

COVER SHEET

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SEC Registration Number

S E M I R A R A M I N I N G A N D P O W E R
 C O R P O R A T I O N

(Company's Full Name)

2 n d F l o o r D M C I P L A Z A
 2 2 8 1 D O N C H I N O R O C E S A V E N U E
 M A K A T I C I T Y

(Business Address: No. Street City/Town/Province)

John R. Sadullo
 (Contact Person)

(632)8888-3000/3055
 (Company Telephone Number)

1 2 3 1

(Fiscal Year)

1 7 - C

(Form Type)

Month Day

(Annual Meeting)

(Secondary License Type, If Applicable)

Dept. Requiring this Doc.

Amended Articles Number/Section

Total No. of Stockholders

Domestic

Foreign

To be accomplished by SEC Personnel concerned

File Number

LCU

Document ID

Cashier

STAMPS

Remarks: Please use BLACK ink for scanning purposes.

SECURITIES AND EXCHANGE COMMISSION

SEC FORM 17-C
CURRENT REPORT UNDER SECTION 17
OF THE SECURITIES REGULATION CODE
AND SRC RULE 17.2(c) THEREUNDER

1. May 17, 2021
Date of Report
2. SEC Identification No.: 91447
3. BIR Tax Identification No.: 000-190-324-000
4. SEMIRARA MINING AND POWER CORPORATION
Exact name of issuer as specified in its charter
5. Philippines
Province, country or other jurisdiction of incorporation
6. (SEC Use Only)
Industry Classification Code:
7. 2/F, DMCI Plaza, 2281 Chino Roces Avenue, Makati City
Address of principal office
- Postal Code: 1231
8. (632) 888-3000/3055 Fax No. (632) 888-3955
Issuer's telephone number, including area code
9. N.A.
Former name or former address, if changed since last report
10. Securities registered pursuant to Sections 8 and 12 of the SRC or Sections 4 and 8 of the RSA

<u>Title of Each Class</u>	<u>Number of Shares of Common Stock</u> <u>(Outstanding)</u>
Common Shares	4,250,547,620
11. Indicate the item numbers reported herein: **Item No. 5.**

We refer to the case docketed as “*Semirara Mining Corporation vs. Bureau of Internal Revenue, Bureau of Customs & Department of Finance,*” Civil Case No. 13-1171, RTC Makati, Br. 146 (Declaratory Relief with Injunction). As a background, on May 21, 2013 SMPC was granted a Certificate of Qualification for Tax Exemption under PD 972 by the DOE for its importation of 36,000,000 liters of diesoline. SMPC made 1st partial shipment of 6,16,367 liters. BIR assessed VAT and excise tax on said shipment in the amount of Php27,341,714.00 which was paid under protest. As a result, SMPC filed a petition for Declaratory Relief with the RTC on October 3, 2013 seeking to enjoin BIR, BOC from implementing BIR RR No. 2-2012 by imposing advance payment of VAT on SMPC’s importation of diesel fuel for its own use and consumption. BIR rationalizes its issuance of RR No. 2-2012 for the purpose of curtailing smuggling. While under said regulations payment of VAT is subject to right of refund by SMPC (effectively 0% rated) being exempted from VAT under its COC and PD 972, SMPC contested the application of said regulation as it effectively diminishes its exemption granted by law and impairs the rights under its COC pursuant to the non-impairment clause of the Constitution.

On October 30, 2013, SMPC secured a 20-day TRO and on November 21, 2013 the court issued a preliminary injunction against the BIR, BOC and DOF in so far as the implementation of said regulation specifically against SMPC. Motions for Reconsideration was filed by defendants which were denied by RTC on February 4, 2014. On February 13, 2014, the RTC resolved to grant SMPC Petition for Declaratory Relief and declared that in view of the tax exemption provided for under PD 972 and the COC, Revenue Regulation No. 2-2012 issued by the respondents is held inapplicable to SMPC’s direct importation of petroleum and petroleum products.

As a result, the DOF and BOC filed a petition for review on certiorari under Rule 45 of the Rules of Court (ROC) with the Supreme Court (G.R. No. 211188) on April 8, 2014 while the BIR on May 13, 2014 filed with the Court of Appeals (CA-G.R. No. 135364) a petition for review under Rule 65 of the ROC with prayer for TRO and/or writ of preliminary injunction. Meanwhile, SMPC filed a petition on September 2, 2015 with the Court of Tax Appeals (CTA Case No. 9133) in view of the denial by the BIR of its claim for tax refund in the amount of Php27,341,714.00 as VAT paid under protest for the shipment of its diesoline importation.

With respect to CTA Case No. 9133, the CTA promulgated on July 27, 2018 its decision granting SMPC's petition and ordering the Commissioner of Internal Revenue (CIR) to refund the amount of Php27,340,714.00. In its Resolution dated January 15, 2019, the CTA denied the CIR's motion for reconsideration. On February 15, 2019, the CIR filed a Petition for Review with the CTA *En Banc* (CTA EB No. 2005). On June 30, 2020, the CTA *En Banc* denied for lack of merit the Petition filed by CIR. Its Motion for Reconsideration was likewise denied on March 2, 2021.

Today, we received a copy of the Petition for Review on Certiorari dated April 9, 2021 filed by CIR with the Supreme Court (G.R. No. 255900) praying, among others, for the reversal and setting aside of the June 30, 2020 Decision and March 2, 2021 Resolution of CTA *En Banc*.

SIGNATURES

Pursuant to the requirements of the Securities Regulation Code, the issuer has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Issuer : Semirara Mining and Power Corporation

Signature and Title : 
JOHN R. SADULLO
VP-Legal & Corporate Secretary

Date : May 17, 2021