

SUMMARY OF SIGNIFICANT SC DECISIONS (October 2011)

-digested by Atty. Cherry Balanquit

- 1. Section 110 (A.1) of NIRC which provides that the input tax subject of tax refund is to be evidenced by a VAT invoice “or” official receipt, does not distinguish between an invoice and a receipt when used as evidence of a zero-rated transaction.**

The taxpayer filed a claim for tax credit or refund for the taxable year 1999 and 2000 which represents the unutilized input VAT attributable to its zero-rated sale of electricity to National Power Corporation. Before the lapse of the two-year prescriptive period, the taxpayer filed with the Court of Tax Appeals (CTA) a petition for review covering its claims for refund or tax credit which denied its claims, holding that its zero-rated official receipts did not correspond to the quarterly VAT returns, and these receipts do not bear the words “zero-rated” in violation of RR 7-95. The Supreme Court upheld the claim for credit or refund of the taxpayer. The NIRC Section 110 (A.1) provides that the input tax subject of tax refund is to be evidenced by a VAT invoice “or” official receipt issued in accordance with Section 113. Section 113 has been amended by Republic Act (R.A.) 9337 but it is the unamended version that covers the period when the transactions in this case took place which states that A VAT-registered person shall, for every sale, issue an invoice or receipt. The above does not distinguish between an invoice and a receipt when used as evidence of a zero-rated transaction. Consequently, the CTA should have accepted either or both of these documents as evidence of zero-rated transactions. ***(Southern Philippines Power Corporation, G.R. 179632, October 19, 2011)***

SUMMARY OF SIGNIFICANT SC DECISIONS (November 2011)

-digested by Atty. Julie Ann Aranda

- 1. In case of discrepancy between the basic law and a rule or regulation issued to implement said law, the basic law prevails as said rule or regulation cannot go beyond the terms and provisions of the basic law.**

For the period of June 1, 2004 to December 31, 2004, taxpayer was made to pay excise taxes amounting to ₱2,286,488,861.58 for the 323,407,194 liters of its beer products based on the tax rate which was being applied to its products prior to January 1, 2000, in accordance with the last paragraph of Section 1 of Revenue Regulations (RR) No. 17-99. RR No. 17-99 created a new tax rate when it added in the last paragraph of Section 1 thereof, the qualification that the tax due after the

12% increase becomes effective "shall not be lower than the tax actually paid prior to January 1, 2000." The Supreme Court held that there is nothing in Section 143 of the Tax Reform Act of 1997 which clothes the BIR with the power or authority to rule that the new specific tax rate should not be lower than the excise tax that is actually being paid prior to January 1, 2000, hence, such interpretation is clearly an invalid exercise of the power of the Secretary of Finance to interpret tax laws and to promulgate rules and regulations necessary for the effective enforcement of the Tax Reform Act of 1997. It bears reiterating that tax burdens are not to be imposed, nor presumed to be imposed beyond what the statute expressly and clearly imports, tax statutes being construed *strictissimi juris* against the government. In case of discrepancy between the basic law and a rule or regulation issued to implement said law, the basic law prevails as said rule or regulation cannot go beyond the terms and provisions of the basic law. It must be stressed that the objective of issuing BIR Revenue Regulations is to establish parameters or guidelines within which our tax laws should be implemented, and not to amend or modify its substantive meaning and import. As held in Commissioner of Internal Revenue v. Fortune Tobacco Corporation. **(Commissioner of Internal Revenue vs. San Miguel Corporation, G.R. No. 184428, November 23, 2011)**