October 21, 2019

BIR RULING NO. 667-19

Section 109 (1) (T) of the 1997 Tax Code, as amended; Revenue Regulations No. 15-2015; BIR Ruling No. 092-2016

Oceanic Container Lines, Inc.
511 Honorio Lopez Blvd.
Balut, Tondo

Attention: *AAA*

Gentlemen :

This refers to your letter dated October 10, 2014, requesting on behalf of **Oceanic Container Lines, Inc.**, for a Certificate of Value-Added Tax (VAT) Exemption on its importation of one (1) unit second hand cargo vessel named "Westerkade" (TBR: M/V "OCEAN KINGDOM") pursuant to Section 109 (1) (T) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Documents submitted show that **Oceanic Container 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. A199810844; that it is duly accredited by the Maritime Industry Authority (MARINA) to engage in domestic shipping business per MARINA Certification No. DSO-2006-003-006 (2014) dated January 27, 2014 valid until February 14, 2017; and that **Oceanic Container Lines, Inc.** is currently importing, for a total purchase price of USD _____, one (1) unit second hand cargo vessel named "Westerkade," (TBR: M/V "OCEAN KINGDOM") formerly owned by MS "Westerkade" Schiffahrts GmbH & Co. KG (MWSGCK of Germany), and with the following specifications:

Specifications	
Vessel's Name	M/V "Westerkade"
Built	2000/07
Gross Tonnage	7,541
Net Tonnage	3,432
IMO No.	9202091
Call Sign	V2FB5

Copyright 2020 CD Technologies Asia, Inc.

Classification	Germanischer Lloyd
Flag	Antigua & Barbuda
Place of Registration	Emden (Ownership)/St. John's (bareboat registry)

and that MARINA has approved the importation of the aforesaid cargo vessel in its letter dated September 10, 2014 addressed to **Oceanic Container Lines, Inc.**

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, 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, 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 "Westerkade" (TBR: M/V "OCEAN KINGDOM") has been issued by MARINA with the required authority to be imported. Hence, the importation of said vessel by **Oceanic Container Lines, Inc.** is deemed compliant with the requirements on restriction on vessel importation and mandatory vessel retirement program of MARINA. Accordingly, the importation by **Oceanic Container Lines, Inc.** of the "Westerkade" (TBR: M/V "OCEAN KINGDOM") shall be exempt from VAT pursuant to Section 109

Copyright 2020 CD Technologies Asia, Inc.

(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 above-described vessel.

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.

Copyright 2020 CD Technologies Asia, Inc.