REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	CTA EB NO. 1241 (CTA Case No. 8304)
- versus -	
NOKIA (PHILIPPINES), INC., Respondent.	

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NOKIA (PHILIPPINES), INC., Petitioner,	CTA EB NO. 1243 (CTA Case No. 8304)
	Present:
- versus -	DEL ROSARIO, *PJ* CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS, and RINGPIS-LIBAN, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAR 30 2016 1:15 p.m.

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D E C I S I O N

Fabon-Victorino, J.:

In these consolidated *Petitions for Review*, both Nokia (Philippines), Inc. and the Commissioner of Internal Revenue assail the Decision[1] dated August 12, 2014 and the

[1] *En Banc* Docket, CTA EB No. 1241, pp. 27-56.

Resolution[2] dated October 14, 2014, promulgated by the Court in Division in CTA Case No. 8304 entitled *Nokia (Philippines), Inc. vs. Commissioner of Internal Revenue*. The dispositive portion of the assailed Decision and Resolution read as follows:

Assailed Decision of August 12, 2014:

> **WHEREFORE**, premises considered, the Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED** to **REFUND** or to **ISSUE A TAX CREDIT CERTIFICATE** to petitioner in the reduced amount of THREE MILLION TWO HUNDRED SIXTY-FIVE THOUSAND THREE HUNDRED SEVENTY-EIGHT and 98/100 PESOS (P3,265,378.98) representing its unutilized excess input VAT attributable to zero-rated sales for the second quarter of 2009.
>
> **SO ORDERED.**

Assailed Resolution of October 14, 2014:

> **WHEREFORE**, premises considered, both Motions for Partial Reconsideration are **DENIED** for lack of merit.
>
> **SO ORDERED.**

In her *Petition for Review*[3] filed on October 29, 2014, docketed as CTA EB No. 1241, the Commissioner of Internal Revenue (CIR) prays to reverse and set aside the assailed Decision and Resolution and ultimately deny in its entirety the claim for refund filed by Nokia (Philippines), Inc.

On the other hand, the *Petition for Review*[4] filed by Nokia (Philippines), Inc. (Nokia) on November 3, 2014, docketed as CTA EB No. 1243, seeks only partial nullification of the assailed Decision insisting that it is entitled to refund

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[2] *Id.*, pp. 57-60.
[3] *Id.*, pp. 1-22.
[4] *En Banc* docket, CTA EB No. 1243, pp. 1-16.

or issuance of a Tax Credit Certificate (TCC) of the entire amount of ₱8,598,240.73 prayed for in its Petition for Review.

THE FACTS AND THE PROCEEDINGS

The CIR, as head of the Bureau of Internal Revenue (BIR), has the authority to decide claims for refund/tax credit of internal revenue taxes as provided under the National Internal Revenue Code (NIRC), as amended. She holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.

Nokia, on the other hand, is a duly organized domestic corporation with principal office located at the 40th Floor, Philamlife Tower, 8767 Paseo de Roxas Street, Salcedo Village, Makati City. It is engaged in the business of providing marketing support and other allied services to its parent company Nokia Corporation, Finland (Nokia Finland). It is a registered value-added tax (VAT) entity with BIR Certificate of Registration No. OCN 8RC0000019384.

For the 2nd Quarter of taxable year 2009, Nokia rendered marketing support and other services to its parent company Nokia Finland, a non-resident foreign corporation not registered to engage in business in the Philippines. During the same period, it incurred/paid input taxes on its purchases and/or importations of VATable goods and services.

On July 24, 2009, Nokia filed its Quarterly VAT Return for the second quarter of taxable year 2009 reporting an unutilized creditable input VAT of ₱12,098,285.06. Allegedly, the said amount was neither directly nor entirely attributed to its zero-rated sales or to its sales subject to VAT.

On March 1, 2011, Nokia filed with the BIR an administrative claim for refund or issuance of TCC for its unutilized excess input VAT attributable to its zero-rated sales for the second quarter of 2009.

Due to CIR's inaction, Nokia elevated the matter to the Court in Division *via* a *Petition for Review* on June 30, 2011.

In her *Answer* filed on September 9, 2011, the CIR mainly argues that Nokia failed to substantiate its entitlement to the refund sought. For one, Nokia failed to comply with the invoicing requirements laid down in Sections 113, 114 ad 236 of the NIRC of 1997, as amended, and its implementing regulations under Revenue Regulations (RR) No. 16-2005. For another, Nokia failed to submit the required complete supporting documents per Revenue Memorandum Order (RMO) No. 53-98, rendering its Petition for Review prematurely filed.

During the trial, the parties presented their evidence in support of their respective positions.

On August 12, 2014, the Court in Division rendered the assailed Decision granting Nokia's *Petition for Review* but in the reduced amount of ₱3,265,378.98. In finding for Nokia, the Court in Division ruled that Nokia was able to substantiate, albeit partially, its claim for refund through various VAT official receipts (ORs) and invoices, Import Entry Internal Revenue Declaration (IEIRD) and Bureau of Customs (BOC) ORs it presented during the trial of the case. Following the long established principle, the Court in Division also ruled that Nokia's non-submission of complete supporting documents in the administrative claim for VAT refund was NOT fatal to its subsequent action for court's intervention.

Not satisfied, both Nokia and the CIR filed their respective *Motions for Partial Reconsideration*, which the Court in Division denied in the equally assailed Resolution of October 14, 2014.

Hence, the present consolidated appeals.

THE ISSUES

From the CIR's Petition for Review, docketed as CTA EB No. 1241:

> WHETHER OR NOT THE SECOND DIVISION OF THE HONORABLE COURT ERRED IN PARTIALLY GRANTING RESPONDENT'S CLAIM FOR REFUND IN THE AMOUNT OF PHP3,265,378.98 ALLEGEDLY REPRESENTING UNUTILIZED EXCESS INPUT VAT ATTRIBUTABLE TO ZERO-RATED SALES FOR THE SECOND QUARTER OF 2009.

From Nokia-Philippines' Petition for Review docketed as CTA EB No. 1243:

> WHETHER PETITIONER NOKIA (PHILIPPINES), INC. IS ENTITLED TO A TAX REFUND OR A TAX CREDIT CERTIFICATE FOR THE INPUT VAT PAYMENTS ALLOCATED TO ITS ZERO-RATED SALES FOR THE 2ND QUARTER OF TAXABLE YEAR 2009 IN THE AGGREGATE AMOUNT OF FIVE MILLION THREE HUNDRED THIRTY TWO THOUSAND EIGHT HUNDRED SIXTY ONE and 75/100 (PHP5,332,861.75).

In her petition, CIR maintains that Nokia is not entitled to a refund or tax credit even in the reduced amount of ₱3,265,378.98 since it failed to comply with the invoicing and accounting requirements laid down in Sections 113, 114 and 236 of the NIRC of 1997, as amended, and its implementing regulations under RR No. 16-2005.

In addition, Nokia failed to submit all supporting and relevant documents in its administrative claim for refund/TCC as required under RMO No. 53-98 and other existing rules and regulations to justify the grant of its application for refund. Due to Nokia's non-compliance with the said substantiation requirements, she was deprived of the opportunity to examine and investigate its claim for refund rendering its judicial recourse premature.

In its *Comment*[5] filed on December 5, 2014, Nokia argues that the Court in Division did not err in partially granting its claim for refund albeit in the reduced amount of ₱3,265,378.98. Contrary to the CIR's asseveration, it was able to prove compliance with the invoicing requirements laid down in Sections 113, 114 and 236 of the Tax Code. In any event and as ruled by the Court in Division, its alleged failure to submit other requested documents is not fatal to its case. Besides, the CIR never required Nokia to submit additional documents within the 120-day period granted her under the NIRC, as amended. The request for submission of additional documents was sent to Nokia on September 20, 2014 or months after it filed its Petition for Review with the Court in Division on June 30, 2014. Citing a number of cases, Nokia states the CIR cannot demand what type of supporting documents should be submitted, lest the taxpayer shall be at her mercy, as she may require documents which the taxpayer cannot possibly produce.

Nokia also finds misplaced the CIR's contention that it failed to exhaust administrative remedies due to its failure to submit documents in accordance with RMO No. 53-98, which rendered its Petition for Review prematurely filed thereby depriving the Court in Division of jurisdiction over the case. Allegedly, there is no quarrel that Section 229 of the Tax Code requires that an administrative claim for refund/TCC must be filed first before a taxpayer may seek judicial intervention, there is however nothing in said provision that requires that the administrative remedy be first resolved before elevating the matter to the CTA. And since its case is urgent for it must be filed within the two-year prescriptive period under the Tax Code, it is an exemption to the application of the Doctrine of Exhaustion of Administrative Remedies.

In its Petition for Review, Nokia states that the Court in Division erred when it disallowed the amount of ₱5,332,861.75, representing its input VAT attributable to zero-rated sales for the 2nd quarter of 2009. It presented sufficient evidence in support of its claim for refund/TCC covering not only the amount of ₱3,265,378.98 but also the disallowed amount of ₱5,332,861.75. Moreover, the amounts in its claim for refund were verified and confirmed

[5] *En Banc* docket, CTA EB No. 1241, pp. 69-75.

as accurate by the Court-commissioned Independent Certified Public Accountant (ICPA), thereby supplying the information required to determine the tax liabilities due and input tax to be credited. Nokia believes that it is entitled to the additional amount of ₱5,332,861.75, especially considering that the CTA is not strictly governed by technical rules of evidence. In relation to the foregoing, Nokia invokes the principle of *solutio indebiti* claiming that technicalities and legalism should not be misused by the government to keep money not belonging to it thereby enriching itself at the expense of its law-abiding citizens.

In her *Comment*[6], the CIR stressed that the claimant has the burden of proof to establish the factual basis of his claim for tax credit or refund. After all, tax refunds, like tax exemptions, are strictly construed against the taxpayer.

RULING OF THE COURT EN BANC

Both *Petitions for Review* lack merit.

On CIR's Petition for Review (CTA EB No. 1241):

CIR claims that the Court in Division has no jurisdiction to entertain Nokia's Petition for Review since it was prematurely filed due to its inability to submit complete documents in the administrative level as required under RMO No. 53-98, in relation to Section 112(C) of the NIRC of 1997, as amended.

The Court *En Banc* is not convinced.

The issue on submission of complete documents in the administrative level pursuant to RMO No. 53-98 has long been settled by the Supreme Court in the case of *Commissioner of Internal Revenue vs. Team Sual Corporation (formerly Mirant Sual Corporation),*[7] *viz*:

[6] *Id.*, pp. 79-85.
[7] G.R. No. 205055, July 18, 2014.

> The CIR's reliance on RMO 53-98 is misplaced. **There is nothing in Section 112 of the NIRC**, RR 3-88 or **RMO 53-98 itself that requires submission of the complete documents enumerated in RMO 53-98 for a grant of a refund or credit of input VAT**. The subject of RMO 53-98 states that it is a "Checklist of Documents to be Submitted by a Taxpayer upon Audit of his Tax Liabilities..." In this case, TSC was applying for a grant of refund or credit of its input tax. There was no allegation of an audit being conducted by the CIR. **Even assuming that RMO 53-98 applies, it specifically states that some documents are required to be submitted by the taxpayer "if applicable"**. (*Boldfacing ours*)

Moreover, it is the taxpayer and not the CIR, who determines what constitutes as relevant supporting documents for purposes of substantiation of the claim for refund/TCC, as ruled by the Supreme Court in the following manner:

> The term "**relevant supporting documents**" should be understood as those documents necessary to support the legal basis in disputing a tax assessment as determined by the taxpayer. **The BIR can only inform the taxpayer to submit additional documents. The BIR cannot demand what type of supporting documents should be submitted. Otherwise, a taxpayer will be at the mercy of the BIR, which may require the production of documents that a taxpayer cannot submit.**[8] (*Emphases ours*)

In fine, the determination of what relevant supporting documents should be submitted by the taxpayer to establish its entitlement to refund/TCC does not belong to the CIR. To rule otherwise will render the 120-day period for the CIR to

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[8] CIR v. First Express Pawnshop Company, Inc., G.R. Nos. 172045-46, June 16, 2009.

decide on the claims for tax refund or credit indeterminate if not indefinite.

In a number of cases[9], this Court has clarified that failure to comply with the requirements listed under RMO No. 53-98 is not fatal to a claim for tax credit or refund of excess unutilized excess VAT. This holds especially true when the case has been elevated to the Court. After all, when the case is elevated to the Court, the Rules of Court governs.[10] In other words, the question of whether the evidence submitted by a party is sufficient to warrant the grant of its prayer lies within the sound discretion and judgment of the Court.[11]

Further, Section 112(C) of the NIRC of 1997, as amended, provides that the CIR has 120 days from the date of submission of complete documents in support of the application for refund/TCC within which to grant or deny the claim. In case of full or partial denial by the CIR or the inability of the CIR to act on the claim within the 120-day period, the taxpayer may appeal with the CTA within 30 days from receipt of the adverse decision or the expiration of the 120-day period without any action on the part of the CIR.

It has been ruled that the 120+30-day periods provided under Section 112(C) of the NIRC of 1997, as amended, is not only mandatory but also jurisdictional and non-observance thereof is fatal to the filing of a judicial claim with this Court.[12] The High Court explained that if the CIR fails to act on the application for tax refund/TCC of creditable input VAT within the 120-day mandatory period reckoned from the date of submission of the complete documents in support of the application, the taxpayer, may within 30 days, appeal the inaction of the CIR to the CTA.

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[9] *CIR v. Team Energy Corporation*, CTA EB Case No. 652, October 4, 2011; and *Commissioner of Internal Revenue vs. CE Luzon Geothermal Power Company, Inc*, CTA EB No. 474, September 1, 2009.
[10] *Commissioner of Internal Revenue v. Visayas Geothermal Power Company, Inc.*, C.T.A. EB Case No. 282 (C.T.A. Case Nos. 6790 & 6838), November 20, 2007, citing *Jideco Manufacturing Corporation v. Commissioner of Internal Revenue*, C.T.A. Case No. 6552, September 16, 2004.
[11] *El Greco Ship Manning and Management Corporation v. Commissioner of Customs*, C.T.A. EB No. 172 (C.T.A. Case No. 6618), March 14, 2007.
[12] CIR v. Aichi Forging Company, Inc., G.R. No. 184823, October 6, 2010.

But when will the submission of documents be deemed completed for purposes of determining the running of the 120-day period?

In the very recent case of *Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue*[13] *(Total Gas),* the Supreme Court elucidated on the matter, in this wise:

> xxx Thus, taking the foregoing changes to the law altogether, it becomes apparent that, for purposes of determining ***when*** the supporting documents have been completed - *it is the taxpayer who ultimately determines when complete documents have been submitted for the purpose of commencing and continuing the running of the 120-day period.* After all, he may have already completed the necessary documents the moment he filed his administrative claim, in which case, the 120-day period is reckoned from the date of filing. The taxpayer may have also filed the complete documents on the 30th day from filing of his application, pursuant to RMC No. 49-2003. He may very well have filed his supporting documents on the first day he was notified by the BIR of the lack of the necessary documents. In such cases, the 120-day period is computed from the date the taxpayer is able to submit the complete documents in support of his application.
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> Then, except in those instances where the BIR would require additional documents in order to fully appreciate a claim for tax credit or refund, in terms ***what*** additional document must be presented in support of a claim for tax credit or refund - it is the taxpayer who has the right and the burden of providing any and all documents that would support his claim for tax credit or refund. After all, in a claim for tax credit or refund, it is the taxpayer who has the burden to prove his cause of action. As

[13] G.R. No. 207112, December 8, 2015.

such, he enjoys relative freedom to submit such evidence to prove his claim.

The foregoing conclusion is but a logical consequence of the due process guarantee under the Constitution. Corollary to the guarantee that one be afforded the opportunity to be heard, it goes without saying that the applicant should be allowed reasonable freedom as to when and how to present his claim within the allowable period.

Thereafter, whether these documents are *actually* complete as required by law – is for the CIR and the courts to determine. Besides, as between the taxpayer-applicant, who seeks the refund of his creditable input tax and the CIR, it cannot be denied that the former has greater interest in ensuring that the complete set of documentary evidence is provided for proper evaluation of the State.

Lest it be misunderstood, the benefit given to the taxpayer to determine when it should complete its submission of documents is not unbridled. Under RMC No. 49-2003, if in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the legitimacy of the claim, the taxpayer-claimants shall submit such documents within thirty (30) days from request of the investigating/processing office. **Again, notice, by way of a request from the tax collection authority to produce the complete documents in these cases, is essential**.

Moreover, under Section 112(A) of the NIRC, as amended by RA 9337, a taxpayer has two (2) years, after the close of the taxable quarter when the sales were made, to apply for the issuance of a tax credit certificate or refund of creditable

> input tax due or paid attributable to such sales. Thus, before the administrative claim is barred by prescription, the taxpayer must be able to submit his complete documents in support of the application filed. This is because, it is upon the complete submission of his documents in support of his application that it can be said that the application was, "officially received" as provided under RMC No. 49-2003.

In the instant case, there is no dispute that Nokia timely filed its administrative claim for refund on **March 1, 2011** as evidenced by the stamped "RECEIVED" by the BIR on Nokia's application letter. Further, record reveals that Nokia simultaneously submitted supporting documents upon the filing of its administrative claim on March 1, 2011.

Following the ruling laid down by the Supreme Court in the *Total Gas* case, Nokia filed its administrative claim for refund/TCC and simultaneously submitted complete supporting documents on March 1, 2011. This is evident from the fact that no additional documents were submitted by Nokia within the 30-day period reckoned from the filing of its administrative claim. Besides, it is Nokia who determines when complete documents have been submitted for the purpose of commencing and continuing the running of the 120-day period. However, it must be clarified that *this in no way precludes the CIR from requiring additional documents necessary to decide the claim, or even denying the claim if taxpayer fails to submit additional documents requested*, as pointed out by the Supreme Court in the *Total Gas* case.

In the case at bar, it was only on September 20, 2011 that the first notification for the presentation of additional documents was sent by the CIR to Nokia. It was obviously long after the 120-day period expired on June 29, 2011; and after the judicial claim was already filed on June 30, 2011. Pursuant to Revenue Memorandum Circular (RMC) No. 49-2003 dated August 15, 2003, such request should be made within the 120-day period and not beyond. The pertinent portion of the said issuance reads:

> Q-18: *For pending claims with incomplete documents, what is the period within which to submit the supporting documents required by the investigating/processing office? When should the investigating/processing office officially receive claims for tax credit/refund and what is the period required to process such claims?*
>
> A-18: For pending claims which have not been acted upon by the investigating/processing office due to incomplete documentation, the taxpayer-claimants are given thirty (30) days within which to submit the documentary requirements unless given further extension by the head of the processing unit, but such extension should not exceed thirty (30) days.
>
> For claims to be filed by claimants with the respective investigating/ processing office of the administrative agency, the same shall be officially received only upon submission of complete documents.
>
> For current and future claims for tax credit/refund, the same shall be processed within one hundred twenty (120) days from receipt of the complete documents. **If, in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the legitimate amount of claim, the taxpayer-claimants shall submit such documents within thirty (30) days from request of the investigating/ processing office, <u>which shall be construed as within the one hundred twenty (120) day period</u>**. (*Emphases ours*)

Thus, the Court in Division is correct when it held that *Nokia timely filed its appeal by way of a Petition for Review on June 30, 2011, as the same was filed well within the 30-*

day period after the 120-day period of the CIR expired on June 29, 2011.

Anent CIR's argument that Nokia is not entitled to a refund or tax credit of the amount prayed for due to its failure to comply with the invoicing and accounting requirements laid down in Sections 113, 114 and 236 of the NIRC of 1997, as amended, and its implementing regulations under RR No. 16-2005, the Court *En Banc* is one with the Court in Division in ruling that Nokia was able to substantiate its claim for refund/TCC of its unutilized input VAT for the 2nd quarter of taxable year 2009 in the amount of ₱3,265,378.98.

Nokia's Petition for Review (CTA EB No. 1243)

A review of the arguments raised by Nokia in the instant petition shows that they were the very same flawed arguments which had been thoroughly discussed and passed upon by the Court in Division in the assailed Resolution of October 14, 2014. Be that as it may and if only to reinforce the findings of the Court in Division, the salient points shall be discussed anew.

The Court in Division correctly disallowed the amount of ₱5,332,861.75

Section 113 of the NIRC of 1997, as amended, pertinently provides, thus:

> SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* —
>
> xxx xxx xxx
>
> (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 shown as a separate item in the invoice or receipt**; (*Boldfacing supplied*)

xxx xxx xxx

In the case of *Kepco Philippines Corporation vs. Commissioner of Internal Revenue,*[14] the Supreme Court enjoins strict compliance with the invoicing and substantiation requirements as provided by law in claims for refund or credit, to wit:

> Although it is true that the CTA is not strictly governed by technical rules of evidence, **the invoicing and substantiation requirements must, nevertheless, be followed because it is the only way to determine the veracity of Kepco's claims**. Verily, the CTA En Banc correctly disallowed the input VAT that did not meet the required standard of substantiation. (*Boldfacing supplied*)

Otherwise stated, failure on the part of Nokia to prove that all the requirements for entitlement have been met will merit a denial of the claim in whole or in part.

Thus, the Court *En Banc* agrees with the Court in Division when it disallowed the amount of ₱5,332,861.75, representing Nokia's input VAT credit attributable to zero-

[14] G.R. No. 181858, November 24, 2010.

rated sales for the 2nd quarter of taxable year 2009, as follows:

> In addition, petitioner's input VAT claim in the amount of ₱5,332,861.75 should, likewise, be disallowed for failure to meet the substantiation requirements under the aforesaid VAT law and regulations. Below is the breakdown of the amount of ₱5,332,861.75:

Reason for Disallowance	Reference	Amount
Purchase of goods		
VAT amount was not separately indicated in the invoice	Exhibit Q-2 (pp. 382-384)	₱ 17,380.62
the address shown on the "sold to" portion of the invoice was different from Nokia Phil's registered address	Exhibit Q-2 (pp. 389-390)	840.00
Purchase of services		
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 3-11)	142,466.91
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 12-13)	22,500.00
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 14-17)	294,404.78
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 18-21)	384,561.46
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 22-23)	13,832.76
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 24-29)	399,959.00
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 46-63)	1,204,769.44
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 64-65)	121.71
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 66-67)	300.24
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 68-76)	729.15
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 77-78)	12.00
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 79-80)	228.55
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 81-83)	121.46
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 84-86)	3,221.82
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 91-92)	152.23
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 93-94)	228.53
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 126-129)	4,359.15
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 130-133)	186,648.00
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 137-140)	73,188.00
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 141-142)	19,200.00
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 143-146)	38,649.60
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 147-150)	96,000.00
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 158-160)	42,062.57
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 163-164)	4,579.17
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 165-166)	445.14
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 167-168)	7,671.51
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 169-171)	22,473.16
The amount per OR (P360.62) is lower than the amount per claim (397.49)	Exhibit Q-1 (pp. 188-189)	36.87

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The amount per OR (P304.96) is lower than the amount per claim (344.23)	Exhibit Q-1 (pp. 192-193)	39.27
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 204-215)	734.32
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 216-236)	2,015.22
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 271-272)	71.25
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 273-278)	168.00
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 279-280)	694.93
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 281-282)	33.60
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 283-295)	37,977.26
VAT amount was not separately indicated in the OR	Exhibit Q-1 (pp. 296-334)	19,761.10
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 337-338)	1,635.72
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 339-340)	1,970.18
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 341-342)	1,802.95
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 343-344)	1,416.23
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 345-346)	17,420.24
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 347-348)	16,382.95
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 349-350)	12,508.29
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 351-352)	24,268.75
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 353-354)	26,322.68
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 355-357)	55,515.35
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 358-362)	840,865.77
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 363-364)	35,916.40
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 365-367)	67,686.91
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 404-408)	38,840.00
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 411-412)	80,357.14
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 413-414)	6,513.50
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 415-416)	11,626.32
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 417-418)	14,008.32
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 419-420)	18,257.14
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 426-429)	16,908.00
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 430-431)	11,400.00
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 432-435)	44,110.80
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 438-439)	1,275.00
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 440-441)	1,275.00
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 444-445)	9,375.00
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 446-447)	18,750.00
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 452-454)	166.07
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 455-456)	1,440.00
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 459-461)	5,256.00
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 462-463)	1,440.00
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 464-465)	230.94
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 466-467)	1,440.00
The amount per OR (4,403.68) is lower than the amount per claim (5,903.16.)	Exhibit Q-2 (pp. 468-472)	1,499.48
The amount per OR (5,331.86) is lower than the amount per claim (5,885.82)	Exhibit Q-2 (pp. 473-475)	553.96
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 476-478)	80.58
The amount per OR (5,052.57) is lower than the amount per claim (6,159.45)	Exhibit Q-2 (pp. 476-478)	1,106.88

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VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 482-487)	12,636.00
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 497-501)	222,630.43
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 505-506)	707.14
VAT amount was not separately indicated in the OR and the authority to print is dated later than OR date	Exhibit Q-2 (p. 507)	2,410.71
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 519-520)	18.00
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 521-522)	3.60
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 523-525)	53,578.08
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 526-527)	172,478.57
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 528-531)	207,552.00
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 540-544)	5,185.18
Not sold in the name of Nokia Phils.and the TIN indicated is different from the company's TIN	Exhibit Q-2 (pp. 566-567)	1,982.68
VAT amount was not separately indicated in the OR	Exhibit Q-2 (pp. 568-570)	214.29
Not sold in the name of Nokia Phils. and the TIN of the company was not indicated	Exhibit Q-2 (pp. 571-573)	468.74
IMPORTATION		
The amount per IEIRD/OR (23,010) is lower than the amount per claim(43,730)	Exhibit Q-3 (pp.737-740)	20,720.00
Not supported by IEIRD	Exhibit Q-3 (p.741)	44,098.00
Not supported by IEIRD	Exhibit Q-3 (p.742)	4,406.00
Not supported by IEIRD	Exhibit Q-3 (p.743)	147.00
Not supported by IEIRD	Exhibit Q-3 (p.744)	125.00
Not supported by IEIRD	Exhibit Q-3 (p.749)	2,858.00
The amount per IEIRD/OR(16,119) is lower than the amount per claim(56,416)	Exhibit Q-3 (pp.750-753)	40,297.00
Not supported by IEIRD	Exhibit Q-3 (p.754)	67,855.00
Not supported by IEIRD	Exhibit Q-3 (p.755)	40,229.00
Total Disallowed Input VAT		**₱ 5,332,861.75**[15]

Time and again, the Court has ruled that tax refunds are in the nature of tax exemptions which result to loss of revenue for the government. Upon the person claiming an exemption from tax payments rests the burden of justifying the exemption by words too plain to be mistaken and too categorical to be mis-interpreted,[16] it is never presumed[17] nor be allowed solely on the ground of equity. [18] These exemptions, therefore, must not rest on vague, uncertain or indefinite inference, but should be granted only by a clear and unequivocal provision of law on the basis of language

[15] *See Note 1, Supra*, pp. 52-54.
[16] *Michel J. Lhuillier Pawnshop, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166786, May 3, 2006, 489 SCRA 147, 155, citing *Commissioner of Internal Revenue v. Philippine Long Distance Telephone Company*, G.R. No. 140230, December 15, 2005 and *Commissioner of Internal Revenue v. Mitsubishi Metal Corporation*, G.R. Nos. 54908 & 80041, January 22, 1990, 181 SCRA 214, 224.
[17] *Province of Abra v. Hernando*, No. L-49336, August 31, 1981, 107 SCRA 104, 109.
[18] *Commissioner of Internal Revenue v. Court of Appeals*, G.R. Nos. 122161 & 120991, February 1, 1999, 302 SCRA 442, 453, citing *Davao Gulf Lumber Corporation v. Commissioner of Internal Revenue*, G.R. No. 117359, July 23, 1998, 293 SCRA 76, 91.

too plain to be mistaken. Such exemptions must be strictly construed against the taxpayer, as taxes are the lifeblood of the government.[19]

WHEREFORE, the *Petitions for Review* filed on October 29, 2014 and November 3, 2014 by the Commissioner of Internal Revenue and Nokia (Philippines), Inc., respectively, are hereby **DENIED,** for lack of merit. Accordingly, the assailed Decision and Resolution dated August 12, 2014 and October 14, 2014, respectively, are **AFFIRMED**.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

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

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen
MA. BELEN RINGPIS-LIBAN
Associate Justice

[19] *Silkair (Singapore) PTE. Ltd. v. Commissioner of Internal Revenue*, G.R. No. 184398, February 25, 2010, citing *Commissioner of Internal Revenue v. Solidbank Corporation*, G.R. No. 148191, November 25, 2003, 416 SCRA 436, 461.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the above Decision has been reached in consultation with the members of the Court *En Banc* before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice