REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
National Office Building
Quezon City

Section 112 (A) of the Tax Code, as amended
BIR Ruling No. 079-2016
VAT- 059 . 2023
MAY 19 2023

SYCIP GORRES VELAYO & CO.
6760 Ayala Avenue
1226 Makati City

Attention: **Margaux A. Advincula**
Partner, Business Tax Services

Gentlemen:

This refers to your request in behalf of your client LNL Archipelago Minerals, Inc. ("LAMI" or "the Company") for confirmation that a denial of the Company's application for input value-added tax (VAT) refund due to non-substantiation of its zero-rated transactions, shall allow the Company to utilize the denied amount of claim as a deduction for income tax purposes.

It is represented the Company filed its application for VAT refund for excess input VAT related to zero-rated sales for the third quarter of fiscal year ended September 30, 2020 (i.e. April 1, 2020 to June 30, 2020) in the amount of ₱ related to the Company's export sales operation.

The said application, however, was denied by the VAT Credit Audit Division due to the Company's failure to substantiate the existence of zero-rated sales during the period of claim. Hence, this request.

In reply, please be informed that Section 112 (A) of the National Internal Revenue Code of 1997 (Tax Code), as amended, provides:

> *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** xxx* (Emphasis supplied)

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A plain and simple reading of the provision dictates that the excess input tax attributable to zero-rated or effectively zero-rated transactions, can only be refunded to the taxpayer or credited against the taxpayer's other national internal revenue tax.[1] Electing one of the options has the effect of excluding the other from being availed of. Whether or not the former option was granted or denied, as in this case, is irrelevant.

The rule that tax deductions, being in the nature of tax exemptions, are to be construed in *strictissimi juris* against the taxpayer. Corollary to this rule is the principle that when a taxpayer claims a deduction, he must point to some specific provision of the statute in which that deduction is authorized and must be able to prove that he is entitled to the deduction which the law allows. An item of expenditure, therefore, must fall squarely within the language of the law in order to be deductible.[2] Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented as they are not intended to be liberally construed.[3]

Nothing in the Tax Code, as amended, authorizes the utilization of the denied claim for input VAT refund as deductions to the Company's income tax. It is therefore incumbent upon the Company to cite a law that categorically grants them tax deductions.

It bears stressing that Article 8 of the New Civil Code enjoins adherence to judicial precedents.[4] It declares that "[j]udicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines." While decisions of the Court are not laws pursuant to the doctrine of separation of powers, they evidence the laws' meaning, breadth, and scope and, therefore, have the same binding force as the laws themselves.[5] However, the decisions of the Court of Tax Appeals (CTA) are not given the same level of recognition. At the most, decisions of the lower courts only have a persuasive effect.[6] Thus, the cited CTA Decision cannot be given credence.

In light with the foregoing, this Office hereby denies your position due to lack of legal basis.

Please be guided accordingly.

Very truly yours,

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue
007866

K-1-FFR

[1] CE Luzon v. CIR, G.R. No. 197526, July 26, 2017
[2] H. Tambunting v. CIR, G.R. No. 173373, July 29, 2013
[3] Coca-Cola v. CIR, G.R. No. 222428, February 19, 2018
[4] San Roque v. CIR, G.R. No. 203249, July 23, 2018
[5] PITC v. COA, G.R. No. 205837, November 21, 2018
[6] UCPB v. Uy, G.R. No. 204039, January 10, 2018