Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**G.R. No. 261171**
	Present:
- versus -	LEONEN,* *J.*, Chairperson, LAZARO-JAVIER, Acting Chairperson, LOPEZ, M., LOPEZ, J., and KHO, JR., *JJ.*
BW SHIPPING PHILIPPINES, INC., Respondent.	Promulgated: OCT 04 2023

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DECISION

KHO, JR., *J.*:

Before the Court is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court assailing the Decision[2] dated October 29, 2021 and the Resolution[3] dated May 30, 2022 of the Court of Tax Appeals (CTA) *En Banc* in CTA EB No. 2254 (CTA Case No. 9448). The CTA *En Banc* ruling affirmed the Decision[4] dated September 23, 2019 and the Resolution[5] dated

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* On Leave, left a vote pursuant to Section 4, Rule 12 of the Supreme Court Internal Rules.

1 *Rollo*, pp. 38–52.

2 *Id.* at 64–79. Penned by Associate Justice Ma. Belen M. Ringpis-Liban with Presiding Justice Roman G. Del Rosario, Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Catherine T. Manahan, Jean Marie A. Bacorro-Villena, Maria Rowena Modesto-San Pedro, and Marian Ivy F. Reyes-Fajardo, concurring.

3 *Id.* at 81–84. Penned by Associate Justice Ma. Belen M. Ringpis-Liban with Presiding Justice Roman G. Del Rosario, Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Catherine T. Manahan, Jean Marie A. Bacorro-Villena, Maria Rowena Modesto-San Pedro, Marian Ivy F. Reyes-Fajardo, and Lanee S. Cui-David, concurring.

4 *Id.* at 99–119. Penned by Associate Justice Catherine T. Manahan with Presiding Justice Roman G. Del Rosario and Esperanza R. Fabon-Victorino, concurring.

5 *Id.* at 120–123.

February 19, 2020 of the CTA First Division which partially granted the Petition for Review filed by respondent BW Shipping Philippines, Inc. (respondent), and accordingly, ordered the refund or issuance of a Tax Credit Certificate (TCC) in the latter's favor in the amount of PHP 5,503,628.95 representing its unutilized input value-added tax (VAT) attributable to zero-rated sales for the four quarters of taxable year (TY) 2014.

The Facts

Respondent is a corporation duly organized and existing under the laws of the Philippines engaged in the general business of shipping including manning and crewing of vessels, as well as the carriage of passengers, freight, mail, livestock, and other lawful merchandise. It is a registered VAT taxpayer with Taxpayer Identification No. (TIN) 000-160-779-000.[6]

On March 30, 2016, respondent filed an administrative claim for refund or issuance of TCC of its unutilized input VAT for TY 2014 in the total amount of PHP 7,346,268.45 before the Bureau of Internal Revenue (BIR). Respondent alleged that for TY 2014, it rendered manning services to shipping companies located and doing business outside the Philippines for which it was paid manning fees in foreign currency that were subjected to 0% VAT. Respondent opined that since their sales are purely zero-rated, the input taxes all related to zero-rated accounts. Accordingly, for said TY 2014, respondent generated purely zero-rated receipts on the aggregate amount of PHP 129,866,272.96 and paid input VAT attributable to said sales in the total amount of PHP 7,346,268.45. These input taxes, according to respondent, were not utilized in the same quarter and were likewise not used against their output taxes in the subsequent periods.[7]

In a letter dated August 16, 2016 and received by respondent on August 22, 2016, BIR denied respondent's claim.[8] This prompted respondent to file a Petition for Review before the CTA.[9]

In its Answer, petitioner the Commissioner of Internal Revenue (CIR) alleged, among others, that respondent failed to demonstrate that the tax was erroneously collected. Moreover, respondent's claim for refund was not fully substantiated by proper documents.[10]

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6 *Id.* at 65.
7 *Id.* at 65–66.
8 *Id.* at 66.
9 *Id.* at 85–98
10 *Id.* at 66.

The CTA Division Ruling

In a Decision[11] dated September 23, 2019, the CTA First Division partially granted respondent's Petition and ordered the refund or issuance of TCC in their favor in the amount of PHP 5,503,628.95 representing its unutilized input VAT attributable to zero-rated sales for the four quarters of TY 2014.[12]

The CTA Division held that respondents have complied with all requisites under Section 108 (B)(2) in relation to Sections 110(B) and 112(A) and (C) of National Internal Revenue Code of 1997 (NIRC) to be entitled to a refund of excess input VAT attributable to its zero-rated sales,[13] considering that:

First, respondent is registered with the BIR as a VAT taxpayer, as evidenced by the BIR Certificate of Registration No. 9RC0000426666 with TIN 000-160-779-000.[14]

Second, the services rendered by respondent are VAT-zero-rated. The manning services, among others, which respondent supplied to shipping companies abroad are services "other than processing, manufacturing or repacking of goods."[15] Moreover, the shipping companies that were recipients of respondent's services are doing business outside of the Philippines, as established by the Certificates of Non-Registration of Company issued by the Securities and Exchange Commission (SEC), Certificates of Registration/Articles of Incorporation issued by foreign government agencies, screenshots of foreign registration per foreign regulatory websites and the Consularized Manning Agreements/Purchasing & Infrastructure Support Agreements. To support that respondent was paid in foreign currency duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP) for the four quarters of TY 2014, respondent submitted its list of zero-rated sales, summary of the results of examination of inward remittances, list of official receipts, and the related official receipts, sales invoices, Certificate of Inward Remittances dated October 20, 2017 issued by the Bank of the Philippine Islands, and bank credit memos. However, due to respondent's failure to provide official receipts to some purported sales, only the declared zero-rated sales amounting to PHP 115,630,375.65 were considered qualified for VAT zero-rating.[16]

Third, in its Quarterly VAT Returns for the four quarters of TY 2014, respondent declared a total amount of PHP 7,346,268.45 input VAT derived

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11 *Id.* at 99–119.
12 *Id.* at 118.
13 *See id.* at 104–118.
14 *Id.* at 107.
15 *Id.* at 108.
16 *See id.* at 107–113.

from its domestic purchases of goods other than capital goods and importation of goods other than capital goods. However, due to lack of proper substantiation, only the amount of PHP 5,841,616.63 was included as respondent's valid input VAT.[17]

Fourth and fifth, respondent had no output tax liability for the four quarters of the TY 2014 against which the subject input VAT claim may be applied or credited. Although respondent carried over the claimed input VAT in its succeeding quarterly VAT returns for the TY 2015, the same remained unutilized until it was deducted as "VAT Refund/TCC Claimed" in its Quarterly VAT Return for the 1st Quarter of the TY 2016 thus, preventing the carry-over or application of the claimed input VAT in the next TYs.[18]

Sixth, all administrative claims including the submission of required documents were timely filed within the two-year period after the close of the taxable quarter for all quarters of the TY 2014 on March 30, 2016. Respondent likewise timely filed its petition with the CTA on August 20, 2016. Said filing was within the 30-day reglementary period from the date the BIR failed to act on respondent's administrative claim, which should have been within 120 days from the filing of such claim on March 30, 2016.[19] Proceeding therefrom, the CTA Division held that only the remaining input VAT of PHP 5,841,616.63 can be attributed to respondent's declared zero-rated sales of PHP 129,866,272.96 and only the input VAT of PHP 5,503,628.95 is attributable to the valid zero-rated sales of PHP 115,630,375.65.[20]

The CIR moved for reconsideration, which was denied in a Resolution[21] dated February 19, 2020.

The CIR then filed a Petition for Review[22] to the CTA *En Banc* alleging that respondent's sales of services to the shipping companies as its foreign principals are not entitled to zero-rated or effectively zero-rated sales because the latter are doing business in the Philippines, thus failing to satisfy the requisite that the recipient of the services should be doing business outside of the Philippines. The Consularized Manning Agreements/Purchasing & Infrastructure Support Agreements, according to the CIR, shows the foreign principal's intention to establish a continuous business appointing respondent as its local agent and/or representative. Accordingly, respondent renders service and performs functions which do not only pertain to screening competent and qualified Filipino seafarer for employment on board the vessels of its foreign principals, but also extends to control supervisory and

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17 *See id.* at 114–117.
18 *See id.* at 117–118.
19 *See id.* at 106–107.
20 *Id.* at 118.
21 *Id.* at 120–123.
22 *Id.* at 85–97.

human resource management functions which are essential in the operation of a corporation.[23]

The CTA *En Banc* Ruling

In a Decision[24] dated October 29, 2021, the CTA *En Banc* affirmed the CTA Division rulings. The CTA *En Banc* held that as correctly found by the CTA Division, the Certificates of Non-Registration issued by the SEC certify that their records do not show that the shipping companies serviced by respondents are registered as a corporation or partnership in the Philippines. On the other hand, the consularized Certificates/Articles of Foreign Incorporation indicate that said companies are non-resident foreign corporations which were organized and doing business outside the Philippines. In addition, respondent was able to show that the shipping companies are duly registered in foreign countries as per official online websites. Taken together with the Consularized Manning Agreements/Purchasing & Infrastructure Support Agreements, the aforementioned evidence were held by the CTA *En Banc* as sufficient proof that the shipping companies, as recipient of respondent's services, were foreign entities not doing business in the Philippines. [25]

The CTA *En Banc* likewise held that respondent's appointment as agent and the Consularized Manning Agreements/Purchasing & Infrastructure Support Agreements do not show that the shipping companies are doing business in the Philippines. Respondent was merely rendering manning and crewing services to the shipping companies through screening competent and qualified Filipino seafarer for employment on board the vessels of said companies. The CTA *En Banc*, opined that while human resources is indispensable for business, there is nothing that limits a corporation to fill its workforce only through direct hiring; recruiting activity maybe outsourced to other companies. However, it was noted that jurisprudence on money claims of seafarers would in certain instances describe foreign shipping corporations as "doing business through its agent," which according to the CTA *En Banc* is a self-imposed characterization for purposes of shipping companies' liability in line with Section 10 of the Migrant Workers and Overseas Filipinos Act of 1995.[26]

Further, the CTA *En Banc* found that the foreign principals of respondent are mostly affiliates of the BW Group and that it appears that BW Group has office in the Philippines. The CTA *En Banc* noted that the address that was indicated in the BW Group for its office in the Philippines is the same with that of respondent and that respondent's website redirects to the BW Group's website. Nonetheless, it held that although these are worth further

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[23] *See id.* at 69--70.
[24] *Id.* at 64--79.
[25] *Id.* at 71--72.
[26] *Id.* at 74--76.

investigating, there is a dearth of evidence presented by the CIR to fortify its allegations which defeats a definitive pronouncement in the CIR's favor.[27]

The CIR moved for a reconsideration,[28] which was denied by the CTA *En Banc* in a Resolution[29] dated May 30, 2022. Hence, this Petition.

The Issue Before the Court

The issue before the Court's resolution is whether the CTA *En Banc* correctly affirmed the CTA Division's order to refund or issue a TCC for respondent's excess/unutilized input VAT for the four quarters of TY 2014.

The Court's Ruling

The Petition is without merit.

Respondent's claim for tax refund or issuance of TCC for its excess/unutilized input VAT attributable to its zero-rated sales is based on Section 112(A), in relation to Section 108(B) of the NIRC, as amended by Republic Act No. (RA) 9337,[30] to wit:

> SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* —
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> . . . .
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> (B) *Transactions Subject to Zero Percent (0%) Rate.* — The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
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> (1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);
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> (2) Services other than those mentioned in the preceding paragraph, **rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines** when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);
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> . . . .

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27 *Id.* at 73 and 76–77.

28 *Id.* at 127–136.

29 *Id.* at 81–84.

30 Entitled, "AN ACT AMENDING SECTIONS 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES," approved on May 24, 2005.

> SEC. 112. *Refunds or Tax Credits of Input Tax.* —
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> (A) *Zero-rated or Effectively Zero-rated Sales.* — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however*, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP): *Provided, further*, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales. *Provided, finally*, That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
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> . . . .

In order for respondent to qualify for VAT zero-rating, the following requisites under Section 108 (B) (2) of the NIRC, as amended by RA 9337 must be met: "*first*, the services tendered should be other than 'processing, manufacturing or repacking of goods;' *second*, the services are performed in the Philippines; *third*, the service-recipient is (a) a person engaged in business conducted outside the Philippines; or (b) a non-resident person not engaged in a business which is outside the Philippines when the services are performed; and, *fourth*, the services are paid for in acceptable foreign currency inwardly remitted and accounted for in conformity with BSP rules and regulations."[31]

The *first*, *second*, and *fourth* requisites are undisputed. The manning services which involved respondent's recruitment in the Philippines of crew for shipping companies abroad is other than processing, manufacturing or repacking of goods for which respondent was paid in foreign currency duly accounted for in accordance with the BSP rules and regulations.

The CIR's contention is anchored on the *third* requisite alleging that although respondent was able to establish that that the shipping companies are foreign entities, an examination of its Manning Agreements/Purchasing & Infrastructure Support Agreements would reveal that said recipients are performing acts that imply a continuity of business dealings or arrangements in the Philippines. This is further exemplified by the provision in said agreements that designates respondent as the agent and the shipping companies as the principal. According to the CIR, while the manning services are not directly related to the main business of these companies, which is the shipping of goods, said services are incidental to and in

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[31] *Chevron Holdings, Inc. v. Commissioner of Internal Revenue*, G.R. No. 215159, July 5, 2022 [Per J. M. Lopez, *En Banc*].

progressive prosecution of commercial gain or for the purpose and object of the shipping companies; it would not be able to operate without said services. Accordingly, these shipping companies may be considered as doing business in the Philippines.[32]

The Court is not convinced.

In *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*,[33] the Court, through Associate Justice Henri Jean Paul B. Inting, held that in order for sales to a non-resident foreign corporation to qualify for zero-rating under Section 108(B)(2) of the NIRC, the claimant must be able to prove "(1) that their client was established under the laws of a country not the Philippines or, simply, is not a domestic corporation; and (2) that it is not engaged in trade or business in the Philippines. To be sure, there must be sufficient proof of *both* of these components: showing not only that the clients are foreign corporations, but also are not doing business in the Philippines."[34] Accordingly, the Court likewise ruled that "the SEC Certifications of Non-Registration show that [clients] are foreign corporations. On the other hand, the articles of association/certificates of incorporation stating that these [clients] are registered to operate in their respective home countries, outside the Philippines are *prima facie* evidence that their clients are not engaged in trade or business in the Philippines."[35]

Here, it is notable that the CIR does not dispute that the shipping companies are foreign corporations. Moreover, based on the consularized Certificates/Articles of Foreign Incorporation, there is *prima facie* evidence that the shipping companies are not engaged in trade or business in the Philippines. This notwithstanding, the CIR claims that the Manning Agreements/Purchasing & Infrastructure Support Agreements between respondent and the shipping companies show that the latter are doing business in the Philippines. The foregoing begs this question: "are the foregoing agreements sufficient to overcome the *prima facie* evidence in favor of the shipping companies?"

In *Sitel Philippines Corp. v. Commissioner of Internal Revenue*,[36] the Court, through Associate Justice Benjamin S. Caguioa, held that "[t]here is no specific criterion as to what constitutes 'doing' or 'engaging in' or 'transacting' business. Each case must be judged in the light of its peculiar environmental circumstances. The term implies a continuity of commercial dealings and arrangements, and contemplates, to that extent, the performance of acts or works or the exercise of some of the functions normally incident to, and in progressive prosecution of commercial gain or for the purpose and

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32 *Rollo*, pp. 48-49.
33 G.R. No. 234445, July 15, 2020 [Per J. Inting, Second Division].
34 *See id.*
35 *See id.*
36 805 Phil. 464 (2017) [Per J. Caguioa, First Division].

object of the business organization. *'In order that a foreign corporation may be regarded as doing business within a State, there must be continuity of conduct and intention to establish a continuous business, such as the appointment of a local agent, and not one of a temporary character.'*"[37]

Relatedly, under Rule I, Section 1(j) of the Implementing Rules and Regulation of RA 11647,[38] amending RA 7042,[39] otherwise known as the "Foreign Investment Act of 1991," the term "*doing business*" includes "soliciting orders, service contracts, opening offices, whether liaison offices or branches; appointing representatives or distributors, operating under full control of the foreign corporation, domiciled in the Philippines or who in any calendar year stay in the country for a period or periods totaling one hundred eighty (180) days or more; participating in the management, supervision or control of any domestic business, firm, entity or corporation in the Philippines; and any other act or acts that imply a continuity of commercial dealings or arrangements, and contemplate to that extent the performance of acts or works, or the exercise of some of the functions normally incident to and in progressive prosecution of commercial gain or of the purpose and object of the business organization." Likewise, under said provision, the following acts shall not be considered as doing business in the Philippines:

> 1) Mere investment as a shareholder by a foreign entity in domestic corporations duly registered to do business, or the exercise of rights as such investor;
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> 2) Having a nominee director or officer to represent its interests in such corporation;
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> 3) Appointing a representative or distributor domiciled in the Philippines which transacts business in the representative's or distributor's own name and account;
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> 4) The publication of a general advertisement through any print or broadcast media;
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> 5) Maintaining a stock of goods in the Philippines solely for the purpose of having the same processed by another entity in the Philippines;
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> 6) Consignment by a foreign entity of equipment with a local company to be used in the processing of products for export;

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37 *Id.* at 484; citations omitted.

38 Entitled, "AN ACT PROMOTING FOREIGN INVESTMENTS, AMENDING THEREBY REPUBLIC ACT NO. 7042, OTHERWISE KNOWN AS THE 'FOREIGN INVESTMENTS ACT OF 1991,' AS AMENDED, AND FOR OTHER PURPOSES," approved on March 2, 2022.

39 Entitled, "AN ACT TO PROMOTE FOREIGN INVESTMENTS, PRESCRIBE THE PROCEDURES FOR REGISTERING ENTERPRISES DOING BUSINESS IN THE PHILIPPINES, AND FOR OTHER PURPOSES," approved on June 13, 1991.

7) Collecting information in the Philippines; and

8) Performing services auxiliary to an existing isolated contract of sale which are not on a continuing basis, such as installing in the Philippines machinery it has manufactured or exported to the Philippines, servicing the same, training domestic workers to operate it, and similar incidental services.

In *Agilent Technologies Singapore v. Integrated Silicon Technology Phil. Corp.*,[40] the Court held, through Associate Justice Consuelo Ynares-Santiago, that to constitute "doing business," the activity to be undertaken in the Philippines is one that is by and large for *profit-making*.

Based on the foregoing, the Court holds that the CIR failed to establish that the shipping companies are doing business in the Philippines.

First, there was no showing that respondent, as representative/agent of the shipping companies, the principal, are operating under the full control of the latter. On the contrary, it appears that beyond providing recruitment instructions with respect to the number of complements and categories or rating of seaman for a particular vessel, scale of remuneration and approving the dismissal or transfer of a seafarer, the shipping companies have no command over respondent on the operation of the latter's business even in the conduct of its recruitment process. The recruitment instructions and the approval of the dismissal or transfer of crew members, as held by the CTA *En Banc*, are merely necessary consequences of outsourcing manpower recruitment.

Moreover, the designation of shipping companies as "Principal" in the Manning Agreements/Purchasing & Infrastructure Support Agreements was specifically provided in the Omnibus Rules and Regulations Implementing the Migrant Workers and Overseas Filipinos Act of 1195, as Amended by Republic Act No. 10022 (Omnibus Rules). Under Rule II, Section 1(oo) of the Omnibus Rules, a principal refers to "an employer or foreign placement agency hiring or engaging Filipino workers for overseas employment through a licensed private recruitment/manning agency." This was likewise reiterated under Part I, Rule II (39) of the 2016 Revised POEA Rules and Regulation Governing the Recruitment and Employment of Seafarers (POEA Rules), which defined it as referring to "the employer or to a person, partnership or corporation engaging and employing seafarers through a licensed manning agency." A manning agency, on the other hand, which is designated in the agreements as the "Agent" is defined under Rule II, Section 1(y) of the Omnibus Rules as referring to "any person, partnership or corporation duly licensed by the Secretary of Labor and Employment to engage in the recruitment and placement of seafarers for ships plying international waters

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[40] 471 Phil. 582 (2004) [Per J. Ynares-Santiago, First Division].

and for related maritime activities." Licensed Manning Agency is likewise defined under Part I, Rule II (24) of the POEA Rules as "a person, partnership or corporation duly licensed by the Secretary or his/her duly authorized representative to engage in the recruitment and placement of Filipino seafarers for a ship plying international waters and for related maritime activities." Said designations, as shown above, do not necessarily imply control or the conduct of business in the Philippines by the shipping companies.

Second, the hiring of the crew members in the Manning Agreements/ Purchasing and Infrastructure Support Agreements engaged by the shipping companies are not considered a continuity of its commercial dealings nor are these in pursuit of commercial gain. The shipping companies in this case own vessels that transport goods such as gas, coal, and iron ore. Although crew members or engineers and the purchase of provisions are essential in the operation of these vessels, these recruitments do not necessarily bring in profit; the shipping companies earn profit by providing transport services. As pointed out by the CTA *En Banc*, nothing limits corporations to employ their workforce through direct hiring. Recruitment activities may be outsourced, as specifically acknowledged by the POEA Rules and Omnibus Rules. As noted by the CTA *En Banc*, there are cases on money claims by seafarers which would identify foreign shipping companies as "doing business through its agent;"[41] however, a study of these cases shows that said characterization have no basis and that the same has never been raised nor resolved as an issue therein, thus may not be used as a source for a definitive pronouncement.

Unless there is showing of abuse in the exercise of its authority, the Court accords the highest respect to the factual findings of the CTA considering the expertise that it has developed on the subject.[42] With both the CTA Division and the CTA *En Banc* giving weight and credence to respondent's evidence as sufficient proof of its entitlement to the refund or issuance a TCC for its excess/unutilized input VAT for the four quarters of TY 2014, and based on the above discussion, the Court shall not disturb said CTA findings.

ACCORDINGLY, the Petition is **DENIED**. The Decision dated October 29, 2021 and the Resolution dated May 30, 2022 of the Court of Tax Appeals *En Banc* in CTA EB No. 2254 which affirmed the Decision dated September 23, 2019 and Resolution dated February 19, 2020 of the Court of Tax Appeals First Division partially granting the Petition for Review filed by respondent BW Shipping Philippines, Inc. are hereby **AFFIRMED**. Petitioner Commissioner of Internal Revenue is hereby ordered to refund or issue a Tax Credit Certificate in favor of respondent BW Shipping Philippines, Inc. in the amount of PHP 5,503,628.95 representing unutilized input value-added tax attributable to zero-rated sales for the four quarters of taxable year 2014.

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41 *See Gau Sheng Phils., Inc. v. Joaquin*, 481 Phil. 222 (2004) [Per J. Callejo, Sr., Second Division] and *Tagud v. BSM Crew Service Centre Phils., Inc.*, 822 Phil. 380 (2017) [Per J. Carpio, Second Division].

42 *Team Energy Corp. v. Commissioner of Internal Revenue*, 828 Phil. 85, 122 (2018) [Per J. Leonen, Third Division].

SO ORDERED.

ANTONIO T. KHO, JR.
Associate Justice

WE CONCUR:

On leave but left his vote
MARVIC M.V.F. LEONEN
Senior Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice
Acting Chairperson

MARIO V. LOPEZ
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

AMY C. LAZARO-JAVIER
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Constitution, Article VIII, Section 13 and the Acting Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALEXANDER G. GESMUNDO
Chief Justice