REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

AIG SHARED SERVICES CORPORATION (PHILIPPINES) [FORMERLY: CHARTIS TECHNOLOGY AND OPERATIONS MANAGEMENT CORPORATION (PHILIPPINES)],
Respondent.

CTA EB No. 2071
(CTA Case No. 9100)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, and
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
SEP 07 2020 2:45pm

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DECISION

BACORRO-VILLENA, J.:

Before this Court *En Banc* is a Petition for Review[1] filed by petitioner Commissioner of Internal Revenue **(CIR/petitioner)**

[1] Filed 31 May 2019, *Rollo*, pp. 5-14.

pursuant to Rule 8, Sections 3(b)[2] and 4(b)[3] of the Revised Rules of the Court of Tax Appeals[4] (**RRCTA**). It seeks the reversal of the Decision promulgated on 24 January 2019[5] and the Resolution promulgated on 30 April 2019[6], respectively, of the Court's Special Third Division in CTA Case No. 9100, entitled *AIG Shared Services Corporation (Philippines) [Formerly: Chartis Technology and Operations Management Corporation (Philippines)] v. Commissioner of Internal Revenue*. The Special Third Division partially granted respondent's prior Petition for Review[7] and denied petitioner's Motion for Partial Reconsideration[8] (**MPR**).

Petitioner CIR is presently in the person of Commissioner Caesar R. Dulay, with principal office address at the 5th Floor, Bureau of Internal Revenue (**BIR**) National Office Building, Agham Road, Diliman, Quezon City.[9] He is vested with the power to decide tax cases, including claims for refund and/or tax credit pursuant to Section 4[10] of the National Internal Revenue Code (**NIRC**) of 1997, as amended.[11]

Respondent AIG Shared Services Corporation (Philippines) [**respondent**] is a foreign corporation duly registered and authorized

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2 **SEC. 3.** *Who may appeal; period to file petition.* –

...

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

3 **SEC. 4.** *Where to appeal; mode of appeal.* –

...

(b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal.

4 A.M. No. 05-11-07-CTA dated 22 November 2005.

5 Division Docket, Volume VII, pp. 3553-3581.

6 Id., pp. 3602-3605.

7 Id., Volume I, pp. 10-21.

8 Id., Volume VII, pp. 3583-3589.

9 Joint Stipulation of Facts and Issue, id., Volume II, p. 507.

10 **SEC. 4.** ***Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.*** - The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.

The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.

11 Supra at note 9.

by the Securities and Exchange Commission (**SEC**) under Amended License No. FM00000152 to operate as Regional Operating Headquarters (**ROHQ**), with principal office address at 46th Floor, 6795 Ayala Avenue corner Rufino Street, Makati City, and an extension office at iHub2 Building, North Bridgeway Avenue, Northgate Cyberzone, Filinvest Corporate City, Alabang, Muntinlupa City.[12] Respondent is registered with the BIR as Value-Added Tax (**VAT**) taxpayer in accordance with Section 236 of the NIRC of 1997, as amended, under Certificates of Registration Nos. OCN9R0000355401 effective 13 September 1997, OCN9R0000355702 effective 24 November 2009, and OCN8RC0000059749 effective 20 August 2015.[13]

The antecedent facts follow.

On 27 February 2015, respondent filed with petitioner, through BIR Revenue District Office (**RDO**) No. 126, an application for refund/tax credit certificate (**TCC**) of its excess and unutilized input VAT for the first to fourth quarters of fiscal year (**FY**) 2013.[14]

Petitioner failed to act on the said application for refund/tax credit thus respondent filed the prior Petition for Review[15] (CTA Case No. 9100) with this Court on 20 July 2015. In the said Petition for Review, respondent prayed for the Court in Division to order petitioner to refund or issue TCC in its favor the amount of Sixty-Seven Million Nine Hundred Seventy-Six Thousand Four Hundred Forty-Nine Pesos and Sixteen Centavos (₱67,976,449.16)[16].

In the same Petition for Review, respondent claimed that, in the course of its operations for FY 2013, it rendered services to its non-resident foreign affiliate-clients registered under the laws of their respective foreign jurisdictions and they are not registered with the Philippine SEC as doing business in the Philippines either as a branch or a subsidiary.[17] According to respondent, its services to them generated VAT zero-rated sales (in FY 2013) that were paid in US Dollars (**USD**) inwardly remitted to the Philippines and accounted for

[12] Division Docket, Volume II, p. 506.
[13] Id., p. 507.
[14] Id.
[15] Supra at note 7.
[16] Division Docket, Volume I, p. 18.
[17] Id., p. 12.

in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (**BSP**).[18]

As reported in its quarterly VAT Returns filed for the four (4) quarters of FY 2013, respondent generated the total sales of ₱2,700,118,078.88 and the zero-rated sales were reported at 99.07% or ₱2,675,219,721.49[19], as follows:

FY 2013	VATable sales (Php)	VAT-exempt sales (Php)	VAT zero-rated sales (Php)	Total sales (Php)
First quarter	0.00	0.00	464,730,110.36	464,730,110.36
Second quarter	11,041,637.50	0.00	660,199,872.49	671,241,509.99
Third quarter	5,685,041.14	0.00	658,857,186.91	664,542,228.05
Fourth quarter	8,171,618.75	0.00	891,432,551.73	899,604,170.48
Total	**24,898,297,.39**	**0.00**	**2,675,219,721.49**	**2,700,118,078.88**

On the other hand, respondent reported its input VAT to be as follows[20]:

	Capital goods not exceeding P1 Million (Php)	Amortization of capital goods exceeding P1 Million (Php)	Domestic purchase of goods (Php)	Domestic purchase of services (Php)	Total (Php)
Q1	0.00	61,930.02	1,064,204.65	16,081,815.91	17,207,950.57
Q2	592,232.08	358,971.43	2,273,770.73	19,369,777.88	22,594,752.12
Q3	140,868.69	13,772.20	1,177,003.59	17,085,490.32	18,417,134.80
Q4	0.00	236,743.26	927,757.33	12,193,939.43	13,358,440.02*
Total	**733,100.77**	**671,416.91**	**5,442,736.30**	**64,731,023.54**	**71,578,277.51**
**Taking into account the input VAT from the previous period (Php234,127.47)*					

Respondent further claimed that it reported the refundable input VAT for FY 2013 as a deduction from the total accumulated input VAT in Line 20D of the Monthly VAT Return for January 2015 filed on 23 February 2015.[21]

18 Id., p. 13.
19 Id.
20 Id.
21 Id., p. 14.

During the trial, respondent presented the following witnesses, namely: (1) Glaiza Apolinario-Baroro (**Baroro**), respondent's Accountant III; (2) Atty. Geronimo Randy L. Recinto (**Atty. Recinto**), respondent's General Counsel; and, (3) Mary Ann C. Capuchino (**Capuchino**), the Court-commissioned Independent Certified Public Accountant (**ICPA**).

On the witness stand, Baroro identified her Sworn Statement[22] which was adopted as her Judicial Affidavit. There, she stated that: (1) as Accountant III, she supervises the preparation of respondent's various tax returns as well as the documentation for filing the VAT claims for refund; (2) respondent is an ROHQ providing qualifying services to its affiliates and that it is duly registered and licensed as such with the SEC and BIR; (3) respondent had seventy-three (73) clients; (4) East West Bank issued Certifications of Inward Remittances[23] for the remittances to respondent's accounts; (5) respondent has invoices and official receipts for its domestic purchases of goods and services as well as capital goods; (6) respondent's clients are non-resident foreign entities doing business outside the Philippines, as evidenced by Master Service Agreements and SEC Certificates of Non-Registration, as well as the Certificates and Articles of Incorporation and similar documents issued by their respective foreign governments and duly authenticated and consularized by the Philippine Consulate[24]; (7) respondent also secured screenshots[25] of their respective foreign governments' website showing that they are indeed registered, domiciled, and doing business in the said countries. In her Supplemental Sworn Statement[26], Baroro

22 Exhibit "P-210", id., Volume II, pp. 813-874.

23 Exhibits "P-43" to "P-66", inclusive.

24 Exhibits "P-141-a", "P-141-b", "P-141-c", "P-141-d", "P-143-b", "P-143-c", "P-143-d", "P-144-b", "P-144-c", "P-145-a", "P-146-a", "P-146-b", "P-147-a", "P-147-b", "P-148-a", "P-150-a", "P-150-b", "P-150-c", "P-150-d", "P-151-a", "P-151-b", "P-151-c", "P-153-a", "P-153-b", "P-153-c", "P-154-a", "P-154-b", "P-155-a", "P-155-b", "P-155-c", "P-156-a", "P-156-b", "P-156-c", "P-159-b", "P-159-c", "P-161-b", "P-161-c", "P-163-a", "P-163-b", "P-164-a", "P-164-b", "P-166-a", "P-170-a", "P-173-a", "P-173-b", "P-176-a", "P-182-a", "P-184-a", "P-184-b", "P-184-c", "P-184-d", "P-197-a", "P-203-a", "P-203-b", "P-206" and "P-206-a".

25 Exhibits "P-141-e", "P-142-b", "P-143-e", "P-144-d", "P-145-b", "P-146-c", "P-147-c", "P-150-e", "P-151-d", "P-152", "P-153-d", "P-154-c", "P-155-d", "P-156-d", "P-158-a", "P-159-d", "P-160-a", "P-161-d", "P-162-a", "P-163-c", "P-164-c", "P-165-a", "P-166-b", "P-168-a", "P-169-a", "P-170-b", "P-172-a", "P-173-c", "P-175-a", "P-178-a", "P-179-a", "P-181-a", "P-182-b", "P-183-a", "P-184-e", "P-186-a", "P-187-a", "P-188-a", "P-191-a", "P-192-a", "P-193-a", "P-194-a", "P-195-a", "P-196-a", "P-197-b", "P-198-b", "P-200-a", "P-201-a", "P-202-a", "P-203-c", "P-205", "P-206-b", "P-207", "P-208" and "P-209".

26 Exhibit "P-210-b", Division Docket, Volume III, pp. 1012-1024.

identified new consularized documents[27] obtained for ten (10) of its foreign clients.

On the other hand, through his Judicial Affidavit[28], Atty. Recinto testified that, in relation to his duties and responsibilities as General Counsel, he is also the custodian of all the legal and corporate documents relating to respondent's registration and operations as well as its agreements with its affiliates. He thus identified the SEC Certificates of Non-Registration[29] as well as the Master Agreements, Statements of Work, and Letters of Intent[30] it had with its clients. In his Supplemental Sworn Statement[31], Atty. Recinto also identified newly secured SEC Certificates of Non-Registration[32] for its four (4) clients.

Lastly, Capuchino attested in her Judicial Affidavit[33] that she prepared a report documenting her findings and observations as well as the procedures performed which she submitted to the Third Division on 18 August 2016.

Petitioner did not conduct any cross examination on any of respondent's witnesses.[34]

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27 Exhibits "P-168-b", "P-178-b", "P-178-c", "P-178-d", "P-178-e", "P-192-b", "P-194-b", "P-195-b", "P-196-b", "P-200-b", "P-201-b" and "P-204-a".

28 Denominated as Sworn Statement, Exhibit "P-211", Division Docket, Volume II, pp. 875-933.

29 Exhibits "P-67-a", "P-67-b", "P-68", "P-69-a", "P-69-b", "P-70", "P-71-a", "P-71-b", "P-72-a", "P-72-b", "P-73", "P-74-a", "P-75-a", "P-75-b", "P-76", "P-77", "P-78", "P-79", "P-80", "P-81", "P-82", "P-83", "P-84", "P-85-a", "P-85-b", "P-86", "P-87-a", "P-87-b", "P-88", "P-89", "P-90", "P-91", "P-92", "P-93", "P-94", "P-95", "P-96", "P-97", "P-98", "P-99", "P-100", "P-101", "P-102", "P-103", "P-104", "P-105", "P-106", "P-107", "P-108", "P-109", "P-110-a", "P-110-b", "P-111", "P-112-a", "P-112-b", "P-113", "P-114", "P-115", "P-116", "P-117", "P-118", "P-119", "P-120", "P-121", "P-122", "P-123", "P-125", "P-126", "P-127", "P-128", "P-129", "P-130-a", "P-130-b", "P-131", "P-132", "P-133", "P-134-a", "P-134-b", "P-135", "P-136", "P-137", "P-138", "P-139" and "P-140".

30 Exhibits "P-141", "P-142", "P-142-a", "P-143", "P-143-a", "P-144", "P-144-a", "P-145", "P-146", "P-147", "P-148", "P-149", "P-150", "P-151", "P-153", "P-154", "P-155", "P-156", "P-157", "P-158", "P-159", "P-159-a", "P-160", "P-162", "P-163", "P-164", "P-165", "P-166", "P-167", "P-167-a", "P-168", "P-169", "P-170", "P-171", "P-172", "P-173", "P-174", "P-175", "P-176", "P-177", "P-178", "P-179", "P-180", "P-181", "P-182", "P-183", "P-184", "P-185", "P-186", "P-187", "P-188", "P-189", "P-190", "P-191", "P-191" (subsequently noted as "P-192"), "P-193", "P-194", "P-195", "P-196", "P-197", "P-198", "P-198-a", "P-199", "P-200", "P-201", "P-202" and "P-203".

31 Exhibit "P-211-b", Division Docket, Volume III, pp. 1025-1033.

32 Exhibits "P-74-c", "P-111-a", "P-130-c" and "P-136-a".

33 Denominated as Sworn Statement, Exhibit "P-212", Division Docket, Volume III, pp. 1118-1138.

34 Minutes of the hearing on 22 November 2016, id., p. 1108; TSN dated 16 January 2017, pp. 9, 14, and 22.

On 06 February 2017, respondent filed its Formal Offer of Evidence[35] (FOE) consisting of Exhibits "P-1" to "P-268", inclusive of sub-markings. Petitioner did not file his comment thereon as *per* Records of Verification dated 17 February 2017.[36]

On 21 February 2017, petitioner filed a Manifestation[37] stating that he would no longer present any evidence and in lieu thereof, requested that the parties be given a period of thirty (30) days within which to file their respective memoranda.

On 10 November 2017, the Third Division issued a Resolution[38] admitting respondent's documentary evidence with notation on certain discrepancies in some of its exhibits[39] and directing the parties to submit their respective memoranda.

Notwithstanding this directive and despite petitioner's previous request to be given a period of thirty (30) days within which to file their respective memoranda, only respondent submitted its Memorandum.[40] The Court therefore resolved to submit the case for decision without petitioner's memorandum.[41]

On 24 January 2019, the Special Third Division promulgated the assailed Decision[42]. The dispositive portion reads:

> ...
>
> **WHEREFORE**, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, Respondent is **ORDERED TO REFUND or TO ISSUE A TAX CREDIT CERTIFICATE** in favor of Petitioner the amount of **Php14,077,169.64** representing the latter's unutilized input VAT attributable to its zero-rated sales for the [sic] 2013.
>
> **SO ORDERED.**[43]
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> ...

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35 Division Docket, Volume III, pp. 1150-1252.
36 Id., Volume VII, p. 3472.
37 Id., pp. 3477-3478.
38 Id., pp. 3496-3500.
39 Exhibits "P-1", "P-134-a", "P-141-b", "P-141-c", "P-146", "P-158", "P-160", "P-133", "P-150-d", "P-182-a" and "P-192".
40 Division Docket, Volume VII, pp. 3513-3535.
41 Resolution dated 26 January 2018, id., p. 3539.
42 Supra at note 5.
43 Emphasis in the original text.

Petitioner filed an MPR[44] to the above ruling alleging essentially that: (1) respondent failed to present a competent witness who could testify on the veracity and authenticity of the documents that are required to be presented to qualify its clients as a non-resident foreign corporations doing business outside the Philippines as the witnesses presented supposedly do not have any personal knowledge as to the execution of these essential documents nor they had any hand in the preparation thereof; and, (2) the VAT invoices or official receipts identified by the ICPA failed to comply with the requirements set under Sections 110(A)[45] and 113(A) and (B)[46] of the NIRC of 1997, as

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44 Supra at note 8.

45 **SEC. 110.** *Tax Credits.* -
(A) *Creditable Input Tax.* -
(1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax:
(a) Purchase or importation of goods:
(i) For sale; or
(ii) For conversion into or intended to form part of a finished product for sale including packaging materials; or
(iii) For use as supplies in the course of business; or
(iv) For use as materials supplied in the sale of service; or
(v) For use in trade or business for which deduction for depreciation or amortization is allowed under this Code.
(b) Purchase of services on which a value-added tax has been actually paid.
...

46 **SEC. 113.** *Invoicing and Accounting Requirements for VAT-Registered Persons.* -
(A) *Invoicing Requirements.* - A VAT-registered person shall issue:
(1) A VAT invoice for every sale, barter or exchange of goods or properties; and
(2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.

(B) *Information Contained in the VAT Invoice or VAT Official Receipt.* - The following information shall be indicated in the VAT invoice or VAT official receipt:
(1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax. *Provided, that*:
(a) The amount of the tax shall be known as a separate item in the invoice or receipt;
(b) If the sale is exempt from value-added tax, the term "VAT-exempt sale" shall be written or printed prominently on the invoice or receipt;
(c) If the sale is subject to zero percent (0%) value-added tax, the term "*zero-rated sale*" shall be written or printed prominently on the invoice or receipt.
(d) If the sale 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.
(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and
(4) In the case of sales in the amount of One thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client.
...

amended, in relation to Sections 4.110-2[47], 4.110-3[48], 4.110-8[49], and 4.113-1[50] of Revenue Regulations (RR) No. 16-05, as amended. Petitioner also

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47 **SEC. 4.110-2.** ***Persons Who Can Avail of the Input Tax Credit***. - The input tax credit on importation of goods or local purchases of goods, properties or services by a VAT registered person shall be creditable:
(a) To the importer upon payment of VAT prior to the release of goods from customs custody;
(b) To the purchaser of the domestic goods or properties upon consummation of the sale; or
(c) To the purchaser of services or the lessee or licensee upon payment of the compensation, rental, royalty or fee.

48 **SEC. 4.110-3.** ***Claim for Input Tax on Depreciable Goods***. - Where a VAT-registered person purchases or imports capital goods, which are depreciable assets for income tax purposes, the aggregate acquisition cost of which (exclusive of VAT) in a calendar month exceeds One Million pesos (P1,000,000.00), regardless of the acquisition cost of each capital good, shall be claimed as credit against output tax in the following manner:
(a) If the estimated useful life of a capital good is five (5) years or more – The input tax shall be spread evenly over a period of sixty (60) months and the claim for input tax credit will commence in the calendar month when the capital good is acquired. The total input taxes on purchases or importations of this type of capital goods shall be divided by 60 and the quotient will be the amount to be claimed monthly.
(b) If the estimated useful life of a capital good is less than five (5) years – The input tax shall be spread evenly on a monthly basis by dividing the input tax by the actual number of months comprising the estimated useful life of the capital good. The claim for input tax credit shall commence in the calendar month that the capital goods were acquired.

Where the aggregate acquisition cost (exclusive of VAT) of the existing or finished depreciable capital goods purchased or imported during any calendar month does not exceed One million pesos (₱1,000,000.00), the total input taxes will be allowable as credit against output tax in the month of acquisition; *Provided*, however, that the total amount of input taxes (input tax on depreciable capital goods plus other allowable input taxes) allowed to be claimed against the output tax in the quarterly VAT Returns shall be subject to the limitation prescribed under Sec. 4.110-7 of these Regulations.

49 **SEC. 4.110-8.** ***Substantiation of Input Tax Credits***. -
(a) Input taxes for the importation of goods or the domestic purchase of goods, properties or services is made in the course of trade or business, whether such input taxes shall be credited against zero-rated sale, non-zero-rated sales, or subjected to the 5% Final Withholding VAT, must be substantiated and supported by the following documents, and must be reported in the information returns required to be submitted to the Bureau:
(1) For the importation of goods - import entry or other equivalent document showing actual payment of VAT on the imported goods.
(2) For the domestic purchase of goods and properties – invoice showing the information required under Secs. 113 and 237 of the Tax Code.
(3) For the purchase of real property – public instrument i.e., deed of absolute sale, deed of conditional sale, contract/agreement to sell, etc., together with VAT invoice issued by the seller.
(4) For the purchase of services – official receipt showing the information required under Secs. 113 and 237 of the Tax Code.

A cash register machine tape issued to a registered buyer shall constitute valid proof of substantiation of tax credit only if it shows the information required under Secs. 113 and 237 of the Tax Code.
...

50 **SEC. 4.113-1.** ***Invoicing Requirements***. -
(A) 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.

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

merely noted that the Special Third Division declared that printed screenshots of the foreign government's registry of companies as sufficient proof in lieu of the Certificates/Articles of Foreign Incorporation/Association, without stating any ground supporting his bid to have the same reconsidered.

In the assailed Resolution dated 30 April 2019[51], the Special Third Division denied the said MPR and ruled that:

> ...
>
> In order to exclude evidence, the objection to admissibility of evidence must be made at the proper time, and the grounds specified. Objection to evidence must be made at the time it is formally offered. In case of documentary evidence, offer is made after all the witnesses of the party making the offer have testified, specifying the purpose for which the evidence is being offered. It is only at this time, and not in any other, that objection to the documentary evidence may be made. The established doctrine is that when a party failed to interpose a timely objection to evidence at the time they were offered in evidence, such objection shall be considered waived. What really matters is the objection to the document at the time it is formally offered as an exhibit.
>
> The record shows that respondent failed to file his comment on petitioner's Formal Offer of Evidence filed on February 6, 2017. Accordingly, because of respondent's failure to timely object to petitioner's evidence at the time they were formally offered, such

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

(B) Information contained in VAT invoice or VAT official receipt. – The following information shall be indicated in VAT invoice or VAT **official receipt**:
(1) A statement that the seller is a VAT-registered person, followed by his TIN;
(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; ***Provided*, That**:
(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.
(3) In the case of sales in the amount of one thousand pesos (₱1,000.00) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and TIN of the purchaser, customer or client, shall be indicated in addition to the information required in (1) and (2) of this Section. (Emphasis and underscoring in the original text)

51 Supra at note 6.

objections of respondent to their veracity and authenticity shall be considered waived.

As to the screenshots, this Court reiterates its ruling in *Chevron Holdings, Inc. [formerly Caltex (Asia) Limited] vs. Commissioner of Internal Revenue* that:

> "Being official government registry of corporations, the Court is inclined to accept the printed screenshots of the official websites of other foreign government's registry of companies as sufficient proof in lieu of the Certificates/Articles of Foreign Incorporation/Association."

...

WHEREFORE, premises considered, respondent's **Motion for Partial Reconsideration** is **DENIED** for lack of merit.

SO ORDERED.[52]

...

Disagreeing with the Special Third Division's action on his MPR, petitioner appealed to the Court *En Banc* through this Petition for Review.[53]

Herein, in his bid to have the Special Third Division's actions set aside, petitioner reiterates the arguments contained in his MPR. Particularly, petitioner maintains that:

(1) RESPONDENT'S PIECES OF EVIDENCE, SUCH AS THE SECURITIES AND EXCHANGE COMMISSION CERTIFICATES OF NON-REGISTRATION, MASTER AGREEMENTS FOR PROFESSIONAL SERVICES AND INTER-COMPANY SERVICE AGREEMENTS, DO NOT PROVE THAT ITS CLIENTS ARE NON-RESIDENT FOREIGN CORPORATIONS DOING BUSINESS OUTSIDE THE PHILIPPINES;

(2) RESPONDENT FAILED TO PRESENT ANY COMPETENT WITNESS TO TESTIFY ON THE VERACITY AND AUTHENTICITY OF THE DOCUMENTS REQUIRED TO BE PRESENTED FOR ITS CLIENTS TO BE CONSIDERED AS A NON-RESIDENT FOREIGN CORPORATIONS DOING BUSINESS OUTSIDE THE PHILIPPINES; AND,

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52 Emphasis in the original text.
53 Supra at note 1.

(3) ANY PROBATIVE WEIGHT GIVEN TO THE TESTIMONIES OF RESPONDENT'S WITNESSES SHOULD HAVE BEEN LIMITED ONLY TO THOSE FACTS WHICH THEY HAVE PERSONAL KNOWLEDGE OF.

Petitioner also reiterates that, since respondent failed to prove that it was able to render VAT zero-rated services, the claimed unutilized input taxes cannot be refunded.

As for the Special Third Division's ruling that printed screenshots of the foreign government's registry of companies are sufficient proofs (in lieu of Certificates/Articles of Incorporation/ Association), petitioner merely took note of the same without again assigning any specific error thereto.

In further support of his petition, petitioner claims that this Court should apply the ruling in the consolidated cases of *Chartis Technology & Operations Management Corporation (Philippines) v. Commissioner of Internal Revenue*[54] (**Chartis**) involving the same parties and issues. There, this Court, through its Second Division, held that SEC Certificates of Non-Registration, Master Agreements for Professional Services and Intercompany Service Agreements do not prove that its clients are non-resident foreign corporations doing business outside the Philippines.

In respondent's prior Comment/Opposition[55] to the Petition for Review, it debunked petitioner's similar claims and insists that the consolidated cases of *Chartis* have no bearing in this present case. While *Chartis* involved the same parties, there was no identity of issues and subject matter; thus, the rule on conclusiveness of judgment would not apply herein. Moreover, respondent claims that this Court's Amended Decision[56] in the said *Chartis* case subsequently recognized the screenshots of official online websites as sufficient proof that respondent's clients were indeed non-resident foreign corporations doing business outside the Philippines.

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[54] CTA Case Nos. 8432, 8498, 8534 and 8581, 06 November 2015.
[55] Filed on 23 August 2019, *Rollo*, pp. 69-78.
[56] Promulgated on 22 February 2017.

Respondent maintains that questions on the competence of its witnesses were belatedly raised as petitioner failed to timely object. In addition, respondent contends that its witnesses who identified its pieces of evidence have personal knowledge of the execution or preparation of said evidence. Moreover, Baroro's testimony is consistent with the manner of authentication prescribed by the Rules on Electronic Evidence.

Lastly, respondent contends that while it has already discharged its burden with respect to its claim for refund or issuance of TCC; petitioner, on the other hand, failed to discharge the burden shifted to him as the latter failed to present any evidence. Neither did he file any memorandum in the proceedings a *quo*.

This Court En Banc's ruling follows below.

After a careful review of the records of the case, including the parties' contrasting arguments, the Court *En Banc* finds no merit in the instant Petition for Review.

As culled from the records of the case, petitioner did not interpose any objection to the introduction of respondent's testimonial and documentary evidence.

It would be recalled that when Baroro and Atty. Recinto were presented as witnesses and the offer of their testimonies were respectively made, petitioner's counsel did not raise any objection as to the supposed lack of personal knowledge of the said witnesses (as regards the questioned SEC Certificates of Non-Registration, Master Agreements for Professional Services and Intercompany Service Agreements, as well as the printed screenshots of the foreign government's registry of companies). Neither did petitioner file any comment on respondent's FOE. Likewise, he did not question the Third Division's Resolution[57] that admitted respondent's FOE. Notably, petitioner also failed to file his memorandum where he could have at least argued on the impropriety of placing probative value on the questioned documents.

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[57] Supra at note 38.

Petitioner's silence or inaction during the proceedings before the Special Third Division has fatal consequences. Section 36, Rule 132 of the Rules of Court provides:

> ...
>
> **Section 36.** *Objection.* — **Objection to evidence offered orally must be made immediately after the offer is made.**
>
> Objection to a question propounded in the course of the oral examination of a witness shall be made as soon as the grounds therefor shall become reasonably apparent.
>
> **An offer of evidence in writing shall be objected to within three (3) days after notice of the unless a different period is allowed by the court.**
>
> **In any case, the grounds for the objections must be specified.**[58]
>
> ...

Until he filed his MPR on the Special Third Division's assailed Decision, petitioner did not raise any issue against the subject evidence. Obviously time-barred, it is too late in the day to raise persistent objections on the admissibility of the subject testimonial and documentary evidence.

In *Spouses Marcelian Tapayan and Alice Tapayan v. Ponceda M. Martinez*[59], the Supreme Court held:

> ...
>
> In order to exclude evidence, the objection to admissibility of evidence must be made at the proper time, and the grounds specified. Objection to evidence must be made at the time it is formally offered. **In case of documentary evidence, offer is made after all the witnesses of the party making the offer have testified, specifying the purpose for which the evidence is being offered. It is only at this time, and not at any other, that objection to the documentary evidence may be made. <u>And when a party failed to interpose a timely objection to evidence at the time they were offered in evidence, such objection shall be considered as waived.</u>** This is true even if by its nature the evidence is inadmissible and would have surely been rejected if it

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[58] Emphasis supplied.
[59] G.R. No. 207786, 30 January 2017.

> had been challenged at the proper time. Moreover, grounds for objection must be specified in any case. **Grounds for objections not raised at the proper time shall be considered waived, even if the evidence was objected to on some other ground. Thus, even on appeal, the appellate court may not consider any other ground of objection, except those that were raised at the proper time.**[60]
>
> ...

Assuming, for the sake of argument, that the appropriate objections on the alleged lack of personal knowledge were timely made, the testimonial and documentary evidence for respondent may nevertheless be admitted as the proceedings in this Court are not to be governed strictly by technical rules of evidence.

In *Filinvest Development Corporation v. Commissioner of Internal Revenue and Court of Tax Appeals*[61], the Supreme Court ruled:

> ...
>
> ...This provision must be taken in the light of Republic Act No. 1125, as amended, the law creating the CTA, which provides that proceedings therein shall not be governed strictly by technical rules of evidence. Moreover, this Court has held time and again that technicalities should not be used to defeat substantive rights, especially those that have been established as a matter of fact.[62]
>
> ...

Thus, petitioner's contention that respondent's pieces of evidence do not prove that its clients are non-resident foreign corporations doing business outside the Philippines must necessarily fail. The Special Third Division committed no error in admitting in evidence and giving probative value to the SEC Certificates of Non-Registration and the screenshots of their respective foreign governments' website showing that said entities are indeed registered, domiciled, and doing business in their respective countries.

This Court, in *Commissioner of Internal Revenue v. Chevron Holdings, Inc.*[63], has already given imprimatur on the presentation of

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60 Citations omitted, emphasis and underscoring in the original text.
61 G.R. No. 146941, 09 August 2007.
62 Citations omitted.
63 CTA EB Nos. 1886 and 1887, 21 January 2020.

printed screenshots of the foreign government's registry of companies in lieu of the Certificates/Articles of Foreign Incorporation/ Association, to wit:

> ...
>
> Therefore, the Court En Banc finds no reason to reverse the Court in Division's finding that, along with the requirement that the consideration was paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP, to be entitled to zero-rating under the first paragraph of Section 108(B)(2) of the 1997 NIRC, each entity must be supported at the very least by **BOTH**:
>
> 1) SEC Certificate of Non-Registration of Corporation/Partnership; **AND[,]**
>
> 2) Proof of Certificate/ Articles of Foreign Incorporation/ Association or printed screenshots of the US SEC Website showing the state/province/country where the entity was organized.[64]
>
> ...

In yet another case[65] involving the same parties (as in the case cited above), this Court explained the reason for giving credence to the printed screenshots of official websites of other foreign government's registry of companies, *viz*:

> ...
>
> Being official government registry of corporations, the Court is inclined to accept the printed screenshots of the official websites of other foreign government's registry of companies as sufficient proof in lieu of the Certificates/Articles of Foreign Incorporation/ Association.
>
> ...

With the foregoing disquisitions, this Court could only deem that respondent adequately established its entitlement to the claim for refund or issuance of TCC for having proven that it rendered services to entities doing business outside the Philippines (as shown in the SEC Certificates of Non-Registration and the screenshots of their respective foreign governments' website).

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64 Emphasis and underscoring in the original text.

65 Amended Decision in CTA Case No. 8241, 11 August 2015 and affirmed in CTA EB No. 1143, 15 March 2017.

As to petitioner's contention that the ruling in the consolidated cases of *Chartis*[66] involving the same parties and issues should be applied in this case, the Court *En Banc* finds the same to be rather inconsistent with or contradictory to petitioner's claim. As respondent correctly pointed out, this Court's Second Division subsequently issued an Amended Decision[67] in *Chartis* recognizing the validity of screenshots of foreign government websites, *viz:*

> ...
>
> As to the validity of screenshots of foreign government websites, this Court ruled in *Chevron Holdings, Inc. [formerly Caltex (Asia) Limited] vs. Commissioner of Internal Revenue* that "[B]eing official government registry of corporations, the Court is inclined to accept the printed screenshots of the official websites of other foreign government's registry of companies as sufficient proof in lieu of the Certificates/Articles of Foreign Incorporation/Association."[68]
>
> ...

All told, the Court *En Banc* finds no reason to reverse the Special Third Division's finding that respondent is entitled to a refund or issuance of a TCC corresponding to its unutilized and excess input VAT for FY 2013 ending 30 November 2013 attributable to its zero-rated sales in the reduced amount of ₱14,077,169.64.

WHEREFORE, the foregoing considered, petitioner Commissioner of Internal Revenue's Petition for Review dated 31 May 2019 is **DENIED** for lack of merit. Accordingly, the assailed Decision dated 24 January 2019 and the Resolution of 30 April 2019, respectively, of the Special Third Division in CTA Case No. 9100, *entitled AIG Shared Services Corporation (Philippines) [Formerly: Chartis Technology and Operations Management Corporation (Philippines)] v. Commissioner of Internal Revenue,* are hereby **AFFIRMED.**

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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66 Supra at note 54.
67 Supra at note 56.
68 Citation omitted.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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