July 24, 2018

BIR RULING NO. 1102-18

RA 7916; RR No. 2-98; BIR Ruling No. 291-12

Tata Consultancy Services (Philippines), Inc.
10th & 11th Floors, Accralaw Tower
2nd Avenue cor. 30th St., E-Square I.T. Zone
Crescent Park West, Bonifacio Global City
Taguig City

Attention: *AAA*

Gentlemen :

This refers to your letter dated January 14, 2015 requesting, on behalf of **Tata Consultancy Services (Philippines), Inc. (TCSPI)**, exemption from expanded withholding tax (EWT) on account of its registration with the Philippine Economic Zone Authority (PEZA).

It is represented that **TCSPI**, with Tax Identification Number 000-000-000, is a domestic company duly registered with the Securities and Exchange Commission (SEC) with SEC Registration No. CS200814873; and that based on the Certification dated December 29, 2014 issued by PEZA, TCSPI is also registered as an Ecozone IT Enterprise to engage in the following activities: 1.(a) Information Technology (IT) services; and 1.(b) business solutions and outsourcing services at the 10th and 11th Flrs., Accralaw Tower, E-square Information Technology Park, Taguig City; 2. To provide information technology, business solutions and outsourcing services at the 12th and 15th Flrs. Bench Tower, Rizal Drive cor. 30th St., E-square IT Park, Taguig City; 3. To include its information technology (IT) and business solutions and outsourcing services operations (amendment); 4. To provide information technology (IT) and business process outsourcing services at ENTEC Building in Pampanga; 5. To include information technology (IT), business solutions and outsourcing services operations at the 9th Flr. Bench Tower (amendment); and 6. To provide information technology (IT) and business process outsourcing services at the 8th, 9th, and 10th Flrs., Panorama in Taguig City.

Based on the same PEZA Certification, the incentives available to **TCSPI** under its Registration Agreements with PEZA, are, among others, corporate income tax holiday (ITH) for four (4) years for original project effective on the committed date of start of

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commercial operations, or the actual date of start of commercial operations, whichever is earlier; ITH entitlement for the original project can also be extended for another three (3) years provided specific criteria are met for each additional year and prior PEZA approval is obtained; duly approved and registered "Expansion" and "New" projects are entitled to a three-year, and four-year ITH, respectively; and after the lapse of the ITH, exemption from national and local taxes, and, in lieu thereof, payment of 5% final tax on gross income.

In reply, please be informed that Section 2.57.5 (B) (2) of Revenue Regulations (RR) No. 2-98, as amended by RR No. 14-02, provides:

> "SECTION 2.57.5. Exemption from Withholding. — The withholding of creditable withholding tax prescribed in these Regulations shall not apply to income payments made to the following:
>
> xxx xxx xxx
>
> (B) Persons enjoying exemption from payment of income taxes pursuant to the provisions of any law, general or special, such as but not limited to the following:
>
> xxx xxx xxx
>
> (2) Corporations registered with the Board of Investments, Philippine Export Processing Zones and Subic Bay Metropolitan Authority enjoying exemption from the income tax pursuant to EO 226, as amended, Republic Act No. 7916 and the Omnibus Investments Code of 1987 and RA 7227, as amended, respectively;
>
> xxx xxx xxx." (Underscoring supplied)

Based on the foregoing, Section 2.57.5 (B) (2) of RR No. 2-98, as amended, is explicit in its provisions that the expanded withholding tax does not apply to income payments to persons enjoying exemption from payment of income taxes pursuant to the provisions of any law, general or special. Accordingly, since **TCSPI** is a PEZA-registered enterprise, income payments made to it with respect to its registered activities shall not be subject to 2% expanded withholding tax prescribed in RR No. 2-98, as amended. *(BIR Ruling No. 25-2012 dated April 25, 2012)*

Pursuant to Section 4 of Republic Act (RA) No. 10708, [1] **TCSPI** is required to file its tax returns and pay its tax liabilities, on or before the deadline as provided under the 1997 Tax Code, as amended, using the electronic system for filing and payment of taxes of the BIR. Furthermore, it shall file with PEZA a complete annual tax incentives report of its income-based tax incentives, VAT and duty exemptions, deductions, credits or exclusions from the tax base, as may be provided under RA No. 7916, within the periods prescribed under RA No. 10708's Implementing Rules and Regulations and Joint Memorandum Circular No. 1-2016 dated September 1, 2016.

This ruling is being issued on the basis of the foregoing facts as represented.

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However, if upon investigation, it will be ascertained that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

Footnotes

1. An Act Enhancing Transparency in the Management and Accounting of Tax Incentives Administered by Investment Promotion Agencies.

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