PEZA projects 5% export growth for its locators

By Justine Irish D. Tabile
Reporter

THE Philippine Economic Zone Authority (PEZA), whose locators account for more than half of the country's exports, said that it is projecting export growth of 5% this year from companies it oversees, on the expected recovery of the electronics industry.

Tereso O. Panga, director general of PEZA, told *BusinessWorld* that electronics and semiconductors will still be driving export receipts this year.

"Our best exports this year are IT-BPM (information technology and business process management) services, electronics and semiconductors, metals, and automotive products. While semiconductors saw a decline last year, I expect this to rebound," Mr. Panga said in a Viber message.

"Investments in green power, manufacturing, and agro-industrial sectors will contribute to PEZA growth in particular and the economy in general, while expansion projects from current locators continue to contribute to overall growth," he added.

PEZA estimates that its locators' exports last year hit $63.71 billion, or 61.5% of total exports. It said that it is hoping for such exports to grow 5% this year to around $67 billion.

Exports of IT services were among the top contributors to PEZA exports, accounting for $17.83 billion. IT services performed in ecozones accounted for 50.2% of the total Philippine IT services exports last year, which were valued at $35.5 billion.

Revised data from the Philippine Statistics Authority indicate that the top commodity export last year remained electronic products ($41.91 billion), which accounted for more than half of total exports, even though shipments from the industry declined 9.2%.

Asked to identify potential risks to the projection, he cited "the global shortage in chips, contraction in the electronics sector due to global slowdown in product demand, and disruption in the global supply chain due to the worsening trade war between the US and China."

He also cited the war between Russia and Ukraine, economic tensions in the region due to the West Philippine Sea (WPS) territorial dispute, and the reshoring policy of the US government.

"The WPS has been a long-standing issue even before the current administration. Currently, we have seen more interest from US companies based on recent geopolitical developments," Mr. Panga said.

"Chinese companies also continue to look into the Philippines as an optional extended manufacturing base for products meant for the western hemisphere," he added.

However, he said that the tensions rising in the WPS issue did not have any substantial effect on foreign direct investment (FDI) from China.

"In the US, Australia, South Korea, the EU, and Japan, we expect more FDI as part of the closer economic ties established by the President," he said.

"We are batting to adjust certain provisions in the laws to create a level playing field with other investment destination countries to further attract these investments and see them locate in the Philippines," he added.

For this year, he said South Korea and India will be among the top export markets following the signing of a free trade agreement (FTA) with South Korea and calls to develop pharmaceutical economic zones.

"The Philippine-Korean FTA will bode well for the Philippines. We expect a higher level of tech-based companies to invest in the country. As you know, South Korea, like Japan, has been evolving towards high technology exports," he said.

"This will enhance our workforce knowledge base and improve the skills of our workforce. It will also boost our agricultural product exports," he added.

PEZA has reported that investments from South Korea hit P51.39 billion as of last year, across for 212 locator companies that exported $1.65 billion in 2023.

"We have also seen an increased interest in India, specifically in the field of medicine production. This is a direct match to the pharma zones we are currently developing," Mr. Panga said.

"We see these pharma zones as a base not only for manufacturing but also for research and development, where new medicines may be created," he added.

Earlier this year, PEZA said that it plans to build pharmaceutical parks in Bulacan and Laguna.

US, Japan infra coordination in PHL expected out of Washington summit

THE WASHINGTON, DC summit bringing together the leaders of the US, Japan and the Philippines is expected to result in more coordinated infrastructure investment in the Philippines by the two other partners, the US National Security Council (NSC) said.

"What I can say is there will be some particularly important announcements related to infrastructure in particular whereby the US and Japan will agree to cooperate on their investments in the Philippines," Mira Rapp-Hooper, senior director for East Asia and Oceania at the NSC, said at a briefing on Wednesday.

"We do believe that together and working closely with the Government of the Philippines we will be able to deliver for the Filipino people by helping to work together on high-quality, high-standards infrastructure that makes a difference in the lives of everyday people."

US President Joseph R. Biden is set to host Japanese Prime Minister Fumio Kishida and President Ferdinand R. Marcos, Jr. at the White House on April 11 to discuss economic ties and Indo-Pacific security.

Last month in Tokyo, Foreign Affairs Undersecretary Maria Theresa P. Lazaro met with Japanese Foreign Affairs Senior Deputy Minister Funakoshi Takehiro and US Deputy Secretary of State Kurt Campbell on the advance work for the summit, discussing potential cooperation in critical minerals and cybersecurity.

Ms. Rapp-Hooper said the summit will also tackle energy security, digital connectivity and maritime security.

A US Trade and Investment Mission last month committed to invest over $1 billion in the Philippines, including a deal involving the construction of a $400-million (P22.16 billion) hydrogen and electric refueling station in the Philippines.

The Japan International Cooperation Agency (JICA) has reported that the Philippines received P109 billion in official development assistance (ODA) from Japan between April 2021 and March 2022, the biggest such Japanese commitment in Southeast Asia.

Last month, the Philippines and JICA signed loan deals worth 250 billion yen (P93 billion) for the construction of the Metro Manila Subway and the Dalton Pass East Alignment, which will link San Jose City in Nueva Ecija to Aritao in Nueva Vizcaya, both in the northern Philippines.

The leaders will meet amid heightened tensions between the Philippines and China in the South China Sea.

China has repeatedly sought to obstruct resupply missions to a Philippine outpost in the latter's exclusive economic zone. — **John Victor D. Ordoñez**

DC trilaterals seen as opening to tap new investment

THE Department of Trade and Industry (DTI) said it is looking to explore new trade and investment opportunities at the Trilateral Economic Ministers Meeting on Thursday in Washington, DC.

In a statement, the DTI said that the meeting will bring together Trade Secretary Alfredo E. Pascual, US Commerce Secretary Gina M. Raimondo, and Japanese Economy, Trade, and Industry Minister Ken Saito.

"The upcoming trilateral meeting is expected to unlock further trade and investment opportunities, in alignment with the government's objectives to improve infrastructure, upskill workers, ensure environmental sustainability, and invigorate the private sector with meaningful initiatives," the DTI said.

It added that the meeting could result in agreements that will help create jobs.

Citing the Bangko Sentral ng Pilipinas, the DTI said that foreign direct investment (FDI) rose to $907 million in January, up 89.9%.

"The surge in FDI reflects the unwavering confidence and steadfast trust the global business community places in the Philippines' economic potential," Mr. Pascual said.

"This only strengthens our commitment to further improve the country's business environment to attract even more foreign investment, which in turn will create more jobs and sustain our economic growth," he added. — **Justine Irish D. Tabile**

OPINION

Most-favored nation clause: Tax credit limitation clarified

TAXWISE OR OTHERWISE
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The Philippines has about 44 bilateral tax agreements to eliminate or mitigate double taxation of cross-border transactions involving certain types of income (e.g., service fees, dividends, interest, royalties). In eliminating double taxation, the 2017 Organisation for Economic Co-operation and Development (OECD) Commentaries on the Model Tax Convention on Income and on Capital provide two leading principles — the principle of exemption and the principle of credit.

One of the oldest tax treaties we have is with the US, which grants US residents the lowest Philippine tax rate that may be imposed on a resident of a third State or what we call the "most-favored nation (MFN)" clause for royalty income. Further, the US allows a credit against the US tax equivalent to the taxes paid or accrued in the Philippines, provided that the tax credit does not exceed the limitations set by US law for the taxable year.

How can the reduced withholding tax rates for royalties under any of the other existing tax treaties of the Philippines be applied for the enjoyment of the MFN clause?

In G.R. No. 127105 dated June 25, 1999, the Supreme Court (SC) held that for the MFN clause to apply, the royalties derived by the resident of the US and of the third State (Germany in this case) must be of the same kind and that the same mechanism for eliminating double taxation must be employed by the US and Germany. The Court ruled that the taxpayer is not entitled to the concessional tax rate of 10% under the Philippines-West Germany Tax Treaty as the Philippines-US Tax Treaty does not give a matching credit of 20% for the taxes paid on royalties as allowed under the former tax treaty.

In 2002, the Bureau of Internal Revenue (BIR) issued Revenue Memorandum Circular No. 46-02 which confirmed that the method for elimination of double taxation under the Philippines-China Tax Treaty is similar to the method employed under the Philippines-US Tax Treaty. Thus, the tax on royalty payments to residents of the US and China are paid under similar circumstances and the MFN clause would apply.

While there are no similar BIR circulars confirming the application of the MFN clause for other tax treaties, there are several BIR rulings issued prior to 2020 confirming the applicability of the MFN clause using the tax treaties between the Philippines and the Czech Republic and the Philippines and the United Arab Emirates, among others. However, it is worth noting that in 2020, the SC ruled otherwise as regards the Czech Tax Treaty.

In G.R. No. 203346 dated Sept. 9, 2020, the taxpayer filed a claim for refund of overpaid withholding tax on royalty income paid to a US entity after securing a 2007 BIR ruling, which confirmed the US entity's entitlement to the reduced withholding tax rate under the Czech Tax Treaty pursuant to MFN clause. However, both the Court of Tax Appeals and the SC denied the application for refund since the taxpayer failed to show evidence that the Czech and US Tax Treaties grant similar tax reliefs on royalty payments.

In determining whether Czech and US Tax Treaties employ similar methods of tax relief, the Court laid down the provisions in the tax treaties regarding the elimination of double taxation. While the Court agreed that both countries adopt the credit principle, the treaty provisions showed that the Czech Tax Treaty is more specific as to how the tax credit is computed as compared with the US Tax Treaty. The US Tax Treaty simply states that the allowable tax credit may not exceed the limitations set under US law. Thus, without pertinent evidence of the specific credit that the US law allows, the claim for refund was denied.

Following this SC case, the subsequent rulings issued by the BIR where the Czech Tax Treaty (and even the UAE Tax Treaty) was invoked in relation to the MFN clause were denied by the BIR for failure to submit a copy of the internal tax laws of the US.

It thus appears that submission of a copy of the US tax laws, specifically Section 904 of the US Tax Code providing the tax credit limitation (as adopted in our tax laws), will suffice for purposes of confirming that the Czech Tax Treaty satisfies the condition that the tax is paid under similar circumstances.

While the BIR may consider issuing updated guidelines which expressly requires a copy of the US tax laws as part of the requirements to be submitted for purposes of filing a request for confirmation or a tax treaty relief application for those invoking the MFN clause, my hope is that the BIR can work directly with the tax authorities of relevant treaty countries to confirm the application of the MFN clause and just issue a circular for everyone's guidance. That will be a great service to the taxpaying public, as it will remove limitations in their ability to avail of treaty benefits, and will bring to life the intention of the parties when they wrote the MFN clause.

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