REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

IBEX PHILIPPINES INC. (FORMERLY TRG PHILIPPINES, INC.),
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9002

Members:
BAUTISTA, *Chairperson,*
FABON-VICTORINO, *and*
RINGPIS-LIBAN, *JJ.*

Promulgated:
JAN 05 2018
3:15 p.m.

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DECISION

BAUTISTA, J.:

The present Petition for Review[1] filed by petitioner on February 27, 2015, pursuant to *Section 7(a)(2)*[2] *of Republic Act ("RA") No. 1125*[3], as

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[1] *Records, CTA Case No. 9002, Vol. 1, Petition for Review ("PFR"),* pp. 7-19, with annex.
[2] The relevant provision reads:

Sec. 7. *Jurisdiction.* - The Court of Tax Appeals shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

xxx xxx xxx

(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;

[3] An Act Creating the Court of Tax Appeals, as amended (1954).

amended by *RA No. 9282*[4] and *RA No. 9503*[5], in relation to *Section 3(a)(1)*[6], *Rule 4 of the Revised Rules of the Court of Tax Appeals ("RRCTA")*[7], prays for the Court to render judgment: *(1)* declaring petitioner to be entitled to a refund of unutilized input value-added tax ("VAT") in the total amount of Php2,485,892.92, representing its unused input tax attributable to zero-rated sales for the third and fourth quarters of calendar year ("CY") 2012; and *(2)* ordering respondent to refund or to issue a tax credit certificate ("TCC") in favor of petitioner in the amount of Php2,485,892.92.[8]

The Parties[9]

Petitioner Ibex Philippines Inc. (formerly TRG Philippines, Inc.) ("Ibex") is a domestic corporation duly organized and existing under the laws of the Philippines with registered address at the 8th Floor Hanston Building, Don Francisco Ortigas Jr. Road, Ortigas Center, Pasig City.

Respondent Commissioner of Internal Revenue ("CIR") is the duly appointed CIR with office address at the Bureau of Internal

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[4] An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes (2004).

[5] An Act Enlarging the Organizational Structure of the Court of Tax Appeals, Amending for the Purpose Certain Sections of the Law Creating the Court of Tax Appeals, and for Other Purposes (2008).

[6] The relevant provision reads:

> Sec. 3. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
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> (a) Exclusive original over or appellate jurisdiction to review by appeal the following: xxx
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> xxx xxx xxx
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> (2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action: Provided, that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case;

[7] *A.M. No. 05-11-07-CTA*, November 22, 2005.

[8] *Records, Vol. 1, PFR, Prayer*, pp. 13-14.

[9] *Id., Joint Stipulation of Facts ("JSF")*, pp. 177-181.

Revenue ("BIR") Building, Diliman, Quezon City.

The Facts

On January 6, 2006, the Board of Investments ("BOI") issued Certificate of Registration No. 2006-05[10] in favor of Ibex as a New IT Export Service Firm in the Field of Operation of a Call Center.

For the third and fourth quarters of CY 2012, Ibex filed with the BIR its Quarterly VAT Returns (BIR Form No. 2550-Q). These Returns reflected the following entries:

TAXABLE QUARTER	OUTPUT TAX DUE	TOTAL ALLOWABLE INPUT TAX	NET VAT PAYABLE (OVERPAYMENT)	TAX CREDITS/ PAYMENTS	TOTAL AMOUNT PAYABLE (OVERPAYMENT)
Third (Original)[11]	-	Php13,338,841.56	(Php13,338,841.56)	-	(Php13,338,841.56)
Third (Amended)[12]	-	13,338,841.56	(13,338,841.56)	-	(13,338,841.56)
Fourth (Original)[13]	-	14,565,768.02	(14,565,768.02)	-	(14,565,768.02)
Fourth (Amended)[14]	-	14,565,768.02	(14,565,768.02)	-	(14,565,768.02)

On September 30, 2014, Ibex filed with the BIR an Application for Tax Credits/Refunds (BIR Form No. 1914)[15] for the third and fourth quarters of CY 2012 in the amount of Php2,485,892.92.

Alleging the CIR's inaction on its administrative claim for refund, Ibex filed the present Petition for Review[16] on February 27, 2015.

On April 30, 2015, the CIR filed his Answer (Petition for Review, February 27, 2015)[17] alleging that it is imperative for Ibex to prove compliance with the relevant requisites in order to validly claim a tax refund.

The CIR filed his Pre-Trial Brief[18] on June 22, 2015, while Ibex

[10] *Records, Vol. 2, Exhibit "P-1-6," Board of Investments Certificate of Registration,* pp. 610-616.
[11] *Id., Exhibit "P-1-4," Quarterly VAT Return (BIR Form No. 2550-Q),* pp.598-600.
[12] *Id., Exhibit "P-1-4-A," Quarterly VAT Return (BIR Form No. 2550-Q),* pp. 601-603.
[13] *Id., Exhibit "P-1-5," Quarterly VAT Return (BIR Form No. 2550-Q),* pp. 604-606.
[14] *Id., Exhibit "P-1-5-A," Quarterly VAT Return (BIR Form No. 2550-Q),* pp. 607-609.
[15] *Id., Vol. 1, Exhibit "P-1-13," Application for Tax Credits/Refunds (BIR Form No. 1914),* p. 92.
[16] *Records, Vol. 1, PFR,* pp. 7-19, with annex.
[17] *Id., Answer,* pp. 26-29.
[18] *Records, Vol. 1, Respondent's Pre-Trial Brief ("PTB"),* pp. 35-37.

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filed its Pre-Trial Brief[19] on June 26, 2015. Thereafter, a pre-trial conference was held on June 30, 2015.[20] Together, the parties filed the Joint Stipulation of Facts[21] on July 10, 2015, which was approved by the Court in a Pre-Trial Order[22] dated July 28, 2015.

During trial, Ibex presented the following witnesses: *(1)* Mr. Joel S. Aldaya, the Accounting Supervisor of Ibex;[23] and *(2)* Mr. Franklin R. Casedo, the Court-commissioned Independent Certified Public Accountant ("ICPA") for the case.[24]

Ibex filed its Formal Offer of Evidence[25] on March 29, 2016 wherein it offered *Exhibits* "P-1," "P-1-a" to "P-1-c," "P-1-1" to "P-1-4," "P-1-4-a," "P-1-5," "P-1-5-a," "P-1-6," "P-1-10" to "P-1-17," "P-2," "P-2-a," "P-3," "P-3-a," "P-3-b," "P-4-1-1" to "P-4-1-7," "P-4-2-1" to "P-4-2-8," "P-4-3," "P-4-4-1" to "P-4-4-4," "P-4-5-1" to "P-4-5-3," "P-4-6" to "P-4-8," "P-4-9-1" to "P-4-9-2," "P-4-10-1" to "P-4-10-2," "P-4-11" to "P-4-14," "P-4-15-1" to "P-4-15-20," "P-4-15-21" to "P-4-15-34," "P-6," "P-6-a," "P-6-b," and "P-14-16-1" to "P-14-16-5." The CIR failed to file his comment on Ibex's Formal Offer of Evidence despite notice.[26] In Resolutions dated May 13, 2016[27] and July 20, 2016[28], the Court admitted all the evidence offered by Ibex.

On the other hand, the CIR manifested that he would not be presenting evidence.[29]

Accordingly, Ibex filed its Memorandum[30] on February 16, 2017.

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[19] *Records, Vol. 1, Petitioner's PTB,* pp. 100-110.
[20] *Id., Minutes of Hearing dated June 30, 2015,* p. 111.
[21] *Id., JSF,* pp. 177-181.
[22] *Id., Pre-Trial Order ("PTO"),* pp. 188-192.
[23] *Records, Vol. 1, Minutes of Hearing dated August 24, 2015,* p. 236; *Transcript of Stenographic Notes ("TSN"), August 24, 2015 Hearing,* pp. 1-40; *Records, Vol. 2, Exhibit "P-1," Affidavit in Lieu of Direct Examination of Mr. Joel S. Aldaya,* pp. 570-587; *Records, Vol. 2, Exhibit "P-1-b," Supplemental Affidavit in Lieu of Direct Examination of Mr. Joel S. Aldaya,* pp. 588-595.
[24] *Records, Vol. 1, Minutes of Hearing dated October 26, 2015,* p. 337; *TSN, October 26, 2015 Hearing,* pp. 1-11; *Records, Vol. 1, Exhibit "P-3," Affidavit in Lieu of Direct Examination of Mr. Franklin R. Casedo,* pp. 622-633; *Records, Vol. 2, Minutes of Hearing dated March 14, 2016,* p. 546; *TSN, March 14, 2016 Hearing,* pp. 1-13; *Records, Vol. 2, Exhibit "P-6-a," Supplemental Affidavit in Lieu of Direct Examination of Franklin R. Casedo,* pp. 686-696.
[25] *Records, Vol. 2, Petitioner's Formal Offer of Evidence,* pp. 554-569.
[26] *Id., Records Verification Report,* p. 706.
[27] *Id., Resolution,* pp. 709-710.
[28] *Id., Resolution,* pp. 721-722.
[29] *Id., Minutes of Hearing dated January 17, 2017,* p. 725.
[30] *Id., Petitioner's Memorandum,* pp. 728-754.

The CIR, however, failed to file his memorandum despite notice.[31]

Thereafter, on February 24, 2017, the Court issued a Resolution[32] submitting the case for decision; hence, this Decision.

The Issue[33]

> WHETHER IBEX IS ENTITLED TO A REFUND IN THE TOTAL AMOUNT OF PHP2,485,892.92, REPRESENTING UNUTILIZED AND EXCESS INPUT VAT ATTRIBUTABLE TO ZERO-RATED SALES FOR THE THIRD AND FOURTH QUARTERS OF CY 2012.

Petitioner's Arguments[34]

Ibex alleges that it is entitled to a refund of its unutilized and excess input VAT attributable to zero-rated sales for the third and fourth quarters of CY 2012 and argues, as follows: *(1)* its sales of contact center services to a non-resident foreign corporation and of administrative services to a domestic corporation registered with the Philippine Economic Zone Authority ("PEZA") are VAT zero-rated; *(2)* the input VAT incurred by Ibex in the course of its business are duly paid, attributable to zero-rated or effectively zero-rated sales, and have not been applied against output taxes during and in the succeeding quarters; and *(3)* Ibex timely applied for the issuance of a TCC or refund of creditable input tax.

Respondent's Counter-Arguments[35]

On the other hand, the CIR counters that Ibex failed to substantiate its claim for refund and comply with all the requirements to validly claim the same. Thus, the CIR prays that the Petition for Review be dismissed.

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[31] *Records, Vol. 2, Records Verification Report*, p. 755.
[32] *Id., Resolution*, p. 757.
[33] *Id., Vol. 1, PTO, Issue*, p. 189.
[34] *Id., Vol. 2, Petitioner's Memorandum, Arguments and Discussion*, pp. 733-751.
[35] *Id., Vol. 1, Answer*, pp. 26-28.

The Ruling of the Court

The Petition for Review is partially meritorious.

In *Luzon Hydro Corporation v. CIR*[36], the Supreme Court summarized the requisites for granting claims for refund or tax credit for unutilized input VAT following *Section 112(A) of the 1997 National Internal Revenue Code, as amended ("1997 NIRC")*[37], as follows:

1. The taxpayer is VAT-registered;

2. The taxpayer is engaged in zero-rated or effectively zero-rated sales;

3. The input taxes are due or paid;

4. The input taxes are not transitional input taxes;

5. The input taxes have not been applied against output taxes during and in the succeeding quarters;

6. The input taxes claimed are attributable to zero-rated or effectively zero-rated sales;

7. For zero-rated sales under *Sections 106(A)(2)(1) and (2), 106(B), and 108(B)(1) and (2)*, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

8. Where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume; and

9. The claim is filed within two (2) years after the close of the taxable quarter when such sales were made.

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[36] G.R. No. 188260, November 13, 2013, 709 SCRA 462.
[37] *Republic Act No. 8424*, as amended (1997).

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Keeping the foregoing requisites in mind, the Court will now discuss whether Ibex complied with the same in the present case.

The administrative and judicial claims for refund of Ibex were timely filed.

Section 112 of the 1997 NIRC provides the prescriptive periods for filing administrative and judicial claims for refund of unutilized or excess input VAT. The relevant paragraphs provide:

> Sec. 112. *Refunds or Tax Credits of Input Tax.* -
>
> (A) *Zero-Rated or Effectively Zero-Rated Sales.* - Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax; *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas (BSP); Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales; *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
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> xxx xxx xxx
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> (C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* - In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.

> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.

Meanwhile, in *Mindanao II Geothermal Partnership v. CIR*[38], the Supreme Court summarized the rules on prescriptive periods for filing claims for refund of unutilized input VAT, as follows:

1. An administrative claim must be filed with the CIR within two (2) years from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made;

2. The CIR has one hundred twenty (120) days from the date of submission of complete documents in support of the administrative claim within which to decide whether to grant a refund or issue a TCC;

3. A judicial claim must be filed with the Court of Tax Appeals within thirty (30) days from receipt of the CIR's decision denying the administrative claim or from the expiration of the one hundred twenty (120)-day period without any action from the CIR; and

4. All taxpayers, however, can rely on *BIR Ruling No. DA-489-03*[39] from the time of its issuance on December 10, 2003 up to its reversal by the Supreme Court in the case of *CIR v. Aichi Forging Company of Asia, Inc.*[40] on October 6, 2010, as an exception to the mandatory and jurisdictional 120+30 day periods.

As applied to the present case, Ibex complied with the prescribed periods. Ibex filed its administrative claim for refund of unutilized excess input VAT for the third and fourth quarters of CY 2012 on September 30, 2014, which is within two (2) years from September 30, 2012 – the close of the earliest taxable quarter being claimed for refund (*i.e.*, third quarter of CY 2012).[41] Ibex then waited for the lapse of the

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[38] G.R. Nos. 193301 & 194637, March 11, 2013, 693 SCRA 49.
[39] Dated December 10, 2003.
[40] G.R. No. 184823, October 6, 2010, 632 SCRA 422.
[41] *See Records, Vol. 1, Exhibit "P-1-13," Application for Tax Credits/Refunds (BIR Form No. 1914)*, p. 92.

one hundred and twenty (120)-day period, which ended on January 28, 2015. However, the CIR failed to act on the administrative claim of Ibex; hence, Ibex properly considered its administrative claim to have been denied by inaction. Thereafter, Ibex filed its judicial claim for refund on February 27, 2015, which is within the thirty (30)-day period from the expiration of the one hundred twenty (120)-day period.[42] Accordingly, Ibex timely filed its administrative and judicial claims.

Having ruled that the proper procedure was observed in the filing of the administrative and judicial claims of Ibex, the Court will now go into the substance of its claim to determine its entitlement to the refund or tax credit sought.

Ibex is VAT-registered.

It is undisputed that Ibex is registered with the BIR as a VAT taxpayer, as evidenced by its BIR Certificate of Registration No. 3RC0000595484 and Taxpayer's Identification Number 239-838-099-000.[43]

Ibex partially proved that it was engaged in zero-rated sales, which were paid for in foreign currency in accordance with BSP rules and regulations.

In its amended Quarterly VAT Returns (BIR Form No. 2550-Q) for the third[44] and fourth[45] quarters of CY 2012, Ibex declared a total zero-rated sales amounting to Php243,411,391.00, broken down as follows:

PERIOD	ZERO-RATED SALES/RECEIPTS		EXHIBIT
3rd Qtr. of 2012	Php	125,016,729.00	P-1-4-A
4th Qtr. of 2012		118,394,662.00	P-1-5-A
TOTAL	**Php**	**243,411,391.00**	

[42] *See Records, Vol. 1, PFR,* pp. 7-19, with annex.
[43] *Records, Vol. 2, Exhibit "P-1-2," Bureau of Internal Revenue Certificate of Registration,* p. 597.
[44] *Id., Exhibit "P-1-4-A," Quarterly VAT Return (BIR Form No. 2550-Q),* pp.601-602.
[45] *Id., Exhibit "P-1-5-A," Quarterly VAT Return (BIR Form No. 2550-Q),* pp.607-608.

For the period of claim, Ibex alleged that it engaged in two (2) types of services, to wit:

1. Provision of contact center services and other facilities to its foreign client, TRG BPO Solutions, a non-resident foreign corporation doing business in the United States of America (U.S.),[46] and

2. Rendition of administrative services to IBEX Global Solutions (Philippines) Inc. [formerly, TRG Global Solutions (Philippines), Inc.] ("Ibex Global"), a domestic corporation located and registered with the PEZA as an Information Technology enterprise.[47]

The study and evaluation of the documents[48] presented by Ibex reveals that it rendered services to three (3) customers, namely: TRG BPO Solutions; Square Trade; and Ibex Global. These services were paid for in U.S. Dollars, broken down as follows:

DATE	NAME OF CUSTOMER	REVENUE ($)	FOREX RATE	REVENUE (PHP)
3rd Qtr 2012				
7/31/2012	TRG BPO Solutions	779,947.22	41.89	32,671,989.05
7/31/2012	TRG BPO Solutions	135,919.72	41.89	5,693,677.07
7/31/2012	Square Trade	24,361.90	41.89	1,020,519.99
7/31/2012	TRG Global Solutions (Philippines)	30,000.00	41.89	1,256,700.00
8/31/2012	TRG BPO Solutions	847,003.03	42.06	35,624,947.44
8/31/2012	TRG BPO Solutions	137,244.83	42.06	5,772,517.55
8/31/2012	Square Trade	24,619.65	42.06	1,035,502.46
8/31/2012	TRG Global Solutions (Philippines)	30,000.00	42.06	1,261,800.00
9/31/2012	TRG BPO Solutions	792,905.60	41.73	33,087,950.69
9/31/2012	TRG BPO Solutions	129,953.91	41.73	5,422,976.66
9/31/2012	Square Trade	21,956.57	41.73	916,247.67
9/31/2012	TRG Global Solutions (Philippines)	30,000.00	41.73	1,251,900.00
	Total 3rd Quarter			**125,016,728.58**
4th Qtr 2012				
10/31/2012	TRG BPO Solutions	729,622.98	41.43	30,228,280.06
10/31/2012	TRG BPO Solutions	135,224.00	41.43	5,602,330.32
10/31/2012	Square Trade	33,067.40	41.43	1,369,982.38
10/31/2012	TRG Global Solutions (Philippines)	30,000.00	41.43	1,242,900.00
11/31/2012	TRG BPO Solutions	751,789.92	41.11	30,906,083.61
11/31/2012	TRG BPO Solutions	187,091.23	41.11	7,691,320.47
11/31/2012	Square Trade	45,277.27	41.11	1,861,348.57
11/31/2012	TRG Global Solutions (Philippines)	30,000.00	41.11	1,233,300.00
12/31/2012	TRG BPO Solutions	677,950.73	41.02	27,809,538.94

[46] *Records, Vol. 1, PFR,* p. 8.
[47] *Id.*
[48] *Petitioner's FOE Folder, Exhibit "P-4-6,"* folder 3.

12/31/2012	TRG BPO Solutions	167,581.70	41.02	6,874,201.33
12/31/2012	Square Trade	38,738.67	41.02	1,589,060.24
12/31/2012	TRG Global Solutions (Philippines)	48,423.12	41.02	1,986,316.51
	Total 4th Quarter			**118,394,662.44**
	TOTAL ZERO-RATED SALES			**243,411,391.02**[49]

Section 108(B)(1)(2)(3) of the 1997 NIRC provides the guidelines for transactions subject to zero (0%) percent VAT. The relevant provision reads, *viz.*:

> Sec. 108. *Value-Added Tax on Sale of Services and Use or Lease of Properties.* –
>
> xxx xxx xxx
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> B. Transactions Subject to Zero Percent (0%) Rate.- The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
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> (1) Processing, manufacturing or repacking of goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas (BSP);*
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> (2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas (BSP);*
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> (3) Services rendered to persons or entities whose exemption under special laws or international agreements to which Philippines is a signatory effectively subjects the supply of such services to zero percent (0%) rate;
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> xxx xxx xxx

[49] Rounding off difference of 0.02.

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In *CIR v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*[50], the Supreme Court held that in order for the supply of services to be VAT zero-rated under *Section 108(B)(2) of the 1997 NIRC*, the following requisites must be satisfied:

1. The services must be other than processing, manufacturing or repacking of goods;

2. The payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations; and

3. The recipient of such services is doing business outside the Philippines.

For Services to TRG BPO Solutions:

As regards the first requisite, records show that Ibex is engaged in the business of providing contact center services and other facilities[51] to its foreign client, TRG BPO Solutions, a non-resident foreign corporation doing business in the U.S. These services clearly fall within the scope of services "other than processing, manufacturing or repacking of goods" contemplated under *Section 108(B)(2) of the 1997 NIRC*.

To comply with the second requisite, records show that Ibex's services were paid for in U.S. Dollars and were inwardly remitted through its Unionbank dollar account, as evidenced by Ibex's bank certification.[52]

Ibex submitted the Certificate of Incorporation[53] and a Certification of Non-Registration of Company, duly issued by the Philippine Securities and Exchange Commission ("SEC")[54] to prove compliance with the third requisite.

It must be stressed that to be considered a non-resident foreign

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[50] G.R. No. 153205, January 22, 2007, 512 SCRA 124.
[51] *Petitioner's FOE Folder, Exhibit "P-4-2-2,"* folder 3.
[52] *Id., Exhibit "P-4-10-1,"* folder 3.
[53] *Records, Vol. 1, Exhibit "P-1-7," Certificate of Incorporation*, pp. 153-156.
[54] *Petitioner's FOE Folder, Exhibit "P-4-8,"* folder 3.

corporation, each foreign corporation must be able to produce, at the very least, both *(1)* a SEC certificate of non-registration of corporation/partnership, and *(2)* its certificate/articles of foreign incorporation/association/registration.

However, the Certificate of Incorporation[55] presented reveals that the name of the corporation being certified is "BPO Solutions, Inc." while the name indicated on the SEC Certificate of Non-Registration[56] is "TRG BPO Solutions, Inc." Given this inconsistency, the Court deems it proper to disallow the zero-rated sales to TRG BPI Solutions, Inc.

For Services to Square Trade:

Records show that sales made to Square Trade should be disallowed as Ibex failed to show that the services it rendered in favor of Square Trade consisted of services "other than processing, manufacturing or repacking of goods." Petitioner likewise failed to provide both Square Trade's SEC certificate of non-registration of corporation/partnership and its certificate/articles of foreign incorporation/association/registration.

For Services to Ibex Global [formerly, TRG Global Solutions (Philippines) Inc.]:

Section 3(3) of Revenue Memorandum Circular ("RMC") No. 74-99[57] provides the following:

> Sec. 3. *Tax Treatment of Sales Made by a VAT Registered Supplier from the Customs Territory, to a PEZA Registered Enterprise.* -
>
> xxx xxx xxx
>
> (3) In the final analysis, any sale of goods, property or services made by a VAT registered supplier from the Customs Territory to any registered enterprise operating in the ecozone, regardless of the class or type of the latter's PEZA registration,

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[55] *Records, Vol. 1, Exhibit "P-1-7," Certificate of Incorporation*, pp. 153-156.
[56] *Petitioner's FOE Folder, Exhibit "P-4-8,"* folder 3.
[57] October 15, 1999.

> is actually qualified and thus legally entitled to the zero percent (0%) VAT. Accordingly, all sales of goods or property to such enterprise made by a VAT registered supplier from the Customs Territory shall be treated subject to 0% VAT, pursuant to Sec.106(A)(2)(a)(5), NIRC, in relation to ART. 77(2) of the Omnibus Investments Code, while all sales of services to the said enterprises, made by VAT registered suppliers from the Customs Territory, shall be treated effectively subject to the 0% VAT, pursuant to Sec. 108(B)(3), NIRC, in relation to the provisions of R.A. 7916 and the 'Cross Border Doctrine' of the VAT system.
>
> This Circular shall serve as a sufficient basis to entitle such supplier of goods, property or services to the benefit of the zero percent (0%) VAT for sales made to the aforementioned ECOZONE enterprises and shall serve as sufficient compliance to the requirement for prior approval of zero-rating imposed by Revenue Regulations No.7-95 effective as of the date of the issuance of this Circular.[58]

In *CIR v. Sekisui Jushi Philippines, Inc.*,[59] the Supreme Court explained that sales made to entities within an ecozone are deemed sales made outside the Philippine territory, to wit:

> Notably, while an ecozone is geographically within the Philippines, it is deemed a separate customs territory and is regarded in law as foreign soil. Sales by suppliers from outside the borders of the ecozone to this separate customs territory are deemed as exports and treated as export sales. These sales are zero-rated or subject to a tax rate of zero percent.

Clearly, sales made by a VAT-registered entity to PEZA-registered enterprise operating within an ecozone qualify as VAT zero-rated transactions.

To prove that Ibex Global is a PEZA-registered entity, Ibex submitted Certificate of Registration No. 11-29-IT[60] and PEZA-ERD Form No. 97-01 Certificate No. 2012-0754.[61] Consequently, the sales of services made by Ibex to Ibex Global, an entity registered with PEZA, are subject to zero percent (0%) VAT.

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[58] Underscoring ours.
[59] G.R. No. 149671, July 21, 2006, 496 SCRA 206.
[60] *Records, Vol. 1, Exhibit "P-1-10," PEZA Amended Certificate of Registration*, p.159.
[61] *Id., Exhibit "P-1-11," PEZA Certification*, p.160.

Out of the total zero-rated sales of Php243,411,391.00 declared by Ibex in its third and fourth Quarterly VAT Returns for CY 2012, only sales rendered to Ibex Global in the amount of Php8,232,916.51 can be considered for VAT zero-rating, broken down as follows:

DATE	NAME OF CUSTOMER	REVENUE ($)	FOREX RATE	REVENUE (PHP)
3rd Qtr 2012				
7/31/2012	TRG Global Solutions (Philippines)	30,000.00	41.89	1,256,700.00
8/31/2012	TRG Global Solutions (Philippines)	30,000.00	42.06	1,261,800.00
9/31/2012	TRG Global Solutions (Philippines)	30,000.00	41.73	1,251,900.00
	Total 3rd Quarter			**3,770,400.00**
4th Qtr 2012				
10/31/2012	TRG Global Solutions (Philippines)	30,000.00	41.43	1,242,900.00
11/31/2012	TRG Global Solutions (Philippines)	30,000.00	41.11	1,233,300.00
12/31/2012	TRG Global Solutions (Philippines)	48,423.12	41.02	1,986,316.51
	Total 4th Quarter			**4,462,516.51**
	TOTAL ZERO-RATED SALES			8,232,916.51

The input taxes of Ibex are due or paid, and are attributable to zero-rated or effectively zero-rated sales.

After resolving that Ibex had VAT zero-rated sales for the third and fourth quarters of CY 2012 in the aggregate amount of Php8,232,916.51, the Court shall now proceed with the determination of whether it incurred or paid input taxes in connection thereto.

In its Quarterly VAT Returns for the third and fourth quarters of CY 2012, Ibex reported input VAT in the total amount of Php2,485,892.93,[62] broken down as follows:

THIRD QUARTER		
Input VAT on Cap. Goods not Exceeding 1Million		Php 31,085.15
Input VAT on Goods Other than Capital Goods		52,043.32
Input Tax on Services		1,103,092.32
Input Tax on Cap. Goods Exceeding 1M from Previous Quarter	Php 526,034.24	
Input Tax on Cap. Goods Exceeding 1M deferred for the succeeding period	453,288.56	
Amortization of Input Tax of Cap. Goods exceeding 1Million		72,745.68
Total Input Tax- 3rd Quarter		**Php 1,258,966.47**
FOURTH QUARTER		

[62] Rounding off difference of 0.01.

Input VAT on Cap. Goods not Exceeding 1Million		Php 81,617.99
Input VAT on Goods Other than Capital Goods		36,931.00
Input Tax on Services		1,035,631.91
Input Tax on Cap. Goods Exceeding 1M from Previous Quarter	Php 453,288.56	
Input Tax on Cap. Goods Exceeding 1M deferred for the succeeding period	380,543.00	
Amortization of Input Tax of Cap. Goods exceeding 1Million		72,745.56
Total Input Tax- 3rd Quarter		**Php 1,226,926.46**
TOTAL INPUT VAT		**PHP 2,485,892.93**

To determine the accuracy of Ibex's declaration, the ICPA examined petitioner's documents[63] in support of its claim for refund. Based on his examination, the ICPA had the following findings:

	DETAILS	INPUT TAX	EXH. REF. "P-6"
	For the Third Quarter Ended September 30, 2012		
1.1	Properly supported by VAT invoices and/or official receipts (OR), issued under company's name, with company's TIN and address, and input tax shown as a separate item in the invoice or receipt		
	a. From domestic purchases of services	Php 742,481.67	Annex E of ICPA Report
	b. From domestic purchases of goods other than capital goods	59,244.66	Annex E of ICPA Report
		801,726.33	
1.2	Amortization of Deferred input tax	Php 72,745.54	P-4-13
	Sub-Total	Php 874,471.87	
1.3	Other Findings		
	a. From domestic purchases of services not supported by OR	Php 99,721.81	Annex E of ICPA Report
	b. From domestic purchases of services supported by OR but without indication of TIN	642.86	Annex E of ICPA Report
	c. From domestic purchases of services supported by OR but incorrect TIN indicated in OR	8,005.71	Annex E of ICPA Report
	d. From domestic purchases of services supported by OR but issued not under the company's name	4,548.70	Annex E of ICPA Report
	e. From domestic purchases of services supported by OR but no indication of company's address	3,803.84	Annex E of ICPA Report
	f. From domestic purchases of services supported by OR but without TIN and VAT was not shown separately	1,136.52	Annex E of ICPA Report
	g. From domestic purchases of services supported by OR but VAT were not separately	7,892.09	Annex E of ICPA Report
	h. From domestic purchases of services supported by OR but VAT were not separately and with alteration on the company's name and TIN	8,217.55	Annex E of ICPA Report
	i. From domestic purchases of services supported by OR but without TIN and VAT component were indicated in VAT-exempt sales portion	7,784.17	Annex E of ICPA Report
	j. From domestic purchases of services supported by OR but VAT were indicated in zero-rated portion	8,015.74	Annex E of ICPA Report
	k. From domestic purchases of services supported by OR but without TIN	1,637.68	Annex E of ICPA Report
	l. From domestic purchases of services supported by OR but with alteration on the VAT	7,649.18	Annex E of ICPA Report
	m. From domestic purchases of services supported		

[63] *Petitioner's FOE Folder, Exhibits "P-4-15-1" to "P-4-15-20,"* folder 2; *Petitioner's FOE Folder, Exhibits "P-4-15-21" to "P-4-15-34,"* folder 1.

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	by OR but dated outside the period of claim	4,542.00	Annex E of ICPA Report
	n. From domestic purchases of services supported by OR but erroneous TIN	25.82	Annex E of ICPA Report
	o. From domestic purchases of services not supported by OR	60,387.48	Annex E of ICPA Report
	p. From domestic purchases of goods supported by invoice but without TIN	17,052.54	Annex E of ICPA Report
	q. From domestic purchases of goods supported by invoice but dated outside the period of claim	6,945.69	Annex E of ICPA Report
	r. From domestic purchases of goods and/or services but without supporting documents	136,485.09	Annex E of ICPA Report
		Php 384,494.47	
	TOTAL input taxes - 3rd Quarter	**Php1,258,966.34**	
	For the Fourth Quarter Ended December 31, 2012		
1.1	Properly supported by VAT invoices and/or official receipts (OR), issued under company's name, with company's TIN and address, and input tax shown as a separate item in the invoice or receipt		
	a. From domestic purchases of services	Php 733,059.82	Annex F of ICPA Report
	b. From domestic purchases of goods other than capital goods	62,813.35	Annex F of ICPA Report
1.2	Amortization of Deferred input tax	Php 72,745.54	P-4-13
	Sub-Total	Php 868,618.71	
1.3	Other Findings		
	a. From domestic purchases of services supported by OR but without TIN	Php 24,667.22	Annex F of ICPA Report
	b. From domestic purchases of services supported by OR but not issued under company's name	5,364.73	Annex F of ICPA Report
	c. From domestic purchases of services supported by OR but without TIN and VAT was not shown separately	7,591.39	Annex F of ICPA Report
	d. From domestic purchases of services supported by OR but VAT were indicated in zero-rated portion	35,196.99	Annex F of ICPA Report
	e. From domestic purchases of services supported by OR but with alteration on the address without counter-signature	835.22	Annex F of ICPA Report
	f. From domestic purchases of services supported by OR but with alteration on the company's name without counter-signature	1,136.52	Annex F of ICPA Report
	g. From domestic purchases of services supported by OR but dated outside the period of claim	1,996.34	Annex F of ICPA Report
	h. From domestic purchases of services supported by OR but incorrect TIN indicated in OR	739.90	Annex F of ICPA Report
	i. From domestic purchases of services not supported by OR	28,806.03	Annex F of ICPA Report
	j. From domestic purchases of goods supported by invoice but erroneous TIN	1,318.71	Annex F of ICPA Report
	k. From domestic purchases of goods supported by invoice but without TIN	25,858.12	Annex F of ICPA Report
	l. From domestic purchases of goods and/or services but without supporting documents	224,796.70	Annex F of ICPA Report
		Php 358,307.87	
	TOTAL input taxes - 4th Quarter	**Php1,226,926.58**	
	TOTAL INPUT TAX PER CLAIM	**Php2,485,892.92**	

Upon further study and evaluation of the above findings, this

Court is in accord with the ICPA's finding. Thus, out of the claimed input VAT in the amount of Php2,485,892.92, only Php1,743,090.58 (Php874,471.87 plus Php868,618.71) were supported with valid official receipts, invoices, and schedules, while input VAT of Php742,802.34 (Php384,494.47 plus Php358,307.87) is disallowed for not being properly substantiated by supporting documents, as prescribed under *Sections 110(A), 113(A) and (B) and 237 of the 1997 NIRC.*

Ibex's Quarterly VAT Returns for the subject period of claim[64] showed that it had no output tax liability against which the claimed input VAT may be applied or credited.

Considering Ibex's reported sales for the third and fourth quarters of CY 2012 were all zero-rated amounting to Php243,411,391.00, the total input VAT of Php2,485,892.92 is entirely attributable thereto. However, out of the Php1,743,090.58 valid input VAT, only Php58,956.65 correlates to the valid zero-rated sales of Php8,232,916.51, computed as follows:

DETAILS	AMOUNTS	
Input VAT per Claim		Php 2,485,892.92
Less:		
Disallowed Input VAT		
Third Quarter	Php 384,494.47	
Fourth Quarter	358,307.87	Php 742,802.34
Valid Input VAT		Php 1,743,090.58
Divide By:		
Valid Zero-Rated Sales	8,232,916.51	3.38231%
Total Zero-Rated Sales	243,411,391.00	
EXCESS SUBSTANTIATED INPUT VAT		**Php 58,956.65**

Petitioner's excess substantiated input tax was deducted as "VAT Refund/TCC Claimed."

The Court finds that even though the claimed input VAT was carried over by Ibex in its succeeding Quarterly VAT Return for the first quarter of CY 2013,[65] the same remained unutilized since it was

[64] *Records, Vol. 2, Exhibit "P-1-4-A," Quarterly VAT Return (BIR Form No. 2550-Q), line 19B,* p. 601; *Records, Vol. 2, Exhibit "P-1-5-A," Quarterly VAT Return (BIR Form No. 2550-Q), line 19B,* p. 607.
[65] *Petitioner's FOE Folder, Exhibit "P-4-14," line 20A,* folder 3.

deducted in the same quarter as "VAT Refund/TCC claimed"[66] from the total available input tax of Php16,140,094.33.[67] Thus, the claimed input taxes for the third and fourth quarters of CY 2012 could not have been carried over or utilized in the succeeding second quarter of 2013.

WHEREFORE, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Respondent Commissioner of Internal Revenue is hereby **ORDERED** to refund in favor of petitioner Ibex Philippines Inc. the amount of **Fifty-Eight Thousand Nine Hundred Fifty-Six Pesos and Sixty-Five Centavos (Php58,956.65)** representing the latter's unutilized input value-added tax arising from its zero-rated sales for the third and fourth quarters of calendar year 2012.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[66] *Id., line 23D,* folder 3.
[67] *Id., line 22,* folder 3 of 3.

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

LOVELL R. BAUTISTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to *Article VIII, Section 13 of the Constitution* and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice