REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

MD ISALON ORGANIC BANANA AGRI-VENTURES, INC.
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10623

Members:
RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:
JUL 0 2 2025 3:10 p.m.

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

This is a Petition for Review,[1] filed on October 22, 2021 pursuant to *Section (7)(a)(1) of Republic Act ("RA) No. 1125,*[2] *as amended by RA No. 9282,*[3] praying the Court to issue a judgment reversing and setting aside respondent's Value Added Tax ("VAT") Refund Notice, dated August 4, 2021, and granting the same refund application in the amount of Php3,943,264.76, representing petitioner's alleged excess and unutilized input VAT for the period covering taxable year 2019 ("TY 2019").[4]

The Parties

Petitioner MD Isalon Organic Banana Agri-Ventures, Inc. ("MD Isalon" or "petitioner") is a corporation duly organized and existing under the laws of the Philippines, with principal office address at Brgy. Bongabong, Pantukan, Compostela Valley Province.[5] It is primarily engaged in

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1 Docket Vol. 1, pp. 9-37.
2 An Act Creating the Court of Tax Appeals, June 16, 1954.
3 An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections or Republic Act No. 1125, As Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes; March 30, 2004.
4 Prayer, Petition for Review, Docket Vol 1, 35.
5 Articles of Incorporation, Exhibit "P-13", BIR Records, p. 15.

developing, managing, owning, leasing, and operating agricultural lands, farms, pasture lands, and ranches, as well as in planting and cultivation of organic cavendish bananas and other farm products.[6]

Petitioner is registered with the Bureau of Internal Revenue ("BIR") as a VAT-registered large taxpayer with identification number ("TIN") 005-210-935-000,[7] and with the Board of Investments ("BOI") as an existing export producer of cavendish banana with BOI Registration No. ("RN") 2019-265.[8] It is also a registered exporter with the Bureau of Customs ("BOC"), as evidenced by Certificate of Registration with CCN EX0000667978, issued on January 9, 2018;[9] and with the Department of Trade and Industry Export Marketing Bureau ("DTI-EMB"), as shown by Certificate of Accreditation No. EMB-1903, issued on January 4, 2019.[10]

On the other hand, respondent Commissioner of Internal Revenue ("CIR" or "respondent") is the public officer duly authorized to decide, approve, and grant tax refunds pursuant to pursuant to *Section 112 of the National Internal Revenue Code of 1997, as amended* ("Tax Code"). He may be served with summons and other Court processes at the BIR National Office Building, Agham Road, Diliman, Quezon City.[11]

The Facts

On May 11, 2021, petitioner filed with the BIR VAT Credit Audit Division an application for refund of the alleged utilized and excess creditable input VAT for a total amount of Php4,408,990.35 attributable to its zero-rated sales for TY 2019.[12]

Upon review of the application, respondent issued VAT Refund Notice dated August 4, 2021,[13] received by petitioner on September 6, 2021, denying the entire amount of claim based on following reasons:

1. Deductions from the claim:

Violation of invoicing pursuant to Sec. 113 to Sec. 110 of the NIRC of 1997, as amended ("Annex A")	₱	235,423.38
Big ticket purchases without proof of payments ("Annex B")		169,177.24

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6 *Id.*
7 BIR Certificate of Registration, Exhibit "P-6", Docket Vol. 5, p. 1946.
8 BOI Certificate of Registration, Exhibit "P-5", Docket Vol. 1, p. 70.
9 BOC Certificate of Registration, Exhibit "P-3", *id.* at 68.
10 DTI-EMB Certificate of Accreditation, Exhibit "P-4", *id.* at 69.
11 See Joint Stipulation of Facts and Issues ("JSFI"), Docket Vol. 5, p. 1737; see also Petition for Review, Docket Vol. 1, p. 11.
12 Application for Tax Credits/Refunds (BIR Form No. 1914), Exhibit "P-16", BIR Records, p. 110.
13 VAT Refund Notice, Exhibit "P-1", Docket Vol. 1, p. 47-53, with annexes.

Out-of-period big ticket purchases ("Annex C")		162,466.20
Deferred input tax on CG (Annex "D")		28,843.12
Overclaimed input tax (Annex "E")		13,992.89
Compromise penalty pursuant to Sec. 225 of the Tax Code, as amended (Annex "F")		25,000.00
Total	**₱**	**634,902.83**

2. Facts of the case disclosed that the subject claimantwas issued Permit to Use (PTU) Computerized Accounting System (CAS) No. **1810_0112_PTU_CAS_0003349 approved on October 10, 2018.** The said permit covers complete CAS, computerized books of accounts and the use/printing of system-generated accounting records which include, among others, **CHARGE INVOICES with serial range from 0000001 to 9999999**. Issuance of the abovementioned CAS Permit was likewise verified and affirmed by the Assistant Commissioner, Client Support Service. However, scrutiny and analysis of pertinent documents revealed that **your Company, for its sale of goods for the taxable year 2019, issued Commercial Invoices**, instead of Charge Invoices notwithstanding that the said CAS Permit approved the issuance of the latter and not otherwise.

   Section V(P) of RMO No. 29-2002 in relation to RMO No. 21-2000 stipulates that **a taxpayer shall apply for a new permit to use CAS in case of any system enhancement that shall result in change in systems release and/or version number. In case a taxpayer is found using an enhanced system without the approval of the BIR, the permit originally issued shall be deemed automatically revoked from the time the enhanced system is adopted.** Conversely, **your Company was not able to show documents to prove whether an enhancement and/or modification on the said CAS Permit was requested from and approved by the concerned RDO relative to the foregoing concern.**

   Section 238 of the NIR of 1997, as amended, required that all persons who are engaged in business shall secure from the BIR an authority to print receipts or sales or commercial invoices before a printer can print the same. **Without this proof, the invoices or receipts would have no probative value for the purpose of refund.**

   Clearly in the instant case, the Commercial Invoices not covered by the BIR approved CAS Permit have no probative value. Hence, your Company was not able to comply with one of the requisites in establishing VAT zero-rated sales, which is the issuance of a valid Sales Invoices for its alleged zero-rated sale of goods. In this regard, your Company was not able to prove its zero-rated sales amounting to Php142,751,860.01
   (Emphasis in the original)

Aggrieved, petitioner filed the instant Petition for Review on October 22, 2021. Respondent, on the other hand, posted his Answer[14] dated December 23, 2021, on January 31, 2022, after being granted an extension of time to file the same.[15]

[14] Answer, Docket Vol. 4, pp. 1665-1672

[15] See Motion for Extension of Time to file Answer, *id.* at1646-1648; see also Order dated January 3, 2022, *id.* at 1650

Respondent[16] and petitioner[17] thereafter filed their pre-trial briefs on March 15 and March 18, 2022, respectively.

The pre-trial conference then ensued on March 23, 2022.[18]

On April 12, 2022, petitioner filed a motion for the commissioning of an Independent Certified Public Accountant ("ICPA"), Tibayan Santos Magpantay and Company, represented by Peter Raymond T. Santos, who will perform audit functions in the instant case.[19] The same was granted during the hearing held on May 23, 2022.[20]

The parties submitted their Joint Stipulation of Facts and Issues[21] on April 12, 2022. Thereafter, on April 26, 2022, the Court issued its pre-trial order.[22]

During trial, petitioner presented its witnesses Sharon Shido, Marlon Dumail and Joseph Basquina who testified through their judicial affidavits[23] all dated March 17, 2022. They appeared before the Court on March 23, 2022.[24]

Petitioner also offered the testimony of ICPA Santos who submitted his report to the Court on July 7, 2022.[25] He was called as witness before the Court on September 28, 2022.[26]

On October 18, 2022, petitioner submitted its Formal Offer of Evidence,[27] to which respondent filed its Comment[28] on October 19, 2022.

In the resolution[29] on the offer of evidence, the Court admitted petitioner's exhibits except for "P-30-A-5", "P-30-A-15" to "P-30-A-27", "P-30-A-188" to "P-30-A-189", and "P-30-A-206", for not being found in the records of the case; and Exhibits "P-45" and "P-46", for failure of petitioner to present the originals for comparison.

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16 Respondent's Pre-Trial Brief, *id.* at 1677-1680.
17 Pre-Trial Brief for Petitioner, *id.* at 1691-1716.
18 See Minutes of hearing dated March 23, 2022, Docket Vol. 5, p. 1722
19 Motion to Commission Independent Certified Public Accountant, *id.* at 1724-1736, with annexes.
20 See Minutes of hearing dated May 23, 2022, *id.* at 1763-1764.
21 Joint Stipulation of Facts and Issues, *id.* at 1737-1740.
22 Pre-Trial Order, *id.* at 1746-1751.
23 Judicial Affidavit of Sharon D. Shido, Exhibit "P-49", *id.*, pp. 1772-1785; Judicial Affidavit of Marlon D. Dumail, Exhibit "P-50", *id.*, pp. 1787-1794; Judicial Affidavit of Joseph Basquina, "Exhibit "P-51".
24 See Minutes of hearing dated May 23, 2022, *id.* at 1763-1764.
25 ICPA Report, Exhibit "P-52", *id.* at 1804-1848, with annexes.
26 See Minutes of hearing dated September 28, 2022, *id.* at 1914.
27 Formal Offer of Evidence, *id.* at 1919-1943.
28 Comment (Re: Formal Offer of Evidence), *id.* at 1957-1959
29 Resolution dated March 30, 2023, *id.* at 1990-1992.

Due to such denial of the Court, petitioner moved for a reconsideration on April 19, 2023.[30] The Court then directed ICPA Santos and petitioner to submit the originals or faithful reproduction thereof of Exhibits "P-30-A-15" to "P-30-A-27", "P-30-A-188" to "P-30-A-189", and "P-30-A-206", in the Resolution dated August 23, 2023.[31] Upon submission by petitioner on September 4, 2023,[32] these exhibits were admitted by the Court on October 24, 2023.[33]

Meanwhile, for respondent's side, Revenue Officer Jennefer Coronel testified through Judicial Affidavit dated March 7, 2022.[34] She was presented before the Court on February 15, 2024.[35]

Respondent then submitted his Formal Offer of Evidence[36] on February 16, 2024, to which petitioner filed its Comment[37] on February 29, 2024. The submitted documents, sans Exhibit "R-4" which was not found in the records, were admitted by the Court on May 17, 2024.[38]

Petitioner[39] and respondent[40] submitted their respective Memoranda on June 24 and June 26, 2024.

After noting the foregoing submissions, the instant Petition was submitted for decision on July 2, 2024.

The Issue

The issues, as stipulated by the parties, are as follows:

> WHETHER THE MODIFICATION IN THE HEADER OF SYSTEM-GENERATED SALES INVOICE FROM "CHARGE SALES INVOICE" TO "COMMERCIAL INVOICE" CONSTITUTE SYSTEM ENHANCEMENT THAT REQUIRES PETITIONER TO APPLY FOR A NEW PERMIT TO USE COMPUTERIZED ACCOUNTING SYSTEM;

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30 Motion for Reconsideration (of the Resolution dated 30 March 2023) with Motion to Admit the Attached Exhibits, *id.* at 1993-1997.

31 Resolution dated August 23, 2023, *id.* at 2045-2047.

32 Compliance and Submission [To the Resolution dated 23 August 2023], *id.* at 2048-2091, with exhibits.

33 Resolution dated October 24, 2023, *id.* at. 2093-2095.

34 Judicial Affidavit of Jennefer I. Coronel, Docket Vol 4, pp. 1686-1690.

35 See Minutes of hearing dated February 15, 2024, Docket Vol. 5, p. 2096.

36 Formal Offer of Evidence, *id.* at 2098-2101.

37 Comment (to Respondent's Formal Offer of Evidence), *id.* at 2103-2107.

38 Resolution dated May 17, 2024, *id.* at 2110-2011.

39 Memorandum dated June 24, 2024, *id.* at 2112-2149.

40 Memorandum dated June 4, 2024, *id.* at 2154-2160.

WHETHER PETITIONER IS ENTITLED TO REFUND OF EXCESS AND UNUTILIZED INPUT VAT FOR TAXABLE YEAR 2019 IN THE AMOUNT OF PHP3,943,264.76;

WHETHER THE DECISION OF THE COMMISSIONER OF INTERNAL REVENUE IS CORRECT BASED ON THE DOCUMENTS PRESENTED BY PETITION TO RESPONDENT.[41]

Arguments of the Parties

Petitioner's Arguments[42]

Petitioner insists that it is entitled to a VAT refund for TY 2019 in the amount of Php3,943,264.76, representing unutilized and excess creditable input VAT allegedly attributable to zero-rated transactions. In particular, petitioner contends that it complied with all the requisites of a valid VAT refund application and submitted the documents required under *Section 112 (A) of the Tax Code* to support its claim.

Petitioner also highlights that it issued valid invoices for its zero-rated transactions, in compliance with *Section 237 and 238 of the Tax Code.* It maintains that the modification of the header of system-generated sales invoice from "Charge Sales Invoice" to "Commercial Invoice" is not a system enhancement that resulted in the change in the system's release and/or version number. Hence, the alleged automatic revocation, according to petitioner, has no basis in law. Further, petitioner posits that the case of *Silicon vs. Commissioner of Internal Revenue*[43] is inapplicable in this case due to petitioner's possession of BIR-issues Authority to Print ("ATP") and Permit to Use Computer Accounting System ("PTUCAS").

Finally, petitioner raises that it was able to substantiate its entitlement to a tax refund in the amount of Php3,943,264.76.

Respondent's Counter-Arguments[44]

Respondent, on the other hand, argues that the instant Petition for Review must be denied due to petitioner's failure to substantiate the claim for refund at the administrative level. He insists that since a decision has been rendered at the administrative level, the Court's jurisdiction becomes

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[41] See JSFI, *id.* at 1738.
[42] See Memorandum dated June 24, 2024, *id.* at 2125-2147.
[43] G.R. No. 172378, January 17, 2011.
[44] See Memorandum dated June 4, 2024, Docket Vol. 2155-2159..

appellate in nature, thus, should be confined to the issue of whether the denial by the BIR was proper, considering the evidence already submitted in pursuit of the administrative claim.

Also, after quoting the findings per VAT Refund Notice dated August 4, 2021, respondent emphasizes that this case, being a tax refund, partakes of the nature of a tax exemption, thus should be construed strictly against the taxpayer. According to respondent, refund claims cannot be granted unless granted in the most explicit and categorical language and such, they are looked upon with disfavor.

The Ruling of the Court

After a careful and thorough evaluation of the parties' respective evidence and the applicable laws, rules, and regulations, the Court finds the instant Petition for Review unmeritorious.

Requisites for the grant of claims for VAT refund or issuance of a tax credit certificate

The provisions which govern claims for refund or issuance of a tax credit certificate of excess or unutilized creditable input VAT attributable to zero-rated sales, like the present petition, are *Sections 112(A) and (C) of the Tax Code*, as implemented by *Section 4.112.1 of the Revenue Regulations (RR) No. 16-2005*,[45] as amended by *RR No. 13-18*,[46] which respectively provide:

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

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45 Consolidated Value-Added Tax Regulations of 2005, September 1, 2005.

46 Regulations Implementing the Value-Added Tax Provisions under the Republic Act (RA) No. 10963, or the "Tax Reform for Acceleration and Inclusion (TRAIN)," Further Amending Revenue Regulations (RR) No. 16-2005 (Consolidated Value-Added Tax Regulations of 2005), as Amended, March 15, 2018.

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.

. . .

(C) Period within which Refund or Tax Credit of Input Taxes shall be Made. – In proper cases, ***the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) [now 90]***[47] ***days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.***

In case of ***full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty-day period, appeal the decision or the unacted claim with the Court of Tax Appeals***.

. . .

SEC. 4.112-1. *Claims for Refund/Credit of Input Tax.* –

(a) Zero-rated and Effectively Zero-rated Sales of Goods, Properties or Services

A VAT-registered person whose sales of goods, properties or services are zero-rated or effectively zero-rated may apply for the issuance of a tax refund of input tax attributable to such sales. The input tax that may be subject of the claim shall exclude the portion of input tax that has been applied against the output tax. The ***application should be filed within two (2) years after the close of the taxable quarter when such sales were made***.

In case of zero-rated sales under Secs. 106(A)(2)(a)(1) and (3), Secs. 108(B)(1) and (2) of the Tax Code, the payments for the sales must have been made in ***acceptable foreign currency duly accounted for in accordance with the BSP rules and regulations***.

Where the taxpayer is engaged in both zero-rated or effectively zero-rated sales and in taxable (including sales subject to final withholding VAT) or exempt sales of goods, 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, only the proportionate share of input taxes allocated to zero-rated or effectively zero-rated sales can be claimed for refund or issuance of a tax credit certificate.

In the case of a person engaged in the transport of passenger and cargo by air or sea vessels from the Philippines to a foreign country, the input taxes shall be allocated ratably between his zero-rated sales and non-zero-rated sales (sales subject to regular rate, subject to final VAT withholding and VAT-exempt sales).
(Emphasis and italics supplied)

[47] As amended under Section 36 of Republic Act No. 10963 or the Tax Reform for Acceleration and Inclusion (TRAIN) Law, effective January 1, 2018.

Based on the foregoing, jurisprudence has laid down certain requirements which a taxpayer-applicant must satisfy to successfully obtain a credit/refund of input VAT. These requisites are categorized as follows:

As to the timeliness of the filing of the administrative and judicial claims:

1. the administrative claim with the BIR should be filed within two years after the close of the taxable quarter when the pertinent zero-rated sales were made;[48]
2. that in case of full or partial denial of the refund claim, or the failure on the part of the respondent to act on the said claim within a period of 120 days (*now 90 days*), the judicial claim should be filed with this Court, within 30, days from receipt of the decision or after the expiration of the said 120-day (*now 90-day*) period;[49]

As to the taxpayer's registration with the BIR:

3. the taxpayer is a VAT-registered person;[50]

In relation to the taxpayer's output VAT:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[51]
5. for zero-rated sales under *Sections 106(A)(2)(a)(1), (2), and (b) and 108(B)(1) and (2)*, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations;[52]

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[53]
7. the input taxes are due or paid;[54]
8. the input taxes have not been applied against output taxes during and in the succeeding quarters;[55] and
9. the input taxes claimed are attributable to zero-rated or

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48 Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue, G.R. No. 191495, July 23, 2018.
49 *Id.*
50 Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 166732, April 27, 2007; Southern Philippines Power Corporation v. Commissioner of Internal Revenue, G.R. No. 179632, October 19, 2011; San Roque Power Corporation v. Commissioner of Internal Revenue, G.R. No. 180345, November 25, 2009.
51 *Id.*
52 *Id.*
53 *Id.*
54 *Id.*
55 *Id.*

> effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume.[56]

Relative thereto, and contrary to respondent's claim, the Court is not limited to the evidence presented by a taxpayer in the administrative claim for refund.

Cases filed before the Court are litigated *de novo* wherein taxpayer-claimants must prove every minute aspect of their case.[57] As such, petitioner must rightfully show compliance with the abovementioned requisites. The absence of any of the requirements constitutes a valid ground for the denial of the claim.

This has been clearly enunciated by the Supreme Court in the case of *Commissioner of Internal Revenue vs. CE Casecnan Water and Energy Company, Inc.*[58] citing *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.)*,[59] thus:

> The law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence. The paramount consideration remains the ascertainment of truth. Thus, *the CTA is not limited by the evidence presented in the administrative claim in the Bureau of Internal Revenue. The claimant may present new and additional evidence to the CTA to support its case for tax refund.*
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> ***Cases filed in the CTA are litigated de novo*** as such, respondent "should prove every minute aspect of its case by presenting, formally offering and submitting. . . to the Court of Tax Appeals all evidence. . . required for the successful prosecution of its administrative claim." ***Consequently, the CTA may give credence to all evidence presented by respondent, including those that may not have been submitted to the CIR as the case is being essentially decided in the first instance.***
> (Emphasis and italics supplied)

Inevitably, the Court disagrees with the respondent's myopic view that since an unfavorable decision has already been rendered at the administrative level, petitioner cannot present before the Court documents not submitted at the administrative level, and that the Court must be confined to a limited issue of whether the BIR's denial of the refund claim is warranted.

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[56] *Id.*
[57] Commissioner of Internal Revenue vs. CE Casecnan Water and Energy Company, Inc, G.R. No. 212727, February 1, 2023; Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.), G.R. No. 231581, April 10, 2019.
[58] G.R. No. 212727, February 1, 2023.
[59] G.R. No. 231581, April 10, 2019.

We reiterate that as a court of record, the CTA has the authority to determine issues raised by the parties even if these were not raised in the administrative level. Similarly, it has the authority to accept evidence offered by the taxpayer-claimant to the Court, regardless of whether these were submitted at the administrative level.

In this case, a perusal of the evidence presented by the parties reveals that petitioner failed to comply with the above-enumerated requisites and is thus not entitled to the refund of input VAT.

Petitioner's administrative and judicial claims for refund were timely filed.

As regards the *first* and *second* requisites in refund applications in relation to the timeliness of the administrative and judicial claims, the respective applicable periods are expressly provided in *Section 112 (A) and (C) of the Tax Code,* as quoted above.

For this purpose, the Court finds guidance from the ruling of the Supreme Court in case of *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue,*[60] which states:

> . . . a VAT-registered taxpayer who has excess and unutilized creditable input VAT attributable to zero-rated sales may file an application for cash refund or issuance of TCC (administrative claim) before the CIR who has primary jurisdiction to decide such application. *The period within which to file the administrative claim is two (2) years reckoned from the close of the taxable quarter when the pertinent zero-rated sales were made.*
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> From the submission of complete documents to support the administrative claim, *the CIR is given a 120-day period to decide.* In case of whole or partial denial of or inaction on the administrative claim, the taxpayer may bring his judicial claim, through a petition for review, before the CTA who has exclusive and appellate jurisdiction. *The period to appeal is thirty (30) days counted from the receipt of the decision or inaction by the CIR.*
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> . . .
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> In the seminal cases of *Commissioner of Internal Revenue (Commissioner) v. Aichi Forging Company of Asia, Inc.* and *Commissioner v. San Roque Power Corporation/Taganito Mining Corporation v. Commissioner/Philex Mining Corporation v. Commissioner (San Roque),* the Court interpreted the 30-day period of appeal as mandatory and jurisdictional. Thus, noncompliance with the mandatory 30-day period renders the petition before the CTA void. The ruling in said cases as to the

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60 G.R. No. 191495, July 23, 2018.

> mandatory and jurisdictional character of the 30-day period of appeal was reiterated in a litany of cases thereafter.
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> Pertinently, the CTA law expressly provides that when the CIR fails to take action on the administrative claim, the "inaction shall be deemed a denial" of the application for tax refund or credit. The taxpayer-claimant must strictly comply with the mandatory period by filing an appeal with the CTA within thirty days from such inaction, otherwise, the court cannot validly acquire jurisdiction over it.
> (Italics supplied)

Thus, there are three relevant periods governing claims for refund of input VAT attributable to zero-rated or effectively zero-rated sales:

1. The administrative claim for refund or issuance of tax credit certificate must be filed by the VAT-registered taxpayer within two years from the close of the taxable quarter when the sales were made;
2. The CIR has 90 days[61] to grant or deny the claim for refund from the date of submission of complete documents in support of the administrative application; and
3. The judicial appeal must be filed by the claimant within 30 days from the receipt of the decision denying the claim or after the expiration of the 90-day period, whichever comes first.[62]

In relation to the period granted to the CIR to review the application, the running of the same shall be triggered by the simultaneous submission by the taxpayer-applicant of the tax refund claim together with the complete supporting documents, as prescribed in *Revenue Memorandum Circular (RMC) No. 54-2014*,[63] in accordance with the pronouncement of the Supreme Court in *Pilipinas Total Gas, Inc., v. Commissioner of Internal Revenue,*[64] to wit:

> To summarize, for the just disposition of the subject controversy, the rule is that from the date an administrative claim for excess unutilized VAT is filed, a taxpayer has thirty (30) days within which to submit the documentary requirements sufficient to support his claim, unless given further extension by the CIR. Then, upon filing by the taxpayer of his complete documents to support his application, or expiration of the period given, the CIR has 120 days within which to decide the claim for tax credit or refund. Should the taxpayer, on the date of his filing, manifest that he no longer wishes to submit any other addition documents to complete his administrative claim, the 120 day period allowed to the CIR begins to run from the date of filing.

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61 As amended by Section 36 of the Tax Reform for Acceleration and Inclusion (TRAIN) Law.
62 Commissioner of Internal Revenue vs. CE Casecnan Water and Energy Company, Inc., G.R. No. 212727, February 1, 2023.
63 Clarifies the issues relative to the application for Value-Added Tax (VAT) refund/credit under Section 112 of the Tax Code, as amended, dated June 17, 2014.
64 G.R. No. 207112, December 8, 2015.

In all cases, whatever documents a taxpayer intends to file to support his claim must be completed within the two-year period under Section 112(A) of the NIRC. The 30-day period from denial of the claim or from the expiration of the 120-day period within which to appeal the denial or inaction of the CIR to the CTA must also be respected.

It bears mentioning at this point that the foregoing summation of the rules should only be made applicable to those claims for tax credit or refund filed prior to June 11, 2014, such as the claim at bench. *As it now stands, RMC 54-2014 dated June 11, 2014 mandates that:*

> *The application for VAT refund/tax credit must be accompanied by complete supporting documents as enumerated in Annex "A" hereof. In addition, the taxpayer shall attach a statement under oath attesting to the completeness of the submitted documents (Annex B). The affidavit shall further state that the said documents are the only documents which the taxpayer will present to support the claim. If the taxpayer is a juridical person, there should be a sworn statement that the officer signing the affidavit (i.e., at the very least, the Chief Financial Officer) has been authorized by the Board of Directors of the company.*
>
> Upon submission of the administrative claim and its supporting documents, the claim shall be processed and no other documents shall be accepted/required from the taxpayer in the course of its evaluation. A decision shall be rendered by the Commissioner based only on the documents submitted by the taxpayer. The application for tax refund/tax credit shall be denied where the taxpayer/claimant failed to submit the complete supporting documents. For this purpose, the concerned processing/investigating office shall prepare and issue the corresponding Denial Letter to the taxpayer/claimant.

Thus, under the current rule, the reckoning of the 120-day period has been withdrawn from the taxpayer by RMC 54-2014, since it requires him at the time he files his claim to complete his supporting documents and attest that he will no longer submit any other document to prove his claim. Further, the taxpayer is barred from submitting additional documents after he has filed his administrative claim.
(Italics supplied)

Further, in the recent case of *Commissioner of Internal Revenue v. Dohle Shipmanagement Philippines Corp.*,[65] the Supreme Court had the occasion of applying amendments introduced by *RA No. 10963, or the Tax Reform for Acceleration and Inclusion (TRAIN) Law*, adjusting the previously prescribed 120-day to 90-day period, to wit:

For administrative claims for VAT refund filed beginning January 1, 2018:

[65] G.R. No. 246379, August 19, 2024.

> 1. The filing of the administrative claim with supporting documents must be done within two years from the close of the taxable quarter pursuant to Section 112 (A) of the 1997 Tax Code or issuance of tax clearance by the BIR in case of cancellation of registration or cessation of business under Section 106 (C) of the Tax Code.
>
> 2. The 90-day processing period is reckoned from the submission of the official receipts or invoices and other documents in support of the application for VAT refund.
>
> 3. Pursuant to RMC 47-2019, once an administrative claim for VAT refund is filed and duly received by the BIR, no additional document/s shall be subsequently requested/required from the taxpayer. Failure on the part of the taxpayer-claimant to submit the complete documents in support of the claim shall result in non-acceptance of the applications. Any unsupported claim shall be outrightly disallowed, resulting in full/partial denial of the claim.

In the case at hand, petitioner's claim covers all the taxable quarters of TY 2019 – ending March 31, 2019 (for the first quarter / Q1), ending June 30, 2019 (for the second quarter / Q2), ending September 30, 2019 (for the third quarter / Q3), and December 31, 2019 (for the fourth quarter / Q4).

Applying the two-year prescriptive period in VAT refund applications, the administrative claims for the Q2 to Q4 of TY 2019 were unquestionably timely filed on May 11, 2021.[66]

Meanwhile, as for Q1 of TY 2019, petitioner originally had until March 31, 2021 within which to file its claim for VAT refund with the BIR. However, due to the Corona Virus Disease 2019 ("COVID-19"), the statutory deadlines and timeliness for the filling and submission of any document were extended. The filing of the VAT refund claims was extended for 30 days after the lifting of the Enhanced Community Quarantine ("ECQ") or Modified Enhanced Community Quarantine ("MECQ"), pursuant to *Section 5 of Revenue Regulations No. 27-20.*[67]

Consistent thereto, the BIR extended the filing of VAT refund claims prescribing on March 31, 2019, until April 12, 2021.[68] On April 5, 2021, *RMC No. 45-2021*[69] was issued, further extending the deadline for filing of VAT refund applications with the VCAD which falls due on April 12, 2021 to 30 γ

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66 See BIR Form 1914 stamped received by BIR on May 11, 2021, *supra* note 12.

67 Regulations suspending the Filing and Ninety (90) - Day Processing of Value-Added Tax (VAT) Refund Claims Anchored Under Section 112 of the Tax Code of 1997, as Amended, in Relation to Section 4(tt) of Republic Act (R.A.) No - 11494, Otherwise Known as the "Bayanihan to Recover as One Act", dated October 6, 2020.

68 See Revenue Memorandum Circular No. 39-2021, Extension of the Deadline for the Filing of Applications and Suspension of the Ninety (90)-Day Processing of Value-Added Tax (VAT) Refund Claims Pursuant to Section 112 of the Tax Code of 1997, as amended by the R.A. No. 10963 (TRAIN Law) with the VAT Credit Audit Division (VCAD), dated March 18, 2021.

69 Extension of the Deadline for the Filing of Position Papers, Replies, Protests, Documents and Other Similar Letters and Correspondences in Relation to Ongoing BIR Audit Investigations, and Filing of VAT Refund with VAT Credit Audit Division (VCAD), dated April 5, 2021.

days from the lifting of the ECQ. Thereafter, the National Capital Region ("NCR"), among others, was placed under General Community Quarantine ("GCQ"), starting May 15, 2021, until May 31, 2021. Counting 30 days from May 15, 2021, petitioner had until June 14, 2021 to file its administrative claim for Q1 of TY 2019. Thus, petitioner's administrative claim for refund of unutilized input VAT for Q1 of TY 2019, was likewise timely filed on May 11, 2021.

A summary of the relevant dates for filing the administrative claim is shown in the table below:

Quarter 2019	Close of Taxable Quarter	Last Day to File Administrative Claim for Refund (per original statutory periods)	Date of Filing of Administrative Claim	Remarks
Q1	March 31, 2019	March 31, 2021	May 11, 2021	Timely filed within the extended deadline
Q2	June 30, 2019	June 30, 2021		Timely filed
Q3	September 30, 2019	September 30, 2021		Timely filed
Q4	December 31, 2019	December 31, 2021		Timely filed

From May 11, 2021, respondent had 90 days, or until August 9, 2021, within which to decide on the claim.

Here, the VAT Refund Notice, stating the BIR's decision on the refund application, was issued on August 4, 2021 but was nevertheless received by petitioner only on September 6, 2021. Thus, since petitioner did not receive an actual denial on or before August 9, 2021, the refund claim was already deemed denied due to inaction. Hence, counting 30 days therefrom, petitioner originally had until September 8, 2021 to file a judicial appeal.

Note, however, that due to health protocols imposed during the rise of COVID-19 cases, the courts, including the CTA, were declared physically closed from August 9, 2021, until September 7, 2021,[70] which was later extended to September 30, 2021.[71] Another extension beginning October 4, 2021 until further notice was also issued by the Supreme Court on October 1, 2021.[72] During such time, the Supreme Court clarified that the time for filing and service of pleadings and motion was suspended and shall resume after

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70 See Office of the Court Administrator ("OCA") No. 117-2021, dated August 28, 2021

71 See OCA No. 119-2021, dated September 7, 2021.

72 See Supreme Court ("SC") Administrative Circular ("AC"), No. 75-2021, dated October 1, 2021.

seven calendar days counted from the first day of the physical reopening of the court.

Finally, October 20, 2021, all appellate collegiate courts within the NCR were reopened, and the suspension of time for filing of pleadings and motions was lifted.[73] Thus, pursuant to *Administrative Circular No. 72-2021*, the period for filing and service resumed seven calendar days from October 20, 2021. As such, the instant Petition for Review was timely filed on October 22, 2021.

Petitioner is a VAT-registered entity.

Petitioner submitted its BIR Certificate of Registration ("COR")[74] OCN No. 2RC0001113619 with TIN 005-210-935-000 duly stating VAT as one of its registered tax types. Accordingly, petitioner is deemed to be compliant with the *third* requisite.

Petitioner failed to establish that it generated zero-rated sales under Sections 106 (A)(2)(a)(1) of the Tax Code

The *fourth* requisite mandates that the taxpayer-applicant must be engaged in zero-rated or effectively zero-rated sales. The importance of such requisite is highlighted in the case of *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*,[75] to wit:

> A plain and simple reading of the aforequoted provisions reveals that if and when the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters. ***It is only when the sales of a VAT-registered person are zero-rated or effectively zero-rated that he may have the option of applying for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales.*** Such is the clear import of the Court's ruling in San Roque, to wit:
>
> > *Under Section 110(B), a taxpayer can apply his input VAT only against his output VAT. The only exception is when the taxpayer is expressly "zero-rated or effectively zero-rated" under the law,* like companies generating power through renewable sources of energy. . . .
>
> (Emphasis and italics supplied)

[73] See SC AC No. 83-2021, October 18, 2021.
[74] *Supra* note 7.
[75] G.R. No. 222428, February 19, 2018.

Moreover, as for the *fifth* requirement, the *Tax Code* requires that those zero-rated sales falling under *Sections 106 (A)(2)(a)(1) and (2), and 108 (B)(1) and (2)* thereof must be paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP.

In petitioner's VAT returns for Q1 to Q4 of TY2019, it reported total sales of Php143,828,946.34, including zero-rated sales amounting to Php142,751,860.01, broken down as follows:

	VATable Sales	Zero-rated sales	Total
Q1 2019	Php 292,366.75	Php 31,383,989.30	Php 31,676,356.05
Q2 2019	119,340.58	36,387,019.76	36,506,360.33
Q3 2019	145,186.08	34,953,509.00	35,098,695.08
Q4 2019	520,192.92	40,027,341.95	40,547,534.87
Total	Php1,077,086.33	Php 142,751,860.01	**Php 143,828,946.31**

Petitioner claims that its zero-rated sales were covered by *Section 106(A)(2)(a)(1)*,[76] as amended, which provides that:

> SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* —
>
> (A) Rate and Base of Tax. — . . .
>
> . . .
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (a) Export Sales. — The term 'export sales' means:
>
> (1) *The sale and actual shipment of goods from the Philippines to a foreign country,* irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and *paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP).*
> (Italics supplied)

Accordingly, in order for the exportation of goods to be considered subject to 0% VAT, the following elements must be complied with:

1. The sale was made by a VAT-registered person;
2. There was a sale and actual shipment of goods from the Philippines to a foreign country; and
3. The sale was paid for in acceptable foreign currency accounted for in accordance with the rules and regulations of the BSP.

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[76] Petition for Review, Docket Vol. 1, p. 22.

i. First element: Petitioner is a VAT registered taxpayer.

Anent the *first* element, it has already been established that petitioner is a VAT-registered person based on its BIR Certificate of Registration.[77]

ii. Second element: The commercial invoices issued by petitioner to its clients remain valid despite the modification made in the header from "Charge Invoice" to "Commercial Invoice."

As for the *second* element, any VAT registered person claiming VAT zero-rating on its direct export sale of goods must present the following documents:

1. The sales invoice as proof of sale of goods; and
2. The bill of lading or airway bill as proof of actual shipment of good from the Philippines to a foreign country.

In relation to the first item above, the claimant must prove compliance with the substantiation and invoicing requirements provided under *Section 113(A)(1),(B)(1), and (2)(c) of the Tax Code,* as amended, and *Section 4.113.1(A)(1), (B)(1), and (2)(c) of RR No. 16-2005,*[78], which respectively provide:

<u>Section 113(A)(1),(B)(1) and (2)(c) of the Tax Code:</u>

> 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); and*
>
> *(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:*

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77 *Supra* note 7.
78 Subject: Consolidated Value-Added Tax Regulations of 2005, 1 September 2005.

. . .

(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.
(Italics supplied)

Section 4.113.1(A)(1), (B)(1) and (2)(c) of RR No. 16-2005

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 invoice/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

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

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

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

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

. . .

> *(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;*
>
> . . .
>
> (Italics supplied)

Relative to the above invoicing requirements, We first proceed to the discussion on the core reason for the BIR's denial of the administrative claim for VAT refund under *Sections 237 and 238 of the Tax Code.* These provisions require that sales invoices supporting the export sales must be duly registered with the BIR, thus:

> SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* - All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: Provided, however, That where the receipt is issued to cover payment made as rentals, commissions, compensations, fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client: Provided, further, That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser. . . .
>
> SEC. 238. *Printing of Receipts or Sales or Commercial Invoices.* - All persons who are engaged in business shall secure from the Bureau of Internal Revenue an *authority to print receipts or sales or commercial invoices before a printer can print the same.*
>
> No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, *the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner. . . .*
> (Italics supplied)

Respondent, however, finds petitioner non-compliant with the foregoing requirement. To recall, respondent recognizes that petitioner was issued PTUCAS No. 1810_112_PTU_CAS_0003349[79] covering complete CAS, computerized books of accounts and the use/printing of system-generated accounting records, including Charge Invoices. However, petitioner instead issued Commercial Invoices to support its TY 2019 sales transactions.

Respondent now argues that by changing the header from "Charge Invoice" to "Commercial Invoice", petitioner effectively introduced a system

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[79] Exhibit "P-10", Docket Vol. 1, p. 84.

enhancement, and that under *Section V(P) of Revenue Memorandum Order No. 29-2002*[80] this necessitates a new PTUCAS. Conversely, according to respondent, the existing PTUCAS is deemed revoked. As such enhancement was allegedly made without first obtaining authority from the BIR, the Commercial Invoices are thus invalid and lack probative value to establish zero-rates sales.

We find respondent's argument unmeritorious.

Section II.AA of RMO No. 29-2002 defines "system enhancement" as "any change or modification in the system software or architecture components of a computerized application system *that will add value or further improve the system.*"

Moreover, *Section V(P) of RMO No. 29-2002* emphasizes that to be required to obtain a new PTU, there should be a system enhancement that results in change in systems release and/or version number as follows:

> P. The taxpayer shall apply for a new permit to use CAS in case of any system enhancement that shall result in change in systems release and/or version number. In case a taxpayer is found using an enhanced system without the approval of the BIR, the permit originally issued shall be deemed automatically revoked from the time the enhanced system is adopted.

In this case, petitioner claims that a side-by-side comparison of the Charge Invoice as submitted for approval during CAS application and the Commercial Invoices eventually issued to its clients would show that both are the same on all material aspects. It merely updated the header of the CAS-generated invoice from "Charge Invoice" to "Commercial Invoice" in order to comply with the mandate of the Bureau of Customs to submit "Commercial Invoice" to support its export sales and to reflect the latest invoice authorized by the 2019 ATP duly issued by the BIR.[81]

We note, however, that the sample Charge Invoice submitted to the Court as Exhibit "P-48"[82] (Charge Sales Invoice submitted by petitioner during CAS application), reflects the name of MD Davao Agri-Ventures, Inc. which appears to be an affiliate of petitioner. Thus, We are inevitably unable to verify petitioner's position regarding the sole modification on the header allegedly made in the invoices.

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[80] Revised Procedures in the Processing and Approval of Applications for Permit to Adopt Computerized Accounting System (CAS) or Components Thereof Amending RMO 21-2000.

[81] Authority to Print OCN 2AU0002147606, dated January 10, 2019, valid until January 9, 2024, Exhibit "P-11", Docket Vol. 5, p. 1954.

[82] Exhibit "P-48", Docket Vol. 5, p. 1955.

Nevertheless, We still deem it necessary to rule on the foregoing matter on the basis of the testimonies of the parties' witnesses, and the other documents presented to the Court.

For one, We find that the modification made on the system did not add value or further improve the system.

In the Judicial Affidavit of witness Dumail, Manager of the Information and Communication Technology ("ICT") Department assigned to petitioner, the following questions were propounded by the counsel:

> Q14: You mentioned in the Report that changing the header of Petitioner's system-generated sales invoices does not constitute a system enhancement on Petitioner's CAS, what do you men by this?
>
> A14: System enhancement is defined in Section II.AA of RMO No. 29-2002 as "any change or modification in the system software or architecture components of a computerized application system that will add value or further improve the system."
>
> In the case of Petitioner's CAS, changing the header name of the system-generated sales invoices does not add value nor improve the Petitioner's CAS.
>
> To elaborate, all data entry changes in the financial system are covered by the audit trail log. This audit trail log is illustrated at the Annex C of the Report. On the other hand, the change in header of the sales invoices from "Charge Sales Invoice" to "Commercial Invoice" is "coded" in the programming "stored procedure programmability" and used at program runtime. This "stored procedure programmability" can be seen at Annex D of the Report. *The "store procedure programmability" only defines the display or presentation of the "table" of contents on the user's interface, which includes the form headers and print layout. Hence,* ***changes in the header of the system-generated sales invoices will not affect the contents of the underlying modules and sub modules with the accounting system****. Further,* ***this will not also affect the integral recognition and computation of all financial transactions.***
>
> Put simply, changing the header of the system-generated sales invoice from "Charge Sales Invoice" to "Commercial Invoice" is simply a nominal or formal change which ***adds no value nor improvement in the system***.
> (Emphasis and italics supplied)

During the cross-examination of respondent's witness on February 15, 2024, RO Coronel confirmed that the sole basis for the denial of the refund is the mere change in header, without any mention of other substantial changes in the forms, to wit:

Atty. Tan: Ms. Coronel, in Question No. 7 of your Judicial Affidavit, you mentioned that the denial of the VAT refund application was due to the issuance of commercial invoices instead of charge invoices, is that correct?

RO Coronel: Yes, Attorney.

Atty. Tan: So, the only basis for the denial of the VAT refund is the change in the header from "Charge" to "Commercial Invoice", correct?

RO Coronel: Yes, Attorney.[83]

Next, We observe the modification did not result in change in the systems release and/or version number of petitioner's CAS.

The PTUCAS[84] issued to petitioner states the following details on the approved system:

Main Software/Core System:

Software Name:	SAP Business One
Version Number:	Version 9.2 PL07
Release No. and/or Date:	2017

The same version and release number remains to be used by petitioner despite the change in header name, as observed by the Court in the screenshot of the running software submitted by petitioner.[85]

Moreover, during the same cross-examination on RO Coronel, it was confirmed that the BIR did not observe any change in the systems release number despite the change in the header, to wit:

Atty. Tan: So, in your answer to Question No. 7, you also said that Section 5(P) of RMO 29-2002, in relation to RMO 21-2000 which provides that a taxpayer is required to apply for a new permit to use CAS in case of any system enhancement that shall result in a change in systems release and/or version number, it that correct?

RO Coronel: Yes, Attorney.

Atty. Tan: From this cited provision, a taxpayer is only required to apply for a new PTU CAS in case of any system enhancement that shall result in a change in systems release and/or version number, is that correct?

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[83] Transcript of Stenographic Notes ("TSN") dated February 15, 2024, pp. 6-7.
[84] *Supra* note 79.
[85] CAS Narrative Report, Exhibit "P-47", Docket Vol. 4, p.1518.

RO Coronel: Yes, Attorney.

Atty. Tan: So, in this regard, is there a change in systems release or version number in petitioner's system?

RO Coronel: Yes, Attorney.

Atty. Tan: Do you have evidence to support that there is a change in system release?

RO Coronel: The actual commercial invoice is admissible.

Atty. Tan: In what part of the invoice does it show that there was a change in system release or version number?

RO: Coronel: Actually, Attorney, the company is only allowed to use charge invoices instead of commercial invoices. The commercial invoice is not included in the permit to use CAS that's why we deny the claim.

x x x

Atty. Tan: Ms. Coronel, ***did you also inspect the software used by the petitioner or conduct any examination of the software used by the petitioner***?

RO Coronel: No, Attorney, ***we do not have jurisdiction to conduct the inspection of the software***.

Atty. Tan: So, you mentioned that you never inspected the software used by the petitioner so ***there is no basis for you to say that there was a change in version number***, and ***you have not seen the software used by petitioner***, correct?

RO Coronel: Actually, Attorney, ***I am not saying that there is a change in the version number***. What I am trying to say is the use of commercial invoices is not included in the authority to use CAS.[86]

(Emphasis and italics supplied)

It is thus clear from the foregoing testimonies and observations of the Court that the change in header name from "Charge Invoice" to "Commercial Invoice" does not constitute a system enhancement that will necessitate a new CAS Permit from the BIR. Thus, the invoices issued by petitioner to its clients remain valid and have probative value for purposes of proving petitioner's zero-rated sales.

Despite this, however, the Court still finds for the insufficiency of the documents submitted by petitioner to prove the proper zero-rating of its sales transactions.

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[86] TSN dated February 15, 2024, pp. 7-9.

iii. *Third element: Petitioner failed to prove that the payments for the alleged zero-rated sales were accounted for in accordance with the rules and regulations of the BSP.*

The *third* element of a valid zero-rated export sale, in relation to the *fifth* requirement of to successfully claim input VAT refund, mandates that the alleged zero-rated sales falling under *Section 106 (A)(2)(a)(1)* must be paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP. In relation thereto, petitioner submitted the following:

Exhibit No.	Description	Purpose
P-31	Metrobank Certification of Inward Remittances dated January 13, 2021	To prove: a. That petitioner submitted all documents in compliance with the mandatory requirements enumerated under BIR rules and regulations for claims for VAT refund; b. Petitioner's VAT zero-rated export sales; and c. That the foreign currency exchange has been accounted for in accordance with BSP rules and regulations.
P-32	Security Bank Certification of Inward Remittances dated January 7, 2021	
P-33	PNB Certification of Remittances dated January 13, 2021	

Notwithstanding petitioner's submission of the above certificates of remittances purportedly showing the foreign currency inward remittances of its clients, petitioner still fails to show to the Court whether the amounts reflected therein correspond to the payments to the zero-rated sales subject of the instant claim.

In the certifications above, the respective banks listed the remittances with corresponding remittance dates, name of remitter, amount remitted, amount credited, and remittance reference numbers. However, the amounts listed therein are made in lump sum, based on the date of remittance made by remitter.

Meanwhile, upon the Court's reference to the ICPA Report, We note that narration of the procedures performed include a review of the proof of inward remittances, to wit:

C. For VAT zero-rated sales and receipts, propriety of treatment as zero-rated transaction as follows:

(1) Examine proof of exportation (of) goods for zero-rated sales.
(2) Reviewed proof of inward remittances of foreign currency representing proceeds arising from zero-rated sales.
(3) In cases where the supporting documents are stated in United States Dollar (USD), we determined that the foreign currency exchange rate used to convert the same to Philippine Peso are based on the prevailing reference rates from the Banko Sentral ng Pilipinas.[87]

Even so, the Schedule of Zero-Rated Sale of Goods[88] still does not provide reference any proof of remittance as the cells in column 12, Proof of Remittances (Bank/Credit Memo), were all empty. Moreover, the ICPA Report failed to show a breakdown of the remittances indicated in the bank certificates.

Given that the amount in the three remittance certificates were not itemized and ICPA Santos failed to show if the client's payments were traced to any of these certificates, the next logical way available to the Court is to add all the amounts listed under the "Amount Remitted (in Foreign Currency)" column, in the Schedule of Zero-Rated Sale of Goods,[89] on a per date of remittance and per bank basis, then compare the derived sum to the amount per list issued by the banks. Still, the amounts do not match.

Thus, in the absence of an itemized list or even an identification of the corresponding remittance numbers in the schedule of zero-rated sales, there is no way for the Court to determine whether the payment for the zero-rated sales of Php142,751,860.01 were indeed "accounted for in accordance with the rules and regulations of the BSP."

We consequently find that petitioner failed to fulfill the fifth requisite for the successful prosecution of the instant refund claim.

To reiterate, in cases filed before this Court, which are litigated *de novo*, party-litigants must prove every minute aspect of their case.[90] It is also well-settled that tax refunds are in the nature of a claim for exemption and, therefore, the law is construed in *strictissimi juris* against the taxpayer. Accordingly, the pieces of evidence presented entitling a taxpayer to an exemption must also *strictissimi* scrutinized and must be duly proven.[91] In this case, petitioner was not able to prove with competent evidence its entitlement to a refund or issuance of a tax credit certificate.

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87 ICPA Report, Exhibit "P-52", Docket Vol. 5, p. 1808.
88 Exhibit "P-52-C", *id.*, pp. 1828-1834.
89 *Id.*
90 *Supra* note 57.
91 *Atlas Consolidated Mining and Development Corporation v. CIR*, G.R. No. 159490, February 18, 2008.

In light of the above discussions, it becomes unnecessary to determine whether petitioner fulfilled the remaining requisites for granting a refund of input VAT for TY 2019.

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

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

I CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

ATTESTATION

I attest that the conclusion in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice