September 28, 2018

BIR RULING NO. 1212-18

Sec. 109 (1) (T) of the NIRC of 1997, as amended; BIR Ruling No. 269-2017

Jomalia Shipping Corporation
S. O. Albano Street, Subangdaku,
Mandaue City, Cebu

Attention: *AAA*

Gentlemen :

This refers to your letter dated June 22, 2018, requesting on behalf of **Jomalia Shipping Corporation ("Jomalia")** for tax exemption certificate on the importation of passenger or cargo vessels, equipment and spare parts, pursuant to Section 109 (1) (T) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Documents submitted disclosed that Jomalia, with Taxpayers Identification Number (TIN) 000-000-000-000, is a domestic corporation organized under the laws of the Republic of the Philippines; that it is registered with the Securities and Exchange Commission (SEC) under Company Registration No. CN200315837; that its primary purpose is to engage in the operation of common carrier for the transportation of cargo and passengers in coastwise trade; that it is also registered with the Maritime Industry Authority (MARINA) per Certificate of Accreditation No. 2006-003-187-2016 CEB valid until August 01, 2019 to engage in domestic shipping operations; and that it is currently importing one (1) unit 2018-built, 2,114.00 GT cargo ship with Hull No. CN20172909983 named "ZHE LING JI 277" (TBR: M/V "JSC 2") from the seller, BBB of the Peoples Republic of China, particularly described as follows:

Type of Ship	LCT BARGE
Quantity	1 unit
Classification	China Costal Class (ZC Registry)
LOA	87.58 m
Breadth	18.38 m
Depth	4.80 m
Main Engine	WEICHAI 8170 818hp*2 sets

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Gearbox	HANGZHOU ADVANCE
Navigation Area	Coastal
Navigation System	FURUNO Radar, other equipment made in China
Plate Thickness:	
Main Deck	16 mm
Side Plate	10-12 mm
Bottom Keel	12 mm
Ramp Size	12 m * 6 m
Bulwark	2 m height
Bulbous Bow	none

In reply, please be informed that Section 109 (1) (T) of the National Internal Revenue Code of 1997, as amended, provides as follows:

"SEC. 109. Exempt Transactions. —

(1) Subject to the provisions of subsection (2) hereof, the following transactions shall be exempt from the value-added tax.

xxx xxx xxx

(T) [1] *Sale, importation or lease of passenger or cargo vessels and aircraft, including engine, equipment and spare parts thereof for domestic or international transport operations."*

Based on the above-cited provision, the importation of a cargo vessel destined for domestic transport operations shall be exempt from value added tax (VAT). In relation thereto, Section 4.109-1 (B) (1) (t) of Revenue Regulations (RR) No. 16-2005, as amended by RR No. 15-2015, which implements the above-quoted provision, states that:

"SECTION 4.109-1. VAT-Exempt Transactions. — x x x

(B) Exempt Transactions. —

(1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from VAT:

xxx xxx xxx

(t) Sale, importation or lease of passenger or cargo vessels and aircraft, including engine, equipment and spare parts thereof for domestic or international transport operations: Provided, however, that the exemption from VAT on the importation and local purchase of passenger and/or cargo vessels shall be subject to the requirements on restriction on vessel importation and mandatory vessel retirement program of

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MARINA."

It is noted that "ZHE LING JI 277" (TBR: M/V "JSC 2") was acquired by virtue of Authority to Import issued by MARINA dated August 24, 2018. Hence, the importation of said vessel by Jomalia is deemed compliant with the requirements on restriction on vessel importation and mandatory vessel retirement program of MARINA. Accordingly, the importation by Jomalia of "ZHE LING JI 277" (TBR: M/V "JSC 2") shall be exempt from VAT pursuant to Section 109 (1) (T) of the National Internal Revenue Code of 1997, as amended. The VAT exemption, however, shall be subject to the strict compliance of the conditions contained in the letter of approval issued by MARINA for the importation of the above-mentioned vessel as described in the Authority to Import dated August 24, 2018.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation it will be disclosed 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. Renumbered by Republic Act (RA) No. 10378.

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