exemptions found in special laws must now be expressly repealed. The Tribunal noted that the NIRC did not contain any provision specifically removing the tax exemption provided by the FCDU law. The decision even quoted the general repealing clause found in the NIRC to emphasize its point. Given this pronouncement, it would seem that Congress must now expressly repeal tax exemptions it wants withdrawn, especially if it's provided under a special law. Further, legislative intent or legislative deliberations will also not help in invalidating tax exemptions unless such intent has been translated into an express provision in the general law. Jurisprudence has taught us that the rule *"Generalia specialibus non derogant"* (a general law does not nullify a specific or special law) still stands even if the provisions of the general law are sufficiently comprehensive to include what was set forth in the special act[3], or containing provisions repugnant to those of the special law but without making any mention of its intention to amend such special law[4].

The concern over the *Romig case* was brought to the attention of the *Senate Committee on Ways and Means* during the pre-bicameral conference meeting on the disagreeing provisions of the *Capital Markets Efficiency Promotion Act* (CMEPA) bills — Senate Bill No. 2865 and House Bill No. 9277. *Atty. Brianna Kay delos Santos,* Assistant Chief of the BIR Legal and Legislative Division, raised this matter before the Committee. The BIR urged Congress to remedy the situation created by the *Romig case* by providing for the express repeal of Section 6 of the FCDU law. The Committee was able to address the same considering that SBN 2865 already included the repeal of said provision under Section 27(s) therein, albeit the repeal was limited only to "interest income, dividends, and capital gains". After studying the BIR proposal, it was agreed upon to simply repeal the entirety of Section 6 to avoid any adverse interpretation that may arise therefrom.

Both Houses of Congress were able to ratify the bicameral conference committee report on the CMEPA bill before adjournment. As of this writing, the bill is awaiting engrossment, and hopefully, it will soon get the approval of the President. With the enactment of this measure, it is hoped that the unintended consequence of the *Romig case* will now be laid to rest.

References:

1 *CIR v. Estate of Charles Marvin Romig,* GRN 262092 (09 October 2024).
2 *Id*
3 *SJS v. Atienza,* GRN 156052, 13 February 2008, citing *Villegas, etc., et al. v. Subido*, 148-B Phil. 668, 676 (1971).
4 *Id., citing Leynes v. COA,* GRN 143596, 11 December 2003.



EOPT LAW – A YEAR AFTER

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LSO IV, Legal and Tariff Branch

Republic Act (RA) No. 11976, also known as the ***"Ease of Paying Taxes Act"*** **(EOPT)** was signed into law on January 5, 2024, together with the President's veto message. It took effect on January 22, 2024.

The EOPT intends to provide the "gold standard" treatment to taxpayers through streamlining and modernizing tax administration mechanisms and procedures. Ultimately, this will encourage proper and easy compliance to different types of taxpayers.

Some of the key reforms intended to encourage efficient and timely tax compliance are as follows:

✓ *Taxpayer Segmentation*. Classification of taxpayers into micro, small, medium, and large taxpayers for a more responsive tax administration.

✓ *Special Concession for Micro and Small Taxpayers*. Simplified tax returns and processes for micro and small taxpayers for ease of compliance.

- ✓ *File and Pay Anywhere*. Portability of tax transactions by allowing the filing of returns, and payment of taxes with any authorized agent banks, Revenue District Office (RDO), or authorized tax software providers.

- ✓ *Ease of Registration*. Establishment of registration facilities for non-resident taxpayers.

- ✓ *Removal of Annual Registration Fee*. The fee of Five hundred pesos (P500.00) was removed.

- ✓ *Deductions from Gross Income*. Non-withholding of taxes in certain payments will no longer be a ground for the disallowance of claims for deductible expenses.

- ✓ *Simplified Timing of Withholding*. The obligation to deduct and withhold the tax arises at the time the income has become payable.

- ✓ *Input Tax Credit.* In case of failure of the VAT-registered person to provide complete information in the invoice, the issuer shall be liable for non-compliance, but the purchaser shall still be allowed to use it as input tax credit as long as the missing information do not pertain to the amount of sales, amount of VAT, name and TIN of both the purchaser and the issuer/seller, description of goods or nature of services, and date of transaction.

- ✓ *Value-Added Tax (VAT) Treatment*. Under EOPT law, the VAT treatment of sales of goods and services is harmonized, and the accrual basis of accounting for both Income Tax and VAT is adopted.

- ✓ *Risk-Based Classification of VAT Refund*. VAT refund claims shall be classified into low-, medium-, and high-risk based on a criterion. As such, low-risk claims are not subject to audit and other verification processes.

A little over a year after its enactment, let us look at the relevant revenue issuances and issues encountered by the taxpayers in the implementation of EOPT.

IMPLEMENTATION

To fully realize the tax reforms under EOPT, implementing rules and regulations are needed. In tax laws, this is done through the issuance of relevant Revenue Regulations by the BIR. As of this writing, the BIR has issued eight (8) Revenue Regulations (RR), two (2) Revenue Memorandum Orders (RMO), and fifteen (15) Revenue Memorandum Circulars (RMC).

Revenue Regulations (RR)

Issuance No.	Relevant NIRC Provisions	Subject Matter/ Brief Description
RR No. 2-2024	Section 245	Allowing the publication of BIR revenue issuances to be published electronically or otherwise, through the BIR's official website, official gazette, or newspaper of general circulation.
RR No. 3-2024	Title IV – Value-Added Tax and Title V – Percentage Tax	On the amendments introduced by EOPT: • "Gross Sales" regardless of whether the sale is for goods or services. • "Invoice" – all references to sales will be referred to as invoice, the Official Receipt will be a secondary document. • The VAT-exempt threshold is increased to Php3,000,000.00.
RR No. 4-2024	Sections 22, 34, 51(A)(2)(e), 51(B), 51(D), 56(A)(1), 58(A), 58(C), 58(E), 77, 81, 90, 91, 103, 114, 128, 200 and 248	On the filing of tax returns and payment of taxes and other matters affecting the declaration of taxable income
RR No. 5-2024	Sections 76(C), 112(C), 112(D), 204 (C), 229, and 269(J)	On the risk-based classification of VAT refund claims
RR No. 6-2024	Section 45	On the imposition of reduced interest and penalty rates for micro and small taxpayers
RR No. 7-2024	Sections 113, 235, 236, 237, 238, 242, 243	On the registration procedures and invoicing requirements
RR No. 8-2024	Section 21(b)	On the classification of taxpayers
RR No. 11-2024	Amending the transitory provisions of Revenue Regulations No. 7-2024	Deadlines for compliance with the invoicing requirements

New BIR Forms Under the EOPT Law

Form No. and Title	Who Are Required to File the Form	Filing Date
FORM 1901. Application for Registration for Self-Employed (Single Proprietor/ Professional), Mixed Income Individuals, Non-Resident Alien Engaged in Trade/ Business, Estate and Trust	Self-employed and mixed income individuals, estates/ trusts doing/ just starting a business, or opening a new branch for registration	On or before the commencement of new business or before payment of any tax due or before filing a return
FORM 1903. Application for Registration for Corporations, Partnerships (Taxable/ Non-Taxable), Including Government Agencies and Instrumentalities (GAIs), Local Government Units (LGUs), Cooperatives and Associations	Corporations, Government Owned or Controlled Corporations, Partnerships, Government Agencies and Instrumentalities (GAIs), and Local Government Units (LGUs)	On or before commencement of new business or before payment of any tax due/ before filing a return
FORM 1904. Application for Registration for One-Time Taxpayer and Person Registering under E.O. 98 (Securing a TIN to be able to transact with any Government Office)	One-time. Taxpayer and persons registering and applying for a TIN (E.O. 98)	Before payment of any tax due/ before the filing of return or before the issuance of TIN under E.O. 98
FORM 1906. Application for Authority to Print Invoices	All taxpayers every time printing of receipts and invoices is needed	Each time taxpayer needs to print receipts and invoices

While all NIRC provisions amended by EOPT have been issued an RR, the transition was met with challenges. One of the hurdles encountered was the removal of the official receipt (OR) as the primary document for sales of services. It was replaced by the invoice, to streamline the required documentation and align it with sales of goods. Fortunately, the BIR released RMC No. 77-2024 as clarification. With this, sellers could convert their unused Official Receipts to invoices until fully consumed. Taxpayers using cash register machines (CRMs), point-of-sale (POS) machines, and e-receipting or electronic invoicing software do not need to reset the series number when they convert their ORs to invoices.

BIR Digital Transformation Roadmap

Another feature of this law is the EOPT and Digitalization Roadmap that shall provide programs and projects to ensure ease of compliance with tax laws, rules and regulations. This roadmap shall be submitted to the Congressional Oversight Committee on the Comprehensive Tax Reform Program (COCCTRP). On 5 November 2024, BIR issued RMO No. 48-2024, which adopted the New BIR Digital Transformation (DX) Roadmap for C.Y. 2025-2028. This features twenty-two (22) projects organized into eight (8) programs aligned with four (4) DX pillars. However, as of this writing, an annual report is yet to be submitted to the COCCTRP.

Nonetheless, a report on the status of projects under the BIR DX Program for CY 2024 as of November 30, 2024, was published by the BIR. Completed projects include:

- Online Registration Update System (ORUS)
- Enhancement of the Electronic One-Time Transaction (eONETT) System
- Optimized Knowledge Management System for Chatbot Review
- Property Management System (PMS) (National Office Phase)
- Expansion of Digital Platform and Tools
- Establishment of a Command Center with IT Operations Center
- Enterprise Risk Management (ERM)
- Enhanced Monitoring and Managing Administrative Cases (EMMAC)

The Modernization efforts of the BIR toward a more efficient tax administration system are truly laudable. Hopefully, these efforts will be sustained, and the law's intention of attaining a '*gold-standard treatment*' for taxpayers will be realized.

CTA TAX CASE DIGEST

CLINTON S. MARTINEZ
Director II, Legal and Tariff Branch

Photo by the Court of Tax Appeals

COMMISSIONER OF CUSTOMS, *Petitioner*, *v.* **WILLIAM SINGSON AND TRITON SHIPPING CORPORATION**, *Respondents*. [**G.R. No. 181007, November 21, 2016 - REYES, *J.***]

Facts:

This case happened before **Republic Act (RA) No.** 10863 or the **Customs Modernization and Tariff Act (CMTA)** was enacted. The CMTA took effect on June 16, 2016. The CMTA expressly repealed the provisions of Presidential Decree (PD) No. 1464, otherwise known as the Tariff and Customs Code of the Philippines (TCCP), as amended, *except* on rates of import duty and rates of export duty, which are now Sections 1611 and 1612 of the CMTA. (Dascil, Rodelio T.: *The Customs Modernization and Tariff Act (CMTA): Annotated*, p. 1)

Respondent Triton Shipping Corporation (TSC), owner of M/V Gypsy Queen, was loaded with 15,000 bags of rice shipped by Metro Star Rice Mill (Metro Star) of Bocaue, Bulacan and consigned to William Singson (Singson). For allegedly carrying suspected smuggled rice, elements of the Philippine Navy (PN) apprehended and seized the vessel and its entire rice cargo on September 5, 2001.

The Master of the vessel presented the following documents:

(1) Master's Oath of Safe Departure;
(2) Coasting Manifest; and
(3) Roll Book (received by a certain Fernandez, August 14, 2001).

However, the Philippine Coast Guard (PCG) Station Commander in Manila issued a Certification stating that: (1) there was no vessel named M/V Gypsy Queen that logged in or submitted any Master's Oath of Safe Departure; and (2) no personnel by the name of PO3 Fernandez of the PCG was detailed at Pier 18, Mobile Team, on August 14 , 2001.

These matters were conveyed to the District Collector of Customs (DCC) in a letter dated September 12, 2001. Subsequently, the Special Investigator (SI) of the Bureau of Customs (BOC) in Cebu issued a memorandum dated September 17, 2001 recommending the issuance of a Warrant of Seizure and Detention (WSD) against the vessel and the 15,000 bags of rice loaded therein.

Hence, on September 18, 2001, WSD was issued against M/V Gypsy Queen and the 15,000 bags of rice for violating the TCC P. During the forfeiture proceedings, the DCC made a decision favoring respondents and ordered the release of the vessel and its cargo (December 18, 2001).

The DCC issued a 1st Indorsement and forwarded the entire records to the petitioner's Legal Service. The latter referred the decision of the DCC to the Commissioner of Customs (petitioner) for approval. However, on March 11, 2002, the petitioner issued the 2nd Indorsement reversing and setting aside the decision of the DCC and ordered the forfeiture of M/V Gypsy Queen and its cargo.

Respondent filed a Motion for Reconsideration (MR) of the 2nd Indorsement but was denied. On March 12, 2002, the respondents filed a petition for review with the Court of Tax Appeals (CTA), and the petitioner submitted its Comment on April 16, 2002. The CTA reversed and set aside the 2nd Indorsement issued by the petitioner and adopted the findings of the DCC.

The motion for reconsideration of petitioner was denied. Its Petition for Review with the Court of Appeals (CA) was likewise a failure as the latter affirmed the CTA's ruling. The CA said: "*the certification issued by PCG Station Commander in Manila cannot create a presumption that M/V Gypsy Queen was involved in an illegal activity in violation of the TCC. The said certification standing alone and by itself cannot prove the alleged violation of the TCC. The record clearly showed that the vessel originated and sailed from Manila to Cebu and that the 15,000 bags of rice on board the vessel were not imported but locally purchased or sourced from NFA Zambales.*"

Additionally, the National Food Authority (NFA) confirmed the authenticity and genuineness of the documents issued by NFA Zambales as certified by its Manager.

Issue :

"*The main issue in this case is whether or not the CA erred in affirming the CTA's decision ordering the release of the 15,000 bags of rice and its carrying vessel.*"

Held:

The Supreme Court (SC) decided in favor of respondents William Singson and Triton Shipping Corporation.

Said the High Court:

"The certification presented by the petitioner does not reveal any kind of deception committed by the respondents. Such certification is not adequate to support the proposition sought to be established which is the commission of fraud. It is erroneous to conclude that the 15,000 bags of rice were smuggled simply because of the said certification which is not conclusive and cannot overcome the documentary evidence of the respondents showing that the subject rice was produced and acquired locally.

"Moreso, at the time the vessel and its cargo were seized on September 25 , 2001, the elements of the PN never had a probable cause that would warrant the filing of the seizure proceedings. In fact, the petitioner ordered the forfeiture of the rice cargo and its carrying vessel on the mere assumption of fraud. Notably, the 2nd Indorsement issued by the petitioner failed to clearly indicate any actual commission of fraud or any attempt or frustration thereof.

" X X X"

Under the TCCP, probable cause is imperative prior to the filing of seizure and/or forfeiture proceedings. The pertinent Section provides:

***"Sec. 2535. Burden of Proof in Seizure and/or Forfeiture.** - In all proceedings taken for the seizure and/or forfeiture of any vessel, vehicle, aircraft, beast or articles under the provisions of the tariff and customs laws, the burden of proof shall lie upon the claimant: Provided, That probable cause shall be first shown for the institution of such proceedings and that seizure and/or forfeiture was made under the circumstances and in the manner described in the preceding sections of this Code."*

"Based on the afore-quoted provision, before forfeiture proceedings are instituted, the law requires the presence of probable cause which rests on the petitioner who ordered the forfeiture of the shipment of rice and its carrying vessel. Once established, the burden of proof is shifted to the claimant ."

Pursuant to the CMTA:

*"**SEC. 1123. Burden of Proof in Forfeiture Proceedings**. - In all proceedings for the forfeiture of any vehicle, vessel, aircraft, or goods under this Act, the burden of proof shall be borne by the claimant"*

The SC cited the CA records on the history and origin of the importation to further its decision in favor of petitioner. The NFAs Open Sale Program of disposing first the older stocks to accommodate the incoming imported rice was also mentioned in support of its decision.

The High Court said:

From the foregoing, it is clear that the respondents had sufficiently established that the 15,000 bags of rice were of local origin and there were no other circumstances that would indicate that the same were fraudulently transported into the Philippines. As such, the release of the rice cargo and its carrying vessel is warranted.

COMMISSIONER OF INTERNAL REVENUE, *Petitioner*, *v.* **DEUTSCHE KNOWLEDGE SERVICES, PTE. LTD.**, *Respondent*. [**G.R. No. 211072, November 07, 2016 - CAGUIOA, *J.***

Facts:

Respondent Deutsche Knowledge Services, Pte. Ltd (DKS) is a licensed regional operating headquarters in the Philippines. It is a branch of a multinational company of Singapore.

On July 25, 2007, it filed its original Quarterly Value Added Tax (VAT) Return for the 2nd quarter of CY 2007, with the Bureau of Internal Revenue (BIR).

On June 18, 2009, respondent filed with the BIR-Revenue District Office (RDO) No. 47 an Application for Tax Credits/Refunds (BIR Form No. 1914) of its excess and unutilized input VAT for the 2nd quarter of CY 2007. On June 30, 2009, before any action by the Commissioner of Internal Revenue (CIR) on its administrative claim, DKS filed a Petition for Review with the Court of Tax Appeals (CTA), docketed as Case No. 7940.

Trial at the CTA started and DKS filed its Formal Offer of Evidence on September 22, 2010, which was admitted by the CTA First Division in a Resolution dated December 1, 2010.

On October 6, 2010, while the claim for refund or tax credit was pending before the CTA First Division, the Supreme Court (SC) promulgated *Commissioner of Internal Revenue v. Aichi Forging Company of Asia, Inc.* (*Aichi*), where the SC held that compliance with the 120-day period granted to the CIR, within which to act on an administrative claim for refund or credit of unutilized input VAT, as provided under Section 112(C) of the National Internal Revenue Code (NIRC) of 1997, as amended, is mandatory and jurisdictional in filing an appeal with the CTA.

On February 21, 2011, petitioner filed a Motion to Dismiss, alleging that the Tax Court First Division lacked jurisdiction because DKS's Petition for Review was prematurely filed.

The CTA First Division dismissed respondent's judicial claim, in a Resolution dated April 26, 2011, declaring that it was prematurely filed. It stated that Sec-

tion 112(C) of the Tax Code and that pursuant to the *Aichi* ruling, it is a mandatory requirement to wait for the lapse of the 120-day period granted to CIR to act on the application, before a judicial claim may be filed with the Court of Tax Appeals. DKS moved for reconsideration, but the same was denied by the CTA First Division in its Resolution dated August 2, 2011. The CTA *En Banc* affirmed the April 26, 2011 and August 2, 2011 Resolutions of the First Division.

On February 12, 2013, the SC decided the consolidated cases of *Commissioner of Internal Revenue v. San Roque Power Corporation, Taganito Mining Corporation v. Commissioner of Internal Revenue, and Philex Mining Corporation v. Commissioner of Internal Revenue* (*San Roque*), wherein the Court recognized *BIR Ruling No. DA-489-03 as an exception to the 120-day period*. (Underscoring supplied)

Relying on said SC ruling, DKS moved for reconsideration. The CTA En Banc acted favorably on the same and rendered the *assailed Amended Decision*.

The CIR filed a Motion for Reconsideration (MR), but it was denied for lack of merit by the CTA En Banc on January 7, 2014.

Issue:

> *"Whether the CTA En Banc* erred in taking cognizance of the case and holding that DKS's petition for review was not prematurely filed with the CTA First Division."

Held:

It must be pointed out that the 120-day period under Section 112 (C) was reduced to ninety (90) days by Republic Act (RA) 10963 (Section 36, December 19, 2017) or the TRAIN Law. It has been commented: "*For equity and fairness, under the TRAIN Law, the period within which refund of input taxes shall be made, was shortened from previous 120 days to 90 days (from the date of submission of invoices, receipts and related documents). Moreover, x x x, the refund must be in cash and tax credit certificates are no longer allowed . In addition, the BIR should state in writing the legal and factual basis for the denial of refund. Finally, any official agent or employee of BIR who fails to act on refund within 90 days shall be punished under Section 269 of the Tax Code.*" (*Dascil, Rodelio T.: NIRC of the Philippines, as amended, Annotated 6th Ed., 2020)*

In this case, the High Court declared that the petition of the CIR lacks merit. The SC citing the old Section 112 (C) stated that:

> "X x x, *a VAT- registered taxpayer claiming for a refund or tax credit of its excess and unutilized input VAT must file an administrative claim within two (2) years from the close of the taxable quarter when the sales are made. After that, the CIR is given 120 days, from the submission of complete documents in support of said administrative claim, within which to grant or deny said claim. Upon receipt of CIR's decision, denying the claim in full or partially, or upon the expiration of the 120-day period without action from the CIR, the taxpayer has 30 days within which to file a petition for review with the CTA.*
>
> *"As earlier stated, this Court in Aichi clarified that the 120-day period granted to the CIR is mandatory and jurisdictional, the non-observance of which is fatal to the filing of a judicial claim with the CTA. The Court further explained that the two (2)-year prescriptive period under Section 112(A) of the NIRC pertains only to the filing of the administrative claim with the BIR; while the judicial claim may be filed with the CTA within 30 days from the receipt of the decision of the CIR or expiration of 120-day period of the CIR to act on the claim."*

The SC found the filing of the judicial claim for refund premature. This is so because the administrative and judicial claims were simultaneously filed on 30 September 2004. Respondent did not wait for the decision of the CIR or the lapse of the 120-day period. "*In fine, the premature filing of respondent's claim for refund/credit of input VAT before the CTA warrants a dismissal inasmuch as no jurisdiction was acquired by the CTA.*"

The SC stressed:

> *"Subsequently, in San Roque*, while the Court reiterated the mandatory and jurisdictional nature of the 120+30 day periods, it recognized as an exception BIR Ruling No. DA-489-03, issued prior to the promulgation of *Aichi*, where the BIR expressly allowed the filing of judicial claims with the CTA even before the lapse of the 120-day period. The Court held that BIR Ruling No. DA-489-03 furnishes a valid basis to hold the CIR in estoppel because the CIR had misled taxpayers into filing judicial claims before the CTA even before the lapse of the 120-day period."
>
> "*BIR Ruling No. DA-489-03 is a general interpretative rule because it was a response to a query made, not by a particular taxpayer, but by a government agency tasked with processing tax refunds and credits, that is, the One Stop Shop Inter-Agency Tax Credit and Drawback Center of the Department of Finance. This government agency is also the addressee, or the entity responded to, in BIR Ruling No. DA-489-03. Thus, while this government agency mentions in its query to the Commissioner the administrative claim of Lazi Bay Resources Development, Inc., the agency was in fact asking the Commissioner what to do in cases like the tax claim of Lazi Bay Resources Development, Inc., where the taxpayer did not wait for the lapse of the 120-day period*.
>
> *"Clearly, BIR Ruling No. DA-489-03 is a general interpretative rule. Thus, all taxpayers can rely on BIR Ruling No. DA-489-03 from the time of its issuance on 10 December 2003 up to its reversal by this Court in Aichi on 6 October 2010, where this Court held that the 120+30 day periods are mandatory and jurisdictional."*

The case was remanded to the CTA First Division to determine the refundable amount.

STSRO ACTIVITIES

Bicameral Conference Committee Meeting on CMEPA
February 5, 2025

STSRO ACTIVITIES

Pre-Bicameral Conference Committee Meeting on Mining Fiscal Regime February 18, 2025

STSRO ACTIVITIES

Public Hearing on Illicit Trade
February 22, 2025

STSRO ACTIVITIES

Consultative Meeting on GROWTH Bill
February 24, 2025

STSRO ACTIVITIES

Public Hearing on Cooperatives
February 27, 2025

STSRO ACTIVITIES

Public Hearing on Denatured Alcohol
March 5, 2025

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