

### Title: CBK Power Company Limited v. Commissioner of Internal Revenue

### Facts:

CBK Power Company Limited (CBK), a partnership involved in hydroelectric plants in Laguna, Philippines, and engaged in zero-rated sales, claimed a refund for PHP 50,060,766.08 as alleged unutilized or excess creditable input taxes for 2012 under Sections 108(B)(7) and 112(A) of the National Internal Revenue Code (NIRC), as amended. This followed timely filed administrative and judicial claims after the Bureau of Internal Revenue (BIR) failed to act on the administrative claim. The Court of Tax Appeals (CTA) Special First Division and subsequently the CTA En Banc denied the claim, ruling that as a Renewable Energy Developer, CBK's transactions were zero-rated under the Renewable Energy Act of 2008 (Republic Act No. 9513), hence, no input VAT could be claimed. CBK contended it did not fall under this act as it wasn't registered as a Renewable Energy Developer with the Department of Energy.

### Issues:

1. Should the case be referred to the Court En Banc?
2. Is CBK entitled to avail of the VAT incentive under Republic Act No. 9513?
3. Is CBK entitled to a tax refund?

### Court's Decision:

The Supreme Court denied referral to the En Banc, ruling on a straightforward application of laws. It determined CBK is not entitled to fiscal incentives under Republic Act No. 9513 due to non-compliance with registration requirements. The Court overturned the CTA's decision and resolved that CBK's transactions are subject to 12% VAT. It remanded the case to the CTA Special First Division to determine if CBK has duly established its entitlement to a tax refund under the NIRC, instructing a thorough review of the evidence relating to compliance with VAT and refund requirements.

### Doctrine:

The case clarified the application of fiscal incentives under Republic Act No. 9513, explicitly stating that Renewable Energy Developers must comply with registration requirements to avail of VAT-related incentives. Additionally, it reiterated principles concerning the entitlement to VAT refunds, specifying conditions under which taxpayers can claim such refunds per the National Internal Revenue Code.

### Class Notes:

- **Renewable Energy Act of 2008:** Provides VAT incentives to registered Renewable Energy Developers for specific transactions, requiring compliance with registration and documentation procedures.
- **National Internal Revenue Code (NIRC) Sections 108(B)(7) and 112(A):** Governs zero-rated sales and the conditions under which a VAT refund can be claimed, emphasizing the importance of timely filing and substantiation of claims.
- **Documentation and Registration:** Taxpayers seeking incentives or refunds must comply with all documentation and registration requirements, as failure to do so invalidates their claims.

**Historical Background:**

This case underscores the intersection of tax law and renewable energy policy in the Philippines, highlighting the procedural and substantive aspects of claiming fiscal incentives and VAT refunds by entities engaged in the renewable energy sector. It reflects ongoing efforts to align tax policy with environmental and energy objectives, subject to strict compliance with statutory and regulatory provisions.