Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

AMADEUS MARKETING PHILIPPINES, INC.
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 8628
For: Refund

Members:
DEL ROSARIO, P.J., *Chairperson*
UY, and
MINDARO-GRULLA, JJ.

Promulgated:
JAN 22 2016; 2:01 p.m.

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DECISION

MINDARO-GRULLA, J.:

This is a Petition for Review filed on April 10, 2013 by Amadeus Marketing Philippines, Inc. as petitioner, against Commissioner of Internal Revenue as respondent, before the Court in Division, pursuant to Section 7(a)(2) of Republic Act (RA) No. 1125, An Act Creating the Court of Tax Appeals, as amended[1], as well as Rule 4, Section 3(a)(2), in relation to Rule 8, Section 4(a) of the Revised Rules of the Court of Tax Appeals (RRCTA)[2], as amended.

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[1] Sec. 7. *Jurisdiction*. – The CTA shall exercise:

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

x x x x x x

(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds or internal revenue taxes, fees of 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 provides a specific period for action, in which case the inaction shall be deemed a denial;

x x x x x x

[2] Rule 4, Sec. 3. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:

Petitioner seeks the refund of the amount of ₱30,118,219.40, allegedly representing its unutilized input value-added tax (VAT) attributable to its zero-rated sales/receipts for the four quarters of calendar year (CY) 2011.

Petitioner Amadeus Marketing Philippines, Inc. is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with office address at 36th Floor, LKG Tower, 6801 Ayala Avenue, Makati City. It is principally engaged in the business of marketing the automated computerized reservations system

> (a) Exclusive original over or appellate jurisdiction to review by appeal the following:
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> x x x x x x
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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; *Provided, further,* that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules;
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> x x x x x x
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> Rule 8. Sec. 4. *Where to appeal; mode of appeal.*-
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> (a) An appeal from a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal.
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> x x x x x x

"Amadeus Global Travel Distribution", which incorporates a software package that performs various functions, including real-line airlines seat reservations, schedules bookings for a variety of air, boat, train, package tours, car rental and hotel services, automatic ticketing and fare pricing displays in the Philippines.[3] Petitioner is duly registered with the Bureau of Internal Revenue (BIR) with Certificate of Registration No. OCN 9RC0000133815 and Taxpayer's Identification (TIN) No. 005-374-900-000.[4]

On the other hand, respondent is the duly appointed Commissioner of the Bureau of Internal Revenue vested with authority, among others, to act upon and approve claims for refund or tax credit of overpaid or erroneously paid internal revenue taxes. Respondent holds office at the 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.

On August 13, 1997, petitioner and Amadeus IT Group S.A., a duly registered corporation under the laws of Spain[5], entered into an ACO (Amadeus Commercial Organization) Agreement.[6]

Petitioner, through the Electronic Filing and Payment System (EFPS), filed its Quarterly VAT Returns for CY 2011 on the following dates:

PERIOD COVERED	VAT RETURN	DATE FILED
First Quarter	Original Amended	April 20, 2011[7] October 24, 2011[8] June 26, 2012[9] June 29, 2012[10]
Second Quarter	Original	July 20, 2011[11]
	Amended	June 26, 2012[12]

[3] Exhibit "P-3".
[4] Exhibit "P-2".
[5] Exhibit "P-13".
[6] Exhibit "P-4".
[7] Exhibit "P-15".
[8] Exhibit "P-15-A".
[9] Exhibit "P-15-B".
[10] Exhibit "P-15-C".
[11] Exhibit "P-16".

		July 25, 2012[13]
		November 27, 2012[14]
Third Quarter	Original Amended	October 21, 2011[15] October 24, 2011[16] June 26, 2012[17] July 25, 2012[18]
		November 27, 2012[19]
Fourth Quarter	Original	January 19, 2012[20]
	Amended	June 26, 2012[21]
		July 25, 2012[22] November 27, 2012[23]

On November 29, 2012, petitioner filed its claim for refund before the BIR Revenue District Office No. 50 for its alleged unutilized input VAT for the first to fourth quarters of CY 2011.[24]

Thereafter, petitioner filed the instant Petition for Review before this Court on April 10, 2013, which was docketed as CTA Case No. 8628.[25]

Respondent filed her Answer[26] via registered mail on June 7, 2013 and received by the Court on June 20, 2013, interposing the following Special and Affirmative Defenses:

> "1. Respondent reiterates and repleads the preceding paragraphs of the answer as part of his Special and Affirmative Defenses;

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[12] Exhibit "P-16-A".
[13] Exhibit "P-16-B".
[14] Exhibits "P-16-C" and "P-16-D".
[15] Exhibit "P-17".
[16] Exhibit "P-17-A".
[17] Exhibit "P-17-B".
[18] Exhibit "P-17-C".
[19] Exhibits "P-17-D" and "P-17-E".
[20] Exhibit "P-18".
[21] Exhibit "P-18-A"
[22] Exhibit "P-18-B".
[23] Exhibits "P-18-C" and "P-18-D".
[24] Exhibit "P-23".
[25] Docket, pp. 6-17.
[26] Docket, pp. 55-57.

2. Petitioner's claim for refund is still subject to investigation by the Bureau of Internal Revenue;

3. Petitioner failed to demonstrate that the tax, which is the subject of this case, was erroneously or illegally collected;

4. Taxes paid and collected are presumed to be made in accordance with the laws and regulations, hence, not refundable;

5. It is incumbent upon the Petitioner to show that it has complied with the provision of Section 204(C) in relation to Section 229 of the 1997 Tax Code, as amended;

6. Petitioner's claim for refund or issuance of tax credit certificate in the amount of Php 30,118,219.40, as alleged unutilized input VAT paid on purchases of goods and services attributable to its zero-rated sales for the 1^{st}, 2^{nd}, 3^{rd} and 4^{th} quarters of taxable year 2011 was not fully substantiated by proper documents, such as sales invoices, official receipts and others.

7. In an action for tax credit or refund, the burden is upon the taxpayer to prove that he is entitled thereto, and failure to discharge the said burden is fatal to the claim (*Emmanuel & Zenaida Aguilar v. Commissioner, CA-GR No. Sp. 16432, March 30, 1990 cited in Aban, Law on Basic Taxation in the Philippines, 1^{st} Edition, p. 206);*

8. Claims for refund are construed strictly against the claimant, the same partake the nature of exemption from taxation (*Commissioner of Internal Revenue vs. Ledesma,* 31 SCRA 95) and as such, they are looked upon with disfavor. (*Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 121)."*

After the pre-trial conference and the subsequent submission and approval of the parties' Joint Stipulation of Facts and Issues, trial ensued.

Petitioner presented and formally offered pieces of documentary and testimonial evidence. In the Resolution[27] promulgated on September 15, 2014, the Court admitted all of petitioner's offered exhibits except for Exhibit "P-106 with sub-markings" for failure of the actual document to correspond to the description of the said exhibit in the Formal Offer of Evidence.

During the hearing held on September 16, 2014, respondent, through counsel, manifested that she will no longer present any evidence and that she is instead submitting the case based on the pleadings.

On September 24, 2014, petitioner filed a Motion for Reconsideration[28] praying that this Court admits Exhibit "P-106 with sub-markings". In a Resolution[29] dated November 17, 2014, the Court granted petitioner's Motion for Reconsideration and gave both parties thirty (30) days from receipt of said Resolution to file their Memoranda.

Petitioner's documentary exhibits are as follows:

Exhibits:	Description:
P-1	Certificate of Filing of Amended Articles of Incorporation of Amadeus Marketing Philippines, Inc.
P-2	BIR Certificate of Registration (COR) of Amadeus Marketing Philippines, Inc. bearing BIR Certificate of Registration No. OCN 9RC0000133815 VAT, 1 page
P-3	Amended Articles of Incorporation of Amadeus Marketing Philippines, Inc.
P-4	ACO Agreement of Amadeus IT Group, SA and Amadeus Marketing Philippines, Inc.

[27] Docket, pp. 1138-1139.
[28] Docket, pp. 1146-1147.
[29] Docket, pp. 1156-1157.

P-4-A	Signature of David Brett on the ACO Agreement of Amadeus IT Group, SA and Amadeus Marketing Philippines, Inc.
P-4-B	Signature of Julia Sattel on the ACO Agreement of Amadeus IT Group, SA and Amadeus Marketing Philippines, Inc.
P-5	HSBC's Certification of inward remittances to Amadeus Marketing Philippines, Inc.
P-6	Cash Netting of Distribution Fee and DAPS Products between Amadeus Marketing Philippines Inc. and Amadeus IT Group SA.
P-6-A	Signature of Arturo Sanchez Quiñones in the Cash Netting of Distribution Fee and DAPS Products
P-6-B	Signature of Jacinto Esclapes in the Cash Netting of Distribution Fee and DAPS Products
P-6-C	Signature of Albert T. Villadolid in the Cash Netting of Distribution Fee and DAPS Products
P-6-D	Signature of Delia M. Beaniza in the Cash Netting of Distribution Fee and DAPS Products
P-7	General Information Sheet of Amadeus Marketing Philippines, Inc. filed with the SEC on April 14, 2011
P-8	Distribution Agreeement
P-8-A	Signature of Maria Paz S. King in the Distribution Agreement
P-8-B	Signature of Tomas Lopez Fernebrand in the Distribution Agreement
P-9	Credit Facility Agreement
P-9-A	Signature of Albert T. Villadolid in the Credit Facility Agreement
P-9-B	Signature of Jacinto Esclapes in the Credit Facility Agreement
P-9-C	Signature of Francisco Urbano in the Credit Facility Agreement
P-10	Notice of Drawdown dated March 26, 2010
P-10-A	Signature of Delia M. Beaniza in the Notice of Drawdown dated March 26, 2010
P-10-B	Signature of Albert T. Villadolid in the Notice of Drawdown dated March 26, 2010
P-11	HSBC's Certification of inward remittances to Amadeus Marketing Philippines, Inc.
P-12	SEC Certificate of Non-Registration of Amadeus IT Group, SA
P-13	Articles of Association of Amadeus IT Group, SA
P-14	2011 Annual Report of Amadeus IT Group, SA
P-15	Quarterly VAT Return of Amadeus Marketing Philippines, Inc. for the 1st quarter of 2011 filed on April 20, 2011 with reference number 101100004704157 (BIR Form 2550Q) [originally

	filed return]
P-15-A	Quarterly VAT Return of Amadeus Marketing Philippines, Inc. for the 1st quarter of 2011 filed on October 24, 2011 with reference number 101100005226934 (BIR Form 2550Q) [amended return]
P-15-B	Quarterly VAT Return of Amadeus Marketing Philippines, Inc. for the 1st quarter of 2011 filed on June 26, 2012 with reference number 101200006082711 (BIR Form 2550Q) [amended return]
P-15-C	Quarterly VAT Return of Amadeus Marketing Philippines, Inc. for the 1st quarter of 2011 (BIR Form 2550Q) filed on June 29, 2012 with reference number 101200006085658 [amended return]
P-16	Quarterly VAT Return of Amadeus Marketing Philippines Inc. for the 2nd Quarter of 2011 filed on July 20, 2011 with reference number 10110004955248 (BIR Form 2550Q) [originally filed return]
P-16-A	Quarterly VAT Return of Amadeus Marketing Philippines Inc. for the 2nd Quarter of 2011 filed on June 26, 2012 with reference number 101200006082745 (BIR Form 2550Q) (amended return)
P-16-B	Quarterly VAT Return of Amadeus Marketing Philippines Inc. for the 2nd Quarter of 2011 filed on July 25, 2012 with reference number 101200006183479 (BIR Form 2550Q) [amended return]
P-16-C	Quarterly VAT Return of Amadeus Marketing Philippines Inc. for the 2nd Quarter of 2011 filed on November 27, 2012 with reference number 101200006610716 (BIR Form 2550Q) [amended return]
P-16-D	Quarterly VAT Return of Amadeus Marketing Philippines Inc. for the 2nd Quarter of 2011 filed on November 27, 2012 with reference number 101200006611810 (BIR Form 2550Q) [amended return]
P-17	Quarterly VAT Return of Amadeus Marketing Philippines Inc. for the 3rd Quarter of 2011 filed on October 21, 2011 with reference number 101100005222303 (BIR Form 2550Q) [originally filed return]
P-17-A	Quarterly VAT Return of Amadeus Marketing Philippines Inc. for the 3rd Quarter of 2011 filed on October 24, 2011 with reference number 101100005227280 (BIR Form 2550Q) [amended

	return]
P-17-B	Quarterly VAT Return of Amadeus Marketing Philippines Inc. for the 3rd Quarter of 2011 filed on June 26, 2012 with reference number 101200006082766 (BIR Form 2550Q) [amended return]
P-17-C	Quarterly VAT Return of Amadeus Marketing Philippines Inc. for the 3rd Quarter of 2011 filed on July 25, 2012 with reference number 101200006183568 (BIR Form 2550Q) [amended return]
P-17-D	Quarterly VAT Return of Amadeus Marketing Philippines Inc. for the 3rd Quarter of 2011 filed on November 27, 2012 with reference number 101200006610819 (BIR Form 2550Q) [amended return]
P-17-E	Quarterly VAT Return of Amadeus Marketing Philippines Inc. for the 3rd Quarter of 2011 filed on November 27, 2012 with reference number 101200006611821 (BIR Form 2550Q) [amended return]
P-18	Quarterly VAT Return of Amadeus Marketing Philippines Inc. for the 4th Quarter of 2011 filed on January 19, 2012 with reference number 101200005519165 (BIR Form 2550Q) [originally filed return]
P-18-A	Quarterly VAT Return of Amadeus Marketing Philippines Inc. for the 4th Quarter of 2011 filed on June 26, 2012 with reference number 101200006082815 (BIR Form 2550Q) [amended return]
P-18-B	Quarterly VAT Return of Amadeus Marketing Philippines Inc. for the 4th Quarter of 2011 filed on July 25, 2012 with reference number 101200006183670 (BIR Form 2550Q) [amended return]
P-18-C	Quarterly VAT Return of Amadeus Marketing Philippines Inc. for the 4th Quarter of 2011 filed on November 27, 2012 with reference number 10120006610920 (BIR Form 2550Q) [amended return]
P-18-D	Quarterly VAT Return of Amadeus Marketing Philippines Inc. for the 4th Quarter of 2011 filed on November 27, 2012 with reference number 101200006611838 (BIR Form 2550Q) [amended return]
P-19	Quarterly VAT Return of Amadeus Marketing Philippines Inc. for the 1st Quarter of 2012 (BIR Form 2550Q) filed on April 19, 2012 with reference number 101200005856011 [originally

	filed return]
P-20	Quarterly VAT Return of Amadeus Marketing Philippines, Inc. for the 2nd Quarter of 2012 (BIR Form 2550Q) filed on July 26, 2012 with reference number 101200006185097 [originally filed]
P-21	Quarterly VAT Return of Amadeus Marketing Philippines, Inc. for the 3rd Quarter of 2012 filed on October 17, 2012 (BIR Form 2550Q) filed on October 17, 2012 with reference number 10120006475603 [originally filed return]
P-22	Quarterly VAT Return of Amadeus Marketing Philippines, Inc. for the 4th Quarter of 2012 (BIR Form 2550Q) filed on January 23, 2013 with reference number 101300006833047 [originally filed return]
P-23	Amadeus Marketing Philippines Inc. Letter of Application for VAT Refund for the 1st to 4th Quarters of 2011 dated November 29, 2012
P-23-A	Signature of Benedicta Du-Baladad on the Amadeus Marketing Philippines Inc.'s Letter of Application for VAT Refund for the 1st to 4th Quarters of 2011 dated November 29, 2012
P-23-B	BIR stamp imprinted on the Amadeus Marketing Philippines Inc. Letter of Application for VAT Refund for the 1st to 4th Quarters of 2011 that indicates the date November 29, 2012
P-24	BIR Form 1914, Application for Tax Credits/Refunds filed on November 29, 2012
P-24-A	Signature of Benedicta Du-Baladad on BIR Form 1914, Application for Tax Credits/Refunds filed on November 29, 2012
P-25	Email correspondence between Amadeus IT Group S.A. and Amadeus Marketing Philippines, Inc. dated March 8, 2011
P-26	Email correspondence between Amadeus IT Group S.A. and Amadeus Marketing Philippines, Inc. dated March 30, 2011
P-27	Email correspondence between Amadeus IT Group S.A. and Amadeus Marketing Philippines, Inc. dated June 17, 2011
P-28	Email correspondence between Amadeus IT Group S.A. and Amadeus Marketing Philippines, Inc. dated June 17, 2011
P-29	Email correspondence between Amadeus IT Group S.A. and Amadeus Marketing Philippines, Inc. dated July 20, 2011
P-30	Email correspondence between Amadeus IT Group S.A. and Amadeus Marketing Philippines, Inc. dated July 20, 2011

P-31	Email correspondence between Amadeus IT Group S.A. and Amadeus Marketing Philippines, Inc. dated September 19, 2011
P-32	Email correspondence between Amadeus IT Group S.A. and Amadeus Marketing Philippines, Inc. dated October 18, 2011
P-33	Email correspondence between Amadeus IT Group S.A. and Amadeus Marketing Philippines, Inc. dated November 17, 2011
P-34	Email correspondence between Amadeus IT Group S.A. and Amadeus Marketing Philippines, Inc. dated November 16, 2011
P-35	Email correspondence between Amadeus IT Group S.A. and Amadeus Marketing Philippines, Inc. dated December 20, 2011
P-36	Email correspondence between Amadeus IT Group S.A. and Amadeus Marketing Philippines, Inc. dated December 20, 2011
P-37	Email correspondence between Amadeus IT Group S.A. and Amadeus Marketing Philippines, Inc. dated January 18, 2012
P-38	Email correspondence between Amadeus IT Group S.A. and Amadeus Marketing Philippines, Inc. dated January 18, 2012
P-39	Email correspondence between Amadeus IT Group S.A. and Amadeus Marketing Philippines, Inc. dated February 20, 2012
P-40	Email correspondence between Amadeus IT Group S.A. and Amadeus Marketing Philippines, Inc. dated February 20, 2012
P-41	Petitioner's Official Receipt No. 4965
P-42	Petitioner's Official Receipt No. 4966
P-43	Petitioner's Official Receipt No. 4967
P-44	Petitioner's Official Receipt No. 4968
P-45	Petitioner's Official Receipt No. 4969
P-46	Petitioner's Official Receipt No. 4970
P-47	Petitioner's Official Receipt No. 4971
P-48	Petitioner's Official Receipt No. 4972
P-49	Petitioner's Official Receipt No. 4973
P-50	Petitioner's Official Receipt No. 4974
P-51	Petitioner's Official Receipt No. 4975
P-52	Petitioner's Official Receipt No. 4976
P-53	Amadeus IT Group SA Invoice No. 238507 with Invoice Amount of USD 260,435.88
P-54	Amadeus IT Group SA Invoice No. 240478 with Invoice Amount of USD 218,288.76
P-55	Amadeus IT Group SA Invoice No. 242388 with Invoice Amount of USD 246,607.82
P-56	Amadeus IT Group SA Invoice No. 242732 with Invoice Amount of USD (39.10)

P-57	Amadeus IT Group SA Invoice No. 244287 with Invoice Amount of USD 297,710.82
P-58	Amadeus IT Group SA Invoice No. 246180 with Invoice Amount of USD 327,798.25
P-59	Amadeus IT Group SA Invoice No. 248026 with Invoice Amount of USD 240,242.83
P-60	Amadeus IT Group SA Invoice No. 249815 with Invoice Amount of USD 284,208.81
P-61	Amadeus IT Group SA Invoice No. 250105 with Invoice Amount of USD (202.32)
P-62	Amadeus IT Group SA Invoice No. 251600 with Invoice Amount of USD 276,793.41
P-63	Amadeus IT Group SA Invoice No. 255135 with Invoice Amount of USD 249,073.11
P-64	Amadeus IT Group SA Invoice No. 257138 with Invoice Amount of USD 219,238.42
P-65	Amadeus IT Group SA Invoice No. 259102 with Invoice Amount of USD 208,833.61
P-66	Amadeus IT Group SA Invoice No. 261152 with Invoice Amount of USD 203,319.84
P-67	Judicial Affidavit of Rosaldo Andales dated September 3, 2013
P-67-A	Signature of Rosaldo Andales in his Judicial Affidavit dated September 3, 2013
P-68	Monthly Remittance Return of Final Income Taxes Withheld of Amadeus Marketing Philippines Inc. fo the month of January 2011 filed on February 10, 2011 with reference number 201100004488340 (BIR Form 1601-F) [originally filed return]
P-68-A	eFPS Payment Details for Amadeus Marketing Philippines Inc. with TIN 005-374-900-000; reference number 201100004488340; payment transaction number 11262446, dated 02/10/2011
P-69	Monthly Remittance Return of Final Income Taxes Withheld of Amadeus Marketing Philippines Inc. for the month of February 2011 filed on March 9, 2011 with reference number 201100004563310 (BIR Form 1601-F) [originally filed return]
P-69-A	eFPS Payment Details for Amadeus Marketing Philippines Inc. with TIN 005-374-900-000; payment transaction number 112743025, dated 03/10/2011
P-70	Monthly Remittance Return of Final Income Taxes Withheld of Amadeus Marketing Philippines, Inc. for the month of March 2011 filed on April 09, 2011 with reference number 201100004651244 (BIR Form 1601-F)
P-70-A	eFPS Payment Details for Amadeus Marketing Philippines, Inc. with TIN 005-374-900-000;

	reference number 201100004651244
P-71	Monthly Remittance Return of Final Income Taxes Withheld of Amadeus Marketing Philippines Inc. for the month of April 2011 filed on May 09, 2011 with reference number 201100004744617 (BIR Form 1601-F)
P-71-A	eFPS Payment Details for Amadeus Marketing Philippines Inc. with TIN 005-374-900-000; reference number 201100004744617; payment transaction number 112903249, dated 05/10/2011
P-72	Monthly Remittance Return of Final Income Taxes Withheld of Amadeus Marketing Philippines Inc. for the month of May 2011 filed on June 09, 2011 with reference number 201100004837991 (BIR Form 1601-F) [originally filed return]
P-72-A	eFPS Payment Details for Amadeus Marketing Philippines Inc. with TIN 005-374-900-000; reference number 201100004837991; payment transaction number 112988231, dated 06/09/2011
P-73	Monthly Remittance Return of Final Income Taxes Withheld of Amadeus Marketing Philippines Inc. for the month of June 2011 filed on July 09, 2011 with reference number 201100004922059 (BIR Form 1601-F) [originally filed return]
P-73-A	eFPS Payment Details for Amadeus Marketing Philippines Inc. with TIN 005-374-900-000; reference number 201100004922059; payment transaction number 113071664, dated 07/11/2011
P-74	Monthly Remittance Return of Final Income Taxes Withheld of Amadeus Marketing Philippines Inc. for the month of July 2011 filed on August 08, 2011 with reference number 201100004990238 (BIR Form 1601-F) [originally filed return]
P-74-A	eFPS Payment Details for Amadeus Marketing Philippines Inc. with TIN 005-374-900-000; reference number 201100004990238; payment transaction number 113144075, dated 08/09/2011
P-75	Monthly Remittance Return of Final Income Taxes Withheld of Amadeus Marketing Philippines Inc for the month of August 2011 filed on September 08, 2011 with reference number 20110000509094859 (BIR Form 1601-F) [originally filed return]
P-75-A	eFPS Payment Details for Amadeus Marketing Philippines Inc. with TIN 005-374-900-000; reference number 201100005094859; payment

	transaction number 113235183, dated 09/09/2011
P-76	Monthly Remittance Return of Final Income Taxes Withheld of Amadeus Marketing Philippines Inc for the month of September 2011 filed on October 10, 2011 with reference number 201100005188456 (BIR Form 1601-F)
P-76-A	eFPS Payment Details for Amadeus Marketing Philippines Inc. with TIN 005-374-900-000; reference number 201100005188456; payment transaction number 113326322, dated 10/10/2011
P-77	Monthly Remittance Return of Final Income Taxes Withheld of Amadeus Marketing Philippines Inc for the month of October 2011 filed on November 09, 2011 with reference number 201100005261771 (BIR Form 1601-F) [originally filed return]
P-78	Monthly Remittance Return of Final Income Taxes Withheld of Amadeus Marketing Philippines Inc for the month of November 2011 filed on December 09, 2011 with reference number 201100005367979 (BIR Form 1601-F) [originally filed return]
P-78-A	eFPS Payment Details for Amadeus Marketing Philippines Inc. with TIN 005-374-900-000; reference number 201100005367979; payment transaction number 113502227, dated 12/09/2011
P-79	Monthly Remittance Return of Final Income Taxes Withheld of Amadeus Marketing Philippines Inc for the month of December 2011 filed on January 12, 2012 with reference number 201200005489545 (BIR Form 1601-F) [originally filed return]
P-79-A	eFPS Payment Details for Amadeus Marketing Philippines Inc. with TIN 005-374-900-000; reference number 201200005489545; payment transaction number 1236209552, dated 01/12/2012
P-101	Summary of Monthly Purchases of Goods and Services and Corresponding Input Tax for the period January 1 to December 31, 2011
P-102	Schedule of Purchases of Goods and Services and Corresponding Input Tax for the Period January 1 to December 31, 2011
P-102-1 to P-102-3,370	Official Receipts and Sales Invoices on Purchases of Goods and Services for the Period January 1 to December 31, 2011
P-103	Schedule of Gross Sales (VATable and Zero-

	Rated) for the Period January 1 to December 31, 2011
P-103-1 to P-103-390	Sales Invoices and Official Receipts issued for VATable and Zero Rated Sale of Goods and Services for the Period January 1 to December 31, 2011
P-104	Summary of Exceptions Noted on Purchases of Goods and Services for the Period January 1 to December 31, 2011
P-104-1	Summary Purchases of Goods and Services with Company Name Not Properly Indicated in the Supporting Documents for the Period January 1 to December 31, 2011
P-104-2	Summary of Purchases of Goods and Services with No Valid Supporting Documents for the Period January 1 to December 31, 2011
P-104-3	Summary of Domestic Purchases of Goods and Services with No TIN indicated in the Supporting Documents for the Period January 1 to December 31, 2011
P-104-4	Summary of Purchases of Goods and Services with Incomplete or No Address Indicated in the Supporting Documents for the Period January 1 to December 31, 2011
P-104-5	Summary of Purchases of Goods and Services with No BIR Permit or Authority to Print in the Supporting Document for the Period January 1 to December 31, 2011
P-104-6	Summary of Purchases of Goods and Services with Non-VAT or No "VAT" indicated in the Supporting Documents for the Period January 1 to December 31, 2011
P-104-7	Summary of Purchases of Goods and Services with Discrepancy in the Amount Filed for the Period Janaury 1 to December 31, 2011
P-104-8	Summary of Purchases of Goods and Services with VAT Amount not Separately Shown in the Supporting Documents for the Period January 1 to December 31, 2011
P-104-9	Summary of Purchases of Goods and Services with No Sales Invoices/Official Receipts Submitted by the Petitioner for the Period January 1 to December 31, 2011
P-105-1 to P-105-43 with sub-markings	Relevant pages of the General Ledger on 2011 Purchases and Corresponding Input Taxes on a per Transaction Basis with Account Code No. 1-4347 (Inpute VAT) for the Period January 1 to December 31, 2011
P-106 with submarkings	Relevant pages of the General Ledger on 2011 Purchases and Corresponding Input Taxes on a

	per Transaction Basis with Account Code No. 1-4343 (Input VAT) for the Period January 1 to December 31, 2011
P-107 with sub-markings	Relevant pages of the General Ledger on 2011 Revenues on a Per Transaction Basis with Account Code No. 4-7013 (Amadeus Marketing SA) for the Period January 1 to December 31, 2011
P-108-1 to P-108-11 with sub-markings	Relevant pages of the General Ledger on 2011 Revenues on a Per Transaction Basis with Account Code No. 4-8000 (Miscellaneous Income) for the Period January 1 to December 31, 2011
P-109	Schedule of Debits to Input Tax Account per General Ledger Transaction Listing with Cross Reference to Sales Invoice and Official Receipts on Purchases of Goods and Services for the Period January 1 to December 31, 2011
P-110	Schedule of Credits to Revenue Account per General Ledger Transaction Listing for the Period January 1 to December 31, 2011
P-111	2011 First Quarter VAT Returns with attached Covering Summary Details of BIR E-filing Reference No. 101200006085658
P-112	2011 Second Quarter VAT Returns with attached Covering Summary Details of BIR E-filing Reference No. 101200006183479
P-113	2011 Third Quarter VAT Returns with attached Covering Summary Details of BIR E-filing Reference No. 101200006183568
P-114	2011 Fourth Quarter VAT Returns with attached Covering Summary Details of BIR E-filing Reference No. 101200006183670
P-115	2012 First Quarter VAT Returns with attached Covering Summary details fo BIR E-filing Reference No. 101200005856011
P-116	2012 Second Quarter VAT Returns with attached Covering Summary Details of BIR E-filing Reference No. 101200006185097
P-117	2012 Third Quarter VAT Returns with attached Covering Summary Details of BIR E-filing Reference No. 101200006475603
P-118	2012 Fourth Quarter VAT Returns with attached Covering Summary Details of BIR E-filing Reference No. 101300006833047
P-119	2013 First Quarter VAT Returns with attached Covering Summary Details of BIR E-filing Reference No. 101300007210971
P-120	2013 Second Quarter VAT Returns with attached Covering Summary Details of BIR E-filing Reference No. 101300007571182

P-121	Inward Remittance Certificate from the Bank for the Period January 1 to December 31, 2011
P-122	Schedule of Receivables Net of Software Communication Charges to Affiliate (AMADEUS IT GROUP SA) with Cross Reference to Official Receipts on Sales for the Period January 1 to December 31, 2011
P-123	Schedule of Payables (Software Communication Charges) to Affiliate (AMADEUS IT GROUP SA) per General Ledger Transaction Listing for the Period January 1 to December 31, 2011
P-124	ACO Agreement, 16 pages
P-125	Offsetting Arrangement Agreement (Cash Netting of Distribution Fee and DAPS Products)
P-126	Permit to Use Computerized Books of Accounts Permit No. 050-CBA-040710-000506 dated April 7, 2010
P-127 with sub-markings	Relevant pages of the General Ledger on 2011 Software Communications Charges on a Per Transaction Basis with Account Code No. 6-6622 for the Period January 1 to December 31, 2011
P-128	Independent CPA Report, dated October 29, 2013
P-128-A	Signature of Joseph Cedric V. Calica in his ICPA Report dated October 29, 2013
P-129	Judicial Affidavit of Joseph Cedric V. Calica dated November 25, 2013
P-129-A	Signature of Joseph Cedric V. Calica in his Judicial Affidavit dated November 25, 2013
P-130	Judicial Affidavit of Romanelle Silungan dated September 23, 2013
P-130-1	Signature of Romanelle Silungan in her Judicial Affidavit dated September 23, 2013
P-131	Supplemental Judicial Affidavit of Romanelle Silungan dated January 6, 2014
P-131-A	Signature of Romanelle Silungan in her Supplemental Judicial Affidavit dated January 6, 2014
P-132	Statemetn of Account issued by Amadeus Marketing Philippines for February 2011 as Distribution Fee
P-133	Statement of Account issued by Amadeus Marketing Philippines, Inc. for March 2011 as Distribution Fee
P-134	Statement of Account issued by Amadeus Marketing Philippines for April 2011 as Distribution Fee
P-135	Statement of Account issued by Amadeus Marketing Philippines, Inc. for May 2011 as Distribution Fee
P-136	Statement of Account issued by Amadeus

	Marketing Philippines, Inc. for June 2011 as Distribution Fee
P-137	Statement of Account issued by Amadeus Marketing Philippines for July 2011 as Distribution Fee
P-138	Statement of Account issued by Amadeus Marketing Philippines, Inc. for August 2011 as Distribution Fee
P-139	Statement of Account issued by Amadeus Marketing Philippines for September 2011 as Distribution Fee
P-140	Statement of Account issued by Amadeus Marketing Philippines for October 2011 as Distribution Fee
P-141	Statement of Account issued by Amadeus Marketing Philippines, Inc. for November 2011 as Distribution Fee
P-143	Statement of Account issued by Amadeus Marketing Philippines, Inc. for January 2011 as Marketing Services Fee
P-144	Statement of Account issued by Amadeus Marketing Philippines, Inc. for February 2011 as Marketing Services Fee
P-145	Statement of Account issued by Amadeus Marketing Philippines, Inc. for March 2011 as Marketing Services Fee
P-146	Statement of Account issued by Amadeus Marketing Philippines, Inc. for April 2011 as Marketing Services Fee
P-147	Statement of Account issued by Amadeus Marketing Philippines, Inc. for May 2011 as Marketing Services Fee
P-148	Statement of Account issued by Amadeus Marketing Philippines, Inc. for June 2011 as Marketing Services Fee
P-149	Statement of Account issued by Amadeus Marketing Philippines, Inc. for January 2011 as Distribution Fee
P-150	Supplemental Judicial Affidavit of Romanelle Silungan Aguila dated April 14, 2014
P-150-A	Signature of Romanelle Silungan Aguila in her Supplemental Judicial Affidavit dated April 14, 2014

On January 20, 2015, petitioner filed its Memorandum.[30] Thereafter, respondent filed her Memorandum by registered mail on January 21, 2015 and

[30] Docket, pp. 1167-1186.

received by the Court on January 29, 2015.[31] In a Resolution[32] dated February 4, 2015, the case was deemed submitted for decision.

The parties submitted the following stipulated issues[33] for this Court's resolution:

A. Whether Petitioner is entitled to refund for the unutilized VAT input taxes in the total amount of **Thirty Million One Hundred Eighteen Thousand Two Hundred Nineteen & 40/100 (Php30,118,219.40)**, representing unutilized VAT input taxes for the 1st, 2nd, 3rd, and 4th quarters of the taxable year 2011.

B. Whether Petitioner is engaged in zero-rated or effectively zero-rated sales.

C. Whether the input taxes being claimed are due or paid.

D. Whether the input taxes being claimed have not been applied against output taxes during and in the succeeding quarters.

E. Whether the input taxes claimed are attributable to zero-rated or effectively zero-rated sales.

F. Whether the claim is filed within two years after the close of the taxable quarter when such sales were made.

The above-enumerated issues may be simplified as follows:

"WHETHER OR NOT PETITIONER IS ENTITLED TO THE REFUND OF THE AMOUNT OF ₱30,118,219.40, ALLEGEDLY

[31] Docket, pp. 1187-1191.
[32] Docket, p. 1194.
[33] Docket, p. 356.

REPRESENTING UNUTILIZED INPUT VAT ATTRIBUTABLE TO ITS ZERO-RATED SALES FOR THE FOUR QUARTERS OF CALENDAR YEAR 2011."

The provisions relevant to the resolution of the case at bench are Sections 112(A) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended, which provide:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* –
>
> (A) *Zero-Rated or Effectively Zero-Rated Sales.* – Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however*, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108 (B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further*, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods 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.
>
> 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.

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."

Pursuant thereto and as explained by the Supreme Court in a long line of decisions[34], in order to be entitled to a refund of unutilized input VAT attributable to zero-rated or effectively zero-rated sales, petitioner must comply with the following requisites:

1. the taxpayer must be VAT-registered;
2. the taxpayer must be engaged in zero-rated or effectively zero-rated sales;
3. the input tax due or paid must be attributable to such sales, except the transitional input VAT, to the extent that such input VAT has not been applied against any output VAT liability; and
4. The claim must be filed within two years after the close of the taxable quarter when such sales were made.

The Court finds it prudent to determine first the timeliness of the filing of petitioner's administrative and judicial claims for refund.

[34] *Luzon Hydro Corporation vs. Commissioner of Internal Revenue,* G.R. No. 188260, November 13, 2013; *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue,* G.R. No. 172378, January 17, 2011; *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 182364, August 3, 2010; *San Roque Power Corporation vs. Commissioner of Internal Revenue,* G.R. No. 180345, November 25, 2009; *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 166732, April 27, 2007.

Applying Section 112(A) of the NIRC of 1997, as amended, petitioner has two years to file a claim for refund or tax credit of input VAT attributable to zero-rated or effectively zero-rated sales reckoned from the close of the taxable quarter when the sales were made; thus, petitioner's last day for filing of its administrative claim for the four taxable quarters of 2011 fell on the following dates:

Period covered	**Last day of the Two-year period**
January to March 2011 (1st quarter)	March 31, 2013
April to June 2011 (2nd quarter)	June 30, 2013
July to September 2011 (3rd quarter)	September 30, 2013
October to December 2011 (4th quarter)	December 31, 2013

Records show that petitioner filed its Application for VAT Refund[35] for the subject period, together with the supporting documents, with the Bureau of Internal Revenue on November 29, 2012, well within the two-year prescriptive period.

Pursuant to Section 112(C) of the NIRC of 1997, as amended, respondent had 120 days from November 29, 2012, the considered date of submission of petitioner's supporting documents or until March 29, 2013 to act on petitioner's claim. After the lapse of the 120-day period, petitioner had thirty (30) days or until April 28, 2013 within which to file a judicial claim before this Court. Due to respondent's inaction on its claim, petitioner filed a Petition for Review before this Court on April 10, 2013, which is within the required 30-day period. Hence, both the administrative and the judicial claims were timely filed.

The Court will now determine whether petitioner complied with the remaining requisites for refund of unutilized input VAT.

[35] Exhibits "P-23" and "P-24".

It is undisputed that petitioner is a VAT-registered entity, as evidenced by its BIR Certificate of Registration No. OCN 9RC0000133815 dated January 1, 1998 and Taxpayer's Identification No. 005-374-900-000.[36]

Petitioner avers that its sales of services to Amadeus IT Group S.A. for CY 2011 qualify as zero-rated sales under Section 108(B)(2) of the NIRC of 1997, as amended, which 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 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 nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);"

In the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*[37], the Supreme Court held that in order for the supply

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[36] Par. 6, Joint Stipulation of Facts and Issues, Docket, p. 355, Exhibit "P-2".
[37] G.R. No. 153205, January 22, 2007.

of services to be considered VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the following requisites must be satisfied:

1. the services by a VAT-registered person must be other than processing, manufacturing or repacking of goods;
2. the payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations; and
3. the recipient of such services is doing business outside the Philippines.

Petitioner is a VAT-registered entity that renders services to its foreign affiliate Amadeus IT Group S.A. for the marketing, promotion and offering in the Philippines of its automated reservations and distribution system, the "Amadeus Global Travel Distribution", that incorporates a software package which performs various functions, including real-line airlines seat reservations, schedules bookings for a variety of air, boat, train, package tours, car rental and hotel services, automatic ticketing and fare pricing displays in the Philippines.[38] These services are not under the same category as "processing, manufacturing or repacking of goods"; hence, petitioner complied with the first requisite.

With regard to the third requisite, petitioner offered as evidence the Articles of Association of Amadeus IT Group S.A.[39] and the Certificate of Non-Registration of Amadeus IT Group S.A.[40] duly issued by the Securities and Exchange Commission (SEC).

However, petitioner failed to discharge its burden of complying with the third requisite. As held by the Supreme

[38] Exhibits "P-3" and "P-4".
[39] Exhibit "P-13".
[40] Exhibit "P-12".

Court in *Accenture, Inc. vs. Commissioner of Internal Revenue*[41]:

> "Consequently, to come within the purview of Section 108(B)(2), it is not enough that the recipient of the service be proven to be a foreign corporation; rather, it must be specifically proven to be a nonresident foreign corporation."

The term "nonresident foreign corporation" applies to a foreign corporation not engaged in trade or business within the Philippines.[42]

While the submitted documents prove that Amadeus IT Group S.A. is a foreign corporation organized and established under the laws of Spain, the records show that Amadeus IT Group S.A. conducts business in the Philippines.

As can be gleaned from petitioner's Quarterly VAT Returns, petitioner had input VAT on services rendered by foreign entities in the amounts of ₱3,973,690.80[43], ₱4,138,674.76[44], ₱4,295,766.62[45], and ₱3,538,970.58[46] for the first, second, third, and fourth quarters of 2011, respectively, or a total of ₱15,947,102.76. Per the Court-commissioned Independent Certified Public Accountant's (CPA) Schedule of Purchases of Goods and Services and Corresponding Input Tax for the Period January 1 to December 31, 2011[47], out of the said reported input taxes, ₱14,522,179.83 was supported by Monthly Remittance Returns of VAT and Other Percentage Taxes Withheld (BIR Form No. 1600), detailed as follows:

MONTH	NAME OF SUPPLIER	EXHIBIT	AMOUNT
January	Amadeus IT Group S.A.	P-102-467-1	₱ 1,247,141.65
February	Amadeus IT Group S.A.	P-102-569-1	1,442,997.45

[41] G.R. No. 190102, July 11, 2012.
[42] Section 22(I), National Internal Revenue Code of 1997, as amended.
[43] Exhibit "P-15-C", Line 21L.
[44] Exhibit "P-16-D", Line 21L.
[45] Exhibit "P-17-E", Line 21L.
[46] Exhibit "P-18-D", Line 21L.
[47] Exhibit "P-102".

March	Amadeus IT Group S.A.	P-102-740-1	911,258.21
April	Amadeus IT Group S.A.	P-102-785-1	1,421,517.37
May	Amadeus IT Group S.A.	P-102-940-1	1,809,918.72
June	Amadeus IT Group S.A.	P-102-1377-1	1,839,475.13
July	Amadeus IT Group S.A.	P-102-1744-1	774,473.30
August	Amadeus IT Group S.A.	P-102-1980-1	1,664,237.26
September	Amadeus IT Group S.A.	P-102-2085-1; P-102-2258-1 to P-102-2258-6	1,407,834.13
November	Amadeus IT Group S.A.	P-102-2391-1	984,596.35
December	Amadeus IT Group S.A.	P-102-2765	1,018,730.26
Total			**₱14,522,179.83**

Apparently, the foreign corporation that rendered services to petitioner in the Philippines and whose services were subjected to VAT, was also Amadeus IT Group S.A., to whom petitioner claims to have made its zero-rated sales.

Amadeus IT Group S.A. was made liable to VAT being a non-resident person who, in the course of its trade or business, rendered services in the Philippines. This is in accordance with Section 105 of the NIRC of 1997, as amended, and as implemented by Sections 4.105-1 and 4.105-3 of Revenue Regulations (RR) No. 16-2005, to wit:

> "SEC. 105. *Persons Liable.* – Any person who, in the course of trade or business, sells barters, exchanges, leases goods or properties, renders services, and any person who imports goods shall be subject to the value-added tax (VAT) imposed in Sections 106 to 108 of this Code.
>
> The value-added tax is an indirect tax and the amount of tax may be shifted or passed on to the buyer, transferee or lessee of the goods, properties or services. This rule shall likewise apply to existing contracts of sale or lease of goods, properties or services at the time of the effectivity of Republic Act No. 7716.
>
> The phrase '*in the course of trade or business*' means the regular conduct or pursuit of a commercial or an economic activity, including transactions incidental thereto, by any person regardless of

> whether or not the person engaged therein is a nonstock, nonprofit private organization (irrespective of the disposition of its net income and whether or not it sells exclusively to members or their guests), or government entity.
>
> The rule of regularity, to the contrary notwithstanding, services as defined in this Code rendered in the Philippines by nonresident foreign persons shall be considered as being course of trade or business."
>
> "SECTION 4.105-1. *Persons Liable.* - Any person who, in the course of his trade or business, sells, barters, exchanges or leases goods or properties, or renders services, and any person who imports goods, shall be liable to VAT imposed in Secs. 106 to 108 of the Tax Code.
>
> xxx xxx xxx
>
> '*Person*' refers to any individual, trust, estate, partnership, corporation, joint venture, cooperative or association.
>
> xxx xxx xxx
>
> SECTION 4.105-3. *Meaning of 'In the Course of Trade or Business'.* - xxx
>
> Non-resident persons who perform services in the Philippines are deemed to be making sales in the course of trade or business, even if the performance of services is not regular."

Considering that Amadeus IT Group S.A., the recipient of petitioner's services, is doing business in the Philippines, petitioner failed to comply with the third requisite to qualify for VAT zero-rating. Consequently, the second requisite for the refund or tax credit of input VAT under Section 112(A) of the NIRC of 1997, as amended, was also not satisfied.

Basic is the rule that tax refunds are in the nature of tax exemptions and are to be construed *strictissimi juris* against the entity claiming the same.[48] Moreover, statutes in derogation of sovereignty, such as those containing exemption from taxation, should be strictly construed in favor of the State.[49] The burden of proof rests upon the party claiming exemption to prove that it is, in fact, covered by the exemption so claimed.[50]

Petitioner, having failed to prove that it had zero-rated sales for the year 2011, the alleged input VAT attributable thereto in the amount of ₱30,118,219.40 cannot be refunded.

In view of the foregoing, this Court finds no cogent reason to discuss the other requisites.

WHEREFORE, premises considered, the instant Petition for Review filed by Amadeus Marketing Philippines, Inc. is hereby **DENIED** for lack of merit.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

[48] *Philippine Geothermal, Inc. vs. The Commissioner of Internal Revenue,* G.R. No. 154028, July 29, 2005.
[49] *Philippine Long Distance Telephone Company, Inc. vs. City of Davao, et. al.,* G.R. No. 143867, March 25, 2003.
[50] *National Power Corporation vs. Province of Isabela,* G.R. No. 165827, June 16, 2006.

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 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
Chairperson, 1st Division