Malolos-Tutuban rail contract bagged by Japan's Hitachi Rail

By Arjay L. Balinbin
Senior Reporter

HITACHI RAIL has bagged the contract for the electrical and mechanical systems and track works of the Manila-Bulacan segment of the North-South Commuter Railway (NSCR) project, according to the Transportation department.

The Philippines, through the Department of Transportation (DoTr), issued the notice of award to Hitachi Rail S.T.S. SpA representative Jorma Johannes Oksanen on Nov. 8, according to a copy of the document obtained by *BusinessWorld*.

The contract is worth P13.13 billion plus €361.96 million, $153.88 million, and ¥7.89 billion, equivalent to P46.6 billion according to exchange rates prevailing on Nov. 14.

The Tutuban (Manila)-Malolos (Bulacan) rail project is part of the 163-kilometer NSCR urban rail transit system from Calamba in South Luzon to Clark in Central Luzon. It is co-financed by the Japan International Cooperation Agency (JICA) and the Asian Development Bank.

Undersecretary for Administration and Finance Kim Robert C. de Leon said Hitachi should submit a "performance security" or financial guarantee within 28 days of receiving the notice of award.

On its website, Hitachi Rail describes itself as a "fully integrated, global provider of rail solutions across rolling stock, signaling, operation, service and maintenance, digital technology, and turnkey solutions."

The DoTr instructed Hitachi Rail, as the prospective supplier, to submit its offer in September 2021.

In 2018, the company launched an autonomous train servicing Australian mines, and signed a contract in the Middle East for the operation and maintenance services of lines 3-6 of the Riyadh Metro. It won a contract in Italy in 2020 to deliver a new tram platform.

The 38-kilometer Malolos-Tutuban segment has a projected cost of P149.13 billion, according to the National Economic and Development Authority. It is expected to carry more than 200,000 commuters daily. The travel time from Malolos to Tutuban is estimated to be 35 minutes once the project is finished.

The Malolos to Clark segment is expected to be completed in 2024. According to JICA, the NSCR project is designed to strengthen the mass transport network servicing growing demand in Metro Manila and surrounding provinces.

House measures taxing plastics, digital services pass on third reading

PRIORITY legislation taxing single-use plastics, foreign digital service providers, as well as a bill reforming the tax regime on passive income, were approved on third reading at the House of Representatives on Monday.

Voting 255-3, the House approved House Bill (HB) 4102, which seeks to impose an excise tax of P100 per kilogram on single-use plastic bags.

The bill calls for the tax to increase 4% every year starting Jan. 1, 2026. Incremental revenue from the tax will fund programs of the Department of Environment and Natural Resources.

Albay Rep. Jose Ma. Clemente S. Salceda said the measure is expected to raise P9.3 billion in revenue.

Party-list Reps. Arlene D. Brosas of Gabriela, France L. Castro of ACT-Teachers and Raoul Danniel A. Manuel of Kabataan voted against the measure, calling it a burden to consumers.

"While we want to regulate the use of plastic bags for environmental concerns such as reducing pollution, this proposed measure will just be an additional burden to consumers, sellers, and retailers," Ms. Brosas said during plenary.

In a vote of 253-4 with one abstention, the House also approved HB 4122 on third reading. The measure seeks to impose the 12% value-added tax (VAT) on nonresident digital service providers such as Spotify and Netflix.

If signed into law, the 12% VAT will be imposed on the digital sale of services like online advertising, video on demand subscriptions, and the supply of other services which are delivered through online marketplaces, webcasts and mobile applications, among others.

Mr. Salceda, who also chairs the House ways and means committee, said the measure is expected to generate P19 billion in revenue.

"While it is true that the playing field must be fair especially to local online digital service providers who are already imposing VAT on digital goods and services, we believe levying a new tax in the form of digital tax on other streaming services and digital transactions is not the way forward," Ms. Brosas, who voted no, said.

The House, voting 258-3, also approved on final reading HB 4339 which seeks to simplify taxation of passive income by harmonizing most rates at 15%.

Mr. Salceda said the measure is expected to generate P20 billion, mainly by raising the tax rate on foreign currency deposits to 20%.

The measure also proposes gross receipts tax on bank, quasi-bank and other nonbank financial intermediary income of 5%, a premium tax of 2% and a stock transaction tax of 0.1%. — **Matthew Carl L. Montecillo**

Upgrades to ASEAN trade deal with Australia, New Zealand expected to benefit MSMEs

THE recently agreed updates to the ASEAN, Australia and New Zealand Free Trade Area (AANZFTA) deal are expected to accelerate the growth of micro, small, and medium enterprises (MSMEs) in the country, the Department of Trade and Industry (DTI) said.

"The substantial conclusion of the upgrade negotiations marks another milestone for both ASEAN and Australia-New Zealand, as we gain another high-quality free trade agreement (FTA)," Trade Secretary Alfredo E. Pascual said in a statement on Monday.

"The inclusion of a Chapter on Trade and Sustainable Development and MSMEs is expected to fuel inclusive growth and integration of businesses into the global value chain," he added.

The DTI said the changes to the FTA modernize trade practices which level the playing field for small businesses.

The DTI said signatories plan to sign the second protocol amending the AANZFTA in 2023. Negotiations to update the FTA started in September 2020.

"ASEAN, Australia, and New Zealand introduced the inclusion of new Chapters on Government Procurement, MSMEs, and Trade and Sustainable Development to facilitate growth anchored on an inclusive and sustainable regional economy. With the inclusion of the new chapters, the upgraded AANZFTA is viewed to benefit both regions in a broad spectrum of areas," the DTI said.

"Among others, the agreement will accelerate supply chain integration and resilience; ensure a smooth flow of essential goods during crises; deepen services and investment liberalization; and support electronic commerce and digital transformation," it added.

The AANZFTA took effect for the Philippines in 2010. It is the first region-to-region trade agreement involving the ASEAN, Australia, and New Zealand.

According to the DTI, Australia and New Zealand were the 16th and 28th largest trading partners of the Philippines in 2021, with a combined trade value worth P2.64 billion.

It added that Australia was the 14th largest source of investment last year with P664.32 million. — **Revin Mikhael D. Ochave**

CTA rejects P38.68-million VAT refund appeal over late filing

THE Court of Tax Appeals (CTA) has rejected an appeal by Pilipinas Kyohritsu, Inc. to review its claim for P38.68 million in excess value-added tax (VAT) for 2012, citing late filing of the petition.

The 11-page CTA First Division decision was dated Nov. 8 and made public on Nov. 11 filed on time.

"Prescription has set in at the time of its filing, thus, depriving the court of any jurisdiction to act on the case," according to the ruling written by Associate Justice Catherine T. Manahan.

"In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter," she added.

The company filed the petition for review on April 21, 2017, which was more than 30 days after receiving the Bureau of Internal Revenue's denial letter on March 23 that year.

According to the tax code, a taxpayer has 30 days from receipt of an adverse decision to file an appeal for review with the CTA.

The commissioner of internal revenue has 120 days to act on a disputed tax assessment; otherwise, the decision would be final. — **John Victor D. Ordoñez**

Aquaculture industry says easing of import ban on fish feed ingredient to aid food security goals

THE aquaculture industry said easing the import ban on processed animal proteins (PAP), a key ingredient in fish feed, will help the Philippines achieve food security.

In a statement on Monday, food advocacy group Tugon Kabuhayan said the industry, represented by 270 fishpond operators, non-government organizations, feed manufacturers, commercial fishing companies, fisherfolk, and regulators, wrote to President Ferdinand R. Marcos, Jr. welcoming the resumption of PAP imports, which they said will help improve food production.

PAP imports had been suspended as a precautionary measure because of fears animals affected by African Swine Fever (ASF) could find their way into the supply chain for fish feed.

"This decision will grant Filipinos an inexpensive and ample fish supply and provide the population with their daily allowance of required protein," Tugon Kabuhayan said.

Tugon Kabuhayan said aquaculture feed mills obtain their PAP from European suppliers that only use Category 3 materials, which are parts of animals from accredited slaughterhouses and were determined to be safe for human consumption.

"The safety of PAP is based on science. The World Organisation for Animal Health Terrestrial Animal Health Code Article 15.1.23 stipulates that the ASF virus is inactivated if the meat is heated at 70°C for 30 minutes. Even assuming that ASF is present, the process used for rendering PAP is more than enough to kill or inactivate any virus or pathogen," Tugon Kabuhayan said.

"Countries like the US, Canada, and the members of the European Union continue to import PAP even from ASF-affected countries. The shipment period of at least 45 days from Italy is more than enough time for any such contamination to be inactivated," it added.

The Department of Agriculture (DA) in January issued a temporary ban on imported pork products from Italy due to an ASF outbreak. Italy accounts for around 70% of the Philippines' annual imports of 150,000 metric tons of PAP.

In August, the DA issued Memorandum Order No. 59 that approved PAP imports even from ASF-affected countries for sole use in fish feed production following lobbying from the industry.

Recently, the Bureau of Animal Industry issued guidelines governing the import of PAP, requiring suppliers to provide a veterinary certificate from the country of origin.

The organizations that signed the letter to the President include the Bureau of Fisheries and Aquatic Resources, National Fisheries and Aquatic Resources Management Council, Philippine Association of Fish Producers, Inc., Alliance of Philippine Fishing Federations, Inc., Malalag Bay Fishcage Operators, Taal Lake Aquaculture Alliance, Inc., and Inter-Island Deep Sea Fishing Association, Inc. — **Revin Mikhael D. Ochave**

OPINION

Guidelines for the transfer of PEZA-registered IT-BPM firms to the BoI

LET'S TALK TAX
JUVY DE JESUS-TIBAY

Philippine Economic Zone Authority (PEZA) registered companies are required to operate within economic zones in order to be entitled to tax incentives. However, due to the pandemic, the Fiscal Incentives Review Board (FIRB) temporarily allowed PEZA companies to adopt work-from-home (WFH) arrangements for a certain percentage of the workforce, while still enjoying tax incentives.

With the slow transition back to normal, the FIRB issued several extensions allowing Information Technology and Business Process Management (IT-BPM) firms registered with PEZA to continue offering their employees WFH. Despite extending the WFH setup on the basis of 70%-30% of headcount until Sept. 12, PEZA warned of the risk of losing skilled employees due to the overwhelming preference in the industry for flexible work arrangements. There is also the risk of companies cancelling their registrations and establishing operations outside the Philippines.

To finally resolve the issue, the FIRB issued Resolution No. 026-2022 on Sept. 14, which not only extended the 70-30 WFH arrangement until Dec. 31, but also provided an option for PEZA companies in the IT-BPM industry to transfer their registration to the BoI to operate on a 100% WFH basis without penalty or the loss of tax incentives.

As such, the Department of Trade and Industry (DTI) issued Memorandum Circular No. 22-19 on Oct. 18, which provided the final guidelines on the transfer of registration to the BoI of IT-BPM Registered Business Enterprises (RBEs). To disseminate the guidelines, the FIRB and the Bureau of Internal Revenue (BIR) issued FIRB Advisory 008-2022 (dated Oct. 19) and Revenue Memorandum Circular No. 142-2022 (issued on Nov. 2), respectively. In addition, PEZA also issued MC No. 2022-067 (dated Oct. 21) and MC No. 2022-070 (dated Oct. 24) which provided supplemental guidelines to the DTI-issued memorandum.

The guidelines cover PEZA-registered IT-BPM firms that have remaining tax incentives under Section 311 of the 1997 Tax Code, as amended, or those with approved incentives on or before Sept. 14, 2022, under the CREATE Act with the concerned IPA. They have until Dec. 31 to process their registration with the BoI.

Listed below are the consolidated procedures for the transfer of registration to the BoI:

1. The covered RBEs must file their request with PEZA using the prescribed Request to Register with BoI Form (Annex A of PEZA MC No. 2022-067) together with the scanned copies of their PEZA Certificate of Registration (CoR) and Registration and Supplemental Agreements, to be sent to it-bpm.transfer@peza.gov.ph on or before Dec. 16. The highest ranking official of the RBE must sign the certification of Annex A and the same need not be notarized.

The e-mail address itbpm.transfer@peza.com.ph will no longer be accessible after Dec. 16, and PEZA will not accept hard copies of the applications and attachments.

RBEs that have already submitted their applications to the Office of the Director General (ODG) are required to re-submit their applications using the e-mail address.

2. PEZA is to endorse the request to the BoI Infrastructure and Services Industries Service (ISIS) using the prescribed template IPA List of Endorsed RBEs (Annex B of PEZA MC No. 2022-067) under the condition that the RBEs are compliant with the terms and conditions of their registration with PEZA and are in good standing. This will be conducted via e-mail with PEZA furnishing the RBEs with the endorsement.

3. Once the RBEs receive the e-mail from PEZA, the RBEs are to pay a fee of P2,250.00 to the BoI. The date indicated in the official receipt is to be the date of the effectivity of registration with the BoI.

4. Upon issuance of the BoI CoR, RBEs must provide PEZA a copy of the same for annotation in their PEZA CoR, to be sent to obs@peza.gov.ph. The BoI Certificate of Registration will likewise include annotation of the Certificate of Registration issued by PEZA.

5. Within 30 days from issuance of the BoI CoR, the RBEs must submit to PEZA the following:

a. List of all equipment and/or other assets containing the following information: (i) those brought out of the IT Centers/Park and those that remain in the registered facility of the RBE; (ii) quantity; (iii) year of acquisition; (iv) acquisition costs; and (v) book value; and

b. Total number of employees and number of employees under the WFH arrangement.

Despite the transfer, PEZA is to continue administering the fiscal incentives and maintain administrative supervision and monitoring of the RBEs. The transferee RBEs will also continue to comply with PEZA's rules and regulations in relation to the availment of fiscal incentives. They are required to maintain an office inside PEZA-registered IT Centers/Buildings to avoid cancellation of their registration with PEZA as IT enterprises and subsequently, their registration with BoI.

The detailed guidelines are described as a "paper transfer" not involving any physical relocation of operations. It is hoped that the process is truly seamless for affected RBEs as we are only a little over a month away from the deadline of Dec. 31. It is also worth noting that even with such a deadline, PEZA will only accept application forms until Dec. 16. Hence, all covered RBEs that wish to apply should submit as early as possible their application forms to PEZA to ensure that the agency will have sufficient time to endorse them to the BoI.

Let's Talk Tax is a weekly newspaper column of P&A Grant Thornton that aims to keep the public informed of various developments in taxation. This article is not intended to be a substitute for competent professional advice.

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