REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

NEW YORK BAY PHILIPPINES, INC., Petitioner,	CTA Case No. 9669
	Members:
-versus-	DEL ROSARIO, *P.J., Chairperson* FABON-VICTORINO, *and* MANAHAN, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUL 09 2020 1:12pm

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DECISION

***Fabon-Victorino, J.*:**

In this Petition for Review[1] filed on August 25, 2017, petitioner New York Bay Philippines, Inc. prays for the refund or issuance of tax credit certificate (TCC) in the amount of ₱46,835,732.67, representing its alleged excess and unutilized input value-added tax (VAT) on its purchases of goods and services attributable to its zero-rated sales for the four (4) quarters of calendar year (CY) 2015.

THE PARTIES

Petitioner is a domestic corporation with principal place of business at Unit 2102, 21st Floor Antel Global Corporate Center, Julia Vargas Avenue, Pasig City.[2]

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[1] Docket, pp. 10-21.
[2] Paragraph 3, Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI), docket, p. 253.

Petitioner is registered with the Bureau of Internal Revenue (BIR) Revenue District Office (RDO) No. 43 as a VAT taxpayer with Taxpayer Identification No. (TIN) 000-217-994-000.[3]

Respondent, on the other hand, is the Commissioner of Internal Revenue (CIR) with the power to decide, approve and grant claims for refund or tax credit of erroneously paid or overpaid taxes, as provided by law.[4]

THE FACTS AND THE PROCEEDINGS

Based on its Amended Article of Incorporation, petitioner was organized with the following primary purpose:

> "To acquire by purchase, exchange, assignment, gift or otherwise, and to hold, own and use for investment or otherwise, and to sell, assign, transfer, exchange, lease, let, develop, mortgage, pledge, traffic, deal in and with and otherwise operate, enjoy and dispose of any and all properties and assets of every kind and description and wherever situated, as and to the extent permitted by law, including but not limited to, real estate, whether improved or unimproved, and any interest or right therein, as well as building, tenements, warehouses, factories, edifices and structures and other improvements, and bonds, debentures, promissory notes, shares of capital stock, or other securities or obligations, created, negotiated or issued by any corporation, association, or other entity, foreign or domestic, and while the owner, holder or possessor thereof, to exercise all the right, powers and privileges of ownership or any interest therein, including the right to receive, collect and dispose of, any and all rentals, dividends, interests and income derived therefrom, and the right to vote on any proprietary or other interest, on any shares of the capital stock, and upon any bonds, debentures or other securities, having voting power, so owned or held provided that the Corporation shall not engage in mining, and provided further that it shall not engage in the business of an open-end investment company as defined in the Investment Company Act (Republic Act No. 2629), without first complying with the

[3] Par. 5, Stipulated Facts, JSFI, docket, p. 253.
[4] Par. 2, *ibid.*, p. 252.

applicable provisions of the said Act, without necessarily engaging in stock brokerage or dealership in securities.

During the 4 quarters of CY 2015, petitioner rendered services in the Philippines to non-resident foreign corporations not engaged in business in the Philippines, the consideration for which were paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of *Bangko Sentral ng Pilipinas.*

On April 24, 2015, July 24, 2015, October 23, 2015 and January 22, 2016, petitioner filed with the BIR its original Quarterly VAT Returns (BIR Form No. 2550-Q) for the 1st, 2nd, 3rd and 4th quarters of CY 2015, respectively, through the BIR's Electronic Filing and Payment System (eFPS).[5]

On February 2, 2015, November 23, 2015 and March 23, 2016, petitioner respectively filed through the BIR eFPS its Amended Quarterly VAT Returns (BIR Form No. 2550-Q) for the 1st, 3rd and 4th quarters of CY 2015.[6]

Per its final/amended Quarterly VAT Returns for the 1st, 2nd, 3rd and 4th quarters of CY 2015, petitioner's gross receipts amounted to ₱631,162,185.35, which consists of zero-rated sales and local sales subject to 12% VAT. Likewise, it reported an output tax liability of ₱10,650.21 and accumulated input VAT credits on its domestic purchases of goods and services amounting to ₱47,188,611.72, for the 4 quarters of CY 2015.

Allegedly, petitioner applied a portion of its input tax credits as payment for its output tax of ₱10,650.21 and deducted therefrom the amount of ₱342,228.84 representing input tax on purchases of capital goods exceeding ₱1 million deferred for the succeeding period. Hence, it had excess and unutilized input VAT in the amount of ₱46,835,732.67 attributable to its zero-rated sales for the 4 quarters of CY 2015, which was not applied against any output tax during the succeeding taxable periods.

[5] Exhibits "P-3", "P-5", "P-6" and "P-8".
[6] Exhibits "P-4", "P-7" and "P-9".

On March 29, 2017, petitioner filed with the BIR an administrative claim for refund, with attached Application for Tax Credits/Refunds (BIR Form No. 1914), requesting for the refund of or issuance of TCC of its alleged excess and unutilized input VAT for the 4 quarters of CY 2015 in the amount of ₱46,835,732.67.[7]

On August 25, 2017, petitioner filed the instant *Petition for Review*, which was initially raffled to the Court's Second Division.

In his Answer,[8] respondent argued that in claims for refund, the taxpayer has the burden of proof and must adduce the required documents under the law, rules and regulations. Specifically, petitioner must prove that its sale of services qualified as VAT zero-rated pursuant to Section 108(B)(2) of the National Internal Revenue Code (NIRC) of 1997, as amended. It must comply with the parameters laid down under Section 110(B) of the NIRC of 1997, as amended, as well as the substantiation requirements under Section 113 of the same Code and Section 4.108-5(a) of Revenue Regulations (RR) No. 16-2005. It must also establish compliance with the substantiation of input tax credits under Section 4.110-8-5(a) of RR No. 16-05, as amended, and those under Revenue Memorandum Order (RMO) No. 53-98.

After the Pre-Trial Conference on November 23, 2017,[9] the parties filed their *Joint Stipulation of Facts and Issues* [10] on January 12, 2018, on the basis of which a Pre-Trial Order was issued on January 19, 2018.[11]

During the trial, petitioner presented Ma. Victoria Cruz and Madonna Mia S. Dayego as its witnesses.

Witness **Ma. Victoria Cruz** testified[12] that she started working for petitioner on June 11, 2001 and currently its Senior Accounting Manager.

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[7] Exhibits "P-18" and "P-20".
[8] Docket, pp. 62 to 66.
[9] Docket, pp. 67 to 68.
[10] Docket, pp. 252 to 260.
[11] Docket, pp. 263 to 269.
[12] Exhibit "P-25" and "P-25-a"; Sworn Statement of Ms. Ma. Victoria Cruz dated November 10, 2017.

Petitioner's case is for refund or issuance of TCC in the amount of ₱46,835,732.67, representing its excess and unutilized input VAT on its purchases of goods and services attributable to zero-rated sales for the 4 quarters of CY 2015.

Petitioner is a domestic corporation authorized to engage in the following business activities, to wit: [t]o acquire by purchase, exchange, assignment, gift or otherwise, and to hold, own and use for investment or otherwise, and to sell, assign, transfer, exchange, lease, let, develop, mortgage, pledge, traffic, deal in and with and otherwise operate, enjoy and dispose of any and all properties and assets of every kind and description and wherever situated, as and to the extent permitted by law. It is also engaged in financial holding activities, particularly the business of a remittance service provider. As a remittance service provider, petitioner utilizes and offers, alternative delivery channels, including door-to-door, deposit to commercial bank account, pick-up from pawnshops and commercial and rural banks, credit cash cards and bills payment, as services to its non-resident clients.

For CY 2015, petitioner rendered services to two (2) non-resident clients, namely: i) Trans-Fast Remittance, LLC., a limited company created under the laws of Delaware, United States of America (U.S.A.) and conducting business in the U.S.A.[13]; and ii) Trans-Fast International FZ-LLC, a company existing under the laws of Dubai, United Arab Emirates (UAE) and conducting business therein.[14] Both companies are doing business outside the Philippines and were not engaged in any business activity in the Philippines[15] at the time petitioner rendered services to them.

The witness further declared that per petitioner's Quarterly VAT Returns for the 1st, 2nd, 3rd and 4th quarters of CY 2015, its gross receipts amounted to ₱631,162,185.35, consisting of local sales subject to 12% VAT and zero-rated sales amounting to ₱631,073,433.56. On the other hand, petitioner's output tax on its VATable sales for the 4 quarters of CY 2015 amounted to ₱10,650.21[16].

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[13] Exhibit "P-21".
[14] Exhibit "P-22".
[15] Exhibits "P-23" and "P-24".
[16] Exhibits "P-3" to "P-9".

Further, based on its Quarterly VAT Returns for the 4 quarters of CY 2015, petitioner accumulated input VAT credits on its domestic purchases of goods and services in the total amount of ₱47,188,611.72. Petitioner applied a portion of its input tax credits as payment for its output tax of ₱10,650.21 and deducted therefrom the amount of ₱342,228.84 representing input tax on purchases of capital goods exceeding ₱1million deferred to the succeeding period. Hence, petitioner had excess and unutilized input VAT in the amount of ₱46,835,732.67,[17] which remained unutilized since it was not applied against any output VAT liability during and in the succeeding quarters and was not carried forward to the succeeding taxable periods.[18]

On March 29, 2017, petitioner filed with BIR RDO No. 43 an administrative claim for refund/issuance of TCC for its excess and unutilized input VAT for the 4 quarters of CY 2015 in the total amount of ₱46,835,732.67[19], with a Sworn Certification that it has submitted complete documents to substantiate its claim for refund.[20] This notwithstanding, the BIR failed to act on the said claim for refund. Hence, petitioner filed the instant case with the Court on August 25, 2017.

The Court-commissioned ICPA, **Madonna Mia S. Dayego**, testified[21] that she audited and evaluated petitioner's documents and record in support of its claim for tax refund/issuance of TCC for its excess and unutilized input VAT on purchases of goods and services attributable to zero-rated sales for the 4 quarters of CY ended December 31, 2015.

Per her examination and verification of petitioner's pertinent documents, the result of which was stated in her ICPA Report dated February 28, 2018,[22] petitioner is entitled to its claim for refund/issuance of TCC in the reduced amount of ₱46,371,661.68, corresponding to the excess and unutilized input VAT on purchase of goods and services. The amount of ₱464,070.99 was disallowed due to petitioner's non-compliance

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[17] Exhibit "P-9".
[18] Exhibits "P-10" to "P-17".
[19] Exhibits "P-18" and "P-20".
[20] Exhibit "P-19".
[21] Exhibits "P-28" and "P-28-a"; Sworn Statement of Ms. Madonna Mia S. Dayego dated March 14, 2018.
[22] Exhibits "P-26" and "P-26-a".

to the VAT invoicing requirements and lack of supporting documents.

After its Formal Offer of Evidence,[23] petitioner rested per Resolution[24] dated September 5, 2018.

For his part, respondent presented his lone witness, Revenue Officer II **Susan G. Abesamis**, who testified[25] that she has been employed with the BIR since 1990 and is currently assigned at RDO 43, Pasig City.

Petitioner's application for VAT refund[26] was assigned to her for evaluation and audit investigation through Letter of Authority (LOA) No. LOA-043-2017-00000002 dated April 24, 2017.[27]

Upon receipt of the LOA, she checked the requirements attached to the application for VAT refund and noticed that certain documentary requirements were lacking. Thus, she notified petitioner's representative with instruction to submit the lacking documents. However, petitioner's representative failed to comply, hence, she gave petitioner another extension to comply, but still failed. This prompted her to prepare a Memorandum of Report[28] stating that petitioner failed to comply with mandatory requirements for claims for VAT Credit/Refund under Revenue Memorandum Circular (RMC) No. 54-2014, as clarified by RR No. 1-2017.

After Formal Offer of Evidence,[29] respondent rested as shown in the Resolution dated January 17, 2019.[30]

On September 24, 2018, the instant case was transferred to the Court's First Division.[31]

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[23] Docket, pp. 336 to 368.
[24] Docket, pp. 470 and 472.
[25] Exhibits "R-4" and "R-4-a".
[26] Exhibit "R-1".
[27] Exhibit "R-2"
[28] Exhibit "R-3".
[29] Docket, pp. 475 to 477.
[30] Docket, pp. 489 to 490.
[31] Docket, p. 478.

On March 25, 2019, petitioner filed its *Memorandum.*[32] Respondent did not despite directive.[33] Accordingly, the instant case was deemed submitted for decision on April 10, 2019.[34]

THE ISSUE

The main issue[35] submitted by the parties for the Court's resolution is as follows:

> WHETHER PETITIONER IS ENTITLED TO ITS CLAIM FOR REFUND OF OR ISSUANCE OF TCC IN THE AMOUNT OF PHP46,835,732.67, REPRESENTING ITS EXCESS AND UTILIZED INPUT VAT FOR THE FOUR QUARTERS OF CY 2015

Petitioner's arguments:

Petitioner posits that its claim for refund or issuance of TCC for its excess and unutilized input VAT on purchases of goods and services attributable to zero-rated sales for the 4 quarters of CY 2015 is in accordance with Section 108 (B), paragraph 2, in relation to Sections 110(B) and 112(A)(C) of the NIRC of 1997, as amended. Its sales of services to Trans-Fast Remittance LLC and Trans-Fast International FZ-LLC qualify as zero-rated sales of services under Section 108(B)(2) of the NIRC of 1997, as amended. Further, its excess and unutilized input VAT for the 4 quarters of CY 2015 amounting to ₱46,835,732.67 are duly supported by VAT invoices and official receipts (ORs). The subject excess and unutilized input VAT are attributable to its zero-rated sales and were not applied against any output VAT liability during the succeeding taxable quarters. Both its administrative and judicial claims for refund/issuance of TCC were filed within the reglementary periods mandated under Section 112(A) and (C) of the NIRC of 1997, as amended.

Respondent's arguments:

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[32] Docket, pp. 497 to 530.
[33] Per Records Verification Report of the Judicial Records Division dated April 2, 2019.
[34] Docket, p. 535.
[35] Stipulation on Issues, JSFI, Docket, p. 254.

Respondent counters that petitioner must prove that its sales of services qualify as VAT zero-rated pursuant to Section 108(B)(2) of the NIRC of 1997, as amended, and that it complied with the parameters set forth in Section 110 (B) of the NIRC of 1997, as amended, as well as the requirements provided in Sec. 4108-5(a) of RR No. 16-2005, RMO No. 53-98, Section 113 of the NIRC of 1997, as amended, and Section 4.110-8-5(a) of RR No. 16-05, as amended.

THE COURT'S RULING

Paragraphs (A) and (C) of Section 112 of the NIRC of 1997, as amended, pertinently provide as follows:

> 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 of 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

> (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.
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> 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."

Section 112(A) and (C) of the NIRC of 1997, as amended by Republic Act (RA) No. 9337,[36] laid down certain requisites for purposes of claiming refund/TCC of alleged excess and unutilized input VAT on its purchases of goods and services attributable to its zero-rated sales. The said requisites are classified into the following categories, to wit:

> <u>As to the timeliness of the filing of the administrative and judicial claims:</u>
>
> 1. the claim is filed with the BIR within two years after the close of the taxable quarter when the sales were made;[37]
>
> 2. that in case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act on the said claim within a period of 120 days, the judicial claim has been filed with this Court, within 30 days from receipt

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[36] AN ACT AMENDING SECTIONS 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

[37] *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue,* G.R. No. 166732, April 27, 2007; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009; and *AT&T Communications Services Philippines, Inc v. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010.

of the decision or after the expiration of the said 120-day period;[38]

With reference to the taxpayer's registration with the BIR:

3. the taxpayer is a VAT-registered person;[39]

In relation to the taxpayer's output VAT:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[40]

5. for zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b), and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations;[41]

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[42]

7. the input taxes are due or paid;[43]

8. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, 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

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[38] *Steag State Power, Inc. (Formerly State Power Development Corporation) v. Commissioner of Internal Revenue,* G.R. No. 205282, January 14, 2019; *Rohm Apollo Semiconductor Philippines v. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.
[39] *Supra,* Note 37.
[40] *Ibid.*
[41] *Ibid.*
[42] *Ibid.*
[43] *Ibid.*

input taxes shall be proportionately allocated on the basis of sales volume;[44] and

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[45]

Petitioner is a VAT-registered taxpayer.

Evidence show that petitioner is a VAT-registered taxpayer with Certificate of Registration No. 3RC0000807275 dated January 1, 1997[46] and Tax Identification No. (TIN) 000-217-994-000.

Petitioner's administrative and judicial claims were seasonably filed.

Pursuant to Section 112(A) of the NIRC of 1997, as amended, petitioner had two (2) years to file a claim for tax refund/credit of its unutilized and excess input VAT attributable to its zero-rated or effectively zero-rated sales reckoned from the close of the taxable quarter when the relevant sales were made. Shown below are the dates of the last day of the two-year period for petitioner to file its administrative claim for the 1st to 4th quarters of CY 2015:

Period (CY 2015)	Close of taxable quarter	End of the 2-year period to file administrative claim	Date of filing of administrative claim
1st Quarter	March 31, 2015	March 31, 2017	March 29, 2017[47]
2nd Quarter	June 30, 2015	June 30, 2017	
3rd Quarter	September 30, 2015	September 30, 2017	
4th Quarter	December 31, 2015	December 31, 2017	

Evidently, petitioner's administrative claim for refund was timely filed on March 29, 2017.

[44] *Supra*, Note 37.
[45] *Ibid.*
[46] Exhibit "P-2".
[47] Exhibits "P-18" and "P-20".

As to the timeliness of petitioner's judicial appeal, Section 112(C) of the NIRC of 1997, as amended, provides that the CIR has 120 days from the date of submission of complete documents in support of the application for refund/tax credit, within which to grant or deny the claim. In case of full or partial denial by the CIR, the taxpayer's recourse is to file an appeal before the Court in Division within 30 days from receipt of the decision of the CIR. However, if after the 120-day period the CIR fails to act on the application for refund/TCC, the taxpayer may seek judicial intervention on the CIR's inaction within 30 days.

As shown in the following table, petitioner likewise seasonably filed its judicial claim for refund/TCC on August 25, 2017:

Period (CY 2015)	Date of filing of administrative claim	End of 120-day period for BIR Commissioner to act on the administrative claim	End of 30-day period to file judicial claim	Date of filing of Petition for Review
1st Quarter	March 29, 2017	July 27, 2017	August 26, 2017	August 25, 2017
2nd Quarter				
3rd Quarter				
4th Quarter				

Per the above table, respondent had 120 days from March 29, 2017 or until July 27, 2017, within which to act on the petitioner's claim. There being no action taken by respondent, petitioner had 30 days or until August 26, 2017, within which to appeal such inaction to the Court.

Petitioner is engaged in zero-rated sales of services to non-resident foreign entities during the 4 quarters of CY 2015, albeit only in the amount of ₱130,660,046.47

Petitioner states that for the 4 quarters of CY 2015, it rendered services to nonresident foreign corporations not engaged in business in the Philippines, namely, Trans-Fast Remittance LLC and Trans-Fast International FZ-LLC. The services rendered were paid in acceptable foreign currencies and accounted for in accordance with the rules and regulations of the BSP pursuant to Section 108(B)(2) of the NIRC of 1997, as amended. The text of the provision reads:

> SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* -
>
> xxx xxx xxx
>
> (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**:
>
> (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);
>
> (2) **Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a non-resident 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)**;

Significantly, in the case of *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.,*[48] the Supreme Court held that in order for services performed in the Philippines to enjoy VAT zero-rating, the following requisites under Section 108(B)(2) of the NIRC of 1997, as amended, must be met, *viz.*:

[48] G.R. No. 153205, January 22, 2007.

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

2. 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.

As to the first requisite, it was established that petitioner entered into Service Agreement[49] with Trans-Fast Remittance LLC whereby the latter appointed petitioner as its correspondent for the payment of remittances in connection with its Business *(transmission of money on behalf of third parties in the United States and abroad)* in favor of beneficiaries in the "Location". As stated in the Agreement, Trans-Fast Remittance LLC shall collect funds from remitters in the United States of America and/or the countries where it conducts Business and shall execute Transactions *(payment of remittances in connection with the Business)* for the transmission of such funds to beneficiaries in the "Location" through petitioner's facilities.[50]

Evidently, insofar as Trans-Fast Remittance LLC is concerned, petitioner was able to comply with the first requisite, as the services rendered by petitioner to the latter were not in the same category as *"processing, manufacturing or repacking of goods"* and that the term "Location" was referred to in the Agreement as the "Philippines", indicating that services were performed or rendered in the Philippines.

Petitioner however failed to establish compliance with the first requisite insofar as Trans-Fast International FZ-LLC is concerned, in the absence of proof that the services it rendered in its favor were not in the same category as *"processing, manufacturing or repacking of goods"* and that they were performed in the Philippines.

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[49] Exhibit P-31-1.

[50] Section 1 of the Agreement, Exhibit "P-31-1 (6/26)".

With respect to the third requisite, the Court consistently held that to be considered as a non-resident foreign corporation doing business outside the Philippines, each entity must be supported, at the very least, by **both** a Certificate of Non-Registration of Corporation/Partnership issued by the SEC **and** proof of Incorporation/ Association/Business Registration in a foreign country and that there is no other indication that the recipient of the services is doing business in the Philippines.[51]

To show compliance with the third requisite, petitioner presented the following documents: (1) the *Certificates of Non-Registration of Company* issued by the Securities and Exchange Commission (SEC) to the effect that the records of the SEC do not show the registration of *Trans-Fast Remittance LLC* and *Trans-Fast International FZ-LLC* as a corporation or as a partnership,[52] and (2) the Authenticated copies of Trans-Fast Remittance LLC's *Article of Incorporation, License to Transact the Business* and *Certificate of Formation (with Certificate of Amendment)*[53] and Trans-Fast International FZ-LLC's *Memorandum of Association* and *Amended Articles of Association.*[54] The cited documents established that Trans-Fast Remittance LLC and Trans-Fast International FZ-LLC at the time of the subject transactions were not doing business in the Philippines while the latter documents showed that Trans-Fast Remittance LLC and Trans-Fast International FZ-LLC were doing business outside the Philippines. In fine, the said documents duly established that Trans-Fast Remittance LLC and Trans-Fast International FZ-LLC are non-resident foreign corporations not engaged in business in the Philippines.

Relative to the second requisite, petitioner presented the Bank Advices or proof of inward from BDO Corporate Remittance System[55] showing the remittances of its foreign clients/affiliates for the subject quarters of CY 2015. These documents attest to the fact of payment *"in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP".* Evidently, petitioner has complied with the above-stated *fourth* essential element.

[51] *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*, CTA EB Nos. 1244 and 1345 (CTA Case No. 8443), March 30, 2017.
[52] Exhibits "P-23" and "P-24".
[53] Exhibit "P-21".
[54] Exhibit "P-22".
[55] Exhibits "P-37-1" to "P-37-25".

It must also be established that the said foreign currency remittances referred to in Section 108(B)(2) be duly supported by VAT zero-rated official receipts as mandated in Section 113(A)(2), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended, as implemented by Section 4.113-1(A)(2), B(1) and (2)(c) of RR No. 16-05, which states that a VAT taxpayer, like herein petitioner, shall for every sale, barter or exchange of services, issue a VAT official receipt which must contain the information stated in the said provisions. The provision reads:

SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* —

(A) *Invoicing Requirements.* — A VAT-registered person shall issue:

xxx xxx xxx

(2) A <u>VAT official receipt</u> for every lease of goods or properties, and for every sale, barter or exchange of services.

(B) *Information Contained in the VAT Invoice or VAT Official Receipt.* — The following information shall be indicated in the VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided*, That:

xxx xxx xxx

(c) If the sale is subject to zero percent (0%) value-added tax, the term '**zero-rated sale**' shall be written or printed prominently on the invoice or receipt;

xxx xxx xxx

(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and xxxx

SEC. 4.113-1. *Invoicing Requirements*. —

(A) A VAT-registered person shall issue: —

xxx xxx xxx

(2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.

Only VAT-registered persons are required to print their TIN followed by the word 'VAT' in their invoice or official receipts. Said documents shall be considered as a 'VAT Invoice' or VAT official receipt. All purchases covered by invoices/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

VAT invoice/official receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records.

(B) Information contained in VAT invoice or VAT official receipt. — The following information shall be indicated in VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his TIN;

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; *Provided*, That:

xxx xxx xxx

(c) If the sale is subject to zero percent (0%) VAT, the term 'zero-rated sale' shall be written or printed prominently on the invoice or receipt;

In the instant case, aside from the bank advices, petitioner also presented its Schedule of Zero-rated Sales for CY 2015[56] and the corresponding VAT zero-rated ORs[57] supporting its total declared zero-rated sales of ₱631,073,433.56 for the 4 quarters of CY 2015, detailed as follows:

Period (CY 2015)	Exhibit No.	Zero-Rated Sales/Receipts
1st Quarter	"P-4"	₱ 221,960,618.05
2nd Quarter	"P-5"	142,255,253.84
3rd Quarter	"P-7"	164,474,999.06
4th Quarter	"P-9"	102,382,562.61
Total		**₱ 631,073,433.56**

However, upon verification of the submitted documents, only the zero-rated sales of ₱130,660,046.47, in relation to petitioner's sales to Trans-Fast Remittance LLC, are duly supported by bank advices (or proof) of inward remittances and zero-rated ORs, detailed as follows:

Official Receipt			Bank Advice Exhibit	Amount in USD (a)	Conversion Rate (b)	Amount in PHP (c) = (a) * (b)
Date	**No.**	**Exhibit**				
1st Quarter						
01/21/2015	11541	"P-35-27"	"P-37-2"	₱198,209.50	₱44.9514	₱8,909,794.52
02/03/2015	11542	"P-35-28"	"P-37-3"	229,750.75	44.6878	10,267,055.57
03/11/2015	11545	"P-35-31"	"P-37-6"	192,574.75	44.6044	8,589,681.18
04/17/2015	11547	"P-35-33"	"P-37-8"	189,904.75	44.2214	8,397,853.91
05/04/2015	11549	"P-35-35"	"P-37-10"	222,146.50	44.4457	9,873,456.70
Subtotal - 1st Quarter				*₱1,032,586.25*		*₱46,037,841.88*
2nd Quarter						
05/28/15	11551	"P-35-37"	"P-37-12"	₱197,675.50	₱44.4136	₱8,779,480.59
06/25/15	11552	"P-35-38"	"P-37-13"	224,374.75	44.6106	10,009,492.22
07/28/15	11554	"P-35-40"	"P-37-15"	235,071.50	44.9831	10,574,244.79
Subtotal - 2nd Quarter				*₱657,121.75*		*₱29,363,217.60*
3rd Quarter						
08/20/2015	11556	"P-35-42"	"P-37-17"	₱266,735.75	45.2649	₱12,073,767.05
09/30/2015	11559	"P-35-45"	"P-37-20"	299,419.50	46.1420	13,815,814.57
10/22/2015	11561	"P-35-46"	"P-37-21"	300,768.75	46.7504	14,061,059.37
Subtotal - 3rd Quarter				*₱866,924.00*		*₱39,950,640.99*
4th Quarter						

[56] Exhibit "P-32".
[57] Exhibits "P-35-26" to "P-35-50".

11/25/2015	11563	"P-35-48"	"P-37-23"	₱330,199.50	46.3609	₱15,308,346.00
Subtotal - 4th Quarter				*330,199.50*		*15,308,346.00*
GRAND TOTAL				**₱2,886,831.50**		**₱130,660,046.47**

Therefore, out of the ₱631,073,433.57 zero-rated sales declared per VAT Returns for the four (4) quarters of CY 2015, only the amount of ₱130,660,046.47, as presented above, qualifies for VAT zero-rating under Section 108(B)(2), in relation to Section 113(A)(2), (B)(1), (2)(c) and (3), both of the NIRC of 1997, as amended.

To be clear, the rest of petitioner's declared zero-rated sales pertaining to Trans-Fast International FZ-LLC in the amount of ₱500,413,387.12, as detailed below, shall be denied VAT zero-rating for petitioner's failure to prove that the services it rendered thereto were not in the same category as *"processing, manufacturing or repacking of goods"*, and that the services rendered were performed in the Philippines.

Having found that petitioner had valid VAT zero-rated sales *only* in the total amount of ₱130,660,046.47 for the subject period of claim, the Court shall proceed to determine whether petitioner complied with the remaining requisites pertaining to the input VAT being claimed for refund/TCC.

The input VAT being claimed does not appear to be transitional input taxes.

In its Quarterly VAT Returns for the 4 quarters of CY 2015, petitioner declared a total input VAT of ₱46,846,382.88 from its current domestic purchases of goods and services, as shown in the table below:

	1st Quarter CY 2015	**2nd Quarter CY 2015**	**3rd Quarter CY 2015**	**4th Quarter CY 2015**	**TOTAL**
Exhibits	"P-4"	"P-5"	"P-7"	"P-9"	
Input Tax Due on Capital Goods exceeding ₱1M					
Deferred from previous quarter	₱ -	₱ -	₱ -	₱ -	₱ -
Purchase of Capital Goods Exceeding P1M	-	-	-	354,948.54	354,948.54
Total	₱ -	₱ -	₱ -	₱ 354,948.54	₱ 354,948.54
Less: Deferred for the succeeding	-	-	-	342,228.84	342,228.84

period					
Amortized input tax on capital goods exceeding ₱1M	₱ -	₱ -	₱ -	**₱ 12,719.70**	**₱ 12,719.70**
Input Tax Due on Current Purchases of Goods other than Capital Goods					-
Input tax on purchase of capital goods not exceeding ₱1M	₱ 30,977.84	₱ 130,388.55	₱ 323,748.71	₱ 187,555.34	₱ 672,670.44
Input tax on domestic purchases of goods other than capital goods	19,523.96	20,893.82	15,007.68	33,034.23	88,459.69
Sub-total	₱ 50,501.80	₱ 151,282.37	₱ 338,756.39	₱ 220,589.57	₱ 761,130.13
Input Tax Paid on:					
Input tax on domestic purchases of services	₱ 10,468,201.64	₱ 11,144,642.80	₱ 11,995,641.40	₱ 12,464,047.21	₱ 46,072,533.05
Total input tax during the period	**₱10,518,703.44**	**₱11,295,925.17**	**₱12,334,397.79**	**₱12,697,356.48**	**₱46,846,382.88**

The above input taxes do *not* appear to be transitional input taxes, as understood under Section 111(A) of the NIRC of 1997, as amended, to wit:

> SEC. 111. *Transitional/Presumptive Input Tax Credits.* –
>
> (A) *Transitional Input Tax Credits.* – A person who becomes liable to value-added tax or any person who elects to be a VAT-registered person shall, subject to the filing of an inventory according to the rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, be allowed input tax on his beginning inventory of goods, materials and supplies equivalent to two percent (2%) of the value of such inventory or the actual value-added tax paid on such goods, materials and supplies, whichever is higher, which shall be creditable against the output tax.

Transitional input tax credit operates to benefit newly VAT-registered persons, whether or not they previously paid taxes in the acquisitions of their beginning inventory of goods, materials and supplies. During the period of transition from non-VAT to VAT status, the transitional input tax credit serves to alleviate the impact of the VAT on the taxpayer.[58]

Absent any showing that the claimed input VAT were transitional input VAT, the *sixth* requisite for the grant of an input VAT refund under Section 112 of the NIRC of 1997, as amended, has been complied with.

The input taxes being claimed are due or paid.

Out of the reported total input VAT of ₱46,846,382.88, petitioner's claim for refund of the excess input VAT in the amount of ₱46,835,732.67, is determined as follows:

	1st Quarter CY 2015	**2nd Quarter CY 2015**	**3rd Quarter CY 2015**	**4th Quarter CY 2015**	**TOTAL**
Total input tax during the period	₱ 10,518,703.44	₱ 11,295,925.17	₱ 12,334,397.79	₱ 12,697,356.48	₱ 46,846,382.88
Less: Output tax	-	-	-	10,650.21	10,650.21
Excess input tax	**₱10,518,703.44**	**₱ 11,295,925.17**	**₱12,334,397.79**	**₱ 12,686,706.27**	**₱46,835,732.67**

In support of its input taxes of ₱46,846,382.88, petitioner submitted various sales invoices[59] and ORs,[60] which were examined by the ICPA.

As reflected in the ICPA Report,[61] the input VAT due or paid in the amount of ₱464,070.99, as summarized below, shall be disallowed for failure to meet the substantiation requirements under Sections 110(A), 113(A) and (B) of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-2, 4.110-8 and 4.113-1 of RR No. 16-2005, as amended:

Exhibit	**Particulars**	**1st Quarter CY 2015**	**2nd Quarter CY 2015**	**3rd Quarter CY 2015**	**4th Quarter CY 2015**	**Total**
Input taxes due on:						
Capital Goods not Exceeding ₱1 Million						
"P-45"	Supported by original VAT invoices **without the TIN** of the Petitioner	₱ 3,624.27	-	₱ 5,897.14	₱ 12,617.14	₱ 22,138.55

[58] *Fort Bonifacio Development Corporation v. Commissioner of Internal Revenue*, G.R. Nos. 158885 and 170680, April 2, 2009.
[59] Exhibits "P-44-1" to "P-44-26", "P-45-1" to "P-45-3", "P-47-1" to "P-47-6", "P-48-1" to "P-48-53" and "P-49-1".
[60] Exhibits "P-51-1" to "P-51-230", "P-52-1" to "P-52-11" and "P-53-1" to "P-53-13".
[61] Exhibit "P-26", ICPA Report Binder, Pages 22 to 23 of 28, *Table 15*.

"P-46"	**Not supported**	9,482.14	₱ 7,907.15	219,162.92	3,974.47	240,526.68
Domestic Purchases of Goods other than Capital Goods						
"P-49"	Supported by original VAT invoices in the name of the Petitioner **not dated or issued within the taxable year**	121.07	-	-	-	121.07
"P-50"	**Not supported**	1,819.35	2,694.72	1,278.92	1,054.01	6,847.00
Subtotal		***₱15,046.83***	***₱ 10,601.87***	***₱226,338.98***	***₱ 17,645.62***	***₱269,633.30***
Input taxes paid on Domestic Purchases of Services						
"P-52"	Supported by original VAT official receipts in the name of the Petitioner **not dated or issued within the taxable year**	-	-	-	₱ 105,007.90	₱ 105,007.90
"P-53"	Supported by original VAT official receipts **without/ invalid TIN** of the Petitioner	₱ 432.00	₱ 1,548.12	₱ 1,762.50	3,907.50	7,650.12
"P-54"	**Not supported**	13,432.28	15,924.02	19,686.14	32,737.23	81,779.67
Subtotal		***₱13,864.28***	***₱ 17,472.14***	***₱ 21,448.64***	***₱141,652.63***	***₱194,437.69***
Total		**₱28,911.11**	**₱ 28,074.01**	**₱247,787.62**	**₱159,298.25**	**₱464,070.99**

In addition, the input VAT due or paid in the aggregate amount of ₱71,585.44 shall likewise be disallowed for the grounds stated hereunder:

Exhibit	Supplier's Name	1st Quarter CY 2015	2nd Quarter CY 2015	3rd Quarter CY 2015	4th Quarter CY 2015	Total
Input taxes due on:						
Capital Goods not Exceeding ₱1 Million						
1. *Supported by VAT invoice but without the notation "This invoice shall be valid for five years from the date of the ATP/Permit to Use"*						
"P-44-11"	Anson @Home, Inc.			₱ 1,167.86		₱ 1,167.86
2. *Supported by VAT invoice but with unreadable details*						
"P-44-8"	Power Mac Center, Inc.		₱ 1,391.79			1,391.79
Domestic Purchases of Goods other than Capital Goods						
1. *Supported by VAT invoices but without the notation "This invoice shall be valid for five years from the date of the ATP/Permit to Use"*						
"P-48-28"	Anson @Home, Inc.			306.21		306.21
"P-48-29"	Anson @Home, Inc.			162.86		162.86
2. *Supported by document with notation "NOT VALID AS SOURCE OF INPUT TAX"*						
"P-48-43"	Pronto Express Distribution, Inc.				₱ 144.00	144.00
Subtotal		-	***₱1,391.79***	***₱1,636.93***	***₱ 144.00***	***₱3,172.72***
Input taxes paid on Domestic Purchases of Services						
1. *Supported by VAT ORs but the VAT amounts were not separately shown*						
"P-51-2"	Airfreight 2100, Inc.	₱ 22.20				₱ 22.20
"P-51-7"	Constantino Gaudalquiver & Co, CPA's	1,440.00				1,440.00
"P-51-56"	The Bridge Language Learning Solutions, Inc.	11,688.30				11,688.30
"P-51-57"	The Bridge Language Learning Solutions, Inc.	202.50				202.50
"P-51-91"	The Bridge Language Learning Solutions, Inc.	202.50				202.50
"P-51-92"	The Bridge Language Learning Solutions, Inc.	2,632.50				2,632.50
"P-51-312"	Integrated Safeguard Security Agency, Inc.				₱ 421.25	421.25
2. *Supported by VAT ORs but with unreadable details*						
"P-51-3"	Antel Global Corporate Center	7,396.87				7,396.87
"P-51-31"	Antel Global Corporate Center	7,396.87				7,396.87
3. *Supported by VAT ORs but without the notation "This official receipt shall be valid for five years from the date of the ATP/Permit to Use"*						
"P-51-303"	CIS Bayad Center, Inc.				17,247.86	17,247.86
"P-51-333"	CIS Bayad Center, Inc.				13,879.29	13,879.29
4. *Supported by VAT ORs but not dated*						
"P-51-63"	Antel Global Corporate Center	2,393.67				2,393.67

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.

In the instant case, there exists a zero-rated or effectively zero-rated sales and taxable sales. Specifically, in the Quarterly VAT Returns for the 1st to 4th quarters of CY 2015, petitioner reported total sales in the following amounts:

Type of Sale	1st Quarter CY 2015	2nd Quarter CY 2015	3rd Quarter CY 2015	4th Quarter CY 2015	TOTAL
	"P-4"	"P-5"	"P-7"	"P-9"	
VATable				₱ 88,751.79	₱ 88,751.79
Zero-Rated	₱ 221,960,618.05	₱ 142,255,253.84	₱ 164,474,999.06	102,382,562.61	631,073,433.56
Total Sales	**₱221,960,618.05**	**₱142,255,253.84**	**₱164,474,999.06**	**₱102,471,314.40**	**₱631,162,185.35**

In other words, on the basis of its Quarterly VAT Returns for the subject periods, petitioner had sales for the said periods in the aggregate amount of ₱631,162,185.35. However, since its input VAT cannot be directly or entirely attributed to any of the transactions, the Court shall allocate the valid input VAT of **₱46,310,726.45** proportionately on the basis of the volume of its sales, as shown below:

Taxable Sales for the CY 2015	₱ 88,751.79
Divided by the Reported Total Sales per Quarterly VAT Returns	₱ 631,162,185.35
Multiplied by Total Valid Input VAT	₱ 46,310,726.45
Valid input VAT allocated to sales subject to the 12% VAT	**₱ 6,512.05**

Total Valid Zero-Rated Sales	₱ 130,660,046.47
Divided by the Reported Total Sales per Quarterly VAT Return	₱ 631,162,185.35
Multiplied by Total Valid Input VAT	₱ 46,310,726.45
Valid Input VAT allocated to valid zero-rated sales	**₱ 9,587,015.53**

Thus, for purposes of, and with regard to petitioner's compliance with, the *eighth* requisite, only the amount of ₱9,587,015.53 represents valid input VAT attributable to valid zero-rated sales.

Petitioner's input taxes were not applied to any output tax liability.

For the 4 quarters of CY 2015, petitioner had output VAT liability in the amount of ₱10,650.21.[62] Since petitioner's valid

[62] Line 19B of Exhibit "P-9".

"P-51-64"	Antel Global Corporate Center	849.05				849.05
5. Supported by VAT ORs but with notation "THIS DOCUMENT IS NOT VALID FOR CLAIMING INPUT TAX"						
"P-51-23"	Pronto Express Distribution, Inc.	249.36				249.36
"P-51-52"	Pronto Express Distribution, Inc.	249.36				249.36
"P-51-86"	Pronto Express Distribution, Inc.	249.36				249.36
"P-51-121"	Pronto Express Distribution, Inc.		₱ 249.36			249.36
"P-51-156"	Pronto Express Distribution, Inc.		249.36			249.36
"P-51-224"	Pronto Express Distribution, Inc.			₱ 249.36		249.36
"P-51-255"	Pronto Express Distribution, Inc.			249.36		249.36
"P-51-288"	Pronto Express Distribution, Inc.			249.36		249.36
"P-51-320"	Pronto Express Distribution, Inc.				249.36	249.36
6. Supported by VAT OR but without the address of petitioner						
P-51-186	Integrated Safeguard Security Agency, Inc.		395.62			395.62
Subtotal		***₱34,972.54***	***₱894.34***	***₱748.08***	***₱31,797.76***	***₱68,412.72***
Total		**₱34,972.54**	**₱2,286.13**	**₱2,385.01**	**₱31,941.76**	**₱71,585.44**

Thus, out of the total declared input VAT of ₱46,846,382.88 for the 4 quarters of CY 2015, only the amount of ₱46,310,726.45, as computed below, represents petitioner's valid input VAT for the same period, and to be considered for the purpose of petitioner's compliance with the *seventh* requisite:

	1st Quarter CY 2015	**2nd Quarter CY 2015**	**3rd Quarter CY 2015**	**4th Quarter CY 2015**	**TOTAL**
Reported Current Input VAT per Returns	₱ 10,518,703.44	₱ 11,295,925.17	₱ 12,334,397.79	₱ 12,697,356.48	₱ 46,846,382.88
Less: Disallowances:					
Per ICPA Report	28,911.11	28,074.01	247,787.62	159,298.25	464,070.99
Per Court's further verification	34,972.54	2,286.13	2,385.01	31,941.76	71,585.44
Valid Input VAT due or paid for CY 2015	**₱10,454,819.79**	**₱11,265,565.03**	**₱12,084,225.16**	**₱12,506,116.47**	**₱46,310,726.45**

Since there were both zero-rated or effectively zero-rated sales and taxable sales, the said amount of ₱46,310,726.45 shall be proportionately allocated on the basis of sales volume.

To reiterate, the *eighth condition* requires that the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and input VAT in the amount of ₱6,512.05 allocated to sales subject to the 12% VAT was not enough to cover the said output VAT liability, the output VAT still due against petitioner shall be as follows:

Output VAT liabilities for the CY 2015	₱ 10,650.21
Less: Valid Input VAT allocated to Sales subject to the 12% VAT	6,512.05
Output VAT Still Due	**₱ 4,138.16**

The valid input VAT attributable to valid zero-rated sales in the amount of ₱9,587,015.53, as earlier determined, shall then be utilized against the said remaining output VAT liability of petitioner in the amount of ₱4,138.16. Correspondingly, only the remaining input VAT of ₱9,582,877.37 represents petitioner's unapplied/excess input VAT attributable to its valid zero-rated sales, as determined below:

Valid Input VAT Allocated to Zero-Rated Sales	₱ 9,587,015.53
Less: Output VAT still due	4,138.16
Excess input VAT attributable to valid zero-rated sales	**₱ 9,582,877.37**

Needless to state, the said amount of ₱9,582,877.37 is included in the amount of the subject refund claim, *i.e.*, the amount of ₱46,835,732.67.

Although the subject input VAT were initially carried-over by petitioner in its succeeding Quarterly VAT Returns,[63] the same remained unutilized until it was deducted as *"VAT Refund/TCC Claimed"* in its Amended 4th Quarterly VAT Return of CY 2015.[64] It bears stressing that after deducting the input VAT the amount which is subject of the present claim, petitioner had ₱0.01[65] amount of tax still payable as of the end of the 4th quarter of CY 2015. Moreover, only the amount of "₱0.00" was reflected as *Input Tax Carried Over from Previous Period* in the succeeding Amended Quarterly VAT Return for the 1st Quarter of CY 2016.

All stated, petitioner has sufficiently established that it is entitled to a refund or issuance of TCC corresponding to its excess and unutilized input VAT attributable to its zero-rated

[63] Exhibits "P-5", "P-7" and "P-9".
[64] Line 23D of Exhibit "P-9".
[65] Line 29 of Exhibit "P-9".

sales for the 4 quarters of CY 2015 but in the reduced amount of ₱9,582,877.37.

WHEREFORE, the instant Petition for Review filed by petitioner New York Bay Philippines, Inc., on August 25, 2017, is hereby **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is **DIRECTED** to **REFUND** or to **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner New York Bay Philippines, Inc. the amount of **₱9,582,877.37**, representing its excess and unutilized input VAT attributable to its zero-rated sales for the four (4) quarters of CY 2015.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We concur:

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice