20-000299-0061

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10358

SCHAEFFLER PHILIPPINES INC.,
Petitioner,

- versus -

NOTICE OF DECISION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. PHILIP A. MAYO
ATTY. JONELLE ELLAINE A. MAGALONG
Bureau of Internal Revenue - Revenue Region No. 8A
36th Floor, Export Bank Plaza Building
Sen. Gil Puyat Avenue corner Chino Roces Avenue
Makati City

FOLLOSCO MORALLOS & HERCE
25th Floor, 88 Corporate Center
141 Valero corner Sedeño Streets
Salcedo Village, Makati City

GREETINGS:

You are hereby notified by these presents that on **February 15, 2024,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **February 19, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

SCHAEFFLER PHILIPPINES INC., Petitioner,	**CTA CASE NO. 10358**
- versus -	Members: **DEL ROSARIO**, *P.J.*, *Chairperson*, **MANAHAN**, and **REYES-FAJARDO**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: FEB 1 5 2024; 3:00PM

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DECISION

DEL ROSARIO, P.J.:

This resolves the Petition for Review which prays for the refund of the amount of **₱3,332,237.00** representing petitioner's unutilized input value-added tax (VAT) attributable to its zero-rated sales for the first (1st) quarter of calendar year (CY) 2018.

THE PARTIES

Petitioner **SCHAEFFLER PHILIPPINES INC.** is a domestic corporation duly organized and existing under Philippine laws, with principal office at 5F Optima Building, 221 Salcedo Street, Legaspi Village, Makati City, Philippines.[1] It is a domestic market enterprise primarily engaged in the business of wholesale, export and import, and commission agency of rolling bearings, journal bearings, auxiliary devices and other components and parts, as well as spare parts, for automotive and other vehicles, railway, aircraft, general machineries, high precision devices and other equipment, as well as the provision of after-sales services, consulting and other relevant services.[2]

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[1] Pre-Trial Order, Docket, Vol. I, p. 783.
[2] Memorandum (of Petitioner), Docket, Vol. II, p. 895; Exhibit "P-2", Docket, Vol. I, p. 50.

Respondent **COMMISSIONER OF INTERNAL REVENUE (CIR)** is being sued in his official capacity, having been duly appointed and empowered to perform the duties of his office including, among others, the duty to act on and approve claims for refund and/or tax credits as provided by law.[3]

THE FACTS

On June 23, 2020, petitioner filed an Application for Tax Credits/Refunds, together with the supporting documents, before the Bureau of Internal Revenue (BIR), which sought the refund of its unutilized input tax in the amount of ₱10,775,485.00 attributable to its zero-rated sales for the 1st quarter of CY 2018 or from January 1, 2018 to March 31, 2018.[4]

In the VAT Refund Notice dated August 25, 2020, which petitioner received on the same date, the BIR approved petitioner's refund claim but only in the reduced amount of ₱5,625,739.78, computed as follows:[5]

Amount of Claim		₱ 10,775,485.00
Less: Deductions/disallowance		
Over Claimed Excess Input Tax from Previous Period	₱ 701,747.00	
Unsupported "Other" Purchases	157,671.66	
Violation of Invoicing Requirements pursuant to Section 113 in relation to Section 110 of the NIRC, as amended	719,985.19	
Discrepancy between Importation Claimed against Importation per AITEID	**3,332,237.00**	
No Commercial Invoice as required by RMC No. 47-2019	238,104.37	5,149,745.22
RECOMMENDED VAT REFUND		₱ 5,625,739.78

Petitioner filed the present Petition for Review on September 24, 2020, claiming a refund amounting to **₱3,332,237.00** only.[6]

Summonses were served upon respondent on October 20, 2020, and the Office of the Solicitor General on October 21, 2020.[7]

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[3] Pre-Trial Order, Docket, Vol. I, p. 783.
[4] Exhibits "P-28" and "P-29", Docket, Vol. II, pp. 705-706.
[5] Exhibit "P-35", Docket, Vol. II, pp. 740-750.
[6] Docket, Vol. I, pp. 7-46.
[7] Docket, Vol. I, p. 242. am

On November 19, 2020, respondent filed via registered mail a Motion for Extension of Time to File Answer,[8] which the Court granted in the Resolution dated December 16, 2020, giving respondent until December 19, 2020 within which to file his Answer.[9]

Within the approved extended period, respondent posted on December 18, 2020 his Answer (With Special and Affirmative Defenses).[10]

On January 6, 2021, respondent filed a Compliance, elevating the BIR Records of this case.[11]

In the Resolution dated January 19, 2021, the Court noted respondent's: (i) Manifestation (Change of Address); (ii) Answer (With Special and Affirmative Defenses); and (iii) Compliance, and set the Pre-Trial Conference on March 18, 2021.[12]

Both petitioner and respondent filed their respective Pre-Trial Briefs on March 11, 2021.[13]

The Pre-Trial Conference was reset to May 27, 2021 via videoconference,[14] and was conducted on said date.[15]

On June 25, 2021, petitioner filed a Motion to Commission an Independent Certified Public Accountant (ICPA).[16]

The parties filed their Joint Stipulation of Facts and Issues on June 28, 2021.[17]

In the Resolution dated July 14, 2021, the Court approved the parties' Joint Stipulation of Facts and Issues, and terminated the Pre-Trial.[18]

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[8] Docket, Vol. I, pp. 245-247.
[9] Docket, Vol. I, p. 251.
[10] Docket, Vol. I, pp. 254-298.
[11] Docket, Vol. I, p. 299.
[12] Docket, Vol. I, pp. 301-302.
[13] Docket, Vol. I, pp. 304-311; pp. 354-384.
[14] Docket, Vol. I, p. 386.
[15] Docket, Vol. I, pp. 395 to 395-B.
[16] Docket, Vol. I, pp. 405-408.
[17] Docket, Vol. I, pp. 447-461.
[18] Docket, Vol. I, pp. 454-455.

The Court granted petitioner's Motion to Commission an ICPA in its Order dated October 7, 2021. Thereafter, Ms. Ma. Fedna B. Parallag was allowed to take her oath as ICPA, and was given a non-extendible period of forty-five (45) days, or until November 22, 2021, within which to submit her report.[19]

On November 22, 2021, the ICPA submitted her Report.[20]

The Pre-Trial Order was issued on February 7, 2022.[21]

Thereafter, trial of the case ensued.

Petitioner presented both testimonial and documentary evidence. It offered the testimonies by way of Judicial Affidavits of the following witnesses, namely: (1) Ms. Melany A. Belen, petitioner's Treasurer and Finance Manager;[22] and, (2) Ms. Parallag, the Court-commissioned ICPA.[23]

On January 10, 2022, petitioner filed via email, private courier and registered mail a Motion for Extension of Time to File Petitioner's Formal Offer of Evidence.[24]

Petitioner filed its Formal Offer of Evidence on February 2, 2022.[25]

In the Resolution dated March 4, 2022, the Court: (i) noted petitioner's Formal Offer of Evidence; (ii) rendered moot the Motion for Extension of Time to File Petitioner's Formal Offer of Evidence; and (iii) granted respondent fifteen (15) days, or until February 17, 2022, within which to file comment.[26]

On February 16, 2022, respondent posted his Comment/ Opposition (To Petitioner's Formal Offer of Evidence dated February 02, 2022).[27]

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[19] Docket, Vol. I, pp. 472-473.
[20] Exhibit "P-49", Docket, Vol. I, pp. 498-586.
[21] Docket, Vol. I, pp. 770-797.
[22] Exhibit "P-36", Docket, Vol. I, pp. 102-125; Exhibit "P-37", Docket, Vol. I, pp. 421-430.
[23] Exhibit "P-616", Docket, Vol. I, pp. 589-606.
[24] Docket, Vol. II, pp. 761-820.
[25] Docket, Vol. II, pp. 629-652.
[26] Docket, Vol. II, pp. 824-825.
[27] Docket, Vol. II, pp. 826-829.

On March 4, 2022, petitioner filed via registered mail a Manifestation & Motion for Correction of Pre-Trial Order dated 07 February 2022.[28]

Acting on petitioner's Formal Offer of Evidence and Manifestation & Motion for Correction of Pre-Trial Order dated 07 February 2022, the Court, in the Resolution dated May 24, 2022, admitted all of petitioner's documentary evidence except Exhibits "**P-8**", "**P-22**", "**P-23**", "**P-24**", "**P-25**", "**P-26**", "**P-38**", "**P-51**", "**P-52**" "**P-53**" to "**P-56**", "**P-58**" to "**P-65**", and "**P-344**" to "**P-567**", and granted the sought corrections to the Pre-Trial Order.[29] Thereafter, petitioner rested its case.

Respondent likewise presented both documentary and testimonial evidence. He offered the testimony of Revenue Officer Mica Norielle G. Cui by way of Judicial Affidavit.[30]

Respondent filed his Formal Offer of Evidence on August 4, 2022;[31] meanwhile petitioner filed via email on August 19, 2022, and via personal filing on August 22, 2022, its Comment/Opposition (Re: Respondent's Formal Offer of Evidence dated 03 August 2022).[32]

In the Resolution dated September 13, 2022, the Court admitted all of respondent's exhibits, and granted the parties a non-extendible period of thirty (30) days to file their respective memoranda.[33]

Petitioner and respondent filed their Memoranda on October 17, 2022,[34] and October 14, 2022,[35] respectively.

On November 17, 2022, the case was submitted for decision.[36]

THE ISSUE

The sole issue for resolution is: whether petitioner is entitled to its claim for refund in the amount of ₱3,332,237.00, representing petitioner's excess and unutilized input VAT on its importations

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[28] Docket, Vol. II, pp. 842-848.
[29] Docket, Vol. II, pp. 854-860.
[30] Exhibit "R-6", Docket, Vol. I, pp. 317-326.
[31] Docket, Vol. II, pp. 866-871.
[32] Docket, Vol. II, pp. 873-885.
[33] Docket, Vol. II, pp. 889-890.
[34] Docket, Vol. II, pp. 891-913.
[35] Docket, Vol. II, pp. 915-925.
[36] Docket, Vol. II, p. 928. *cm*

attributable to its effectively zero-rated sales for the 1st quarter of CY ended in 31 December 2018.[37]

THE ARGUMENTS OF THE PARTIES

Petitioner's Arguments

Petitioner contends that during the 1st quarter of CY 2018, it sold goods to certain manufacturers and exporters located in economic zones (ecozones) and registered with the Philippine Economic Zone Authority (PEZA). It argues that while the Court denied admission in evidence of the exhibits representing the PEZA Certifications of these ecozone entities, the exhibits pertaining to the quick response (QR) codes, as well as the corresponding registration details that appear when such QR codes are scanned, sufficiently establish the status of these entities as enterprises duly registered with the PEZA. As such, in accordance with Section 106(A)(2)(a)(5) of the National Internal Revenue Code (NIRC) of 1997, as amended, and prevailing jurisprudence, sales made to ecozone entities are treated as export sales subject to zero percent (0%) VAT.

Specific to the amount of ₱3,332,237.00, petitioner asserts that respondent's disallowance of the same from petitioner's administrative claim is devoid of any factual or legal basis. Petitioner contends that: *first*, the matching procedure performed by the BIR using the data reported by petitioner in its Summary List of Purchases (SLP) and the data provided by the Audit Information, Tax Exemption and Incentives Division (AITEID) of the BIR would not have the same outcome as petitioner and its various suppliers may not adopt the same accounting method in keeping their books of accounts; and, *second*, respondent never presented petitioner with any third party certification or other supporting documentation for the BIR-AITEID data which was used to come up with the supposed discrepancy. As found by the ICPA, the said amount of ₱3,332,237.00 was duly substantiated and not applied against any output VAT, thus petitioner prays that the Court order respondent to refund the said amount.[38]

Respondent's Counter-arguments

On the other hand, respondent maintains that petitioner is not entitled to the refund being sought. Respondent interposes that the BIR, in verifying the supporting documents and pertinent records

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[37] Pre-Trial Order, Docket, Vol. I, p. 784.
[38] Memorandum (of Petitioner), Docket, Vol. II, pp. 895-911. ay

relative to petitioner's claim for VAT refund, which resulted in findings of discrepancies, was conducted in accordance with the procedure laid out in Revenue Memorandum Order (RMO) No. 16-2007. Additionally, respondent claims that petitioner failed to substantiate that it sold goods to PEZA-registered entities considering that the Court had denied admission in evidence of Exhibits "P-22" to "P-26" representing the PEZA-issued certifications since they are mere photocopies. Respondent avers that petitioner likewise failed to comply with the requisites before secondary evidence may be allowed in lieu of the originals. Considering that tax refunds are construed strictly against the claimant, and petitioner failed to discharge the burden entitling it to the claim, respondent prays that the present Petition be dismissed.[39]

THE COURT'S RULING

After a thorough review of the facts as established by the records, and applying the governing law on the matter, the Court finds no merit in the Petition for Review.

The Court has jurisdiction over this case

Section 112(A) and (C) of the NIRC of 1997, as amended, reads:

> "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.

[39] Respondent's Memorandum, Docket, Vol. II, pp. 916-924. *m*

x x x x x x x x x

> (C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* - In proper cases, the Commissioner shall grant a refund for creditable input taxes within ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof: *Provided*, That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.
>
> In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals: *Provided, however*, That failure on the part of any official, agent, or employee of the BIR to act on the application within ninety (90) days period shall be punishable under Section 269 of this Code."

Verily, three (3) relevant periods governing claims for refund of input tax attributable to zero-rated or effectively zero-rated sales must be observed, *viz.*:

(1) The VAT-registered taxpayer must file its application for refund or issuance of tax credit certificate within two (2) years from the close of the taxable quarter when the sales were made;

(2) The CIR has ninety (90) days to grant or deny such claim for refund from the date of submission of official receipts or invoices and other documents in support of the application; and,

(3) The taxpayer must file an appeal with the CTA within thirty (30) days from receipt of the decision denying the claim.

In this case, a careful perusal of the records reveals that petitioner has complied with the above-listed periods.

From the close of the 1st quarter of 2018, petitioner had two (2) years therefrom, or until **March 31, 2020**, within which to file the administrative claim. On March 17, 2020, Revenue Memorandum Circular (RMC) No. 27-2020 was issued, which extended until **April 30, 2020** the filing of VAT refund claims covering the quarter ending March 31, 2018. Thereafter, Revenue Regulations (RR) No. 10-2020 was issued, which further extended the deadline for filing of VAT refund claims covering the 1st quarter of 2018 until **May 15, 2020** or thirty (30) days from the date of the lifting of the enhanced community quarantine, whichever comes later. Then, RR No. 11-2020 amended the deadline *ay* to **May 30, 2020**. Finally, under RR No. 16-2020, the deadline for filing was extended until **July 15, 2020.** Thus, petitioner's filing of the administrative claim, together with the submission of official receipts, invoices and supporting documents, on **June 23, 2020**, was timely.

From **June 23, 2020**, respondent had ninety (90) days, or until **September 21, 2020,** within which to act on the refund claim.

On **August 25, 2020**, or within the ninety (90)-day period, **petitioner received the VAT Refund Notice**, which partially granted the administrative claim. Thus, petitioner had thirty (30) days from receipt of said Notice, or until **September 24, 2020**, within which to file the judicial claim.

Considering that the present Petition for Review was filed on **September 24, 2020**, the same was filed within the prescribed period and the Court has jurisdiction to decide this case.

Requisites for a valid claim of refund of unutilized input tax

Jurisprudence has provided for the requisites of a valid claim for refund of unutilized input tax, to wit:

> "1. The taxpayer is VAT-registered;
> 2. The administrative and judicial claims for refund were filed within their respective prescriptive periods;
> 3. The taxpayer is engaged in zero-rated or effectively zero-rated sales;
> 4. The input taxes were incurred or paid;
> 5. The input taxes are attributable to zero-rated or effectively zero-rated sales; and
> 6. The input taxes were not applied against any output VAT liability."[40]

The Court shall determine petitioner's compliance with the abovementioned requisites *in seriatim.*

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[40] *CBK Power Company Limited vs. Commissioner of Internal Revenue*, G.R. No. 247918, February 1, 2023. CM

First Requisite: The taxpayer is VAT-registered

The parties have jointly stipulated as a fact that petitioner is duly registered with the BIR as a VAT taxpayer under Tax Identification Number 006-868-990-000.[41]

Second Requisite: The administrative and judicial claims were filed within their respective prescriptive periods

As discussed above, petitioner filed its administrative claim for refund within the two (2)-year prescriptive period under Section 112(A) of the NIRC of 1997, as amended, and its judicial claim within thirty (30) days from receipt of the CIR's decision partially denying the administrative claim as provided for in Section 112(C).

Third Requisite: The taxpayer is engaged in zero-rated or effectively zero-rated sales

Petitioner claims that during the first (1st) quarter of CY 2018, it engaged in sales of goods to manufacturers/exporters registered with PEZA and the Board of Investments (BOI). Such sales amounted to a total of ₱121,890,543.63,[42] broken down as follows:

Customer Name	Amount[43]
Asian Transmission Corporation (ATC)	₱ 29,163,101.44
Honda Parts Manufacturing Corp (HPMC)	208,553.26
Isuzu Autoparts Manufacturing (IAM)	24,540,512.00
Mitsuba Philippines Corporation (MPC)	658,299.95
Philippine Gold Processing and Refining Corp (PGPRC)	193,851.00
Toyota Aisin Philippines Corporation (TAPI)	67,126,225.98
Total	₱ 121,890,543.63

All of the abovementioned customers, except for PGPRC which is a BOI-registered entity, are PEZA-registered entities.

[41] Pre-Trial Order, Docket, Vol. I, p. 783.
[42] Exhibit No. "P-57", USB.
[43] Amount per customer was computed by the Court.

For purposes of VAT zero-rating of sales made to a BOI-registered buyer, the Supreme Court clarified, in the case of *Commissioner of Internal Revenue vs. Filminera Resources Corporation*,[44] that the following conditions must be complied with:

> "Accordingly, sales made to a BOI-registered buyer are export sales subject to zero percent rate if the following conditions are met: (1) the buyer is a BOI-registered manufacturer/producer; (2) the buyer's products are 100% exported; and (3) the BOI certified that the buyer exported 100% of its products. For this purpose, **the BOI Certification is vital for the seller-taxpayer to avail of the benefits of zero-rating. The certification is evidence that the buyer exported its entire products and shall serve as authority for the seller to claim for refund or tax credit.**" (*Boldfacing supplied*)

Accordingly, it is incumbent for petitioner to present both: (a) PGPRC's Certificate of Registration with the BOI; and (b) the BOI Certification that PGPRC exported 100% of its products.

Petitioner failed to submit the BOI Certificate of Registration of PGPRC. Moreover, in a Resolution dated May 24, 2022,[45] Exhibit "P-65", representing PGPRC's BOI Certification valid from January 1 to December 31, 2018, was denied admission for failure to submit the original for comparison. Thus, for petitioner's failure to present in evidence these vital documents, the alleged zero-rated sales made to PGPRC in the amount of ₱193,851.00 shall be disallowed.

Anent the sales made to PEZA-registered entities, a PEZA Certificate of Registration is sufficient to entitle a supplier to VAT zero-rating on its sales to a PEZA-registered enterprise consistent with the Court *En Banc*'s ruling in *Commissioner of Internal Revenue vs. Kurimoto (Philippines) Corporation*,[46] *viz.*:

> "To underscore, all sales of goods, property or services by a VAT-registered supplier to a PEZA-registered enterprise, regardless of the type of tax exemption availed of by the latter, shall be subject to VAT at zero percent, not at the regular rate of 12%. **To enjoy the benefit of VAT zero-rating of its sales, the supplier is not even required to secure a separate certification therefor**. RMC No. 74-99's provisions shall be sufficient basis for its entitlement to VAT zero-rating under Section 108(B)(3) of the Tax Code.

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[44] G.R. No. 236325, September 16, 2020.
[45] Docket, Vol. II, pp. 854 to 860.
[46] CTA EB No. 2666, October 11, 2023. qy

In the present case, that THPAL is a PEZA-registered enterprise is established by its PEZA Certificate of Registration. This certification, by itself, entitles KPC a VAT zero-rating with respect to its sales of services to THPAL." (*Boldfacing supplied*)

Perusal of the records reveals that petitioner offered in evidence five (5) PEZA Certificates of Registration of its remaining clients, detailed below:

Exhibit No.	Customer Name	Certificate of Registration No.
P-44[47]	ATC	14-047
P-45[48]	HPMC	93-05
P-46[49]	IAM	97-015
P-47[50]	MPC	96-107
P-48[51]	TAPI	95-60

The Court shall now proceed to determine whether petitioner has complied with the invoicing requirements under Section 113(A) and (B) of the NIRC of 1997, as amended, which provides that a VAT taxpayer shall, for every sale, barter or exchange of goods or properties, issue a VAT invoice which must contain specific information as prescribed therein.

Particularly, Section 113(A), in relation to Section 113(B)(2)**(c)** and **(d)** of the NIRC of 1997, as amended, reads:

"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.

[47] Docket, Vol. II, p. 756.
[48] Docket, Vol. II, p. 757.
[49] Docket, Vol. II, p. 758.
[50] Docket, Vol. II, p. 759.
[51] Docket, Vol. II, p. 760. CM

(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:

x x x

(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:

x x x

(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 involved 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 **break-down** 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 known 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. x x x" (*Boldfacing and underscoring supplied*)

The above provision is implemented by Section 4.113-1 of Revenue Regulations (RR) No. 16-2005, as amended, which reads:

"SEC. 4.113-1. *Invoicing Requirements.* –

x x x

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

x x x

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

x x x

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

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated am

> **or VAT-exempt, the invoice or receipt shall clearly indicate the <u>break-down</u>** of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale." (*Boldfacing and underscoring supplied*)

Verily, it is a requirement that for any VAT invoice or official receipt evidencing **a zero-rated transaction, the term "zero-rated sale" should be written or printed prominently thereon**. Failure to comply with the invoicing requirements is sufficient ground to deny the claim for refund or tax credit.[52]

The Supreme Court has settled, in a number of cases,[53] that the writing or imprinting of the term "zero-rated sale" on the VAT invoice or official receipt is <u>indispensable</u> for a valid claim for refund of unutilized input tax. Such requirement was traced by the Supreme Court from Section 4.108-1 of RR No. 7-95, which has been incorporated in Section 113(B)(2)(c) of the NIRC of 1997, as amended, by virtue of the amendments introduced by Republic Act No. 9337, which confirms the validity of the imprinting requirement on VAT invoices or official receipts, *viz.*:[54]

> "**RR 7-95, which took effect on 1 January 1996, proceeds from the rule-making authority granted to the Secretary of Finance** by the NIRC for the efficient enforcement of the same Tax Code and its amendments. In *Panasonic Communications Imaging Corporation of the Philippines v. Commissioner of Internal Revenue*, we ruled that this provision is 'reasonable and is in accord with the efficient collection of VAT from the covered sales of goods and services.' Moreover, we have held in *Kepco Philippines Corporation v. Commissioner of Internal Revenue* that **the subsequent incorporation of Section 4.108-1 of RR 7-95 in Section 113 (B)(2)(c) of R.A. 9337 actually confirmed the validity of the imprinting requirement on VAT invoices or official receipts – a case falling under the principle of legislative approval of administrative interpretation by reenactment.**" (*Boldfacing supplied*)

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[52] *Commissioner of Internal Revenue vs. Philex Mining Corporation*, G.R. No. 230016, November 23, 2020.
[53] *Panasonic Communications Imaging Corporation of the Philippines vs. Commissioner of Internal Revenue*, G.R. No. 178090, February 8, 2010; *J.R.A. Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 177127, October 11, 2010; *Hitachi Global Storage Technologies Philippines Corp. vs. Commissioner of Internal Revenue*, G.R. No. 174212, October 20, 2010; *Kepco Philippines Corporation vs. Commissioner of Internal Revenue*, G.R. No. 181858, November 24, 2010; *Silicon Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 172378, January 17, 2011; *Western Mindanao Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 181136, June 13, 2012; *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.
[54] *Western Mindanao Power Corporation vs. Commissioner of Internal Revenue*, *id.*

Revenue Memorandum Circular No. 42-2003 is explicit that if the refund claim is based on the existence of zero-rated sales but the taxpayer fails to comply with the invoicing requirements, such claim should be denied, *viz.*:

> "Q-13: Should penalty be imposed on TCC application for failure of claimant to comply with certain invoicing requirements, (e.g., sales invoices must bear the TIN of the seller)?
>
> A-13: Failure by the supplier to comply with the invoicing requirements on the documents supporting the sale of goods and services will result to the disallowance of the claim for input tax by the purchaser-claimant.
>
> **If the claim for refund/TCC is based on the existence of zero-rated sales by the taxpayer but it fails to comply with the invoicing requirements in the issuance of sales invoices (e.g. failure to indicate the TIN), its <u>claim for tax credit/refund of VAT on its purchases shall be denied considering that the invoice it is issuing to its customers does not depict its being a VAT-registered taxpayer whose sales are classified as zero-rated sales</u>**. Nonetheless, this treatment is without prejudice to the right of the taxpayer to charge the input taxes to the appropriate expense account or asset account subject to depreciation, whichever is applicable. Moreover, the case shall be referred by the processing office to the concerned BIR office for verification of other tax liabilities of the taxpayer." (*Boldfacing and underscoring supplied*)

In this case, **all of petitioner's alleged zero-rated sales, evidenced by VAT invoices,[55] do <u>not</u> bear the term "zero-rated sale" written or printed prominently on such invoices**. Thus, for failure of petitioner to comply with the invoicing requirements for all its alleged zero-rated sales, the refund claim should be denied.

Notwithstanding that petitioner indicated in the breakdown of the VAT invoices the amount pertaining to "zero-rated sale", such however did not in any way cure its failure to comply with the imprinting requirement. The information necessary to be indicated in the "breakdown" *and* the writing or imprinting of "zero rated sales" on the VAT official receipts are requirements governed by **<u>separate provisions</u>** of the NIRC of 1997, as amended -- that is, Section 113(B)(2)**(d)**, which requires the breakdown of sales as VATable, VAT-exempt or VAT zero-rated in case of mixed transactions; and <u>Section 113(B)(2)**(c)**</u>, which provides for the imprinting requirement.

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[55] Exhibits "P-66" to "P-130". *cm*

Otherwise stated, **when the transaction involves a purely VAT zero-rated sale, the VAT official receipt should prominently bear the term "zero-rated sale" in accordance with** Section 113(B)(2)**(c) of the NIRC of 1997, as amended**. However, when the transaction is mixed, *i.e.*, it involves a combination of VATable, VAT-exempt or VAT zero-rated sales, the **breakdown** requirement under Section 113(B)(2)**(d)** may apply. Here, all of petitioner's VAT invoices pertain to purely VAT zero-rated sales, yet the imprinting of the required phrase "zero-rated sale" remained lacking.

As petitioner was unable to prove compliance with the third requisite, the Court need not belabor on the other issues in this case.

Again, tax refunds are in the nature of a claim for tax exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven.[56] As afore-discussed, petitioner's VAT invoices failed to comply with the invoicing requirements as prescribed by law, thereby precluding its entitlement to refund.

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

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

(With utmost respect, please see my Concurring and Dissenting Opinion.)
CATHERINE T. MANAHAN
Associate Justice

Marian Ivy F. Reyes - Fajardo
(With due respect, please see Dissenting Opinion.)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

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[56] *Pilipinas Shell Petroleum Corporation vs. Commissioner of Internal Revenue,* G.R. No. 211779, November 3, 2020.

CERTIFICATION

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.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

SCHAEFFLER PHILIPPINES, INC., *Petitioner,*	**CTA Case No. 10358** Members:
-versus-	**DEL ROSARIO,** *P.J., Chairperson,* **MANAHAN,** *and* **REYES-FAJARDO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: FEB 15 2024, 3:00PM

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CONCURRING AND DISSENTING OPINION

MANAHAN, *J.*:

I concur with the result of the *ponencia* of my esteemed colleague, the Honorable Presiding Justice Roman G. Del Rosario. However, with utmost respect, I submit that the *Petition for Review* should be denied on the ground that petitioner failed to present its clients' Philippine Economic Zone Authority (PEZA) Value-Added Tax (VAT) Zero-Rating Certifications in order to prove that its sales of goods are effectively zero-rated.

Pursuant to Section 106(A)(2)(a)(5) of the 1997 National Internal Revenue Code (NIRC), as amended, sales considered as "export sales" under Executive Order No. 226, otherwise known as the "Omnibus Investment Code of 1987," and other special laws, are subject to zero percent (0%) rate. One such special law referred to in this Section, and which specifically applies in this case, is Republic Act (RA) No. 7916, as amended by RA No. 8748, otherwise known as "The Special Economic Zone Act of 1995."

Section 8 of RA No. 7916 mandates the PEZA to manage and operate the ECOZONES as separate customs territory, thereby creating the legal fiction that the ECOZONE is foreign territory.[1] As consequence, sales made by a VAT-registered person such as petitioner to an entity registered and operating within an ECOZONE are considered exports to a foreign country subject to VAT zero-rating.

The factual question therefore in this case is whether petitioner proved that the subject sales were made to *qualified* PEZA-registered enterprises.

The majority is of the opinion that a PEZA Certificate of Registration is sufficient to entitle a supplier to VAT zero-rating on its sales to a PEZA-registered enterprise. Accordingly, since petitioner offered in evidence the PEZA Certificates of Registration of its clients, it was able to establish that it is engaged in zero-rated or effectively zero-rated sales.

The PEZA Certificate of Registration is a certificate issued by the PEZA to an ECOZONE enterprise upon its registration.[2] Concededly, such registration *ipso facto* results in the zero-rating of the enterprise's transactions with its suppliers. This is in line with the cross-border doctrine adhered to by the Philippine VAT system, which provides that no VAT shall be imposed to form part of the cost of goods destined for consumption outside of the territorial border of the taxing authority. In *Commissioner of Internal Revenue v. Seagate Technology (Philippines)*,[3] the Supreme Court pronounced that administrative regulations requiring prior application for effective zero-rating cannot prevail over the VAT nature of a registered enterprise's transactions. Other than the general registration of a taxpayer from which the VAT status can be determined, no provision under our VAT law imposes additional requirements for such transactions to qualify as effectively zero-rated.[4]

However, such registration—and by implication all the benefits and incentives arising therefrom, which includes VAT-zero rate—is not without conditions. Failure to maintain the qualifications of the registration is among the grounds for its

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[1] Commissioner of Internal Revenue v. Toshiba Information Equipment (Phils.), Inc., G.R. No. 150154, Aug. 9, 2005.
[2] Section 2(s), Rules and Regulations to Implement Republic Act No. 7916, May 17, 1995. Hereinafter 'IRR of RA 7916.'
[3] G.R. No. 153866, Feb. 11, 2005.
[4] *Id.*

revocation. Section 8(C) of the IRR of RA No. 7916, in relation to Section 14(h) of RA No. 7916,[5] provides as follows:

> **SECTION 8.** Penalties
>
> x x x
>
> (C) Cancellation/Revocation — Registration, permit and/or franchise of an ECOZONE enterprise may be cancelled for any of the following grounds:
>
> a) Failure to maintain the qualifications of registration/permit/franchise as required.
>
> b) Violation of any pertinent provision of the Act Code (*sic*) and/or Decree; and
>
> c) Violation of any of these Rules and Regulations, the corresponding implementing memoranda or circulars or any of the general and specific terms and conditions of the Registration Agreement between the PEZA and the ECOZONE enterprise or violation of the terms and conditions of the permit/franchise issued by PEZA.
>
> However, delay by the ECOZONE enterprise in the implementation of the timetable of its project as set by the PEZA shall result in the automatic cancellation of the certificate of registration/permit/ franchise unless extended or a different period is set by the PEZA or these Rules.
>
> x x x

Thus, while the Certificate of Registration proves that the enterprise is duly registered with the PEZA, it is the PEZA VAT Zero-Rating Certificate (PEZA-ERD Form No. 97-01) which confirms that the enterprise is compliant with the conditions stipulated in its PEZA Certificate of Registration and has no

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[5] **SECTION 14. Powers and Functions of the Director General.** — The director general shall be the overall coordinator of the policies, plans and programs of the ECOZONES. As such, he shall provide overall supervision over and general direction to the development and operations of these ECOZONES. x x x

In addition, he shall have the following specific powers and responsibilities:

x x x

> (h) To recommend to the Board the grant, approval, refusal, amendment or termination of the ECOZONE franchises, licenses, permits, contracts, and agreements in accordance with the policies set by the Board;

x x x

outstanding penalties.[6] It is the PEZA VAT Zero-Rating Certificate which serves as competent proof that the enterprise seeking VAT refund remains a *qualified* PEZA-registered enterprise and therefore entitled to the VAT zero-rating incentive. It bears to stress that under RA No. 7916, the PEZA is entrusted by law with the establishment, operation, administration, regulation, and development of ECOZONES.

So in the instant case, petitioner submitted photocopies of the PEZA VAT Zero-Rating Certificates of its clients, but the same were denied by the Court in its *Resolution* dated May 24, 2022[7] for failure to submit the originals for comparison. The Court cannot give probative value to the same as it is a basic rule that evidence which has not been admitted cannot be validly considered by the courts in arriving at their judgments.[8]

Cases before the Court are litigated *de novo* where party-litigants should prove every minute aspect of their cases.[9] This is especially true in tax refund cases, where taxpayers have the burden of proving the factual bases of their claims.[10] Tax refunds, being in the nature of tax exemptions, are regarded as derogation of sovereign authority and are to be construed *strictissimi juris* against the claimant.[11] The taxpayer-claimant therefore must not only prove entitlement to the grant of the claim under substantive law but also compliance with all the documentary and evidentiary requirements.[12] Failure to discharge this burden, as in this case, is fatal to the taxpayer's claim.

In view of the foregoing, I **VOTE** to deny the *Petition for Review*.

CATHERINE T. MANAHAN
Associate Justice

[6] *See* Annex "A," PEZA Memorandum Order No. 2023-014, Nov. 3, 2023.
[7] Docket – Vol. II, pp. 854-860.
[8] Dela Llano v. Biong, G.R. No. 182356, Dec. 4, 2013.
[9] Commissioner of Internal Revenue v. Philippine Bank of Communications, G.R. No. 211348, Feb. 23, 2022.
[10] Sitel Philippines Corp. v. Commissioner of Internal Revenue, G.R. No. 201326, Feb. 8, 2017.
[11] Maibarara Geothermal, Inc. v. Commissioner of Internal Revenue, G.R. No. 250479, Jul. 18, 2022, citing Commissioner of International Revenue v. Filminera Resources Corporation, G.R. No. 236325, Sep. 16, 2020.
[12] Tanduay Distillers, Inc. v. Commissioner of Internal Revenue, G.R. No. 256740 (Notice), Feb. 13, 2023; Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 183531, Mar. 25, 2015.

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

SCHAEFFLER PHILIPPINES, INC.
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10358

Members:
DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, and
REYES-FAJARDO, *JJ.*

Promulgated:
FEB 1 5 2024, 3:00PM

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DISSENTING OPINION

REYES-FAJARDO, J.:

The recent case of *Chevron Holdings, Inc. v. Commissioner of Internal Revenue*[1] set out the requisites for a grant of refund or credit of unutilized input value-added tax (VAT) attributable to zero-rated sales, *viz.*:

> Under Section 112(A) of the Tax Code, the taxpayer may claim for refund or issuance of tax credit certificate of unutilized input VAT attributable to zero-rated sales subject to the following conditions: (1) the taxpayer is VAT-registered; **(2) the taxpayer is engaged in zero-rated or effectively zero-rated sales**; (3) the claim must be filed within two (2) years after the close of the taxable quarter when such sales were made; and (4) the creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax. (Emphasis supplied)

With regard the *second requirement* above, I concur with the *ponencia* in finding that the Philippine Economic Zone Authority (PEZA) Certifications offered in the present case are sufficient to establish that Schaeffler Philippines, Inc. (Schaeffler) engaged in sales to PEZA-registered enterprises. Pursuant to the provisions in Revenue

[1] G.R. No. 215159, July 5, 2022.

Memorandum Circular (RMC) No. 74-99,[2] sales to enterprises, the PEZA registration of which have been established, shall be regarded as zero-rated sales for purposes of Section 108(B)(3) of the National Internal Revenue Code of 1997, as amended (Tax Code), *i.e.*, services to person enjoying a tax exemption.

Nonetheless, the *ponencia* denied Schaeffler's claim for refund or credit on account of non-compliance with VAT invoicing requirements. In particular, the *ponencia* points out that VAT invoices and/or receipts containing a **breakdown** to differentiate among VAT-able sales, **zero-rated sales**, and exempt sales, but do not bear the term "zero-rated sales" prominently on the face of the document, fail to meet the substantiation requirements set out in the law and applicable regulations.

With all due respect, I disagree with this position.

Section 113 of the Tax Code enumerates the invoicing requirements and information that must be contained in the VAT invoice or official receipt. Relative thereto, Revenue Regulations (RR) No. 16-05 (VAT Regulations)[3] set out as follows:

> SEC. 4.113-1. Invoicing Requirements. —
>
> (A) x x x
>
> (B) Information contained in VAT invoice or VAT official receipt. — The following information shall be indicated in VAT invoice or VAT official receipt:
>
> (1) A statement that the seller is a VAT-registered person, followed by his TIN;
>
> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; Provided, That:

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[2] Tax Treatment of Sales of Goods, Property and Services Made by a Supplier from the Customs Territory to a PEZA Registered Enterprise; and Sale Transactions Made by PEZA Registered Enterprises Within and Without the ECOZONE, October 15, 1999.| | | (Commissioner of Internal Revenue v. Kurimoto (Philippines) Corp., C.T.A. EB Case No. 2666 (C.T.A. Case No. 9740), [October 11, 2023])

[3] Consolidated Value-Added Tax Regulations of 2005, Revenue Regulations No. 16-05, September 1, 2005.

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

(b) If the sale is exempt from VAT, 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%) VAT, 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 **break-down** of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale. (Emphasis supplied)

While the "**prominence**" and "**break-down**" requirements are set out *separately* in sub-paragraphs (b) and (c), and (d), respectively, there is nothing in the law and regulations that prohibits a VAT taxpayer from adopting a *more concise* method of presentation/disclosure of invoice information yet *simultaneously* meeting both these standards under the law.

Verily, the rule is that a claimant's VAT zero-rating, by itself, does not *ipso facto* justify the grant of its application for refund or credit of unutilized input taxes attributable to zero-rated sales. As tax refunds are construed *strictissimi juris* against the claimant, it must also establish compliance with the applicable invoicing and accounting requirements.[4] However, our construction of these statutory and regulatory requirements must not be so rigid.[5] We must still arrive at a **reasonable, practical, and logical interpretation** that does not depart from their purposes and intent.[6]

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4 *Western Mindanao Power Corp. v. Commissioner of Internal Revenue*, G.R. No. 181136, June 13, 2012, 687 PHIL 328-342.

5 In *Commissioner of Internal Revenue v. Philex Mining Corp.* (G.R. No. 230016, November 23, 2020), the Supreme Court held, "While tax refunds are in the nature of tax exemptions and are construed *strictissimi juris* against the taxpayer, tax statutes shall be construed strictly against the taxing authority and liberally in favor of the taxpayer, for taxes, being burdens, are not to be presumed beyond what the statute expressly and clearly declares."

6 See *Commissioner of Internal Revenue v. Court of Appeals*, G.R. Nos. 104151 & 105563, March 10, 1995, 312 PHIL 337-373. In *Muñoz & Co. v. Hord* (G.R. No. 4832, January 28, 1909, 12 PHIL 624-

The primary objective of requiring strict compliance with invoicing requirements is only a "VAT invoice/official receipt" can give rise to any input tax from domestic purchase of goods or service.[7] "The appearance of the word 'zero-rated' on the face of invoices covering zero-rated sales prevents buyers from falsely claiming input VAT from their purchases when no VAT was actually paid. If, absent such word, a successful claim for input VAT is made, the government would be refunding money it did not collect."[8]

In other words, invoicing requirements are directed at the **substantiation of the claimant's input tax credits**, *i.e.*, whether the documentation issued by *its suppliers* as evidence of the *purchases* contain the required information.

The Supreme Court's discussion in *Commissioner of Internal Revenue v. Euro-Philippines Airline Services, Inc.*[9] is instructive:

> Here, there is no dispute that Euro-Phil is VAT registered. Next, it is also not disputed that the services rendered by Euro-Phil was to a person engaged in international air-transport operations. Thus, by application, Section 108 of the NIRC of 1997 subjects the services of Euro-Phil to British Airways PLC, to the rate of zero percent VAT. While CIR contends that the dissenting opinion of Justice del Rosario that Euro-Phil's failure to present and offer any proof to show that it has complied with the invoicing requirements, deems its sale of services to British Airways PLC subject to 12% VAT, it does not negate the established fact that British Airways PLC is engaged in international air-transport operations.

Verily, in *refund cases*, it is still essential that the claimant's *own sales invoices or official receipts* satisfy the relevant invoicing and accounting requirements.[10] However, even the failure to present and offer proof showing compliance with invoicing requirements does

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639), the Supreme Court decreed, "Applying the rules of interpretation above cited, it is clear that a construction should be rejected which gives to the language used in the exception a meaning not required to accomplish the purpose for which the exception was inserted by the legislator, and which tends to defeat the ends which are sought to be attained by the enactment of the provision wherein the exception is found, unless it appears that the language of the exception is not susceptible of some other fair and reasonable construction, to which such objections cannot be raised."

7 *Commissioner of Internal Revenue v. Philex Mining Corp.*, G.R. No. 230016, November 23, 2020.

8 *Panasonic Communications Imaging Corp. v. Commissioner of Internal Revenue*, G.R. No. 178090, February 8, 2010, 625 PHIL 631-644.

9 G.R. No. 222436, July 23, 2018.

10 *Western Mindanao Power Corp. v. Commissioner of Internal Revenue*, G.R. No. 181136, June 13, 2012, 687 PHIL 328-342.

merit an outright and complete denial of the claim[11] and **cannot serve to negate the zero-rated character of the sales**, especially when already demonstrated sufficiently, as in the present case. At the very least, the Court remains duty-bound to verify the claim and determine whether the remaining conditions under Section 112(A) of the Tax Code have been satisfied.[12]

I reiterate two points: *First*, Schaeffler's invoices bear a detailed break-down, through which it has expressly disclosed the zero-rated nature of the sale, as well as the money value of the transaction. *Second*, its clients' Certificates of Registration show that Schaeffler's sales were made to PEZA-registered enterprises.

It is clear from these considerations that Schaeffler's sales to PEZA-registered clients effectively subjects the same to VAT at zero percent[13] *and* that its invoices contain the information required by the law and regulations. To be sure, the term "zero-rated sale" is prominently printed in the break-down portion of Schaeffler's invoices. That the break-down portion clearly identifies the nature of and the money value assigned to the transaction obviates the "evil" that buyers may falsely claim input VAT therefrom. While the appearance of the term "zero-rated sale" more than once or the use of a more emphatic typeface may increase prominence, in my opinion, it is not necessary in this case.

In these lights, I **VOTE** to **GRANT** the petition to the extent that Schaeffler also establishes the validity of its input VAT, after a determination of whether or not it has complied with the remaining requisites under Section 112(A) of the Tax Code.[14]

Marian Ivy F. Reyes - Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

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[11] *Southern Power Corp. v. Commissioner of Internal Revenue*, G.R. No. 179632, October 19, 2011, 675 PHIL 732-741.

[12] Id.

[13] Section 108(B)(3), Tax Code, in relation to RMC No. 74-99.

[14] In *Southern Power Corp. v. Commissioner of Internal Revenue* (G.R. No. 179632, October 19, 2011, 675 PHIL 732-741), the judicial refund was denied at the outset by the CTA for failure to substantiate zero-rated sales (second requisite). However, on review, the Supreme Court remanded the case to the CTA for determination of whether or not the taxpayer complied with the remaining requisites under Section 112(A) of the Tax Code.