Agri trade deficit widens to $2.81 billion in Q1

THE trade deficit in agricultural goods expanded 10.2% year on year to $2.81 billion in the first quarter, with plunging exports significantly outweighing a decline in imports, according to the Philippine Statistics Authority (PSA).

In a report, the PSA said overall trade in agriculture — or the sum of exports and imports — fell 8.6% to $5.90 billion during the quarter, a reversal from the 30.7% gain posted a year earlier.

Agricultural imports, which accounted for 13.9% of imports overall, dropped 3.3% to $4.50 billion in the first quarter. The decline in agricultural exports was even greater — 20.8% to $1.55 billion. Agricultural exports accounted for 9.2% of all exports.

The top agricultural export commodity group was edible fruits and nuts; peel of citrus fruit melons, which were valued at $439.51 million or 28.4% of the farm export total.

Agricultural products shipped to ASEAN hit $165.42 million, with tobacco and manufactured tobacco substitutes the top exports.

Malaysia was the country's top export market within ASEAN, accounting for $52.58 million or 31.8% of overall farm exports to the region.

"Exports of agricultural goods to EU member countries in the first quarter of 2023 reached $380.74 million, which contributed 18.7% to the country's total value of exports to EU member countries," the PSA said.

The Netherlands was the top buyer of Philippine agricultural goods from within the European Union (EU), purchasing $180.77 million and accounting for 47.5% of exports to the region.

Among the commodity groups, animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes were the top agricultural exports to the EU.

Cereals accounted for the largest share of agricultural imports at 21%, valued at $916.94 million.

In the three months to March, agricultural imports from the Association of Southeast Asian Nations (ASEAN) were valued at $1.47 billion, accounting for 15.5% of total imports.

Indonesia remained the top source of imports from within ASEAN, accounting for $412.51 million.

"The country's agricultural imports from EU member countries amounted to $411.51 million or a share of 19.8% to the total value of imports in the first quarter of 2023," the PSA said.

Within the EU, Spain was the top supplier of agricultural goods with imports worth $93.93 million, accounting for 22.8% of overall farm imports.

Meat and edible meat offal topped the list of imports from the EU.

"Lower global commodity prices in recent months amid risk of recession in the US, which is the world's largest economy, after aggressive Fed rate hikes since 2022 to bring down/better manage inflation, partly led to the year-on-year decline in both agricultural exports and agricultural imports," Rizal Commercial Banking Corp. Chief Economist Michael L. Ricafort said in a Viber message.

However, he noted that both agricultural imports and exports may still improve due to improved weather. "The onset of the rainy season with no large storm damage so far should help boost agricultural exports." — **Sheldeen Joy Talavera**

National Tax Allotment for LGUs to exceed P871 billion in 2024

THE National Tax Allotment (NTA) to be set aside for local government units (LGUs) in 2024 was pegged at P871.38 billion, the Department of Budget and Management (DBM) said.

"The fiscal year (FY) 2024 NTA level is P51.12 billion or 6.23% higher than the FY 2023 NTA share of LGUs," the DBM said in a budget memorandum.

NTAs are the share given by the National Government (NG) to LGUs out of the take from all national taxes.

The size of the NTA varies each year because it represents a 40% share of the NG revenue total from three years prior. The 2024 NTA was thus based on NG revenue from 2021, the second year of the pandemic.

The 6.23% gain on the 2023 NTA, which was taken from 2020 NG revenue, reflects the economy's recovery between the first and second years of the pandemic.

The LGU total is 43,670, consisting of 83 provinces, 148 cities, 1,486 municipalities and 41,953 barangays.

Municipalities are entitled to an NTA of P295.47 billion, followed by cities (P201.22 billion), provinces (P200.42 billion), and barangays (P174.28 billion).

Calabarzon (Cavite, Laguna, Batangas, Rizal, and Quezon) has been allotted P103.1 billion, followed by Central Luzon (P84.83 billion), the Western Visayas (P68.58 billion), the Central Visayas (P61.58 billion) and the National Capital Region (P52.55 billion).

Apart from the NTA, some LGUs are also entitled to special shares from the proceeds of taxes such as excise taxes on Virginia tobacco cigarettes, excise taxes on burley and native tobacco products, gross income taxes paid by all businesses and enterprises within the economic zones, among others.

"The NTA... shall first cover the cost of providing basic services and facilities, particularly those devolved by the NG, before applying the same for other purposes," the DBM said.

LGUs are also required to appropriate at least 20% of their NTA on development projects and at least 5% of their estimated revenue from regular sources to their Local Disaster Risk Reduction and Management Fund.

The 2024 budgets of LGUs must also include programs and projects that prioritize gender and development, senior citizens and persons with disabilities, combating AIDS, and protecting children. — **Luisa Maria Jacinta C. Jocson**

Maharlika law clear on excluded investments — Drilon

THE law setting up the Maharlika Investment Fund (MIF) expressly bars government pension funds and the health insurance system from investing in the sovereign wealth fund's projects, former Senate President Franklin M. Drilon said.

Mr. Drilon, who is also a former Justice Secretary, said in a statement that the law specifically bars investments by the Social Security System (SSS), the Government Service Insurance System (GSIS), the Philippine Health Insurance Corp. (PhilHealth), the Home Development Mutual Fund (Pag-IBIG), the Overseas Workers Welfare Administration (OWWA), and the Philippine Veteran Affairs Office (PVAO) Pension Fund.

"The intention is crystal clear. Funds held in trust by the government, through these GOCCs (government-owned and -controlled corporations), cannot be invested in the MIF," he said. "The prohibition is absolute and leaves no room for ambiguity."

Legislators had initially proposed in early versions of the Maharlika bill to mobilize capital from the GSIS and SSS as seed money for the MIF.

The Congress-approved version — completed in late May — bars government pension funds and health insurers from providing funding to the MIF.

Recently, Finance Secretary Benjamin E. Diokno and National Treasurer Rosalia de Leon clarified that while SSS and GSIS are prohibited from investing in the Maharlika Investment Corp., the entity controlling the MIF, but can still invest in its projects.

Mr. Drilon said that "what the Congress directly prohibits cannot be done indirectly... Let's avoid making pronouncements that undermine this prohibition and sidestep the intent of Congress."

Mr. Drilon said the government should respect the boundaries and legislative intent established by Congress regarding the prohibition, warning that the Boards of these GOCCs could be held liable if they invest in the MIF or in any of its activities.

According to the Congress-approved bill, agencies "providing for the social security and public health insurance of government employees, private sector workers and employees, and other sectors and subsectors, such as but not limited to the SSS, GSIS, PhilHealth, Pag-IBIG Fund, OWWA, and PVAO Pension Fund shall be absolutely prohibited, whether mandatory or voluntary, to contribute to the capitalization of the Maharlika fund."

Mr. Drilon said that the funds held in trust by the government through the GOCCs that handle pension funds are different in nature from dividends generated by the state-owned banks, which eventually served as major sources of capitalization for the wealth fund.

"It is important to note that the funds held in trust by the government, through these GOCCs, are not of the same nature as the funds of the Bangko Sentral ng Pilipinas and other state-run banks," he said. "These funds held in trust are not dividends. They are funds from private contributions."

The MIF bill was approved by senators on May 31 and immediately adopted by the House of Representatives.

It requires the Land Bank of the Philippines and the Development Bank of the Philippines to contribute P50 billion and P25 billion, respectively, to the fund. The National Government must also contribute P50 billion.

Funds from the Philippine Amusement and Gaming Corp. and proceeds from privatization and transfer of government funds may also be used.

The bill also requires the central bank to surrender 100% of its dividends to the fund in its first two years. Its contribution drops to 50% after that period, with the remainder to be deposited in a special account for the bank's capital buildup.

Lawyer and public investment analyst Terry L. Ridon urged GOCCs that handle pension funds to "enact policy guidelines and standards relating to project participation in the MIF," citing the still undetermined risk of investing in future MIF endeavors.

"In project-based participation, the pension funds can make their own determination on how to manage risk when undertaking a project," he said via Facebook Messenger. "In fact, the funds can choose to not participate in MIF projects at all."

Senator Mark A. Villar, one of the bill's proponents, last week said that the implementing rules and regulations for the bill will provide clarity on which entities can participate in the Maharlika fund's projects.

"There is a possibility that the SSS, GSIS, and the others will be part of an investor syndicate together with the Maharlika investment entity," policy analyst and lawyer Michael Henry Ll. Yusingco said via Messenger.

"This means of course that the project involved is one permitted by all their charters," he said. "What kind of project this would be will have to be determined and evaluated on its own merits and whether allowed by the charters of the investing financial institution." — **Kyle Aristophere T. Atienza**

DoE may impose up to P100M in fines for RPS violations

THE Department of Energy (DoE) said it will impose penalties of up to P100 million for violating the rules governing its Renewable Portfolio Standards (RPS) scheme.

"This guidelines shall be liberally construed to carry out the objectives of the RE (Renewable Energy) Act and other renewable energy laws, rules and regulations, and to obtaining a just and expeditious settlement or disposition of administrative cases," the DoE said in a draft circular issued on June 13.

Energy Assistant Secretary Mylene C. Capongcol said the DoE hopes to finalize the circular in about two months.

"The draft policy is still (subject to) public consultation until July 12. We just had the first leg (on Wednesday); usually it takes two months to promulgate due to discussions and deliberations on the comments received, but if there is not much comment, the promulgation will be earlier," Ms. Capongcol said in a Viber message.

The draft bars participants from not complying with or violating the RPS rules or the guidelines set by the DoE.

"A fine ranging from a minimum of P100,000 to P100 million or twice the amount of damages caused or costs avoided for non-compliance, whichever is higher, or both, (will be imposed) upon the discretion of the court," it said.

The draft circular tasks the DoE with designating a composite team to handle and review complaints and violations.

It said that all administrative action resulting from any violation of the RPS rules will be filed with the RPS composite team within four years from the date of the violation or upon the initiative of the RPS composite team within one year from the date of the discovery of the violation.

In separate department circulars signed on May 23, the DoE issued amendments to the RPS for both on-grid and off-grid areas.

The DoE said on-grid power suppliers must expand the share of RE in their output to 2.5% starting in 2023, from the current 1%.

It also requires off-grid participants to accelerate their green energy transitions by reducing their dependence on fossil fuel by hybridization or use of alternative technology. — **Ashley Erika O. Jose**

OPINION

Shifting to non-VAT registration

TAXWISE OR OTHERWISE
DELILA DAYAG

Registered export enterprises (REEs) that have transitioned from the Income Tax Holiday (ITH) regime to the 5% Gross Income Tax (GIT) regime are generally required to change their registration status from value-added tax (VAT) to non-VAT. This is because the 5% special tax rate is in lieu of all other taxes, including VAT.

Of course, only those REEs that have no other activities subject to 0% or 12% VAT are required to change their registrations to non-VAT. Such a change may come with consequences that would cause the REE's management to decide to maintain the status quo. On the other hand, this change may actually provide some relief to qualified REEs.

In today's article, I would like to share some tax and regulatory considerations when shifting an REE's registration to non-VAT after they fall under the 5% GIT regime.

First, the REE's VAT registration will be canceled. As such, the REE will no longer be required to comply with the requirements associated with being a VAT-registered taxpayer such as the submission of quarterly VAT returns and the corresponding summary list of sales, purchases, and imports.

Also, the cancellation of the VAT registration triggers the cancellation and replacement of the VAT invoices or official receipts with a new set of non-VAT invoices or official receipts. In case the REE is using a Computerized Accounting System (CAS), the REE must update its CAS (as well as the system's BIR registration) so that its computer-generated books of account, invoices and receipts will be compliant with the reports, invoices or receipts suitable for non-VAT taxpayers.

Second, as clarified in Revenue Memorandum Circular (RMC) No. 152-2022, shifting to non-VAT will not subject the REE to Percentage Tax since REEs are only required to file and pay the corresponding tax due in their respective Annual or Quarterly Income Tax Returns (BIR Form No. 1702/1702Q).

However, REEs should note that there might be a need to revert to being VAT-registered or to apply for VAT as an additional tax type for potential transactions that they may enter into in the future, like the sale or disposal of used equipment or assets.

Based on RMC 24-2022, the sale, transfer or disposal of previously VAT-exempt imported capital equipment, raw materials, spare parts, and accessories, by a non-VAT- registered export enterprise observing a 5% GIT regime is VAT-exempt.

Further, according to PEZA Memorandum Circular No. 2005-032, the sale of production rejects and seconds, recovered waste and scrap materials and supplies that have undergone processing or have been used in production or processing activity, are covered by the applicable income tax incentive (i.e., 5% GIT in lieu of national and local taxes).

So, this would mean that the non-VAT-registered REE need not revert to being VAT-registered in order to accommodate the above-mentioned transactions.

Nonetheless, I hope that the authorities also provide additional rules or clarifications as to the treatment of other transactions incidental to an REE's registered activities (e.g., REE's sale or disposal of damaged or obsolete assets which were previously acquired locally at 0% VAT) and provide alternative means of payment of applicable taxes (if not covered by 1702/1702Q), without the need to revert to being a VAT-registered taxpayer.

Third, shifting registration to non-VAT will not affect the REE's entitlement to VAT zero-rate incentives on local purchases. Non-VAT REEs can enjoy VAT Zero Rating on local purchases until the end of their incentive period. This is subject to the requirement of securing an annual VAT Zero Rating Certificate from the Investment Promotion Agency (IPA) administering the REE's incentives.

Fourth, the VAT passed on by VAT-registered suppliers on purchases which are not directly and exclusively related to the Non-VAT REE's registered activity can be charged to cost or expense. In this case, the VAT attributable to expenses which are not considered indispensable to the registered activity but nonetheless considered direct costs, can be claimed as a deduction from revenue to arrive at Gross Income.

Would this be the same if the qualified REE opted to remain VAT-registered even if no sales subject to 12% VAT are forthcoming?

To me, there's an advantage in shifting to non-VAT in this case. A VAT-registered REE cannot claim as a deduction the input VAT mentioned in the above scenario because the VAT-registered REE's export sales are classified as a VAT Zero-rated sales transaction. If the sales are subject to VAT (0% or 12%), the related VAT on purchases cannot be treated as expenses.

Moreover, since the purchases are not directly and exclusively related to the REE's sales activity, and the REE is under 5% GIT, the related input VAT will not be recoverable through a claim for refund under the existing VAT rules.

In comparison, a non-VAT REE's export sales are classified as a VAT-exempt transactions under Section 109 1(O) of the Tax Code. As such, the VAT passed on to the non-VAT REE can be claimed as costs or expenses.

Given that the input VAT cannot be claimed as deduction or refund, it makes sense to change the registration of the REE to non-VAT.

Last, upon the expiration of the REE's incentives, it is expected to deregister from its IPA and change its registration to a VAT-registered taxpayer.

Deregistration is a tedious process, and may even require the non-VAT taxpayer to pay VAT for any assets disposed of. Thus, I hope the authorities provide simplified rules, policies and guidelines so that, when that time comes, the eventual reversion to VAT would be easier.

The views or opinions expressed in this article are solely those of the author and do not necessarily represent those of Isla Lipana & Co. The content is for general information purposes only, and should not be used as a substitute for specific advice.

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