July 18, 2019

BIR RULING NO. 388-19

Section 109 (1) (T), NIRC; RR No. 15-2015;
BIR RULING NO. 0260-19

Montenegro Shipping Lines, Inc.
Montenegro Corporate Center, along Diversion Road,
Bolbok, Batangas City, 4200

Attention: *AAA*

Gentlemen :

This refers to your letter dated April 5, 2019, requesting on behalf of **Montenegro Shipping Lines, Inc.**, for a Certificate of Value-Added Tax (VAT) Exemption on its importation of one (1) Unit 2006-launched, 257.00 GT lct type cargo ship named "SONG LIM FERRY" (TBR: MV REINA XAVIERA), 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 one (1) Unit 2006-launched, 257.00 GT lct type cargo ship which is particularly described as follows:

Vessel's Name	"SONG LIM FERRY" (TBR: MV REINA XAVIERA)
Ship Builder	Moon Chang Shipbuilding Dockyard Ltd.
Where Built	Republic of Korea
Year Built	July 2006
Length	51.23m
Breadth	10.00m

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Depth	02.30m
Gross Tonnage	257 Tons
Dimensions	61.77m x 51.23m x 2.3m
Installed Main Engine	Mitsubishi 950PSx1400RPMx 2 sets

that MARINA has approved the importation of the above cargo ship in its letter dated March 6, 2019 addressed to **Montenegro Shipping Lines, Inc.**; and that per Sworn Statement dated April 2, 2019 executed by AAA, _____ of **Montenegro Shipping Lines, Inc.**, the subject cargo vessel cannot be manufactured domestically in comparable quality, technology and at reasonable price; and that it is reasonably needed and will be used exclusively by the company operations.

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. Certified true copy of the Certificate of Registration with MARINA;

4. Certified true copy of the MARINA Authority to Import;

5. Sales and Purchase Agreement dated March 1, 2019, executed by and between Shimizu & Co. Ltd. and Montenegro Shipping Lines, Inc.;

6. Sworn Statement dated April 2, 2019.

In reply, please be informed that Section 109 (1) (T) of the NIRC 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.*
>
> *(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, of a cargo vessel destined for domestic transport operations shall be exempt from VAT. In relation thereto,

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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 **"MV Reina Xaviera"** is a 2006-launched, 257.00 GT lct type cargo ship and has been issued by MARINA with the required authority to be imported. Hence, the importation of the said vessel by **Montenegro Shipping Lines, Inc.** is deemed compliant with the requirements on restriction on vessel importation and mandatory vessel retirement program of MARINA. Accordingly, the importation by **Montenegro Shipping Lines, Inc.** of **"MV Reina Xaviera"** shall be exempt from VAT pursuant to Section 109 (1) (T) of the NIRC 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 subject vessel. *(BIR Ruling No. 0260-19 dated May 7, 2019)*

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

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1. Renumbered by Republic Act No. 10378.

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