October 30, 2019

BIR RULING NO. 673-19

Section 109 (1) (T), NIRC; RR No. 15-2015; BIR Ruling No. 260-19

Pulau Banda Corporation
5th Floor Pacific Star Bldg.,
Sen. Gil Puyat Avenue cor. Makati Avenue,
Bel-Air, Makati City 1209

Attention: *AAA*

Gentlemen :

This refers to your letter dated April 15, 2019, requesting on behalf of **Pulau Banda Corporation**, for a Certificate of Value-Added Tax (VAT) Exemption on its importation of one (1) Unit 1,033 GT general purpose ship named "**MV Pendamar**," pursuant to Section 109 (1) (T) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Documents submitted show that **Pulau Banda Corporation**, with Tax Identification No. 000-000-000-000, is a domestic corporation registered with the Securities and Exchange Commission (SEC) under Company Registration No. CS201508969; that it is duly accredited by the Maritime Industry Authority (MARINA) to engage in domestic shipping business per MARINA Certificate No. DSS-2006-003-030 (2019) valid until March 25, 2022; that **Pulau Banda Corporation** is currently importing one (1) Unit 2003-built, 1,033 GT general purpose ship which is particularly described as follows:

Vessel's Name	MV Pendamar
Vessel Type	General Purpose Vessel
Flag	Malaysia
Port of Registry	Port Klang
IMO Number	9526423
Length Registered	53.25 Meter
Breadth Registered	11.50 Meter
Depth Registered	4.70 Meter

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Gross Tonnage	1,033 Ton
Net Tonnage	310 Ton
Main Engine	2 X Deutz SBV 8M 628, 1,800KW @ 1000rpm
Gen Set	2 X Doosan DH1 ECO 35 2LN/1, 3000KVA @ 1,500 rpm
Hull Material	Steel
Place of Building/Shipyard	Sibu, Sarawak, Malaysia
Classification	Bureau Veritas (BV)
Year Built	2003
Previous Owner	Sing Kiong Hong Dockyard SDN BHD

that MARINA has approved the importation of the above cargo ship in its letter dated April 15, 2019 addressed to **Pulau Banda Corporation**; and that per Sworn Statement dated October 22, 2019 executed by BBB, _____ of **Pulau Banda Corporation**, the subject cargo vessel cannot be manufactured domestically at the value of its acquisition cost; and that it will be used exclusively by the company in its operations.

In support of its request for exemption, **Pulau Banda Corporation** 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. Sworn Statement dated October 22, 2019.

In reply, please be informed that a general purpose vessel falls under the classification of a cargo vessel. 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

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vessel destined for domestic transport 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 "**MV Pendamar**" is a one (1) Unit 1,033 GT general purpose ship and has been issued by MARINA with the required authority to be imported. Hence, the importation of the said vessel by **Pulau Banda Corporation** is deemed compliant with the requirements on restriction on vessel importation and mandatory vessel retirement program of MARINA. Accordingly, the importation by **Pulau Banda Corporation** of "**MV Pendamar**" 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. 260-19 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

1. Renumbered by Republic Act No. 10378.

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