Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

CORAL BAY NICKEL CORPORATION, Petitioner,	**G.R. Nos. 251333–34**
	Present:
- versus -	CAGUIOA, *J., Chairperson,* INTING, GAERLAN, DIMAAMPAO, and SINGH,* *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** MAR 05 2025

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DECISION

DIMAAMPAO, *J.*:

The Petition for Review on *Certiorari*[1] rails against the Decision[2] and the Resolution[3] of the Court of Tax Appeals (CTA) *En Banc* which denied the claim for refund for unutilized input value-added taxes (VAT) of petitioner Coral Bay Nickel Corporation (Coral Bay) from its purchases attributable to its zero-rated sales for the period of January 1, 2012 to December 31, 2012,

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* On leave.

1 *Rollo*, pp. 12–63.

2 *Id.* at 77–98. The September 5, 2019 Decision was penned by Associate Justice Juanito C. Castañeda, Jr., with the concurrence of Presiding Justice Roman G. Del Rosario, and Associate Justices Erlinda P. Uy, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, Jean Marie A. Bacorro-Villena, and Maria Rowena Modesto-San Pedro of the *En Banc*, Court of Tax Appeals. Associate Justice Ma. Belen M. Ringpis-Liban issued a Concurring and Dissenting Opinion (*id.* at 99–103), while Associate Justice Catherine T. Manahan issued a Separate Opinion (*id.* at 104–108).

3 *Id.* at 68–75. The January 20, 2020 Resolution was penned by Associate Justice Juanito C. Castañeda, Jr., with the concurrence of Presiding Justice Roman G. Del Rosario, and Associate Justices Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, Jean Marie A. Bacorro-Villena, and Maria Rowena Modesto-San Pedro of the *En Banc*, Court of Tax Appeals. Associate Justice Ma. Belen M. Ringpis-Liban and Associate Justice Catherine T. Manahan reiterated their Concurring and Dissenting Opinion and Separate Opinion, respectively. Associate Justice Erlinda P. Uy was on leave.

and which likewise denied both the bids for reconsideration filed by the parties, respectively in CTA EB Nos. 1909 and 1910.

Coral Bay is a domestic corporation engaged in the manufacture and export of nickel and cobalt mixed sulfide. It is a duly registered export enterprise with the Philippine Economic Zone Authority (PEZA) under PEZA Registration Certificate No. 02-072. In 2012, Coral Bay exported nickel and cobalt mixed sulfide in the amount of PHP 13,745,668,226.82 to Sumitomo Metal Mining Co., Ltd., a corporation organized and existing under the laws of Japan. For the same period, Coral Bay purchased goods and services that were consumed and rendered outside of the PEZA Zone, for which it incurred input VAT in the amount of PHP 22,577,290.53.[4]

On November 28, 2013, Coral Bay filed an administrative claim for refund with the Bureau of Internal Revenue (BIR) Large Taxpayers Excise Audit Division I for its unutilized input VAT for calendar year 2012.[5] Owing to the BIR's inaction on its claim, Coral Bay filed a petition for review before the CTA Third Division,[6] which was docketed as CTA Case No. 8804.

The respondent Commissioner of Internal Revenue (CIR) countered that Coral Bay's claim had neither factual nor legal bases. The CIR argued that Revenue Memorandum Circular No. 42-2003[7] already clarified that claims for input VAT based on invoices or receipts mistakenly issued by suppliers to exporter-claimants should be denied without prejudice to the latter's right to seek reimbursement of the VAT paid from the suppliers themselves. As a PEZA-registered enterprise, Coral Bay's purchases of goods and services were effectively VAT zero-rated. Hence, such purchases should not have carried a VAT component.[8]

In its Decision,[9] the CTA Third Division partially granted Coral Bay's petition and ordered the refund of input VAT in the reduced amount of PHP 11,873,651.48.[10] It held that Coral Bay was able to prove entitlement to refund

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4 *Id.* at 79.
5 *Id.*
6 *Id.* at 80.
7 Clarifying Certain Issues Raised Relative to the Processing of Claims for Value-Added Tax (VAT) Credit/Refund, Including Those Filed with the Tax and Revenue Group, One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center, Department of Finance (OSS) by Direct Exporters.
8 *Rollo*, p. 80.
9 *Id.* at 146–169. The November 23, 2017 Decision in CTA Case No. 8804 was penned by Associate Justice Esperanza R. Fabon-Victorino, with the concurrence of Associate Justices Lovell R. Bautista and Ma. Belen M. Ringpis-Liban of the Third Division, Court of Tax Appeals.
10 *Id.* at 167–168.

based on the requisites under Section 112, paragraphs (A)[11] and (C)[12] of the National Internal Revenue Code of 1997 (NIRC), as amended.[13] While ordinarily the sale of goods and services by VAT-registered entities from the customs territory to PEZA-registered entities within the ecozones are zero-rated, this principle only applies if the goods and services are consumed or rendered within the ecozone. If the goods and services are consumed or rendered within the customs territory, they are subject to 12% VAT.[14] Based on the evidence it presented, Coral Bay's purchase of goods and services from SMCC Philippines, Inc. (SMCC) were all consumed or rendered outside the PEZA zone as they pertained to the construction of its laborers' row house, bus terminal, JTA dormitory, RTN runway, and foreman's duplex, which were all located outside the PEZA ecozone.[15] However, only purchases from SMCC were proved to have been consumed and rendered outside of the PEZA zone. Consequently, only the input VAT corresponding thereto in the amount of PHP 12,646,024.95 may be refunded.[16] After apportioning the foregoing input VAT with the zero-rated sales actually proved by evidence, the CTA Third Division awarded a reduced refund amount of PHP 11,873,651.48.[17]

Both parties moved for reconsideration but were equally denied by the CTA Third Division for lack of merit.[18] The CIR and Coral Bay then filed their petitions for review with the CTA *En Banc*, docketed as CTA EB No. 1909 and CTA EB No. 1910, respectively. These were later consolidated by the CTA *En Banc*.[19]

In the impugned Decision, the CTA *En Banc* reversed the Third Division's rulings and denied the entire refund claim of Coral Bay.[20] The CTA *En Banc* held that contrary to Coral Bay's argument, the services it purchased, despite having been rendered outside the ecozone, were still effectively zero-rated under Section 108(B)(3)[21] of the NIRC. Under its tax incentives, Coral

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11 SEC. 12. **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[.]

12 (C*) Period within which the Refund or Tax Credit 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 certified true copies of invoices and other documents specifically limited to those prescribed in the revenue issuances and in support of the application filed in accordance with Subsections (A) and (B) hereof[.]

13 *Rollo*, p. 153.

14 *Id.* at 163–164.

15 *Id.* at 164.

16 *Id.* at 166–167.

17 *Id.* at 167.

18 *Id.* at 110–124, Resolution dated July 27, 2018.

19 *Id.* at 77–78.

20 *Id.* at 97.

21 SEC. 108. **Value-added Tax on Sale of Services and Use of Lease of Properties.** — . . .

. . . .

(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[.]

Bay is a VAT-exempt entity that is exempt from both direct and indirect taxes.[22] In accordance with the Court's ruling in G.R. No. 190506, entitled *Coral Bay Nickel Corp. v. Commissioner of Internal Revenue*,[23] Coral Bay is not the proper party to seek refund as it is not the statutory taxpayer. If it mistakenly paid input tax, its recourse is to seek reimbursement from its supplier.[24]

Coral Bay's bid for reconsideration was similarly struck down by the CTA *En Banc* in the challenged Resolution. It then filed the present Petition.

Issue

The main issue for the Court's resolution is whether the CTA *En Banc* erred in denying Coral Bay's claim for refund for unutilized input VAT for taxable year 2012.

The Court's Ruling

The Petition is impressed with merit.

Stripped of verbiage, the crux of the controversy lies in properly determining whether the services rendered by a supplier to a PEZA-registered enterprise **outside of the ecozone** should be subjected to 12% VAT or should be treated as effectively zero-rated.

Essential to the resolution thereof is the proper reading of the relevant provisions in Republic Act No. 7916, or the Special Economic Zone Act of 1995, which is the primary law governing the tax treatment of PEZA-registered enterprises such as Coral Bay.

Section 23 of Republic Act No. 7916 and Section 24 of the same law, as amended by Republic Act No. 8748,[25] read:

Republic Act No. 7916

> SEC. 23. *Fiscal Incentives.* — Business establishments operating within the ECOZONES shall be entitled to the fiscal incentives as provided for under Presidential Decree No. 66, the law creating the Export Processing Zone Authority, or those provided under Book VI of Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987.

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22 *Rollo*, pp. 92–93.

23 787 Phil. 57 (2016) [Per J. Bersamin, First Division].

24 *Rollo*, pp. 95–96.

25 An Act Amending Republic Act No. 7916, Otherwise Known as the "Special Economic Zone Act of 1995" (1999).

> Furthermore, tax credits for exporters using local materials as inputs shall enjoy the same benefits provided for in the Export Development Act of 1994.
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> **As amended by Republic Act No. 8748**
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> SEC. 24. *Exemption from National and Local Taxes.* — Except for real property taxes on land owned by developers, no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE. In lieu thereof, five percent (5%) of the gross income earned by all business enterprises within the ECOZONE shall be paid and remitted as follows:
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> (a) Three percent (3%) to the National Government;
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> (b) Two percent (2%) which shall be directly remitted by the business establishments to the treasurer's office of the municipality or city where the enterprise is located.

Likewise, Section 8 of the original law establishes ecozones as separate customs territories:

> Section 8. *ECOZONE to be Operated and Managed as Separate Customs Territory.* - The ECOZONES shall be managed and operated by the PEZA as separate customs territory.
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> The PEZA is hereby vested with the authority to issue certificates of origin for products manufactured or processed in each ECOZONE in accordance with the prevailing rules of origin, and the pertinent regulations of the Department of Trade and Industry and/or the Department of Finance.

In the past, the Court already had the occasion to interpret the foregoing provisions. However, both parties cite the same set of doctrines encapsulated in *Commissioner of Internal Revenue v. Seagate Technology (Phils.),*[26] *Commissioner of Internal Revenue v. Toshiba Information Equipment (Phils.), Inc.,*[27] and *Coral Bay Nickel Corp. v. Commissioner of Internal Revenue*[28] (2016 *Coral Bay Nickel Corp.*), to bolster their respective arguments. It is also these same cases which the CTA *En Banc* relied upon in rendering its assailed rulings.

Undoubtedly, this calls the Court to clarify its pronouncements in the above-cited cases as well as in other pertinent cases that provide further clarification thereto.

In *Seagate Technology*, the Court held that PEZA-registered enterprises which availed of the incentives under Section 24 of Republic Act No. 7916 enjoyed exemption from both direct and indirect taxes, viz.:

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[26] 491 Phil. 317 (2005) [Per J. Panganiban, Third Division].
[27] 503 Phil. 823 (2005) [Per J. Chico-Nazario, Second Division].
[28] 787 Phil. 57 (2016) [Per J. Bersamin, First Division].

> Applying the special laws we have earlier discussed, respondent as an entity is exempt from internal revenue laws and regulations.
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> This exemption covers *both* direct and indirect taxes, stemming from the very nature of the VAT as a tax on consumption, for which the direct *liability* is imposed on one person but the indirect *burden* is passed on to another. Respondent, as an exempt entity, can neither be directly charged for the VAT on its sales nor indirectly made to bear, as added cost to such sales, the equivalent VAT on its purchases. *Ubi lex non distinguit, nec nos distinguere debemus*. Where the law does not distinguish, we ought not to distinguish.
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> Moreover, the exemption is both express and pervasive for the following reasons:
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> *First*, [Republic Act No.] 7916 states that "no taxes, local and national, shall be imposed on business establishments operating within the ecozone." Since this law does not exclude the VAT from the prohibition, it is deemed included. *Exceptio firmat regulam in casibus non exceptis*. An exception confirms the rule in cases not excepted; that is, a thing not being excepted must be regarded as coming within the purview of the general rule.
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> Moreover, even though the VAT is not imposed on the entity but on the transaction, it may still be passed on and, therefore, indirectly imposed on the same entity — a patent circumvention of the law. That no VAT shall be imposed directly upon business establishments operating within the ecozone under [Republic Act No.] 7916 also means that no VAT may be passed on and imposed indirectly. *Quando aliquid prohibetur ex directo prohibetur et per obliquum*. When anything is prohibited directly, it is also prohibited indirectly.
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> *Second*, when [Republic Act No.] 8748 was enacted to amend [Republic Act No.] 7916, the same prohibition applied, except for real property taxes that presently are imposed on land owned by developers. This similar and repeated prohibition is an unambiguous ratification of the law's intent in not imposing local or national taxes on business enterprises within the ecozone.[29] (Emphasis in the original, citations omitted)

Taken in isolation, the foregoing disquisition, particularly on the wording of Section 24 of the law, would appear to support the CTA *En Banc*'s conclusion that Coral Bay is a VAT-exempt entity which would necessitate that **any** of its purchases, regardless of whether the same is consumed or rendered within or outside the ecozone, should be effectively zero-rated under Section 106(A)(2)(c) of the 1997 NIRC, thusly:

> SEC. 106. ***Value-Added Tax on Sale of Goods or Properties.*** -
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> > (A) *Rate and Base of Tax.* — There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, value-added tax equivalent to twelve

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[29] *Commissioner of Internal Revenue v. Seagate Technology (Phils.)*, 491 Phil. 317, 338–339 (2005) [Per J. Panganiban, Third Division].

> percent (12%) of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor.
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> . . . .
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> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
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> . . . .
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> (c) Sales to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects such sales to zero rate.

However, in the case of *Commissioner of Internal Revenue v. Sekisui Jushi Phils., Inc.*,[30] the Court held that PEZA-registered enterprises are not per se excluded from the coverage of the VAT system. Rather, it depended on which fiscal incentive they availed of—

> An entity registered with the PEZA as an ecozone may be covered by the VAT system. Section 23 of Republic Act [No.] 7916, as amended, gives a PEZA-registered enterprise the option to choose between two fiscal incentives: a) a [5%] preferential tax rate on its gross income under the said law; or b) an income tax holiday provided under Executive Order No. 226 or the Omnibus Investments Code of 1987, as amended. If the entity avails itself of the [5%] preferential tax rate under the first scheme, it is exempt from all taxes, including the VAT; under the second, it is exempt from income taxes for a number of years, but not from other national internal revenue taxes like the VAT.[31] (Citations omitted)

It bears stressing that this demarcation was due to the BIR's own differing treatment of PEZA-registered enterprises, depending on the fiscal incentives they availed of. This distinction was rendered nugatory when the BIR issued Revenue Memorandum Circular No. 74-99,[32] which recognized that the cross-border doctrine and destination principle applied regardless of the type of registration of the PEZA-registered enterprise. Section 3(3) of Revenue Memorandum Circular No. 74-99 provides:

> *SECTION 3. Tax Treatment [o]f Sales Made By A VAT[-]Registered Supplier From The Customs Territory, To A PEZA[-]Registered Enterprise.* —
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> . . . .

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30 528 Phil. 639 (2006) [Per C.J. Panganiban, First Division].

31 *Id.* at 644–645.

32 Tax Treatment of Sales of Goods, Property and Services Made by a Supplier From the Customs Territory to a PEZA Registered Enterprise; and Sale Transactions Made By PEZA Registered Enterprises Within and Without the Ecozone.

> (3) In the final analysis, any sale of goods, property[,] or services made by a VAT[-]registered supplier from the Customs Territory to any registered enterprise operating in the ecozone, **regardless of the class or type of the latter's PEZA registration, is actually qualified and thus legally entitled to the zero percent (0%) VAT.** Accordingly, all sales of goods or property to such enterprise made by a VAT[-]registered supplier from the Customs Territory shall be treated subject to 0% VAT, pursuant to [Section] 106(A)(2)(a)(5), NIRC, in relation to [Article] 77(2) of the Omnibus Investments Code, while all sales of services to the said enterprises, made by VAT[-]registered suppliers from the Customs Territory, shall be treated effectively subject to the 0% VAT, pursuant to Section 108(B)(3), NIRC, in relation to the provisions of [Republic Act No.] 7916 and the "Cross[-]Border Doctrine" of the VAT system. (Emphasis in the original; emphasis supplied)

On one hand, the cross-border doctrine mandates "that no VAT shall be imposed to form part of the cost of goods destined for consumption outside the territorial border of the taxing authority."[33] On the other hand, the destination principle requires that "goods and services are taxed only in the country where these are consumed."[34]

In fact, in the very same above-quoted case of *Seagate Technology*, the Court emphasized that purchases of PEZA-registered enterprises may be subject to VAT but are zero-rated because of the fiction created by the establishment of separate customs territories:

> Special laws may certainly exempt transactions from the VAT. However, the Tax Code provides that those falling under [Presidential Decree No.] 66 are not. [Presidential Decree No.] 66 is the precursor of [Republic Act No.] 7916 — the special law under which respondent was registered. **The purchase *transactions* it entered into are, therefore, not VAT-exempt. These are subject to the VAT; respondent is required to register.**
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> . . . .
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> **Since the purchases of respondent are not exempt from the VAT, the rate to be applied is zero. Its exemption under both [Presidential Decree No.] 66 and [Republic Act No.] 7916 effectively subjects such transactions to a zero rate, *because the ecozone within which it is registered is managed and operated by the PEZA as a separate customs territory*.** This means that in such zone is created the legal fiction of foreign territory. Under the *cross-border principle* of the VAT system being enforced by the [BIR], no VAT shall be imposed to form part of the cost of goods destined for consumption outside of the territorial border of

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33 *Commissioner of Internal Revenue v. Filminera Resources Corp.*, 885 Phil. 515, 531 (2020) [Per J. Lopez, First Division]. (Citation omitted)

34 *Id.* at 530. (Citation omitted)

> the taxing authority. If exports of goods and services from the Philippines to a foreign country are free of the VAT, then the same rule holds for such exports from the national territory — except specifically declared areas — to an ecozone.
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> **Sales made by a VAT-registered person in the customs territory to a PEZA-registered entity are considered exports to a foreign country; conversely, sales by a PEZA-registered entity to a VAT-registered person in the customs territory are deemed imports from a foreign country.** An ecozone — indubitably a geographical territory of the Philippines — is, however, regarded in law as foreign soil. This legal fiction is necessary to give meaningful effect to the policies of the special law creating the zone. If respondent is located in an export processing zone within that ecozone, sales to the export processing zone, even without being actually exported, shall in fact be viewed as constructively exported under [Executive Order No.] 226. **Considered as export sales, such purchase transactions by respondent would indeed be subject to a zero rate.**[35] (Emphasis in the original; emphasis supplied)

Toshiba Information Equipment also explicitly makes this clarification that PEZA-registered enterprises are treated as VAT-exempt entities not because of their tax incentives under Republic Act No. 7916, but rather because of the legal fiction of regarding ecozones as separate customs territories under Section 8:

> This Court agrees, however, that PEZA-registered enterprises, which would necessarily be located within ECOZONES, are VAT-exempt entities, not because of Section 24 of [Republic Act] No. 7916, as amended, which imposes the five percent (5%) preferential tax rate on gross income of PEZA-registered enterprises, in lieu of all taxes; **but, rather, because of Section 8 of the same statute which establishes the fiction that ECOZONES are foreign territory.**[36] (Emphasis supplied)

This doctrine was subsequently echoed in the 2010 case of *Toshiba Information Equipment (Phils.), Inc. v. Commissioner of Internal Revenue*.[37]

It is also this same reasoning that guided the Court in resolving the 2016 *Coral Bay Nickel Corp.* case. There, Coral Bay was seeking the refund of input VAT it paid to its suppliers prior to its registration with the PEZA. Thus, the Court was tasked to rule on whether Coral Bay, as an entity located within an ecozone, was entitled to the refund of its unutilized input taxes incurred before it became a PEZA-registered entity. In ruling in the affirmative, the Court anchored its rationale on the cross-border doctrine and destination principle which applied owing to the status of the ecozone as a separate customs territory, viz.:

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35 *Commissioner of Internal Revenue v. Seagate Technology (Phils.)*, 491 Phil. 317, 336–338 (2005) [Per J. Panganiban, Third Division].

36 *Commissioner of Internal Revenue v. Toshiba Information Equipment (Phils.), Inc.*, 503 Phil. 823, 835 (2005) [Per J. Chico-Nazario, Second Division].

37 628 Phil. 430 (2010) [Per J. Leonardo-De Castro, First Division].

> Prior to the effectivity of RMC 74-99, the old VAT rule for PEZA-registered enterprises was based on their choice of fiscal incentives, namely: (1) if the PEZA-registered enterprise chose the 5% preferential tax on its gross income in lieu of all taxes, as provided by Republic Act No. 7916, as amended, then it was VAT-exempt; and (2) if the PEZA-registered enterprise availed itself of the income tax holiday under Executive Order No. 226, as amended, it was subject to VAT at 10% (now, 12%). Based on this old rule, *Toshiba* allowed the claim for refund or credit on the part of Toshiba Information Equipment (Phils.), Inc.
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> This is not true with the petitioner. With the issuance of RMC 74-99, the distinction under the old rule was disregarded and the new circular took into consideration the two important principles of the Philippine VAT system: the Cross[-]Border Doctrine and the Destination Principle. Thus, *Toshiba* opined:
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> . . . .
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> Furthermore, Section 8 of Republic Act No. 7916 mandates that PEZA shall manage and operate the ECOZONE as a separate customs territory. The provision thereby establishes the fiction that an ECOZONE is a foreign territory separate and distinct from the customs territory. Accordingly, the sales made by suppliers from a customs territory to a purchaser located within an ECOZONE will be considered as exportations. Following the Philippine VAT system's adherence to the Cross Border Doctrine and Destination Principle, the VAT implications are that "no VAT shall be imposed to form part of the cost of goods destined for consumption outside of the territorial border of the taxing authority" Thus, *Toshiba* has discussed that:
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> . . . .
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> The petitioner's principal office was located in Barangay Rio Tuba, Bataraza, Palawan. Its plant site was specifically located inside the Rio Tuba Export Processing Zone — a special economic zone (ECOZONE) created by Proclamation No. 304, Series of 2002, in relation to Republic Act No. 7916. As such, the purchases of goods and services by the petitioner that were destined for consumption within the ECOZONE should be free of VAT; hence, no input VAT should then be paid on such purchases, rendering the petitioner not entitled to claim a tax refund or credit. Verily, if the petitioner had paid the input VAT, the CTA was correct in holding that the petitioner's proper recourse was not against the Government but against the seller who had shifted to it the output VAT following RMC No. 42-03, which provides[.][38] (Citations omitted)

The idea that the fiscal incentives of PEZA-registered enterprises is limited by the territorial metes and bounds of their ecozones is likewise supported by the BIR's own interpretation on the matter. Section 2 of BIR Revenue Memorandum Circular No. 74-99 clarified that the tax incentives are limited to the PEZA-registered enterprises' operations **within the ecozone**:

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[38] *Coral Bay Nickel Corp. v. Commissioner of Internal Revenue*, 787 Phil. 57, 63–66 (2016) [Per J. Bersamin, First Division].

> *SECTION 2. Background.* — In general, enterprises registered and operating under the said Act, otherwise known as ECOZONE or PEZA registered enterprises, shall only be imposed with a 5% special tax, based on "gross income earned" **in lieu of all taxes, except the real property tax.** However, **this tax incentive only applies in respect of the registered enterprise's operations within the ECOZONE**. ...
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> . . . .
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> The Philippines' Value Added Tax (VAT) law adheres to the "Cross Border Doctrine" of the VAT System, which basically means that no VAT shall be imposed to form part of the cost of goods destined for consumption outside of the territorial border of the taxing authority. Hence, actual export of goods and services from the Philippines to a foreign country must be free of the VAT. **Conversely, those destined for use or consumption within the Philippines shall be imposed with the 10% VAT.** Accordingly, interpretation of the provisions of the VAT law has been harmonized with the "Cross[-]Border Doctrine". (Emphasis supplied)

Likewise, under Rule XV of the Implementing Rules and Regulations of Republic Act No. 7916, the duty and tax free nature of the materials, equipment, and services purchased by export manufacturers are limited to those used directly and indirectly in their operations within the ecozone:

> RULE XV - INCENTIVES TO ECOZONE EXPORT AND FREE TRADE ENTERPRISES
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> *SECTION 1. Exemption from Duties and Taxes on Merchandise* - Merchandise, raw materials, supplies, articles, equipment, machineries, spare parts and wares of every description brought into the ECOZONE Restricted Area by an ECOZONE Export or Free Trade Enterprise **to be sold, stored, broken up, repacked, assembled, installed, sorted, cleaned, grade or otherwise processed, manipulated, manufacture, mixed with foreign or domestic merchandise whether directly or indirectly related in such activity**, shall not be subject to customs and internal revenue laws and regulations of the Philippines nor to local tax ordinances. Importations of certain goods or merchandise under this paragraph shall be subject to the following conditions:
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> A. Importations of Capital Equipment
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> 1. Conditions for Duty and Tax Free Importation - an ECOZONE Export or Free Trade Enterprise may import machineries, equipment and spare parts exempt from the payment of any and all tariff duties and internal revenue taxes due thereon subject to the following conditions:
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> a. The machinery and equipment are **directly and actually needed and will be used exclusively by the ECOZONE Export or Free Trade Enterprise in its registered activity**;
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> . . . .

> B. Importation of Construction Materials - ECOZONE Export or Free Trade Enterprises entitled to tax and duty free importation of goods or merchandise under these Rules may import construction materials and other articles that shall form part of its factory, warehouse or office building, including fixtures thereof, enclosures, driveways and auxiliary structures, subject to the following conditions:
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> . . . .
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> 3. **The construction materials to be imported are reasonably needed and will be used exclusively in the construction of the factory, warehouse or office building to be used by the ECOZONE Export or Free Trade Enterprise solely for its registered operations**;
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> . . . .
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> 5. **The construction materials shall be brought directly and physically inside the ECOZONE restricted area or such area as may be designated by PEZA for this purpose** and in no instance shall these be sold, transferred, assigned, donated or be disposed of in any manner in the customs territory. (Emphasis supplied)

When the nuances of the foregoing pronouncements and issuances are taken together, two key concepts are established: *one,* PEZA-registered enterprises are not absolute VAT-exempt entities; and *two*, the VAT treatment of its transactions depend on whether the cross-border doctrine applies.

Certainly, the idea that PEZA-registered enterprises may still incur input VAT is supported not only by the principles underlying the VAT system but also by logical necessity.

VAT is a tax on consumption.[39] As such, the cross-border doctrine and the destination principle apply. Indeed, the situs of VAT is determined by where goods are consumed or where services are rendered.[40]

Additionally, if PEZA-registered enterprises could enjoy VAT zero-rating on any of its purchases, regardless of whether the goods are consumed or services are rendered outside of the ecozone, it would be subject to abuse. More so if the same has no connection with its registered activity or operations within the ecozone. This expansive and unrestrained tax privilege could not have been the intent of Congress in extending such incentives to PEZA-registered enterprises.

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[39] *See Commissioner of Internal Revenue v. Seagate Technology (Phils.)*, 491 Phil. 317, 338 (2005) [Per J. Panganiban, Third Division].

[40] *See Commissioner of Internal Revenue v. American Express International, Inc.*, 500 Phil. 586, 607 (2005) [Per J. Panganiban, Third Division]. (Citations omitted)

Tax exceptions and exemptions are strictly construed against the taxpayer and must be clearly and distinctly stated in the language of the law.[41] These are not to be extended beyond the ordinary and reasonable intendment of the language actually used by the legislative authority in granting the same.[42]

Applied to the present case, the CTA *En Banc* erred in treating Coral Bay as an absolutely VAT-exempt entity and declaring that its purchase of services outside of the ecozone should likewise be subject to zero-rating.

Having been consumed outside of the ecozone, the cross-border doctrine finds no application. The same could not have been deemed "exported" to Coral Bay. Having been rendered within the Philippines' customs territory, it is naturally subject to national internal revenue laws such as VAT.

As to the actual refund amount, the Court reinstates the ruling and computation of the CTA Third Division in CTA Case No. 8804 to award Coral Bay the reduced refund amount of PHP 11,873,651.48 representing its unutilized input VAT attributable to its zero-rated sales for taxable year 2012.

At the outset, it should be borne in mind that *the sufficiency of a claimant's evidence* and the *determination of the amount of refund* are questions of fact,[43] which are generally beyond the purview of a Rule 45 petition. It is not the function of the Court to again analyze or weigh evidence that has already been duly considered by lower courts.[44] Moreover, the findings of facts of the CTA, when supported by substantial evidence, will not be disturbed on appeal. Unless there was abuse of discretion on its part, the CTA's factual findings are accorded the highest respect by this Court.[45]

ACCORDINGLY, the Petition for Review on *Certiorari* is **GRANTED**. The September 5, 2019 Decision and the January 20, 2020 Resolution of the Court of Tax Appeals *En Banc* in CTA EB Nos. 1909 and 1910 are **REVERSED** and **SET ASIDE**. The November 23, 2017 Decision of the Court of Tax Appeals Third Division in CTA Case No. 8804 is **REINSTATED**.

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41 *See Thunderbird Pilipinas Hotels and Resorts, Inc. v. Commissioner of Internal Revenue*, 890 Phil. 30, 55 (2020) [Per J. Leonen, Third Division]. (Citations omitted)

42 *See id.* at 55–56. (Citation omitted)

43 *See Commissioner of Internal Revenue v. Philippine Bank of Communications*, 920 Phil. 93, 102 (2022) [Per J. Hernando, Second Division]. (Citation omitted)

44 *See Mannasoft Technology Corp. v. Commissioner of Internal Revenue*, G.R. No. 244202, July 10, 2023 [Per J. Dimaampao, Third Division] at 8. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website. (Citations omitted)

45 *See Commissioner of Internal Revenue v. Vestas Services Phils., Inc.*, G.R. No. 255085, March 29, 2023 [Per J. Hernando, First Division] at 7. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website. (Citations omitted)

SO ORDERED.

JAPAR B. DIMAAMPAO
Associate Justice

WE CONCUR:

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

On leave
MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of this Court.

ALEXANDER G. GESMUNDO
Chief Justice