

**\*\*Title: Commissioner of Internal Revenue vs. Acesite (Philippines) Hotel Corporation\*\***

### ### Facts

- **\*\*1996-1997:\*\*** Acesite (Philippines) Hotel Corporation (Acesite), which operates the Holiday Inn Manila Pavilion Hotel, leased 6,768.53 square meters to the Philippine Amusement and Gaming Corporation (PAGCOR) and provided food and beverages to PAGCOR's casino patrons. Acesite incurred VAT amounting to PHP 30,152,892.02 from January 1996 to April 1997.
- **\*\*PAGCOR's Refusal:\*\*** PAGCOR refused to pay the VAT stating its tax-exempt status. Hence, Acesite paid the VAT to the Commissioner of Internal Revenue (CIR) fearing legal consequences.
- **\*\*21 May 1998:\*\*** Acesite filed an administrative claim for a VAT refund with the CIR, contending that transactions with PAGCOR should be zero-rated.
- **\*\*Failure to Resolve:\*\*** The CIR failed to act on the claim, prompting Acesite to file a petition with the Court of Tax Appeals (CTA) on 29 May 1998.
- **\*\*CTA Decision:\*\*** On 3 January 2000, the CTA ruled in favor of Acesite, recognizing its transactions with PAGCOR as zero-rated and ordered the refund of PHP 30,054,148.64.

### ### Issues

1. Whether PAGCOR's tax exemption privilege includes indirect taxes like VAT, thus entitling Acesite to zero percent VAT rate.
2. Whether the 0% VAT rate under Section 102(b)(3) of the Tax Code (now Section 108(B)(3) of the Tax Code of 1997) applies to Acesite.

### ### Court's Decision

- **\*\*PAGCOR's Exemption from Indirect Taxes:\*\***
- **\*\*Court's Analysis:\*\*** The Supreme Court affirmed that PAGCOR's exemption under P.D. 1869 extends to all forms of taxes, both direct and indirect. This includes the VAT, which is typically an indirect tax.
- **\*\*Ruling:\*\*** The Court agreed with the CA that PAGCOR was exempt from indirect taxes and thus Acesite's transactions with PAGCOR were effectively zero-rated, as per Section 108(B)(3) of the Tax Code of 1997.
- **\*\*Application of Zero-Percent VAT Rate:\*\***
- **\*\*Legal Basis:\*\*** Section 102(b)(3) (now Section 108(B)(3)) of the Tax Code prescribes a zero-percent rate for services rendered to tax-exempt entities.

- **Ruling:** Acesite's services to PAGCOR are subject to the zero-percent VAT rate as stipulated, allowing for the refund of VAT inadvertently paid.
- **Payment Under Mistake of Fact:**
- **Doctrine of Solutio Indebiti:** The Court noted that Acesite's payment of VAT constituted solutio indebiti, as it was made under a mistaken belief that the transactions were subject to taxation.
- **Ruling:** Under this principle, Acesite was entitled to a refund since the payment was made erroneously and not voluntarily.

### ### Doctrine

1. **Tax Exemption Extension:** The exemptions granted to a tax-exempt entity extend to entities in contractual relationships with it, covering both direct and indirect taxes.
2. **Solutio Indebiti:** Payments made under a mistaken assumption of tax liability, when no such liability legally exists, must be refunded.

### ### Class Notes

- **Key Elements/Concepts:**
- **Tax Exemption Scope:** Tax exemptions can apply to both direct taxes (imposed directly on the entity) and indirect taxes (shifted to the entity through contractual relationships).
- **Zero-Percent VAT Rate:** Services rendered to tax-exempt entities are zero-rated under Section 108(B)(3) of the Tax Code, meaning no VAT should be charged.
- **Solutio Indebiti in Tax Law:** Erroneous tax payments made due to a mistake of fact can be reclaimed, as it is unjust enrichment for the government to retain such payments.
- **Statutes/Provisions:**
- **Section 108(B)(3) of the Tax Code:** "Services rendered to persons or entities whose exemption under special laws... effectively subjects the supply of such services to zero (0%) rate."
- **P.D. 1869, Section 13(b):** Extending tax exemptions to entities having contractual relationships with PAGCOR in casino operations.

### ### Historical Background

This case occurred in the context of the Philippine government's regulatory framework for gaming and taxation. PAGCOR, created to regulate and operate casinos, was granted

extensive tax exemptions under P.D. 1869. The case highlights the intricacies of tax exemptions and the extent of their application to associated business transactions, cementing the principle that tax exemptions granted to government instrumentalities can shield their business partners from indirect tax liabilities.