Macquarie Group to fund Australian ventures in PHL mining, digitalization

AUSTRALIA's Macquarie Group Ltd. said it will help finance Australian investments in Philippine renewable energy and digitalization ventures.

The Australian company, a major infrastructure asset manager and investment bank, made the statement in a meeting between its chief executive officer and President Ferdinand R. Marcos, Jr., the Palace said on Tuesday.

Macquarie, which operates in 34 markets and manages 892 billion Australian dollars worth of assets, is willing to raise capital for companies seeking to invest in the Philippines' energy transition and digitalization push, the Palace said in a statement, following a meeting between Mr. Marcos and Macquarie Managing Director and CEO Shemara Wikramanayake in Melbourne.

"I am excited to talk about what more we can be doing in the Philippines because, at the moment, we do advisory work in investment banks, we bring our balance sheet to invest in," Ms. Wikramanayake told Mr. Marcos.

"The whole digitization process, we're excited about. Also, the energy transition we're excited about," she added. "We certainly invest in digitization and we invest in energy transition and in mining and building bigger advisory businesses."

She said the group is interested in working in Southeast Asian markets such as the Philippines, which has "a young and growing population."

"What we're keen to do is to partner with Southeast Asia particularly with places like the Philippines, which are proving to be very good to create that environment for the pension savers' money here," she said.

In a statement, the Philippine Trade department said the Board of Investments has granted a green lane certificate allowing expedited approvals for the 1.3-gigawatt floating solar project that Macquarie Group is financing.

"Macquarie Group has established a substantial presence in the Philippines over the past 15 years with over 1,000 employees directly under its Macquarie Offshore Services," it said.

The company's infrastructure and real assets arm manages funds that support over 5,000 Philippine jobs, it added.

On Monday, the Philippines obtained $1.5 billion (around P86 billion) worth of investment commitments from at least 14 Australian companies, with the administration seeking to boost economic and security ties with Australia in the face of an increasingly aggressive China.

Mr. Marcos arrived in Canberra on Sunday for a three-day summit between Australia and Southeast Asian leaders.

Foreign investment pledges to the Philippines hit P394.45 billion in three months to December, the largest in the previous three quarters in 2023, 2.3 times the year-earlier level. — **Kyle Aristophere T. Atienza**

BPO industry considers fraud, cybercrime as threats to growth

THE IT and Business Process Association of the Philippines (IBPAP) said it considers fraud and cybercrime are threats to its growth because such practices create doubt about the safety of data handled by outsourcing firms.

It said the information technology and business process management (IT-BPM) industry must jointly come up with solutions to cybercrime.

"It is to the country's advantage that we, as an industry with the different subsectors, different BPO (business process outsourcing) players, and individually, contribute to the resolution of this problem affecting the growth of the industry," according to Celeste Ilagan, chief policy officer of IBPAP.

"If we do not address this problem, our target of creating 1.1 million jobs by 2028 and contributing $59 billion in export revenue will not happen," she added.

Last year, the group raised concerns about the cyberattacks and hacking of government data and IT systems.

IBPAP said that the need to tighten cybersecurity and address fraud was raised in a discussion with the Department of Justice (DoJ), the Department of Information and Communications Technology (DICT), and other members of the IT-BPM industry last month.

The DoJ and DICT called for a collaborative approach to cyber resilience, the efficient investigation of cybercrimes, and the establishment of a broadly accepted legal framework.

"The government's support for the sector is solid and consistent. There is a clear need for laws and regulations to adapt to the current cyber developments — to enable innovation," DoJ Undersecretary Geronimo L. Sy said.

"We need to help improve our existing policies to address and respond to changing times," DICT Undersecretary Jocelle Batapa-Sigue said.

Ms. Batapa-Sigue said data protection officers should be designated within BPO entities as prescribed by law and that training and equipment on cybercrime should be made available even at the regional level.

Earlier this year, IBPAP said that it is targeting staffing levels of over 2 million by 2025 after ending 2023 with 1.7 million.

For this year, the group said that it is aiming for 7-8% growth to $39 billion in revenue, as well as a similar growth level in staffing. — **Justine Irish D. Tabile**

DTI says gov't remains focused on price stability as inflation hits 3.4%

THE Department of Trade and Industry (DTI) said on Tuesday that the government is "prepared" to deal with the inflation uptick to 3.4% in February and assured that it remains focused on keeping prices stable.

"While the uptick in the inflation rate requires our attention, it is crucial to understand it within the broader context of our dynamic global and domestic economic environments," Trade Secretary Alfredo E. Pascual said in a statement.

"Underpinned by robust fiscal and monetary policies, we are well-prepared to navigate through these inflationary pressures. We remain steadfast in our balanced approach to economic management — sustaining economic growth while ensuring price stability," he added.

The Philippine Statistics Authority reported on Tuesday that consumer price index growth accelerated to 3.4% in February from 2.8% in January, due to higher food prices, particularly rice.

"This inflation figure is still within the government inflation target, which is within 2% to 4%," the Trade department said.

Earlier this year, the DTI said that it expects prices of basic necessities and prime commodities (BNPCs) to increase 6% this year, lower than the 10% in 2023.

The DTI is working on the price adjustment applications for 63 SKUs (stock keeping units), including canned sardines, processed milk, coffee, bread, instant noodles, bottled water, canned meat, condiments, soap, candles, batteries, and other items covered by the suggested retail price (SRP) scheme.

On Jan. 12, the DTI announced the completion of the review of price adjustment applications for nine SKUs, while another round of approvals was rolled out for nine SKUs on Jan. 17.

The DTI hopes to approve all the pending price adjustment applications this month, which is also when it plans to release an updated SRP bulletin. — **Justine Irish D. Tabile**

Cambodian rice supply seen hindered by logistics

By Adrian H. Halili
Reporter

ANY RICE that Cambodia can supply to the Philippines will face obstacles like weak logistics and limited volumes, but may nevertheless be significant from the point of view of addressing food security worries, analysts said.

Raul Q. Montemayor, national manager of Federation of Free Farmers said in a Viber message that over the short term, "rice from Cambodia will not be significant nor will it have a large impact on prices and supply."

He cited constraints like Cambodia logistics and milling capacity, even with significant rice production of about 6 million metric tons (MT) in 2023.

On Monday, President Ferdinand R. Marcos, Jr. expressed interest in engaging with Cambodia on a rice deal to address the possibility of reduced domestic production due to El Niño.

Cambodia is a long way from providing the kind of volumes that Myanmar, the Philippines' third-largest supplier, can ship, Mr. Montemayor added.

"Next to Vietnam and Thailand, Myanmar is our third-largest supplier, despite the fact that we do not have good diplomatic ties with the country," he added.

Cambodia supplied the Philippines around 3,615 metric tons of rice in 2023, according to the Bureau of Plant Industry (BPI), about 0.1% of rice imports.

Rice from Myanmar amounted to 151,183 MT that year.

Mr. Montemayor said that the government appears to be trying to diversify its sources of rice and reduce its dependence on Vietnam and Thailand.

The government weather service, known as PAGASA (Philippine Atmospheric, Geophysical and Astronomical Services Administration), has said that up to 80 provinces may be affected by El Niño.

Last month, Vietnam agreed to supply 1.5 million to 2 million MT of white rice to the Philippines through its private sector at "competitive and affordable prices." About 40% of Vietnam's rice exports are shipped to the Philippines.

Bruce J. Tolentino, a Monetary Board member, said the additional sources of grain nevertheless boost food security.

"Cambodia is a relatively small country, and its exports are not that large. But any additional supply on an assured and reliable basis adds to food security," Mr. Tolentino said in a Viber message.

"Trade deals that enable regular and reliable food supplies, especially of our staple rice, provide reassurance to our people that their food security is protected," he added.

The Philippines is expected to remain the largest importer of rice in the world, according to the US Department of Agriculture (USDA). The USDA projects rice imports of 3.9 million MT in 2024, with production unable to keep up with demand.

Rice imports for the year have amounted to 635,817.44 MT as of Feb. 22, the BPI said.

The Department of Agriculture projects that palay (unmilled rice) production will hit 20 million MT this year.

OPINION

Revisiting the VAT refund rules under EoPT law

LET'S TALK TAX
MARK EBENEZER A. BERNARDO

It has been more than a month since Republic Act (RA) No. 11976, otherwise known as the Ease of Paying Taxes (EoPT) Act, was signed into law, taking effect on Jan. 22. This law was considered a significant milestone in modernizing the tax system. The EoPT law further amends the National Internal Revenue Code of 1997, also known as the Tax Code, in a manner that impacts taxpayers and stakeholders seeking tax refunds, among others. In February, the Bureau of Internal Revenue (BIR) conducted public consultations with the private sector to discuss the draft implementing rules and regulations (IRR) of the EoPT Act.

One significant amendment introduced by the EoPT Act affects Section 112 (C) of the Tax Code, as amended, which reverts the taxpayer's statutory right to appeal to the Court of Tax Appeal (CTA) within 30 days after the lapse of 90 days from the date of the submission of invoices and other documents in support of the application for refunds of input tax.

Prior to the Tax Reform for Acceleration and Inclusion Act, or TRAIN Law, the Tax Code, as amended (RA 8424) provides that the taxpayer's can appeal to the CTA within 30 days from the full or partial denial or inaction of the CIR after the lapse of 120 days from the receipt of the application for such a refund. However, in 2018, the TRAIN law removed the taxpayer's right to appeal to the CTA within 30 days from the lapse of the 90-day period of the CIR to decide, but imposed an administrative penalty for the failure on the part of any official, agent, or employee of the BIR to act on the application. With the effectivity of the EoPT Act, the taxpayer's right to appeal to the CTA within 30 days from CIR inaction was restored. Taxpayers can now file an appeal to the CTA within 30 days from the lapse of the 90-day period of the CIR to act on the claim for refund.

This development brings to mind the San Roque Doctrine, or the Consoidated Supreme Court tax case (G.R. Nos. 187485, 196113, and 197156), which was promulgated on Feb. 12, 2013. The San Roque Doctrine emphasized that compliance with the 120-day (now 90-day) waiting period is mandatory and jurisdictional. Based on the jurisprudence, the taxpayers prematurely filed their refund application for input tax with the CIR without observing the 120-day + 30-day period as provided for by the Tax Code, as amended. The law states that the taxpayer may apply with the CIR for a refund or credit "within two years," which means at any given time within two years. However, the 30-day period to appeal need not necessarily fall within the two-year prescriptive period if the administrative claim is filed within the two-year prescriptive period. Thus, the two-year prescriptive period does not refer to the filing of the judicial claim with the CTA but to the filing of the administrative claim with the CIR. Thus, failure to observe the 90-day period prior to the filing of a judicial claim is not mere non-exhaustion of administrative remedies, it is likewise considered jurisdictional. Such the 90-day period is a prerequisite for the 30-day period to appeal to the CTA.

With the EoPT Act, the taxpayer applying for a tax refund of input taxes pursuant to Sec. 112 of the Tax Code, as amended, has an opportunity to appeal the refund/tax credits unutilized input tax claim to the CTA within 30 days after the lapse of the 90-day period to act by the CIR. However, the EoPT Act retains Sec. 269 (j), which penalizes government officials who deliberately fail to act on the application for refunds within the prescribed period provided under Secs. 112 and 204 of the tax code, as amended. By adopting the amended provision, the law strengthens the statutory privilege of taxpayers to appeal the VAT refund application to the CTA.

In the BIR's draft implementing RR, the BIR provided guidelines on taxpayers with applications for VAT refund/tax credits under Sec. 112, particularly on the recourse of the taxpayer in case the 90-day processing period expires without a BIR's decision on the claim. The taxpayer claimant may opt to appeal to the CTA within the 30-day period after the expiration of the 90-day period required by law to process the claim or await the final decision of the CIR. However, the coverage of the draft may include claims filed starting July 1, 2024.

In jurisprudence, CIR v. CE Casecnan Water and Energy Co., Inc. (G.R. No. 212727, Feb. 1, 2023), the Supreme Court held that all claims for refunds/tax credit certificates filed prior to Jan. 1, 2018, should be governed by the 120-day processing period which was the prevailing rule prior to the TRAIN law. By analogy, it can be said that for all claims before the EoPT law, the provisions of the TRAIN Law will apply. This means that the right to appeal the CIR's inaction is no longer available. With the introduction of the EoPT Act, the statutory right to appeal has been restored in favor of the taxpayer subject to the issuance of the IRR. Thus, for VAT refund claims after the EoPT Act but before the issuance of the IRR of the EoPT Act, the question that needs clarity regards the options available to taxpayers. Do the taxpayers have the right to appeal to the CTA within 30 days from the lapse of the 90-day period or do taxpayers need to wait for the actual decision of the CIR? This is a crucial question as taxpayers who wish to file a claim for refund may just have to wait for the Implementing rules of the EoPT to ensure that the statutory right to appeal may be exercised. Thus, even though the statutory right to appeal under the amended Sec. 112 (C) of the EoPT has been restored in favor of the taxpayer, it is conservative to assume that the right may not be exercised outright without the IRR.

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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