REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

COLT COMMERCIAL, INC.
Petitioner,

- *versus* -

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9205

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

Promulgated:
FEB 06 2018
11:48 a.m.

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DECISION

BAUTISTA, J.:

The Case

Before the Court is a Petition for Review[1] filed by petitioner on November 23, 2015, pursuant to *Section 7(a)(2)*[2] *of Republic Act ("RA") No. 1125*[3], as amended by *RA No. 9282*[4] and *RA No. 9503*[5], in relation to

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[1] *Records, CTA Case No. 9205, Vol. 1, Petition for Review ("PFR"),* pp. 10-80, with annexes.
[2] 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.
[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.
[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.

Section 3(a)(1)[6], *Rule 4 of the Revised Rules of the Court of Tax Appeals ("RRCTA")*[7], seeking for the Court to render judgment granting its claim for refund in the amount of Php2,131,445.28[8] representing its alleged unutilized input tax payments attributable to its zero-rated sales for the second quarter of taxable year ("TY") 2013.[9]

The Parties

Petitioner is a corporation duly organized and existing under the laws of the Philippines, with business address at Suite 508 Padilla Delos Reyes Bldg., 232 Juan Luna St., Brgy. 289 Zone 027, Binondo Manila.[10] Its primary purposes are *(1)* "[t]o engage in the business of merchandising, distributing and marketing; whether as principal, agent, indenter or manufacturer's representative, wholesale or retail, such as but not limited to industrial, agricultural, manufacturing tools and equipment, engineering products, hardware items, construction materials, and electrical supplies and[/]or any and all kinds of goods, wares and merchandise[;]"[11] and *(2)* "[t]o engage in the business of import and export as principals, factors, representatives, agents or commissioned merchants with respect to buying, selling[,] trading or dealing in any and all kinds of goods, wares, products of all classes and description, distribution, import and export business[.]"[12]

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[6] Sec. 3. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:

> (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; xxx

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

[8] See *Records, Vol. 1, Resolution*, p. 449; the Court noted petitioner's Manifestation to rectify the erroneously stated amount for refund in the Petition for Review from Php2,194,583.72 to Php Php2,131,445.28.

[9] *Records, Vol. 1, PFR, Prayer*, p. 18.

[10] *Records, Vol. 2, Joint Stipulation of Facts and Issues ("JSFI"), par. 1(a)*, p. 507; *Records, Vol. 1, Exhibit "P-1," Certificate of Incorporation and Cover Sheet*, pp. 148-149.

[11] *Records, Vol. 2, JSFI, par. 1(b)*, p. 507; *Records, Vol. 1, Exhibit "P-2," Articles of Incorporation, Primary, par. 1*, p. 150.

[12] *Records, Vol. 1, Exhibit "P-2," Articles of Incorporation, Primary, par. 2*, p. 150.

Petitioner is registered with Revenue District Office ("RDO") No. 30, Binondo, Manila, as a VAT taxpayer with Taxpayer Identification No. 008-327-264-000.[13]

Respondent is the duly appointed Commissioner of Internal Revenue ("CIR"), vested with authority to administer and to enforce all laws pertaining to internal revenue taxes, and has jurisdiction to decide claims for refund.

The Facts

Petitioner has zero-rated and VATable sales *per* Quarterly VAT Returns filed for the second quarter of TY 2013.[14]

In its Administrative Claim for Excess Input VAT Refund[15] dated June 26, 2015 filed with BIR RDO No. 30 on even date, petitioner claimed the amount of Php2,131,445.28 as excess input VAT.[16] Attached thereto are its Application for Registration Information Update (BIR Form No. 1905)[17], Application for Tax Credits/Refunds (BIR Form No. 1914)[18], and a Sworn Certification[19] that the documents submitted are complete for the purpose of processing the claim for refund.

On August 6, 2015, petitioner, through a certain Jennifer S. Mañago, received Letter of Authority ("LOA")-030-2015-00000243 (SN: eLA201100089502)[20] dated July 30, 2015 issued by Officer-In-Charge ("OIC")-Regional Director of Revenue Region No. 6 – Manila, Araceli L. Francisco. The LOA authorizes Revenue Officer ("RO") Eliseo Raul Bacalzo and Group Supervisor ("GS") Fernando Matias of Revenue District No. 030 – Binondo to examine petitioner's books of accounts and other accounting records pursuant to a mandatory audit for its claim for VAT refund covering the period starting April 1, 2013 to June 30, 2013.

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[13] *Records, Vol. 2, JSFI, par. 1(c),* p. 507; *Records, Vol. 1, Exhibit "P-5," BIR Certificate of Registration,* unnumbered page between pp. 178 and 179.
[14] *Records, Vol. 2, JSFI, par. 1(d),* p. 507.
[15] *Id., Vol. 1, Exhibit "P-13," Administrative Claim,* p. 390.
[16] *Id., Vol. 2, JSFI, par. 1(e),* p. 508.
[17] *Id., Vol. 1, Exhibit "P-14," BIR Form No. 1905,* pp. 391-392.
[18] *Id., Exhibit "P-15," BIR Form No. 1914,* p. 393.
[19] *Id., Exhibit "P-16," Sworn Certification,* p. 394.
[20] *BIR Records, Letter of Authority,* p. 1.

On November 23, 2015, petitioner filed the present Petition for Review[21] with the Court.

The Court issued Summons[22] against respondent on December 4, 2015, ordering him to submit his Answer within fifteen (15) days from service.

Respondent filed an Answer[23] on December 22, 2015, interposing the following Special and Affirmative Defenses: *(1)* that the Petition for Review is premature, considering that petitioner's claim for refund or credit of unutilized tax payments attributable to zero-rated sales for the first quarter of TY 2013 in the amount of Php2,131,445.28 is still pending investigation; *(2)* that petitioner already applied the entire amount of input tax by carrying it over to succeeding taxable quarters; *(3)* that the remedies of tax refund and input tax carry-over are alternative and the choice of one precludes the other; *(4)* that a claim for refund is construed strictly against the claimant and should not be allowed unless proven explicitly and categorically; and *(5)* and that tax refunds are in the nature of tax exemptions, and claimants bear the burden of proving the factual basis or bases of their claims, and showing that the legislature intended to exempt them.[24]

On March 28, 2016, petitioner and respondent respectively submitted their Pre-Trial Brief[25] and Respondent's Pre-Trial Brief[26].

During the Pre-Trial Conference[27] held on March 29, 2016, the Court granted the parties a period of fifteen (15) days or until April 12, 2016 to submit their joint stipulation of facts and issues. Accordingly, on April 13, 2016 and April 22, 2016, the parties filed their Joint Stipulation of Facts and Issues[28] ("JSFI") and Supplemental JSFI[29], respectively.

On May 5, 2016, a Pre-Trial Order[30] was issued by the Court terminating the Pre-Trial Conference.

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[21] *Records, Vol. 1, PFR,* pp. 10-80, with annexes.
[22] *Id., Summons,* p. 81.
[23] *Id., Answer,* pp. 82-85.
[24] *Id., Answer, Special and Affirmative Defenses,* p. 83.
[25] *Id., Pre-Trial Brief,* pp. 130-147.
[26] *Id., Respondent's Pre-Trial Brief,* pp. 441-443.
[27] *Records, Vol. 1, Minutes of Hearing dated March 29, 2016,* p. 444.
[28] *Id., Vol. 2, JSFI,* pp. 507-509.
[29] *Id., Supplemental JSFI,* pp. 510-523.
[30] *Id., Pre-Trial Order ("PTO"),* pp. 525-530.

On August 22, 2016, the Court-appointed[31] Independent Certified Public Accountant ("ICPA") transmitted a softcopy of his ICPA Report, along with annexes and exhibits.[32]

In the course of the proceedings, petitioner presented the following witnesses: *(1)* Mr. Cyrus S. Chung[33], petitioner's President; *(2)* Ms. Cherilyn R. Chung[34], petitioner's Corporate Secretary and Treasurer; *(3)* Ms. Jennifer S. Mañago[35], petitioner's accounting head; and *(4)* Mr. Garry Pagaspas[36], the Court-appointed ICPA.

On October 28, 2016, petitioner filed its Formal Offer of Evidence[37] ("FOE"), offering *Exhibits* "P-1," "P-2," "P-3," "P-4," "P-5," "P-6," "P-7," "P-8," "P-9," "P-10," "P-11," "P-12," "P-13," "P-14," "P-15," "P-16," "P-17-A," "P-17-B," "P-18," "P-19-A," "P-19-B," "P-19-C," "P-19-D," "P-20-A," "P-20-B," "P-20-C," "P-20-D," "P-21-A," "P-21-B," "P-22," "P-23," "P-24," "P-25," "P-26," "P-26-A," "P-27," "P-27-A," "P-28," "P-28-A," "P-29," "P-29-A," "P-30," and "P-30-A."

On January 6, 2017, the Court admitted all of petitioner's exhibits, save for *Exhibit* "P-7" for failure to present the original for comparison, and *Exhibits* "P-8," "P-10," and "P-24" for failure to submit the duly marked exhibits.[38] The Court likewise noted that *Exhibits* "P-9," "P-11," and "P-25" respectively refer to *Exhibits* "P-44-Series," "P-45-Series," and "P-45-Series" to "P-48-Series" in the ICPA Report.

Unsatisfied, petitioner filed its Motion for Partial Reconsideration[39] on January 23, 2017. During the hearing[40] held on

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[31] *Records, Vol. 1, Motion to Commission Independent Certified Public Accountant,* pp. 453-457; *Records, Vol. 1, Exhibits "P-41" and "P-41a," Judicial Affidavit ("JA"),* pp. 458-505, with annexes; *Records, Vol. 1, Oath of Commission (For a CPA Firm),* p. 543; *Records, Vol. 1, July 19, 2016 Minute Resolution,* p. 542.
[32] *CD, ICPA Report with annexes.*
[33] *Records, Vol. 1, Exhibits "P-26" and "P-26-a," JA,* pp. 109-122; *Records, Vol. 2, July 19, 2016 Minutes of Hearing,* p. 542; *Transcript of Stenographic Notes ("TSN"), July 19, 2016 Hearing,* pp. 16-32.
[34] *Records, Vol. 1, Exhibits "P-27" and "P-27-a," JA,* pp. 123-129; *Records, Vol. 2, August 16, 2016 Minutes of Hearing,* p. 546; *Transcript of Stenographic Notes ("TSN"), August 16, 2016 Hearing,* pp. 7-13.
[35] *Records, Vol. 1, Exhibits "P-28" and "P-28-a," JA,* pp. 99-108; *Records, Vol. 2, September 19, 2016 Minutes of Hearing,* p. 549; *TSN, September 19, 2016 Hearing,* pp. 3-34.
[36] *Records, Vol. 2, Exhibits "P-30" and "P-30-a," JA,* pp. 551-567; *Records, Vol. 2, October 17, 2016 Minutes of Hearing,* p. 568; *TSN, October 17, 2016,* pp. 3-12.
[37] *Records, Vol. 2, Formal Offer of Evidence ("FOE"),* pp. 572-804, with annexes.
[38] *Id., Resolution,* pp. 810-811.
[39] *Id., Motion for Partial Reconsideration,* pp. 814-873, with annexes.
[40] *Id., January 23, 2017 Minutes of Hearing,* p. 874.

that date and as confirmed in an Order[41], respondent manifested that he has no evidence to present, as the report for investigation has yet to be approved by higher authorities. The parties were then granted thirty (30) days from receipt of the resolution on petitioner's Motion for Partial Reconsideration to submit their respective memoranda.

On February 17, 2017, the Court resolved to admit *Exhibits* "P-8" and "P-10," and reiterated its denial of *Exhibit* "P-7."[42]

Respondent's Memorandum[43] was submitted to the Court on March 23, 2017 *via* registered mail; while petitioner filed its Memorandum[44] on April 12, 2017.

Thereafter, the Court resolved to submit the case for decision through its Resolution[45] dated April 19, 2017; hence, this Decision.

The Issue[46]

WHETHER PETITIONER IS ENTITLED TO A REFUND OF THE AMOUNT OF PHP2,131,445.28 FOR THE SECOND QUARTER OF TY 2013.

Petitioner's Arguments[47]

Petitioner alleges that the Petition for Review is not premature as respondent failed to act on the administrative claim within one hundred and twenty (120) days, as prescribed by law; that petitioner is entitled to a VAT refund in the amount of Php2,131,445.28 for the second quarter of TY 2013; and that respondent's defense of its carry-over of unutilized excess input VAT does not have the effect of utilization as the input VAT claimed was deducted as "VAT Refund/TCC Claimed" in petitioner's quarterly VAT Return for the first quarter of 2015.

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[41] *Records, Vol. 2, Order,* pp. 875-876.
[42] *Id., Resolution,* pp. 882-883.
[43] *Id., Respondent's Memorandum,* pp. 885-888.
[44] *Id., Memorandum,* pp. 890-913.
[45] *Id., Resolution,* p. 915.
[46] *Id., PTO, B. Issue,* p. 526.
[47] *Records, Vol. 2, Memorandum, Discussion,* pp. 902-911.

Respondent's Counter-Arguments[48]

Respondent claims that *per* Table 10 of the ICPA Report, the entire amount of input tax of Php2,131,445.28 was applied against its output tax by carrying over the same to succeeding taxable quarters; that petitioner failed to provide the Court with the originals or Certified True Copies of the PEZA and SMBA Certificates of Registration of petitioner's clients or customers, which fact was admitted by the ICPA in his report; that the denial of *Exhibit* "P-7" is fatal to petitioner's Petition for Review; that while the ICPA recommended in his report for the VAT refund in the amount of Php1,612,443.35, such recommendation is still subject to the Court's discretion relating to the documentation requirements; that in a claim for refund or tax credit, the applicant must satisfy all the documentary and evidentiary requirements of an administrative claim; and that being a derogation of the sovereign authority, a statute granting tax exemption is strictly construed against the person claiming exemption.

The Ruling of the Court

Petitioner's claim was not prematurely filed, and the Court has jurisdiction over the instant case.

The Court must first determine whether petitioner's Petition for Review was filed prematurely, to establish its jurisdiction over the case at bar.

Anent the timeliness of filing the administrative claim for refund, *Section 112(A) of the 1997 NIRC* provides as follows:

> SEC. 112. *Refunds or Tax Credits of Input Tax.* -
>
> (A) *Zero-Rated or Effectively Zero-Rated Sales.*- <u>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</u>, except transitional input tax, to the extent that such input tax has not been applied

[48] *Records, Vol. 2, Respondent's Memorandum, Argument/Discussion,* pp. 886-887.

> 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.
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> xxx xxx xxx[49]

As to the timeliness of the judicial claim for refund, *Section 112(C) of the 1997 NIRC,* in relation to *RR No. 16-2005*[50], is instructive, to wit:

> SEC. 112. *Refunds or Tax Credits of Input Tax.* –
>
> xxx xxx xxx
>
> *(C) Period within which Refund or Tax Credit of Input Taxes shall be Made.* - In proper cases, <u>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</u> filed in accordance with Subsections (A) and (B) hereof.
>
> <u>In case of</u> full or partial denial of the claim for tax refund or tax credit, or the <u>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</u> from the receipt of the decision denying the claim or <u>after the expiration of the one hundred twenty day-period, appeal</u> the decision or <u>the unacted claim with the Court of Tax Appeals.</u>
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> xxx xxx xxx[51]

Corollary, *Section 4.112-1(d) of RR No. 16-2005* states the following:

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[49] Underscoring ours.
[50] Consolidated Value-Added Tax Regulations of 2005, effective November 1, 2005.
[51] Italics retained, underscoring ours.

Sec. 4.112-1. *Claims for Refund/Tax Credit Certificate of Input Tax.*

xxx xxx xxx

(d) Period within which refund or tax credit certificate/refund of input taxes shall be made

In proper cases, the Commissioner of Internal Revenue shall grant a tax credit certificate/refund 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 subparagraph (a) above.

In case of full or partial denial of the claim for tax credit certificate/refund as decided by the Commissioner of Internal Revenue, the taxpayer may appeal to the Court of Tax Appeals (CTA) within thirty (30) days from the receipt of said denial, otherwise the decision shall become final. However, if no action on the claim for tax credit certificate/refund has been taken by the Commissioner of Internal Revenue after the one hundred twenty (120) day period from the date of submission of the application with complete documents, the taxpayer may appeal to the CTA within 30 days from the lapse of the 120-day period.[52]

The above provisions were applied in Philippine jurisprudence in the case of *Commissioner of Internal Revenue v. Mindanao II Geothermal Partnership*[53], wherein the Highest Tribunal held that the taxpayer can file a judicial claim in one of two ways, *viz.*: *(1)* within thirty (30) days after the CIR denies the claim within the one hundred and twenty (120)-day period; or *(2)* within thirty (30) days from the expiration of the one hundred and twenty (120)-day period, if the CIR does not act within the one hundred and twenty (120)-day period.

Moreover, the Supreme Court in *Rohm Apollo Semiconductor Phils. v. Commissioner of Internal Revenue*[54] reminded taxpayers that when the one hundred and twenty (120)-day period lapses and there is inaction on the part of the CIR, the taxpayer must no longer await the decision. This is because the CIR's inaction is already deemed a denial of the refund claim; hence, the taxpayer must file an appeal

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[52] Italics retained, underscoring ours.
[53] G.R. No. 191498, January 15, 2014, 713 SCRA 645.
[54] G.R. No. 168950, January 14, 2015, 745 SCRA 663.

within thirty (30) days from the lapse of the one hundred and twenty (120)-day waiting period.

The above is consistent with the jurisdiction of the division of the CTA under *Section 3(a)(2), Rule 4 of the RRCTA*[55]. It provides that the Court in Division shall exercise exclusive original or appellate jurisdiction to review, by appeal, the inaction by the CIR in cases involving refunds of internal revenue taxes, where the *1997 NIRC* provides a specific period for action.

In sum, based on *Section 112(A) of the 1997 NIRC*, petitioner has two (2) years from the close of the taxable quarter when the sales were made to file its administrative claim with the CIR. The latter is given one hundred and twenty (120) days from submission of complete supporting documents to decide the claim. In case of inaction by the CIR after one hundred and twenty (120) days from the date of submission of the application with complete documents, *Section 112(C) of the 1997 NIRC*, in relation to *RR No. 16-2005*, grants petitioner thirty (30) days to file its judicial claim with the CTA. If the CIR does not decide within that period, taxpayers must elevate the matter to the CTA within thirty (30) days; otherwise, the Court will be deprived of jurisdiction to hear and determine the case.

The subject period covers April 1, 2013 to June 30, 2013, the second quarter of TY 2013; hence, the taxable quarter closes on June 30, 2013. Therefrom, petitioner had two (2) years or until June 30, 2015 to file its administrative claim for refund.

Records reveal that petitioner timely filed its administrative claim for refund on June 26, 2015, four (4) days before due date. Thereafter, the CIR has one hundred and twenty (120) days or until October 24, 2015 to act on the claim. Due to the inaction of respondent, petitioner had thirty (30) days or until November 23, 2015 to appeal to the CTA. Therefore, the present Petition for Review was filed just in time on November 23, 2015.

Having settled that the petitioner timely file the instant Petition for Review, the Court shall now proceed to determine petitioner's compliance with the other requisites, pursuant to the afore-quoted provision of *Section 112(A) of the 1997 NIRC*, to wit:

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

1. Petitioner is VAT-registered;

2. There must be zero-rated or effectively zero-rated sales;

3. The input taxes were incurred or paid;

4. Such input taxes are attributable to zero-rated or effectively zero-rated sales; and

5. The input taxes were not applied against any output tax liability.

Petitioner is VAT-registered.

It is undisputed that petitioner is registered with the BIR as a VAT taxpayer, as evidenced by its BIR Certificate of Registration No. C0000579258 and Taxpayer's Identification Number 008-327-264-000.[56]

Petitioner has zero-rated or effectively zero-rated sales.

With regard to the requisite that the taxpayer should be engaged in zero-rated or effectively zero-rated sales, records show that petitioner is duly registered with the Securities and Exchange Commission ("SEC")[57] and is primarily engaged in the business of merchandising, distributing, and marketing, whether as principal, agent, indenter or manufacturer's representative wholesale, or retail, such as but not limited to industrial, agricultural, manufacturing tools and equipment, engineering products, hardware items, construction materials, and electrical supplies and or any all kinds of goods, wares and merchandise.[58]

Petitioner avers that majority of its clients are entities doing business within the economic zone and registered with the Philippine Economic Zone Authority ("PEZA") and Subic Bay Metropolitan

[56] *Records, Vol. 1, Exhibit "P-5," Bureau of Internal Revenue Certificate of Registration,* p. 178.
[57] *Id., Exhibit "P-1," SEC Certificate of Incorporation,* p. 148.
[58] *Id., Exhibit "P-2," Articles of Incorporation,"* p. 150.

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Authority ("SBMA"),[59] and that the sales to said buyers are classified as effectively zero-rated transactions, pursuant to *Section 106(A)(2)(c) of the 1997 NIRC of 1997*[60], to wit:

> SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* –
>
> (A) *Rate and Base of Tax* - xxx
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> xxx xxx xxx
>
> (c) Sales to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects such sales to zero rate.

Furthermore, pertinent provisions of *Revenue Regulations ("RR") No. 16-2005* states:

> SEC. 4.106-5. *Zero-Rated Sales of Goods or Properties.* - xxx
>
> The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> xxx xxx xxx
>
> (c) '*Sales to Persons or Entities Deemed Tax-exempt under Special Law or International Agreement*'. - Sales of goods or property to persons or entities who are tax-exempt under special laws, e.g. sales to enterprises duly registered and accredited with the Subic Bay Metropolitan Authority (SBMA) pursuant to R.A. No. 7227, sales to enterprises duly registered and accredited with the Philippine Economic Zone Authority (PEZA) or international agreements to which the Philippines is signatory, such as, Asian Development Bank (ADB), International Rice Research Institute (IRRI), etc., shall be effectively subject to VAT at zero-rate.

It is clear from the foregoing that the sales of goods to entities registered with PEZA and SBMA are subject to VAT at zero percent (0%) rate.

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[59] *Records, Vol. 1, PFR, par. 13,* p. 12.
[60] *Id., par. 14,* p. 15.

In its amended Quarterly VAT Return for the 2nd quarter of TY 2013,[61] petitioner declared VATable sales, its corresponding output VAT, as well as zero-rated sales, as follows:

Vatable Sales/Receipts	Php 5,500,930.34[62]
Output VAT	660,111.64[63]
Zero-Rated Sales/Receipts	24,781,862.34[64]

To prove that its clients are duly registered with PEZA and SBMA, petitioner submitted the letter of PEZA Director General Lilia B. De Lima dated February 16, 2016 addressed to CCI President Mr. Cyrus S. Chung, confirming the issuance of VAT zero-rating certifications to the following petitioner's clients/purchasers:[65]

	NAME OF ENTERPRISE	VAT CERT. NO.	VAT CERT. DATE
1	Alpha Techno Toolings Inc.	730	17-Jan-13
2	Applied Machining Corp.	939	28-Jan-13
3	Cebu AOI Development Tech. Corp.	1636	24-May-13
4	Citizen Machinery Philippines, Inc.	97	11-Dec-12
5	Claymount Assemblies Phils. Inc.	454	07-Jan-13
6	Daitoh Precisions, Inc.	1578	22-Apr-13
7	Daiwa Seiko Phils. Corp.	448	07-Jan-13
8	Delfingen Ph-Filipinas, Inc		
	Formerly Sofandou (Phils.) Inc.	1569	18-Apr-13
9	Delta Design Phils. LLC	782	18-Jan-13
10	E N Corporation	1259	15-Feb-13
11	Exas Phils. Inc.	1358	27-Feb-13
12	Famous Secret Precision Machining	362	03-Jan-13
13	Fatec Corporation	1073	01-Feb-13
14	Ferusche Stainless Inc.	1658	05-Jun-13
15	Firstec Metallics, Inc.	14	04-Dec-12
16	Fujitsu Die-Tech Corp. of the Phils.	450	07-Jan-13
17	Gunma Gohkin Phil. Corp.	313	28-Dec-12
18	Harada Automotive Antenna Phils. Inc.		
	Formerly Nippon Antenna Phils. Inc.	1173	06-Feb-13
19	Hitachi Industrial Machinery Phils. Corp.	229	12-Dec-12
20	Honda Parts Manufacturing Corp.	121	13-Dec-12
21	Imasen Phil. Manufacturing Corp.	633	15-Jan-13
22	Ina Micro Opto Corporation	1367	01-Mar-13
23	JFS Precision Tech. Corp.	1732	09-Jul-13
24	Knowles Electronics Phils. Corp.	968	28-Jan-13
25	Kodachi Seiki Philis. Inc.	1459	13-Mar-13
26	Laguna AutoParts Manufacturing Corp.	79	10-Dec-12
27	Laguna Metts Corp.	266	26-Dec-12
28	Makoto Metal Tech. Inc.	167	17-Dec-12

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[61] *Records, Vol. 1, Exhibit "P-19-B,"* p. 401.
[62] *Id., line 15A,* p. 401.
[63] *Id., line 15B,* p. 401.
[64] *Id., line 17,* p. 401.
[65] *Id., Vol. 1, Exhibit "P-6,"* pp. 179-185.

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29	Manufacturing Automation Solutions	1694	27-Jun-13
30	Meinan Phils. Inc.	734	17-Jan-13
31	Menima Casting Products Inc.	264	26-Dec-12
32	Micro Mechanics Tech. International Inc.	1413	08-Mar-13
33	Micron Precision Phils. Inc.	839	21-Jan-13
34	MKP Inc.	887	23-Jan-13
35	MTE Technology Inc.	789	18-Jan-13
36	Nakashima Phils. Corp.		
	Formerly Mikado Phils. Corp.	1032	30-Jan-13
37	New Electronics System Co. Inc.	431	07-Jan-13
38	Nidec Phils. Corp.	428	07-Jan-13
39	Nidec Precision Phils. Corp.	443	07-Jan-13
40	Nuvali Steel Processing Center Inc.	1747	15-Jul-13
41	Orbis Precision Tech. Inc.	306	28-Dec-12
42	Parts Phils. Inc.	1263	18-Feb-13
43	Penta Technological Products Inc.	747	17-Jan-13
44	Philippine Kenko Corp.	1552	12-Apr-13
45	Phil. Nagano Seiko Inc.	861	22-Jan-13
46	Phil. Precision Technology Inc.	1720	08-Jul-13
47	Philippine Sanitary Fittings Inc.	1054	13-Jan-13
48	Philippines TRC Inc.	879	22-Jan-13
49	Precise Parts Cooperation Inc.	1907	16-Oct-13
50	Precise Techno Inc.	1313	20-Feb-13
51	Prophile Sound Industries Inc.	165	17-Dec-12
52	Seo Jin Tronics Inc.	1709	02-Jul-13
53	Shimano Phils. Inc.	1979	18-Dec-13
54	Sinag Precision Manufacturing Laguna	1827	27-Aug-13
55	Sonion Philippines Inc.	1095	01-Feb-13
56	Suminac Philippines Inc.	355	02-Jan-13
57	Sunnelit Philippines Corp.	695	16-Jan-13
58	T&S Laser Solutions Inc.	30	05-Dec-12
59	Tamiya Phils. Inc.	1939	11-Nov-13
60	TMX Philippines Inc.	1001	29-Jan-13
61	Tsukuba Phil. Diecasting Corp.	718	17-Jan-13
62	Ure-Shi Technologies Inc.	2036	28-Oct-14
63	Vitalo Packaging International Inc.	395	04-Jan-13
64	Wacker Neuson Manila, Inc.		
	Formerly Wacker Machinery Phils. Inc.	383	04-Jan-13
65	Yutaka Manufacturing Phils. Inc.	769	18-Jan-13

Having been confirmed or certified by PEZA, only sales made to the above-mentioned clients shall qualify for VAT zero-rating, provided that the evidence[66] presented complies with the invoicing requirements, pursuant to *Section 11[67] of Republic Act ("RA") No. 9337, amending Section 113 of the 1997 NIRC.*

[66] *ICPA Report, FOE Green Folder 2 of 3, Exhibit "P-9" series; Box 1, Exhibit "P-44" series.*

[67] SEC. 11 Section 113 of the same code, as amended, is hereby further amended to read as follows:

"SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* -

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

(1) A *VAT invoice* for every sale, barter or exchange of goods or properties; ***and***

(2) A *VAT official receipt* 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:

The Court-commissioned ICPA noted that zero-rated sales amounting to Php231,288.24 were attributable to out-of-period sales, to discrepancy on the figures reported *vis-à-vis* the amount on sales invoice, and to other factors for which he was not able to fully account.[68] Hence, the Court disallows the said zero-rated sales.

Further study of the sales invoices issued by petitioner to the following customers/clients reveal that VAT zero-rating certifications were not issued by PEZA, SBMA, or BOI. Thus, zero-rated sales amounting to Php1,180,652.95 is also disallowed, to wit:

INV. NO.	CUSTOMER'S NAME	AMOUNT	EXHIBIT
1062	Silan Technologies Corporation	Php 1,010.00	P-44-11
1072	Turu Santechno Corporation	35.00	P-44-19
1073	Turu Santechno Corporation	26,800.00	P-44-20
1128	Histotech Precision Inc.	3,500.00	P-44-52
1226	Turu Santechno Corporation	2,800.00	P-44-105
1243	Silan Technologies Corporation	2,400.00	P-44-107
1261	Polarmarine Incorporated	1,187.50	P-44-118
1264	Polarmarine Incorporated	27,000.00	P-44-121
1278	Polarmarine Incorporated	22,290.00	P-44-131
1279	Polarmarine Incorporated	40,680.00	P-44-132
1328	Silan Technologies Corporation	1,440.00	P-44-163
1348	Silan Technologies Corporation	1,320.00	P-44-174
1376	Polarmarine Incorporated	3,100.00	P-44-193

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(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:

(a) The amount of the tax shall be shown as a separate item in the invoice or receipt;

(b) If the sale is exempt from value-added tax, the term "**VAT-exempt sale**" shall be written or printed prominently on the invoice or receipt;

(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;*

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the breakdown of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: *Provided,* That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

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

(4) In the case of sales in the amount of one thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and taxpayer identification number (TIN) of the purchaser, customer or client."

[68] *ICPA Report, FOE Green Folder 1 of 3, Exhibit "P-29," par. G,* p. 10.

1555	Turu Santechno Corporation	5,600.00	P-44-301
1731	Turu Santechno Corporation	11,382.00	P-44-397
1747	Polarmarine Incorporated	5,400.00	P-44-408
1748	Polarmarine Incorporated	1,120.00	P-44-409
1749	Polarmarine Incorporated	5,800.00	P-44-410
1750	Polarmarine Incorporated	4,100.00	P-44-411
1752	Polarmarine Incorporated	37,350.00	P-44-412
1797	Turu Santechno Corporation	400.00	P-44-443
1955	Turu Santechno Corporation	1,440.00	P-44-533
2021	Turu Santechno Corporation	5,600.00	P-44-575
2152	Polarmarine Incorporated	42,800.00	P-44-659
2153	Polarmarine Incorporated	5,800.00	P-44-660
2258	Citizen Machinery Phils. Inc.	9,500.00	P-44-718
2337	Polarmarine Incorporated	15,750.00	P-44-766
2341	Polarmarine Incorporated	4,500.00	P-44-767
2342	Polarmarine Incorporated	58,600.00	P-44-768
2361	Silan Technologies Corporation	2,400.00	P-44-782
2410	Ebara Benguet Inc.	19,500.00	P-44-809
2431	Turu Santechno Corporation	3,300.00	P-44-820
2472	Multiplast Corporation	13,050.00	P-44-845
1414	Premtol E.K.	146,156.57	P-44-871
1598	Mr. Kevin Tan	48,434.66	P-44-872
1880	Premtol E.K.	99,271.17	P-44-873
1881	Premtol E.K.	235,050.38	P-44-874
2040	Premtol E.K.	44,429.97	P-44-875
2225	Premtol E.K.	220,355.70	P-44-876
	TOTAL	**PHP1,180,652.95**	

After a study of the documents submitted, the Court finds that out of the Php24,781,862.34 zero-rated sales declared *per* VAT Return filed for the second quarter of TY 2013, only the amount of Php23,369,921.15 qualifies for VAT zero-rating, computed as follows:

Zero-rated Sales *per* BIR Form No.2550-Q			Php 24,781,862.34
Disallowances:			
Per ICPA findings	Php	231,288.24	
Per Court verification		1,180,652.95	Php 1,411,941.19
VALID ZERO-RATED SALES			**PHP 23,369,921.15**

Petitioner had input taxes attributable to zero-rated sales.

Having resolved that petitioner had valid VAT zero-rated sales for the second quarter of TY 2013 in the amount of Php23,369,921.15, the Court proceeds to determine the amount of input VAT attributable thereto.

N/

In its Quarterly VAT Return for the second quarter TY 2013,[69] petitioner declared input VAT of Php2,791,566.92 on its domestic purchases and importation of goods other than capital goods, of which the amount of Php2,131,455.28 is the subject claim, as shown below:

Input VAT:	
Domestic purchases of goods other than cap. Goods	Php 971,257.68
Importation of goods other than cap. Goods	1,820,309.24
Total input VAT	Php 2,791,566.92
Less: Output VAT	660,111.64
INPUT VAT *PER* CLAIM	**PHP 2,131,455.28**

In support of its input VAT on current purchases/importations of goods amounting to Php2,791,566.92, petitioner presented schedule of purchases,[70] various official receipts ("ORs") and invoices,[71] schedule of importation,[72] Statement and Receipts of Duties Collected on Informal Entry ("SRDCIE"), Import Entry Internal Revenue Declarations ("IEIRDs"), and Bureau of Customs ("BOC") ORs[73] issued by its suppliers, which were all examined by the Court-commissioned ICPA, who noted the following:

Input tax properly supported			Php	2,272,554.99[74]
Input Tax:				
Not under CCI's complete name	Php	25,813.21[75]		
Without or incomplete address		482,487.81[76]		
Without of incorrect TIN		10,039.53[77]	Php	518,340.55
Unaccounted				671.39[78]
TOTAL INPUT VAT			**PHP**	**2,791,566.93[79]**

The above-noted exceptions found by the ICPA in the aggregate amount of Php519,011.94 (Php518,340.55 plus Php671.39) are disallowed for not being properly substantiated by VAT invoices or ORs, as prescribed under *Sections 110(A) and 113(A)(B) of the 1997*

[69] *Records, Vol. 1, Exhibit "P-19-B,"* pp. 401-402.
[70] *Id., Vol. 2, Exhibit "P-10," series,* pp. 856-873.
[71] *ICPA Report, FOE Green Folder 3 of 3, Exhibit "P-11" series, also referred as Exhibits "P-45" to "P-48" series.*
[72] *Records, Vol. 2, Exhibit "P-24," series,* pp. 753-756.
[73] *Box 1, Exhibit "P-25" series.*
[74] *ICPA Report, FOE Green Folder 1 of 1, Exhibit "P-29," Table 5.*
[75] *Id., Table 6.*
[76] *Id., Table 7.*
[77] *Id., Table 8.*
[78] *Id., Table 9,* p. 12.
[79] Rounding off difference of Php0.01.

NIRC, in relation to *Sections 4.110-2, 4.110-8 and 4.113-1 of RR No. 16-05.*

Further verification of the ICPA Report, together with the supporting documents, reveals that the additional input VAT of Php30,692.38 shall likewise be disallowed for the reasons stated hereunder:

EXHIBIT	SUPPLIER'S NAME	INPUT TAX	REASON
P-45-1	Best Price	Php 267.86	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-2	Besteel Merchandising	81.75	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-3	Besteel Merchandising	196.87	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-4	Besteel Merchandising	63.00	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-5	Cham Samco	79.50	VAT not Separately Indicated
P-45-6	Cham Samco	317.25	VAT not Separately Indicated
P-45-49	GYH Industrial	1,025.78	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-67	Best Price	1,253.57	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-68	Best Price	107.89	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-69	Best Price	124.18	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-70	Best Price	274.82	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-71	Best Price	274.82	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-72	Besteel Merchandising	37.35	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-73	Besteel Merchandising	77.55	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-74	Besteel Merchandising	64.80	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-75	Besteel Merchandising	375.00	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-76	Besteel Merchandising	198.45	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-77	Besteel Merchandising	461.25	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-78	Besteel Merchandising	253.33	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-79	Besteel Merchandising	77.85	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-80	Besteel Merchandising	174.37	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-110	Grind Tech Abrasives	334.80	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-111	Grind Tech Abrasives	56.25	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-112	Grind Tech Abrasives	858.75	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-113	Grind Tech Abrasives	291.45	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-114	Grind Tech Abrasives	941.25	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-115	Grind Tech Abrasives	45.00	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-116	GYH Industrial	416.87	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-117	GYH Industrial	108.00	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-118	GYH Industrial	171.45	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-119	GYH Industrial	965.25	With noted alterations or additions in the supporting Invoice without

			countersignature of the authorized representative of the supplier
P-45-120	GYH Industrial	458.70	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-121	GYH Industrial	189.38	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-122	Iris Industrial	803.57	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-123	Iris Industrial	803.57	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-124	Iris Industrial	803.57	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-126	Lim Yee Wan	38.68	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-127	Lim Yee Wan	25.45	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-128	Lim Yee Wan	22.18	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-131	Limhuaco Metal	209.25	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-132	Limhuaco Metal	202.18	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-133	MJS Appliance	7,500.00	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-134	MJS Appliance	3,750.00	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-135	Office Master	2,098.40	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-138	Proton Plastic Packaging	892.86	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-143	Screw City Hardware	9.75	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-144	Screw City Hardware	27.60	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-145	Screw City Hardware	191.23	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-146	Serkline Trading	76.61	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-147	Serkline Trading	64.29	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-148	Simplex Industrial	3.21	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-149	Success Lightings	113.93	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-157	Best Price Multi Sales	137.41	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-158	Best Price Multi Sales	1,253.57	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-159	Besteel Merchandising	31.14	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-160	Besteel Merchandising	89.89	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-161	Besteel Merchandising	51.30	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-162	Besteel Merchandising	36.93	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-163	Besteel Merchandising	335.52	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-164	Besteel Merchandising	178.65	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-165	Besteel Merchandising	81.00	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
P-45-166	Besteel Merchandising	236.25	With noted alterations or additions in the supporting Invoice without countersignature of the authorized representative of the supplier
	TOTAL	**PHP30,692.38**	

Thus, out of petitioner's total reported input VAT on current purchases/importations of Php2,791,566.92 for the second quarter of 2013, only the amount of Php2,241,862.60 represents its valid input VAT, as computed below:

Input VAT *per* Return		Php 2,791,566.92
Less: Disallowances		
Per ICPA findings	Php 519,011.94	
Per Court verification	30,692.38	Php 549,704.32
VALID INPUT VAT		**PHP 2,241,862.60**

However, a portion of the Php2,241,862.60 shall be applied against the reported output VAT liability of Php660,111.64.[80] Consequently, only the remaining input VAT of Php1,581,750.96 can be attributed to the entire zero-rated sales amounting to Php24,781,862.34 and only the input VAT of Php1,491,631.04 is attributable to the valid zero-rated sales of Php23,369,921.15, computed as follows:

Valid Input VAT		Php	2,241,862.60
Less: Output VAT			660,111.64
Excess Input VAT		Php	1,581,750.96
Multiply by Percent of Zero-rated Sales to Total Sales:			
Valid Zero-Rated Sales	23,369,921.15		
Total Zero-Rated Sales	24,781,862.34		94.3025218%
EXCESS INPUT VAT ATTRIBUTABLE TO ZERO-RATED SALES		PHP	1,491,631.04

Petitioner's input taxes are more than enough to cover output taxes. However, *per* evidence actually admitted, excess input taxes were carried over to succeeding quarters.

As presented in the preceding computation, petitioner's excess input taxes were more than enough to cover output tax liability. However, an examination of the Quarterly VAT Returns reveals that the excess input VAT in the subject claim was carried to the succeeding periods but failed to provide evidence that it was deducted as "VAT Refund/TCC Claimed."

As alleged by petitioner, the claimed input VAT remained unutilized until it was deducted as "VAT Refund/TCC Claimed" in its Quarterly VAT Return for the second quarter of TY 2015.[81] Similarly, the ICPA also noted that input taxes for the 2nd quarter of TY

[80] *Records, Vol. 1, Exhibit "P-19-B," line 19B,* p. 401.
[81] *Id., Vol. 2, petitioner's Memorandum, par. 52,* p. 909.

2013 in the amount of Php2,943,224.19 was deducted as "VAT Refund/TCC Claimed" in the 2nd quarter of TY 2015.[82]

However, a scrutiny of the original return (BIR Form No. 2550-Q) for the 2nd quarter of TY 2015[83] reveals that the amount deducted as "VAT Refund/TCC Claimed" was Php2,194,583.72.[84] This amount is the excess input tax for the **3RD QUARTER** of TY 2013, and not for the claim period of **2ND QUARTER** of TY 2013, for reference:

Input VAT on goods other than capital goods	Php 586,650.58[85]
Input VAT on Importation	2,662,153.00[86]
Total	Php 3,248,803.58
Less: Output VAT	1,054,219.86[87]
EXCESS INPUT FOR THE 3RD QUARTER OF TY 2013	**PHP 2,194,583.72**

Subsequently, petitioner amended its BIR Form No. 2550-Q for the 2nd quarter of 2015 on February 12, 2016, and indicated an amount deducted as "VAT Refund/TCC Claimed" of Php3,653,420.12[88], which can be reconciled as follows:

2ND QTR. OF 2015			
Input VAT on:			
Cap. Goods not exceeding 1M		Php 7,714.29	
Goods other than cap. Goods		443,770.31	
Importation of Goods		2,231,498.00	
Others		29,130.04	
Total		Php2,712,112.64	
Input Vat on Cap. Good from Previous Qtr.	Php 498,010.62		
Input Vat on Cap. Good deferred to succeeding Qtr.	465,878.46	Php 32,132.16	
Total		Php2,744,244.80	
Less:			
Output VAT	Php1,216,431.90		
Input tax on sale to government closed to expense	6,060.56	Php1,222,492.46	
EXCESS INPUT TAX FOR THE 2ND QTR. OF 2015			**Php1,521,752.34**
2ND QTR. OF 2013			
Input VAT on:			
Goods other than cap. Goods		Php 971,257.68	
Importation of Goods		1,820,309.24	
Total		Php2,791,566.92	
Less:			
Output VAT		Php 660,111.64	
EXCESS INPUT TAX FOR THE 2ND QTR OF 2013 (SUBJECT CLAIM)			**2,131,455.28**
DEDUCTED AS "VAT REFUND/TCC CLAIMED" IN THE 2ND QTR OF CY 2015			**3,653,207.62[89]**

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[82] *ICPA Report, FOE Green Folder 1 of 3, Exhibit "P-29," par. A,* p. 12.
[83] *Records, Vol. 2, Exhibit "P-18,"* p. 725.
[84] *Records, Vol. 2, Exhibit "P-18," line 23D,* p. 725.
[85] *Records, Vol. 1, Exhibit "P-19-C," line 21F,* p. 403.
[86] *Records, Vol. 1, Exhibit "P-19-C," line 21H,* p. 403.
[87] *Records, Vol. 1, Exhibit "P-19-C," line 19B,* p. 403.
[88] *Green Folder, Exhibit P-43".*
[89] Difference of Php212.50.

However, this document (amended BIR Form 2550-Q for the 2nd quarter of 2015) was not formally offered by petitioner and was never admitted by the Court, thus, cannot be given evidentiary value. Consequently, *per* evidence actually offered and admitted, the subject claim was carried-over to the succeeding periods.

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

A T T E S T A T I O N

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