June 3, 2019

BIR RULING NO. 321-19

Section 109 (1) (T), NIRC; RR No. 15-2015;
BIR Ruling No. 101-17

Montenegro Shipping Lines, Inc.
Montenegro Corporate Center, along Diversion Road,
Bolbok, Batangas

Attention: *AAA*

Gentlemen :

This refers to your letter dated April 10, 2018, requesting on behalf of **Montenegro Shipping Lines, Inc.**, for a Certificate of Value-Added Tax (VAT) Exemption on its importation of four (4) sets of Mitsubishi Marine Diesel Engine for M/V "MARIA OLIVA" and four (4) pieces wooden crates of Marine Gear Box for M/V "MARIA MATILDE," pursuant to Section 109 (1) (T) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Documents submitted show that **Montenegro Shipping Lines, Inc.**, with Tax Identification No. 000-000-000-000, is a domestic corporation registered with the Securities and Exchange Commission (SEC) under Company Registration No. 70040; that it is duly accredited by the Maritime Industry Authority (MARINA) to engage in domestic shipping business per MARINA Certification dated July 7, 2017 valid until July 21, 2020; and that **Montenegro Shipping Lines, Inc.** is currently importing four (4) sets of Mitsubishi Marine Diesel Engine for its M/V "MA OLIVA" and four (4) pieces wooden crates of Marine Gear Box for its M/V "MA MATILDE" which are particularly described as follows:

Four (4) sets of Mitsubishi Marine Diesel Engine			**Four (4) pieces wooden crates of Marine Gear Box**		
Name of Vessel	:	M/V "Maria Oliva"	Name of Vessel	:	M/V "Maria Matilde"
Model	:	S6U2-MPTK	Model	:	MMW 12000
Serial Nos.	:	20565, 20566	Serial Nos.	:	28772, 28774

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		20568, 20569			28781, 28782
Gross Weight	:	46,428.000 kg.	Gross Weight	:	10,440.000 kg.
Measurement	:	86.058 M3	Measurement	:	22.522 M3

that MARINA has certified that the four (4) sets Mitsubishi Marine Diesel Engine and Four (4) pieces wooden crates containing Marine Gear Box fall under the classification of spare parts exempt from value-added tax; that MARINA has favorably endorsed the availment of Value-Added Tax exemption on the importation of four (4) sets Mitsubishi Marine Diesel Engine and Four (4) pieces wooden crates containing Marine Gear Box in a letter dated July 2, 2018 addressed to the Department of Finance; and that per Sworn Statements both dated July 26, 2018 executed by BBB, the _____ of **Montenegro Shipping Lines, Inc.**, the subject shipments cannot be manufactured domestically, in comparable quality, technology and at a reasonable price, and that it is reasonably needed and will be used exclusively for the company's operation.

In support of its request for exemption, **Montenegro Shipping Lines, Inc.** has submitted the following documents:

1. Certified true copies of the SEC Certificate of Registration, Articles of Incorporation and By-Laws;

2. BIR Certificate of Registration;

3. Certificate of Registration with MARINA;

4. Certification issued by MARINA dated April 9, 2018, certifying that the four (4) units of Mitsubishi Marine Diesel Engine for M/V "MARIA OLIVA" and four (4) wooden crates of Marine Gear Box for M/V "MARIA MATILDE" fall under the classification of spare parts which are exempted from Value-Added Tax;

5. Letter Endorsement from MARINA dated July 2, 2018 addressed to the Department of Finance;

6. Two (2) Sworn Statements to the effect that the imported spare parts cannot be manufactured domestically in comparable quality, technology and at reasonable price; and

7. MV "MARIA OLIVA" Certificate of Philippine Registry and MV "MARIA MATILDE" Certificate of Ownership, both with MARINA.

In reply, please be informed that Section 109 (1) (T) of the NIRC of 1997, as

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amended, provides as follows:

> ***"Sec. 109. Exempt Transactions.*** *— Exempt Transactions. —*
>
> *(1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax.*
>
> *(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, among others, by **Montenegro Shipping Lines, Inc.** of four (4) sets Mitsubishi Marine Diesel Engine for M/V "MARIA OLIVA," a passenger/cargo ship as described in its Certificate of Philippine Registry with MARINA, and four (4) pieces wooden crates, of Marine Gear Box for M/V "MARIA MATILDE," a passenger/cargo ship as described in its Certificate of Ownership with MARINA, destined for domestic trade operations shall be exempt from VAT. In relation thereto, Section 4.109-1 (B) (1) (t) of the Revenue Regulations (RR) No. 16-2005, as amended by RR No. 15-2015, which implements the above-quoted provision, provides:

> *"SECTION 4.109-1. VAT-Exempt Transactions. —*
>
> xxx xxx xxx
>
> *(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 MARINA."*

It is noted that the importation of four (4) sets of Mitsubishi Marine Diesel Engine for M/V "MA OLIVA" and four (4) wooden crates of Marine Gear Box for M/V MA MATILDE has been favorably endorsed by MARINA to the Department of Finance for the exemption from the payment of Value-Added Tax. Accordingly, the importation by **Montenegro Shipping Lines, Inc.** of four (4) sets Mitsubishi Marine Diesel Engine for its M/V "MA OLIVA" and four (4) pieces wooden crates of Marine Gear Box for its M/V "MA

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OLIVA," destined for domestic trade operations shall be exempt from VAT pursuant to Section 109 (1) (T) of the NIRC of 1997, as amended.

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 No. 10378.

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