



Republic of the Philippines  
**DEPARTMENT OF FINANCE**

Roxas Boulevard Corner Pablo Ocampo, Sr. Street  
Manila 1004

DOF Opinion No. 010.2022

**MR. SHIHEGIKO KURATA**

*General Manager*

Marubeni Corporation, Manila Branch  
8/F L.V. Locsin Bldg. Ayala Corner Makati Avenue  
Makati City

**SUBJECT : Request for Review of the Refund of Erroneously Withheld VAT for the fiscal years ending 31 March 2006 and 31 March 2007**

Dear **Mr. Kurata:**

This refers to your letter dated 30 May 2022 appealing to the Department of Finance (DOF) the decision rendered by the Bureau of Internal Revenue (BIR) granting partial refund of your claim for erroneously withheld VAT in the total amount of PhP11,407,135.16.

As a short background, the Marubeni Corporation – Manila Branch (MCMB) filed with the BIR Large Taxpayers District Office – Makati City an application for tax refund of the VAT erroneously withheld by the Light Rail Transit Authority (LRTA) under the LRTA projects, for the fiscal years 2006 and 2007 amounting to PhP5,350,596.72 and PhP6,056,538.44, respectively, or for an aggregate amount of PhP11,407,135.16.

The contracts pursuant to the LRTA projects were under the Exchange of Notes between the Japanese Government and the Republic of the Philippines for OECF Funded Projects undertaken in the Philippines.

The MCMB claimed that invoice billings of Japanese contractors with the executing government agencies are exempt from the then 8.5% creditable VAT withholding. However, it is alleged that the LRTA made deductions of the 8.5% creditable VAT erroneously.

The Makati Large Taxpayers Division Office (LTDO) granted a partial refund of PhP2,493,868.77 out of the claim amounting to PhP6,056,538.44 for the fiscal

year ending in 31 March 2007 with payment made on 17 January 2018. Meanwhile, for the total claim of PhP5,350,596.72 for the fiscal year 31 March 2006, the Regional Director of Revenue Region 8A – Makati City granted a partial refund of PhP2,203,186.88 and duly paid to MCMB on 5 November 2019.

The MCMB filed a Motion for Reconsideration with the BIR for it to reevaluate and reassess the right of MCMB to a full refund of the total amount of PhP11,407,135.16. However, this was denied by the BIR for lack of jurisdiction.

In its letter dated 30 May 2022 with the Department of Finance (DOF), MCMB argues that the BIR should issue its pending VAT refund claim of PhP6,710,079.51 out of the total aggregate amount of PhP11,407,135.16.

*After reviewing the facts and laws presented, we find this request devoid of merit.*

Section 3 of Department of Finance (“DOF”) Department Order (“DO”) No. 007-002<sup>1</sup> provides that a taxpayer who receives an adverse ruling from the Commissioner of Internal Revenue (“CIR”) may, within thirty (30) days from the date of receipt of such ruling, seek its review by the Secretary of Finance. The Request for Review should be in writing and under oath. The Secretary of Finance may dismiss with prejudice a request that fails to comply with the requirements.

MCMB received the CIR decisions and corresponding payments for its partial refund in 2018 and 2019 for the fiscal years 2007 and 2006, respectively. Since MCMB filed its request for review of the BIR decisions with the DOF only on 31 May 2022, the same is filed beyond the thirty (30) days reglementary period.

Apart from the procedural obstacle of being filed out of time, the DOF also has no appellate jurisdiction to review the same.

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<sup>1</sup> Providing for the Implementing Rules of the First Paragraph of Section 4 of the National Internal Revenue Code of 1997, Repealing for this Purpose Department Order No. 005-00 and Revenue Administration Order No. 1-99.

