Ore processors send feelers for potential PHL investments

THE Department of Trade and Industry (DTI) said it has received expressions of interest from potential investors seeking to set up ore processing facilities, which will allow the Philippines to capture more value from its mineral resources.

Speaking on the sidelines of the Mining Philippines International Conference and Exhibition, Trade Secretary Alfredo E. Pascual said that the potential investors are from Japan, the US, and China, and could end up investing billions of dollars.

Asked when he expects the investments to materialize, Mr. Pascual said: "It is in the process, but investments like these which involve billions of dollars take some time."

He added that building the processing plants will take time as well.

He expects the investments in ore processing to materialize within the term of President Ferdinand R. Marcos, Jr.

The prospective investments are mostly to process nickel, which Mr. Pascual said will be in demand as the electric vehicle industry grows.

In his speech, Mr. Pascual said that the DTI will push for the development of the green metals industry by pushing for the growth of the downstream mineral segment.

Mr. Pascual also said that critical minerals agreements with the US are being discussed in the context of the Indo-Pacific Economic Framework (IPEF).

"Of course, IPEF has 14 members, so those with the minerals, are able to avail of whatever agreement we reach in the contexts of IPEF because the critical mineral agreement is related to the supply chain," he said.

In a statement, the Board of Investments (BoI) said that the Copper National Technical Working Group has committed to the continuous implementation of the Master Development Plan for the Leyte Ecological Industrial Zone (LEIZ), one of the investment promotion agency's flagship projects.

"LEIZ is proposed to be the first ecological industrial zone that aims to promote the clustering of copper and copper-related industries, guided by the principles of the circular economy and ecological industrial parks," the BoI said on Wednesday. — **Justine Irish D. Tabile**

BPO industry on track to hit 1.7 million target for creating new jobs

THE IT and Business Process Association of the Philippines (IBPAP) said it is on track to achieve its target of creating 1.7 million jobs by the end of 2023.

"I am happy to say that in the years of the pandemic through 2023 ... we are very much on track and in fact slightly exceeding the global growth (rate) of the industry," IBPAP President Jack Madrid said in an interview with ANC *Market Edge*.

"We started 2023 with 1.57 million and I would say that we are on track to touch 1.7 million by the end of 2023. So very much on track with our roadmap 2028 targets," he said.

The Information Technology and Business Process Management (IT-BPM) Industry Roadmap 2028 released by IBPAP set targets for staffing levels and revenue growth.

Under the roadmap, Mr. Madrid said the IBPAP hopes to create 2.5 million jobs by the end of 2028.

However, Mr. Madrid noted the talent gap in the business process outsourcing (BPO) industry which held it back from hiring more.

"We grew by 255,000 jobs in the pandemic, but I feel we could have grown more. I mean I am happy with 255,000 but I think it could have been 300,000 or even more. We met our targets but as a Filipino I want the country to maximize its market share," he said.

He said demand outpaced the industry's ability to staff adequately, adding that the supply of employable recruits was limited while those with the needed skills were hard to find.

"The job requirements of the industry are becoming more demanding and more diverse; it is no longer a one-dimensional customer service voice-based phone call," said Mr. Madrid.

He said that the industry has branched out into financial services, healthcare services and the creative industries.

"Don't think of the IT-BPM industry as simply answering repetitive phone calls, it has matured well beyond that," he said.

"And so, correspondingly, the skills of our job seekers and university graduates will be more complex on top of the basics such as comprehension, communication and critical thinking," he added.

To address this, Mr. Madrid said that the types of skills needed by the industry should be identified, and cited the need for partnerships with government agencies.

"(They) all have... some scholarship funds that are urgently needed to address the talent supply gap and also to update and modernize curriculum for future job seekers to meet the more complex job requirements," he said. — **Justine Irish D. Tabile**

Ajinomoto sees plastics tax driving industry push towards sustainability

By Justine Irish D. Tabile
Reporter

AJINOMOTO Philippines Corp. said the excise tax on single-use plastics will accelerate companies' efforts to become more sustainable in their operations.

"Of course, it will have an effect on businesses; however, in order to accelerate the (sustainability) movement, imposing the taxes is one idea to (make) companies act (more sustainably)," Ajinomoto President Koichi Ozaki told *BusinessWorld* on Wednesday.

Mr. Ozaki said Ajinomoto hopes to replace the plastic packaging of its products in the coming years in favor of mono-material options, including paper packaging.

"We are already trying to replace some of our packaging with mono-material packaging. So, in the next few years, we want to replace all of the packaging material to the mono-material ones and some to be replaced by paper packaging," said Mr. Ozaki.

"Through these efforts, we would be able to contribute to society," he said. "We are okay with the excise tax because we have to (take part) this movement."

At present, the company has paper packaging for the 45-gram variant of its Ajinomoto seasoning, which Mr. Ozaki said is used in more than 80% of Philippine households.

"We just launched the paper packaging last year. But year by year, we would like to also replace the other variants which are the 10 grams and 20 grams, among others," he said.

At the Eat Well, Live Well Towards A Better Tomorrow event organized by Ajinomoto on Wednesday, it introduced its 2030 sustainability goals in four areas: greenhouse gas reduction, sustainable procurement, food loss and waste reduction, and net zero plastic waste.

The company said that it is aiming to hit net zero on plastic waste by 2030 through reducing the overall weight and volume of its plastic packaging, adopting alternative packaging, reducing secondary packaging materials and engaging in paper collection and disposal of generated plastic waste.

House Bill 4102 or the proposed Single-Use Plastic Bag Tax Act, seeks to impose an excise tax of P100 per kilogram on single-use plastic bags. Its counterpart measure is still pending at the Senate ways and means committee.

Meanwhile, Mr. Ozaki said that the company remains optimistic about the Philippine market because of the steady growth in the economy and population.

"For food companies, what is important is the number of stomachs which is continuously increasing here," he said.

SRA suspects price manipulation behind decline in raw sugar prices

RAW sugar prices have dropped in Negros Occidental due to suspected market manipulation, the Sugar Regulatory Administration (SRA) said.

SRA Administrator Pablo Luis S. Azcona said in a statement that "local trading in Negros Occidental last week dropped to a low of P2,550 to P2,700 (per ton) with only two mills reporting trading at P3,000 at least."

He said that since February, prices have consistently come in at "a comfortable level" of P3,000, equivalent to P60 per kilogram at millgate for raw sugar and P85 per kilo for the Metro Manila refined retail price.

"We have been pushing for P3,000 as I feel it is the fair market price and this has been echoed by the administration. (Such a price serves as) an incentive for farmers to plant more and be more sustainable," Mr. Azcona added.

He said that the regulator is planning to investigate the drop in prices in the province, the country's most important sugar growing area.

"Definitely we will not take this sitting down... none of the farmers want the low price," he added.

The SRA will focus its probe on sugar mills, traders and importers "to see if there is some abnormality in their dealings, but rest assured that we will get to the bottom of this."

Mr. Azcona has said that the SRA expects the farmgate price of raw sugar to remain stable after the initial decline in February.

The SRA estimated raw sugar production at 1.85 million metric tons (MT) during the 2023 to 2024 crop year.

The area planted to sugar is expected to have risen by 3,000 hectares, which is expected to raise output by 50 thousand MT. — **Adrian H. Halili**

DoE endorses 86 projects for operating permits

THE Department of Energy (DoE) has endorsed 86 new and existing power plant projects to the Energy Regulatory Commission (ERC) as of August, moving them a step closer to obtaining a permit to operate.

According to the list published on its website, the DoE has issued certificates of endorsement (CoEs) to the generation facilities which had a combined capacity of more than 3,000 megawatts (MW).

Some 58 generation facilities powered by conventional energy sources that were issued CoEs, while 28 are renewable energy (RE) projects.

Of the total, 54 facilities are diesel-powered plants, 15 hydroelectric, eight solar, three coal-fired, three geothermal, and two biomass.

The National Power Corp. — a government-owned and -controlled corporation — has been granted CoEs for nine diesel power plants with a combined capacity of over 21 MW.

ERC Chairperson and Chief Executive Officer Monalisa C. Dimalanta said that the projects are to be issued certificates of compliance (CoCs) which will serve as permits to operate.

Ms. Dimalanta said the moratorium on coal-fired power will limit the number of CoEs and CoCs issued.

"No new CoEs will be issued for coal plants, except perhaps for expansion if already included in the PEP (Philippine Energy Plan)," she said in a Viber message.

She added that "RE projects are smaller in scale so more in number to cover the capacities required by the system."

In October 2021, the DoE declared a moratorium on new coal-fired power plants as part of a shift to a more flexible power mix.

At the end of 2022, RE accounted for about 22% of the Philippines' energy mix, with coal-fired power plants taking up nearly 60%. — **Sheldeen Joy Talavera**

OPINION

Philippine taxes in the digital space

TAXWISE OR OTHERWISE
OLIVIA ERIKA SUSA

The digital economy has come so far in such a short time — it's hard to believe that it all started just over 30 years ago, but has now become pervasive in our everyday lives. They say a person is, on average, online at least seven hours a day. Whether for business or entertainment, the impact of digitization is undeniable.

With its phenomenal growth, digitization also poses non-stop challenges to regulators. There are multiple items that must continuously be considered, whether it is keeping information safe, protecting consumers from suspicious schemes, and of course, ensuring that the correct taxes are paid.

In the Philippines, there have been several rounds of discussions on how best to capture the growing economic gains in the digital realm. Last year, the House of Representatives passed a bill seeking to impose VAT on digital services. A couple of months ago, the Senate held a hearing with the Bureau of Internal Revenue (BIR) to further discuss possible measures to address the gaps in our VAT system and allow our tax authority to generate revenue from digital service providers, with the goal of drafting a bill appropriately responding to these gaps. But as of now, it appears that our country remains at the legislative stage and has yet to implement considerable tax policy changes. The concern is that current Philippine tax laws by themselves are not sufficient to properly tax digital services. But is this really the case?

Around this time last year, the Supreme Court (SC) issued a decision which may potentially affect the taxation of digital services. The decision involved the sale of satellite communications services by a non-resident foreign corporation (based in Bermuda) to a local corporation, for which the latter was assessed by the BIR for deficiency final withholding tax. The satellite communications services were part of a larger process which allowed overseas calls to and from the Philippines through the gateway facilities owned by the local corporation.

In the case, the BIR argued that the service fees earned by the Bermudan entity from the transaction arise from sources within the Philippines and are thus subject to Philippine income tax. However, the local entity argued otherwise, saying that the related services (act of transmission) by the Bermudan entity occurred in outer space where the satellites were located and in Indonesia where the control center was located, and that it had no equipment in the Philippines. Therefore, applying the general Philippine tax rules on services, the Bermudan entity had no Philippine-sourced income and the local corporation was not required to withhold tax on its payments thereto.

Interestingly, the SC took the BIR's position and ruled that the income arose in the Philippines. In its decision, the SC applied a two-tiered approach: (1) identifying the source of the income, and (2) identifying the situs of that source. For the first test, the SC explained that the income source is the Philippine gateways' receipt of the transmission since it is only upon the successful delivery of the transmission thereto that services are completed, and the fees are earned by the Bermudan corporation. Given this, the second test (situs) was necessarily in the Philippines since it is where the gateway facilities are located.

It may be worth noting that the SC acknowledged that the Bermudan corporation's services were rendered in two stages, i.e., first, outside the Philippines (outer space in the satellite and in the Indonesian control center), and second, in the Philippine gateway facilities owned by the local corporation. This notwithstanding, the SC did not mention any separation or bifurcation of revenue to the extent of the services performed for the first stage (outside the Philippines). Instead, the entire amount paid to the Bermudan entity was treated as revenue from Philippine sources and subjected to tax.

Personally, I am also curious whether, in the larger scheme of things, not subjecting the transmission fees would really mean that there were services in the country which were untaxed. Presumably, the local corporation reported tax on its own income representing the value of its own services as the gateway owner and operator when it then sold the satellite communication services to its Philippine subscribers.

Moreover, I am also wondering if the High Court would have reached a similar decision had the fee arrangement been different — for example, fixed, instead of on the basis of usage.

It will also be interesting to see how the above decision will be applied if the counterparty is a resident of a tax treaty country. In the SC case, the taxpayer's arguments considered the Commentaries of the Organization for Economic Co-operation and Development (OECD) on tax treaties as reference. The OECD is the international standard-setting body that develops models for double tax agreements (i.e., tax treaties) and its commentaries are normally relied on in interpreting tax treaty provisions and even cited by the BIR in its rulings. However, since the Philippines does not have an existing tax treaty with Bermuda, the SC deemed the OECD Commentaries as irrelevant and applied the domestic tax laws in full. It appears then that the SC recognizes that tax treaty benefits can be validly considered if the non-resident counterparty is a resident of a treaty country.

But perhaps the one thing I am most curious about is how the above decision will affect the income taxation of digital services in the Philippines. Similar to the above case, some digital services providers are able to cater to Filipino consumers without any physical presence here. With this decision, the SC showed that our current tax laws can potentially reach the digital space as they are right now, if certain conditions are met. As a rule, SC decisions form part of the law of the land. While more formal implementing rules are pending, taxpayers and practitioners alike should nonetheless take note of this development in conducting their transactions moving forward.

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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