REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

OCEANAGOLD (PHILIPPINES), INC.,
Petitioner,

- versus –

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9112

Members:

CASTAÑEDA, JR., *Chairperson,*
MINDARO-GRULLA, and
BACORRO-VILLENA, *JJ.*

Promulgated:

JUN 17 2020
4:30 p.m.

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DECISION

CASTAÑEDA, JR., *J.:*

THE CASE

This is a *Petition for Review* filed on August 11, 2015 by petitioner Oceanagold (Philippines), Inc. against the respondent Commissioner of Internal Revenue, praying for the refund or issuance of a tax credit certificate in the amount of ₱1,265,929,377.57, representing alleged unutilized input value-added tax (VAT) arising from petitioner's domestic purchases and importation of goods (other than capital goods) and domestic purchases of services and purchases of capital goods attributable to zero-rated transactions for the 2nd quarter of taxable year 2013.[1]

[1] Statement of the Case, Pre-Trial Order dated April 19, 2016, Docket – Vol. I, p. 691.

THE PARTIES

Petitioner Oceanagold (Philippines), Inc., formerly known as Australasian Mining, Inc., is a corporation organized and existing under the laws of the Philippines with office address at 2nd Floor Carlos J. Valdes Building, 108 Aguirre Street, Legaspi Village, 1229 Makati City, Philippines.[2] It is engaged in large-scale exploration, development and utilization of mineral resources such as gold, silver and copper,[3] and was issued a Certificate of Registration by the Board of Investments (BOI) as a "New Export Producer of Dore Bars and Copper Concentrate" on December 16, 2011.[4]

Petitioner is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer,[5] with Taxpayer Identification Number 004-870-171-000.[6]

Respondent is the duly appointed Commissioner of Internal Revenue who holds office at the Bureau of Internal Revenue (BIR) National Office Building located at Agham Road, Diliman, Quezon City.[7]

THE FACTS

For the 2nd quarter of taxable year 2013, petitioner reported zero-rated sales in the amount of ₱1,998,260,627.81.[8]

On March 31, 2015, petitioner filed with the Excise Large Taxpayers Audit Division 1 ("ELTAD 1") of the BIR an administrative claim for refund or issuance of tax credit for its unutilized input VAT attributable to zero-rated sales for the 2nd quarter of taxable year 2013 in the aggregate amount of ₱1,265,929,377.57.[9]

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[2] Par. 1, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. I, p. 643.
[3] Par. 3, Stipulation of Facts, JSFI, Docket – Vol. I, p. 643.
[4] Par. 5, Stipulation of Facts, JSFI, Docket – Vol. I, p. 644.
[5] Par. 4, Stipulation of Facts, JSFI, Docket – Vol. I, p. 644.
[6] Exhibit "P-3", Docket – Vol. II, p. 858.
[7] Par. 2, Stipulation of Facts, JSFI, Docket – Vol. I, p. 643.
[8] Par. 6, Stipulation of Facts, JSFI, Docket – Vol. I, p. 644.
[9] Par. 7, Stipulation of Facts, JSFI, Docket – Vol. I, p. 644.

On July 14, 2015, petitioner received from respondent the letter dated on the same day, informing it that its administrative claim has been denied.[10]

Petitioner filed before this Court the present *Petition for Review* on August 11, 2015.[11] The case was initially raffled to this Court's First Division.

On October 22, 2015, respondent filed his *Answer (Re: Petition for Review dated 11 August 2015)*,[12] interposing the following special and affirmative defenses, to wit:

> "**SPECIAL AND AFFIRMATIVE DEFENSES**
>
> On the basis of the foregoing allegations and in further support of the Specific Denials herein set forth, respondent alleges as her defense that:
>
> **It is incumbent upon petitioner to prove that it is entitled to the refund sought because a claim for refund is not ipso facto granted upon filing of the claim.**
>
> 4. As a matter of course, a claim for refund is subject to investigation as it involves removal of accrued revenue from the coffers of the Government. It has been held by the Supreme Court that a claim for refund is not *ipso facto* granted because the Commissioner of Internal Revenue still has to investigate and ascertain the veracity of the claim.
>
> 5. Respondent submits that petitioner failed to demonstrate that the amount of P1,265,929,377.57 which is the subject of the case at bar was erroneously or illegally collected. Taxes remitted to the BIR are presumed to have been made in the regular course of business and in accordance with provisions of law.

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[10] Par. 8, Stipulation of Facts, JSFI, Docket – Vol. I, p. 644.
[11] Docket – Vol. I, pp. 10 to 23.
[12] Docket – Vol. I, pp. 103 to 115.

6. Before the instant Petition for Review should be given due course, petitioner should prove that it submitted the relevant pieces of documents to substantiate its claim and had observed the procedure laid down in Section 112 (C) of the National Internal Revenue Code (NIRC) of 1997, as amended, which reads:

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

7. 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.'

8. Clearly, the law requires the **submission of complete documents in support of the application filed** with the Bureau of Internal Revenue before the 120-day audit period shall apply, and **before the taxpayer could avail of judicial remedies as provided for in the law,** petitioner's failure to comply with the duly mandated legal requirements in such claims for refund/tax credit warranted the denial by inaction of the administrative claim.

9. Furthermore, said Section 112(C) clearly states that there should be a prior administrative claim filed with respondent before judicial resort can be had in the Court of Tax Appeals, where relevant documents must be submitted by the taxpayer to support its claim for refund. Failure on the part of the taxpayer to file the administrative claim and submit relevant documents on administrative level, makes the administrative claim for tax refund or credit pro-forma and shall be construed as if no administrative claim was filed at all.

10. In case such as this, before judicial inquiry into the issue of whether taxpayers, in general, are entitled to a refund/tax credit under substantive law may be considered, they have an initial burden to discharge. They must prove that they complied with all the administrative requirements continuing up to judicial review. In other words, before **trial de novo** proceeds and disposes of the issue of refund entitlement under **substantive** law, it must first be proved that there was **procedural** compliance in pursuing the administrative claim leading to the **appellate** proceedings. As stated by the Honorable Supreme Court:

> 'Petitioner's contention that non-compliance with Revenue Regulations 3-88 could not have adversely affected its case in the CTA indicates a failure on its part to appreciate the nature of the proceedings in that court. **First, a judicial claim for refund or tax credit in the CTA is by no means an original action but rather an appeal by way of petition for review of a previous, unsuccessful administrative claim. Therefore, as in every appeal or petition for review, a petitioner has to convince the appellate court that the quasi-judicial agency a quo did not have any reason to deny its claims. In this case, it was necessary for petitioner to show the CTA not only that it was entitled under substantive law to the grant of its claims but also that it satisfied all the documentary and evidentiary requirements for an administrative claim for refund or tax credit.** Second, cases filed in the CTA are litigated de novo. Thus, a petitioner should prove every minute aspect of its case by presenting, formally offering and submitting its evidence to the CTA. **Since it is crucial for a petitioner in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first place, part of the evidence to be submitted to the CTA must necessarily include whatever is required for the successful prosecution of an administrative claim.**' *(Emphasis and underscoring supplied)*

11. Petitioner failed to substantiate its claim for refund/issuance of tax credit certificate in the amount of P1,265,929,377.57 allegedly representing VAT paid on purchases of goods and services for the period April 1, 2013 to June 30, 2013. 9r

12. The implementing rule for these complete documents required by law is RMO No. 53-98. Annex B-1 of said RMO lists all the required documents as follows:

VALUE-ADDED TAX

(For audit involving Claim for Refund/TCC)

A.) Requirements from Taxpayer

I. Requirements mention in Annex B

II. Additional General Requirements

1) 3 copies of 'Application for VAT Credit/Refund'

2) Summary List of Local Purchases specifying the following:

xxx

3) Photocopies of VAT purchase invoices for purchase of goods and official receipts for purchase of services. (The invoices/official receipts must be arranged according to the summary list)

4) Summary of importations made during the period with the following details:

XXX XXX XXX

5) Photocopies of invoices, import entry documents, official receipts or confirmation receipts evidencing payment of VAT. (Segregate documents paid by cash from those paid by tax debit memo)

6) VAT Returns filed for the quarter showing that the amount applied for refund/TCC has been reflected as a deduction from the total available input tax, as well as VAT Return for the succeeding quarter

7) Certification of taxpayer showing the amount of Zero-rated Sales, Taxable Sales and Exempt Sales

8) A statement showing the amount and description of the sale of goods and services, name of persons or entities (except in case of exports) to whom the goods or services were sold and date of the transaction, where the applicant's zero-rated transactions are regulated by certain government agency.

9) Articles of Incorporation - for first time filers

10) Sales Contract/Agreement

11) BOI Certificate of Registration

12) BIR Certificate of Registration

13) Certification from BOI, DOF, BOC, EPZA, etc., that subject taxpayer has not filed similar claim for refund covering the same period.

14) Sworn statement that ending inventory as of the close of the period covered by the Claim has been used directly or indirectly in the products subsequently exported as supported by export documents, if the applicant is 100% exporter.

15) Documents of liquidation evidencing the actual utilization of the raw materials in the manufacture of goods at least 70% of which has been actually exported, if the applicant is an indirect exporter.

16) Copy of the ITR and Certified Financial Statements, if applicable.

17) Beginning and ending inventory of raw materials, work-in-process, finished goods, supplies and materials.

Additional Specific Requirements

1) For Zero-Rated Sales of Services (contractors, mining, etc)

a. Authenticated copy/ies of the contract/s showing the person/s for whom the services were rendered, amount of consideration, description of the services and documents evidencing actual payments.

b. Photocopies of official receipts and billings together with a summary of the date of billing, name of principal, official receipt number, date of receipt, amount in foreign currency and the corresponding value thereof, date of remittance, name of bank, bank credit memo number and amount remitted in pesos.

c. Bank credit memoranda and certificate from the BSP with information similar to 1-c (export sales)

As stated above, the first documentary requirement is that provided in Annex B of the same RMO. Annex B provides for more requirements as follows:

VALUE-ADDED TAX

A) Requirements from Taxpayer

1) Proof of claimed tax credits

2) Proof of Tax Compliance Certificates applied

3) Xerox copy of used Tax Credit Certificate (TCC) with annotation of issued TDM at the back, if applicable

4) Proof of payment of deficiency tax, if any
a) current year/period
b) previous year/period
5) Certification of the appropriate government agency as to taxpayer's entitlement to tax incentives. if applicable
6) Xerox copies of the Official Receipts evidencing VAT payment on imported purchases, if applicable
7) Proof of exemption under special law, if applicable
8) Certification of the appropriate regulatory agency as to the exempt or zero-rated sales of the taxpayer under its regulatory supervision, if applicable
9) Certificate of Registration issued by the appropriate regulatory agency, together with the conditions attached to such registration, if applicable

10) Proof of 'Approval for Effective Zero-Rating of Sales', if applicable
11) Sample invoice / s for 'Export/Exempt Sales", if applicable
12) Proof that the acceptable foreign currency exchange proceeds on export sales/foreign currency denominated sales had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP), if applicable.

13. In the present case, petitioner failed to submit all the necessary documents needed for the application of its VAT refund.

14. The purpose of requiring the filing of the administrative claim for refund/tax credit and submission of supporting documents relevant to a claim for tax refund/credit is to give the administrative agency concerned the opportunity to ascertain the veracity and validity of the claim. This is the very essence, the very substance of the doctrine of exhaustion of administrative remedies. The doctrine rests upon the presumption that the administrative body, board, or officer, if given the chance to correct its mistake or error, may amend its decision on a given matter and decide it properly. Thus, non-compliance with a condition precedent renders the Petition for Review dismissible. *gc*

15. The failure of petitioner to substantiate its claim for refund before the office of the respondent and the filing of the instant petition before this Honorable Court deprived respondent of the opportunity to fully exercise her function to decide claims for refund, correct, modify or affirm the findings of her subordinates. It must be remembered, that in the case of ***Jariol vs. Commission on Elections,*** the Supreme Court reasoned that a party must not merely initiate the prescribed administrative procedure to obtain relief, the party concerned must pursue this relief until the appropriate conclusion takes place before seeking judicial intervention in order to give the administrative bod an opportunity to decide the matter by itself correctly and prevent unnecessary and premature resort to the court.

Assuming petitioner complied with the substantiation requirements, it is nevertheless not entitled to refund

16. During the period from April 1, 2013 to June 30, 2013, petitioner incurred/paid input taxes on its zero rated sales, computed as follows:

Output Tax	0.00
Input from Previous Period	1,097,588,087.87
Input Tax Deferred on CG Exceeding 1M from Previous Period	19,869,505.67
Input Tax on Current Purchases:	
Capital Goods exceeding 1 Million	1,278,564.72
Domestic Purchases of Goods other than Capital Goods	25,288,583.62
Importation of Goods other than Capital Goods	10,860,070.00
Domestic Purchases of Services	128,316,341.27
Total Available Input Tax	1,283,201,153.15
Less: Input Tax of CG exceeding 1M deferred to Succeeding Period	17,271,975.58
TOTAL INPUT VAT CLAIMED FOR REFUND	1,265,929,177.57

17. Verification of the petitioner's quarterly VAT returns for taxable years 2013 to 2015 disclosed the following facts to wit:

	2013			2014				2015
	2nd Qtr	3rd Qtr	4th Qtr	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	1st Qtr
Vatable Sales	-	-	444,867.14	2,264,056.70	-	498,214.28	67,856.92	1,813,801.17
Zero Rated Sales	1,998,260,	3,169,031.1	2,335,169,37	5,939,342,924	2,773,6518,	1,889,6446,03	2,956,171,190.2	5,200,585,864.0

	627.81	45.39	8.27	.94	58.04	5.47	1	1
Allowable Input Tax								
Carried Over From Previous Period	1,097,588,287.87	1,265,929,377.56	1,457,543,022.74	1,692,220,789.58	1,692,220,789.58	1,725,405,458.60	1,752,353,539.23	1,774,884,066.49
Deferred on CG Exceeding 1M from previous Period	19,869,505.67	17,271,975.58	23,797,087.71	22,128,875.68	20,641,877.91	18,964,451.59	17,287,025.28	15,609,598.95
Current Input Tax	163,743,559.60	198,138,757.30	169,430,116.06	62,417,511.847.30	31,507,242.70	23,330,440.04	20,861,243.76	23,780,477.71
Total Available Input Tax	1,283,201,353.14	1,481,340,110.44	1,650,770,226.51	1,713,134,354.29	1,744,369,910.19	1,769,700,350.23	1,790,501,808.27	1,814,274,143.15
Deductions from Tax								
CG Exceeding 1M deferred for the succeeding period	17,291,975.58	23,797,087.71	22,128,875.65	20,641,877.91	18,964,451.59	17,287,025.28	15,609,598.95	13,932,172.61
VAT refund claimed	-	-	-	-	-	-	-	-
Total Allowable Input Tax (Excess Input) tax)	(1,265,929,377.57)	(1,457,543,022.74)	(1,628,587,966.77)	(1,692,220,789.58)	(1,7725,405,458.60)	(1,752,353,539.23)	(1,774,884,066.49)	1,800,124,314.40

18. Based on the above table, taxpayer carried over the excess input tax subject of the claim for refund in the succeeding quarters and applied it against the output tax in the 4th quarter of 2013 and onwards until the first quarter of 2015. Moreover, it did not deduct he same in the quarter when it filed its application for TCC/Refund on March 31, 2015 in violation of the following Sections of the Tax Code, as amended:

> SEC. 110. Tax Credits. –
>
> **(B) Excess Output or Input Tax.** – If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the Vat-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters. any input attributable to the purchase of capital goods or to zero-rated sales by a VAT-registered person may at his option be refunded or credit against other internal revenue taxes, subject to the provisions of Section 112.
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> **(C) Determination of Creditable Input Tax.** – The sum of the excess input tax carried over from the preceding month or quarter and the input tax creditable to a VAT-registered person during the taxable month or quarter shall be reduced by the amount of claim for refund or tax credit for value-added tax and other adjustments, such as purchase returns or allowances and input tax attributable to exempt sale. Jc

> 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:

19. Based on the above quoted legal provisions, any input tax attributable to zero-rated sales by a VAT-registered person may either be carried over to the succeeding period or be applied for a refund/TCC subject to the provisions of Section 112 of the Tax Code, as amended.

20. In the instant case, however, the excess input tax, subject of this claim for refund for the period of April 1 to June 30, 2013, which includes input tax from previous period amounting to P1,117,457,793.54 was carried over in the succeeding quarters and applied against the output tax in the 4th quarter of taxable year 2013 and onwards until the 1st quarter of taxable yar 2015.

21. Thus, petitioner has no input tax which could be the subject of a refund. Consequently, the instant case for refund must be dismissed for lack of factual and legal bases.

Final Discussions

22. The power to tax is the most effective instrument to raise needed revenues to finance and support the myriad activities of the government for the delivery of basic services essential to the promotion of the general welfare and enhancement of peace, progress and prosperity of the people. Consequently, any delay in implementing tax measures would be to the detriment of the public. It is for this reason that claims for refund are required to be done within certain time frames.

23. Exemptions from taxation are highly disfavored in law and he who claims exemption must be

able to justify his claim by the clearest grant of organic or statutory law. An exemption from the common burden cannot be permitted to exist upon vague implications ***(Asiatic Petroleum Co. vs Llanes, 49 Phil. 466 cited in Collector of Internal Revenue v Manila Jockey Club, Inc., 98 Phil 670).***

24. In an action for refund, the burden of proof is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund. Hence, a taxpayer is charged with the heavy burden of proving that he has complied with and satisfied all the statutory and administrative requirements to be entitled to the tax refund. Failure to comply therewith warrants a dismissal of the taxpayer's claim for refund. Respondent humbly submits that petitioner failed to establish its right to refund.

25. It can never be emphasized enough that in this jurisdiction tax refunds/ credits are in the nature of tax exemptions, hence, laws relating to them call for a strict application against the claimant. As held by the Honorable Court:

> 'Tax refunds are in the nature of tax exemptions, and are to be construed *strictissimi juris* against the entity claiming the same. Thus, the burden of proof of rests upon the taxpayer to establish by sufficient and competent evidence, its entitlement to a claim for refund.'

26. Taxes collected are presumed to be in accordance with laws and regulations.

27. Claims for refund are construed strictly against the claimant for the same partake of the nature of exemption from taxation ***(Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95)*** and as such, they are looked upon with disfavor ***(Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211).*** Basic is the rule that tax refunds are regarded as tax exemptions that are in derogation of the sovereign authority and are to be construed in strictissimi juris against the person or entity claiming the exemption ***(Philippine Phosphate Fertilizer Corporation v. Commissioner of Internal Revenue, G.R. No.***

> ***141973, June 28, 2005).*** The law does not look with favor on tax exemptions and that he who would seek to be thus privileged must justify it by words too plain to be mistaken and too categorical to be misinterpreted ***(Sea-Land Service. Vs. Court of Appeals, 357 SCRA 444).***
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> 28. Based on the foregoing, petitioner's claim for refund has no basis in fact and in law. Thus, the instant petition should be denied for lack of merit.

On November 9, 2015, petitioner filed its *Reply [To Respondent's Answer dated October 22, 2015]*.[13]

The pre-trial conference was set, and held, on February 11, 2016.[14]

The *Pre-Trial Brief for Petitioner* was filed on February 3, 2016,[15] while the *Respondent's Pre-Trial Brief* was submitted on February 5, 2016.[16]

On March 11, 2016, the parties filed their *Joint Stipulation of Facts and Issues* (JSFI).[17] In the Resolution dated March 16, 2016,[18] the Court approved the said JSFI, and terminated the Pre-Trial. Thereafter, the Pre-Trial Order dated April 19, 2016 was issued.[19]

The trial of the case then proceeded.

During trial, petitioner presented the following witnesses: (1) Mr. Richard Lapres,[20] the Court-commissioned Independent Certified Public Accountant (ICPA);[21] and (2) Ms. Josefina C. Mallari,[22] petitioner's Finance Manager.

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[13] Docket – Vol. I, pp. 121 to 126.
[14] *Notice of Pre-Trial Conference* dated October 27, 2015, Docket – Vol. I, pp. 117 to 118; Minutes of the hearing held on, and the Resolution dated, February 11, 2016, Docket – Vol. I, pp. 612 to 118, and 618 to 620.
[15] Docket – Vol. I, pp. 131 to 143.
[16] Docket – Vol. I, pp. 606 to 609.
[17] Docket – Vol. I, pp. 643 to 656.
[18] Docket – Vol. I, p. 658.
[19] Docket – Vol. I, pp. 691 to 705.
[20] Exhibit "P-40", Docket – Vol. II, pp. 1369 to 1373; Minutes of the hearing held on, and Order dated, June 28, 2016, Docket – Vol. I, pp. 772 to 776.
[21] *Judicial Affidavit of Mr. Richard R. Lapres*, Docket – Vol. I, pp. 662 to 664; *Oath of Commission* dated April 7, 2016, Docket – Vol. I, p. 676; Minutes of the hearing held on April 7, 2016, pp. 673 to 675.
[22] Exhibits "P-38" and "P-39", Docket – Vol. I, pp. 149 to 170, and 712 to 715, respectively; Minutes of the hearing held on, and Order dated, August 4, 2016, Docket – Vol. I, pp. 778 to 782.

On May 19, 2016, the ICPA *Report* and a compact disc, containing the scanned copies of the exhibits and schedules attached to the ICPA Report, were submitted.[23]

On September 8, 2016, petitioner filed its *Formal Offer of Evidence.*[24] Respondent failed to file his comment on petitioner's FOE.[25] In the Resolution dated February 14, 2017,[26] the Court admitted petitioner's Exhibits, but denied the admission of the following, to wit:

1. Exhibits "P-22", for failure to submit the original for comparison;
2. Exhibits "P-54.1520", "P-54.2312", "P-54.2411", "P-54.2440", "P-54.2441", "P-54.2715", "P-54.4029 to P-54.4031", "P-54.4258 to P-54-4260", "P-54.441 to P-54.444", "P-61-848", "P-61-885", "P-61-1050 to P-61-1051", "P-61-4705 to P-61-4712", "P-61-5078", "P-61-5145 to P-61.5184", "P-61-5304", "P-61-5709 to P-61.5715", "P-61-9677", "P-64-261 to P-64-262", "P-64-1180 to P-64-1223", "P-64-1279 to P64-1302", "P-64-2021 to 64.2025", "P-64-2388", "P-64-2625 to P-64-2629", "P-64-2644 to P-64-2649", "P-64-2826 to P-64.2833", "P-64-2871 to P-64-2874", "P-64-2947", "P-64-2994", "P-64-3701 to P-64-3702", "P-64-3923 to P-64-3929", "P-64-4035 to P-64-4036", "P-64-4927", "P-64-4853 to P-64-4854", "P-64-4955 to "P-64-4956", "P-64-5037 to P-64-5039", P-64-5041", P-64-5042", and "P-66.843", for not being found in the records; and
3. Exhibit "P-79.7", for failure to correspond with the document actually marked.

Consequently, on March 2, 2017, petitioner filed an *Omnibus Motion I. For Partial Reconsideration (of the Resolution dated February 14, 2017); II. To Note Various Manifestations, Corrections and Clarifications; and III. To Set Commissioner's Hearing.*[27]

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[23] Transmittal letter dated May 29, 2016, Docket – Vol. I, pp. 747 to 749; Minute Resolution dated May 23, 2016, Docket – Vol. I, p. 750.
[24] Docket – Vol. II, pp. 739 to 820.
[25] Records Verification dated October 7, 2016 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 1375.
[26] Docket – Vol. II, pp. 1391 to 1394.
[27] Docket – Vol. III, pp. 1396 to 1406.

Respondent transmitted the *BIR Records* for the present case on March 29, 2017.[28]

In the Resolution dated November 3, 2017,[29] the Court granted petitioner's *Motion to Set Commissioner's* Hearing and held in abeyance petitioner's *Omnibus Motion I. For Partial Reconsideration (of the Resolution dated February 14, 2017); II. To Note Various Manifestations, Corrections and Clarifications.*

In the Resolution dated May 24, 2018,[30] the Court partially granted petitioner's *Motion for Partial Reconsideration (of the Resolution dated February 14, 2017);* noted petitioner's *Motion to Note Various Manifestations, Corrections and Clarifications;* and admitted petitioner's denied Exhibits, *except* for Exhibit "P-54-2441", for not being found in the records.

In the Order dated July 5, 2018,[31] the Court noted that respondent's counsel manifested that his intended witness was no longer connected with the BIR and moved to request for stipulation on certain documents. In the same Order, the Court gave respondent's counsel a period of five (5) days from July 10, 2018 within which to submit his motion requesting for stipulations, copy thereof to be furnished to petitioner's counsel by licensed counsel; and petitioner's counsel the same period of five (5) days within which to submit her comment and/or opposition thereto.

On July 27, 2018, respondent filed a *Request for Admission and Manifestation,*[32] requesting petitioner to admit the truth, existence and due execution of respondent's Exhibits "R-1", "R-2", "R-3", "R-4", "R-5", "R-6", "R-7", and "R-8", and stating that these documents form part of the *BIR Records* submitted by respondent to the Court. On August 13, 2018, petitioner filed its *Opposition [To Respondent's Request for Admission and Manifestation dated July 27, 2018].*[33] Thereafter, on August 23, 2018, respondent filed his *Reply Re: Opposition to Respondent's Request for Admission and Manifestation.*[34] On September 10, 2018, petitioner filed its *Rejoinder [to Respondent's Reply dated August 23, 2018].*[35] Je

[28] Respondent's *Compliance* filed on March 29, 2017, Docket – Vol. III, pp. 1624 to 1626.
[29] Docket – Vol. III, pp. 1640 to 1641.
[30] Docket – Vol. III, pp. 1647 to 1650.
[31] Docket – Vol. III, pp. 1651 to 1652.
[32] Docket – Vol. III, pp. 1658 to 1661.
[33] Docket – Vol. III, pp. 1679 to 1685.
[34] Docket – Vol. III, pp. 1689 to 1691.
[35] Docket – Vol. III, pp. 1693 to 1697.

In the Order dated September 28, 2018,[36] the present case was transferred to this Court's Second Division.

In the Resolution dated October 10, 2018,[37] the Court partially granted and noted respondent's *Request for Admission and Manifestation*. Accordingly, the truth, execution, and existence of Exhibit "R-8" was deemed admitted, unless within fifteen (15) days from notice, petitioner files and serves on respondent a sworn statement either denying specifically the matters of which an admission is requested or setting in forth in detail the reasons why it cannot truthfully either admit or deny those matters pursuant to Section 2 of Rule 26 of the 1997 Rules of Civil Procedure. Thus, on October 31, 2018, petitioner submitted its *Sworn Statement* evenly dated.[38] In the Resolution dated January 15, 2019,[39] the Court noted petitioner's compliance through its *Submission [of Sworn Statement pursuant to the Resolution dated October 10, 2018*, and gave the parties a period of thirty (30) days from notice within which to submit their respective memorandum.

The *Memorandum for Petitioner* was filed on February 20, 2019;[40] while respondent filed his *Memorandum* on March 25, 2019.[41]

In the Resolution dated April 2, 2019,[42] the case was considered submitted for decision.

THE ISSUE

The parties submitted the following issue for this Court's resolution,[43] to wit:

> **"WHETHER OR NOT PETITIONER IS ENTITLED TO A REFUND OR TAX CREDIT OF ITS UNUTILIZED INPUT VAT ARISING FROM DOMESTIC PURCHASES AND IMPORTATION OF GOODS,**

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[36] Docket – Vol. III, p. 1699.
[37] Docket – Vol. III, pp. 1701 to 1706
[38] *Submission [of Sworn Statement pursuant to the Resolution dated October 10, 2018]*, Docket – Vol. III, pp. 1708 to 1712.
[39] Docket – Vol. III, pp. 1716 to 1718.
[40] Docket – Vol. III, pp. 1719 to 1745.
[41] Docket – Vol. III, p. 1753 to 1761.
[42] Docket – Vol. III, p. 1763.
[43] Stipulation of Issue, JSFI, Docket – Vol. I, p. 644.

DOMESTIC PURCHASES OF SERVICES, AND PURCHASES OF CAPITAL GOODS ATTRIBUTABLE TO ZERO-RATED SALES FOR THE 2ND QUARTER OF TAXABLE YEAR 2013 IN THE AMOUNT OF P1,265,929,377.57."

Petitioner's arguments:

Petitioner argues that it timely filed its administrative and judicial claims for refund or tax credit of unutilized input VAT attributable to zero-rated sales which commenced in the 2nd quarter of 2013; that it is a VAT-registered entity; that is engaged in zero-rated export sales which commenced in the 2nd quarter of 2013 the consideration for which was paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP); and that the input taxes were not applied against output tax liability during and in the succeeding quarters.

Respondent's counter-arguments:

Respondent counter-argues that petitioner is not entitled to refund of the alleged unutilized input tax; and that tax exemptions are strictly construed against the taxpayer.

THE COURT'S RULING

The present *Petition for Review* lacks merit.

Requisites for the grant of the refund or issuance of a tax credit certificate under the law.

Section 112 of the NIRC of 1997, as amended by Republic Act (RA) No. 9337,[44] reads, in part, as follows:

"SEC. 112. *Refunds or Tax Credits of Input Tax.* –

[44] AN ACT AMENDING SECTIONS 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

> (A) *Zero-Rated or Effectively Zero-Rated Sales.* – Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: xxx.
>
> xxx xxx xxx
>
> (C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.*— In proper cases, the Commissioner shall grant a refund or issue a tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.
>
> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals."

Pursuant to the above provisions of the NIRC, jurisprudence has laid down certain requisites which the taxpayer-applicant must comply with to successfully obtain a credit/refund of input VAT. Said requisites are classified into certain categories, to wit:

> As to the timeliness of the filing of the administrative and judicial claims:
> 1. the claim is filed with the BIR within two (2) years after the close of the taxable quarter when the sales were made;[45]
> 2. that in case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act on the said claim within a period of one hundred twenty (120) days, the judicial claim has been filed with this Court, within thirty (30) days from receipt of the decision or after the expiration of the said 120-day period;[46]
>
> With reference to the taxpayer's registration with the BIR:
> 3. the taxpayer is a VAT-registered person;[47]
>
> In relation to the taxpayer's output VAT:
> 4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[48]
> 5. for zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b), and 108(B)(1) and (2) of the NIRC of 1997, as amended by RA No. 9337, that the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the BSP rules and regulations;[49]
>
> As regards the taxpayer's input VAT being refunded:
> 6. the input taxes are not transitional input taxes;[50]
> 7. the input taxes are due or paid;[51]
> 8. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales

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[45] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 155732, April 27, 2007; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009; and *AT&T Communications Services Philippines, Inc., vs. Commissioner of Internal Revenue,* G.R. No. 182364, August 3, 2010.

[46] *Steag State Power, Inc. (Formerly State Power Development Corporation) vs. Commissioner of Internal Revenue*, G.R. No. 205282, January 14, 2019; *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.

[47] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc.*, supra.

[48] *Id.*

[49] *Id.*

[50] *Id.*

[51] *Id.*

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;[52] and

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[53]

Petitioner's administrative and judicial claims were timely made.

The *first* requisite pertains to the filing of the claim for tax credit certificate or refund of input VAT before the BIR, within two (2) years from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim covers the 2nd quarter of taxable year 2013, which closed on June 30, 2013. Counting two (2) years from the said date, petitioner had until June 30, 2015, within which to file its administrative claim for tax credit certificate or refund. Thus, petitioner's administrative claim for the said quarter was seasonably filed on March 31, 2015.[54]

On the other hand, the *second* requisite is to the effect that the judicial claim must have been filed within thirty (30) days from receipt of respondent's decision or after the expiration of the 120-day period under Section 112(C) of the NIRC of 1997, as amended.

In this case, petitioner received, on July 14, 2015, respondent's letter evenly dated, informing petitioner that its administrative claim has been denied.[55] Counting thirty (30) days from July 14, 2015, petitioner had until August 13, 2015 within which to file its judicial claim for refund.

Thus, the present *Petition for Review* was filed on August 11, 2015.[56] Such being the case, petitioner fulfilled the *first* and *second*

[52] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.
[53] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc.*, supra.
[54] Par. 7, Stipulation of Facts, JSFI, Docket – Vol. I, p. 644.
[55] Par. 8, Stipulation of Facts, JSFI, Docket – Vol. I, p. 644.
[56] Docket – Vol. I, pp. 10 to 20.

requisites in that it timely filed both its administrative and judicial claims.

Petitioner it is a VAT-registered entity.

Petitioner likewise complied with the *third* requisite, considering that it is a VAT registered taxpayer with Tax Identification No. 004-870-171-000.[57]

However, petitioner failed to establish that it had zero-rated sales or effectively zero-rated sales during the 2nd quarter of taxable year 2013.

The *fourth* and *fifth* requisites require that the taxpayer is engaged in zero-rated or effectively zero-rated sales, and for zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b), and 108(B)(1) and (2) of the NIRC of 1997, as amended by RA No. 9337, that the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the BSP rules and regulations.

Petitioner asserts that its export sales of minerals during the 2nd quarter of taxable year 2013, which were paid for in acceptable foreign currency and accounted for in accordance with BSP rules and regulations are subject to zero percent (0%) VAT, pursuant to Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended.

Relative thereto, said provision states:

> "SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* –
>
> (A) *Rate and Base of Tax.* – xxx
>
> xxx xxx xxx
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

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[57] Par. 4, Stipulation of Facts, JSFI, Docket – Vol. I, p. 644; Exhibit "P-3", Docket — Vol. II, p. 858.

(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);"

Based on the foregoing provision, in order for an export sale to qualify as zero-rated, the following essential elements must be present:

1. the sale was made by a VAT registered person;
2. there was 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.

Anent the *first* essential element, it has been established that petitioner is a VAT-registered taxpayer.

The *second* essential element entails the existence of a sale and the actual shipment of goods from the Philippines to a foreign country. As a corollary thereto, Section 113(A)(1), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended, as quoted hereunder, provides that a VAT-taxpayer, like herein petitioner, shall, for every sale, barter or exchange of goods or properties, issue a VAT invoice which must contain certain information, to wit:

"SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* —

(A) *Invoicing Requirements.* — A VAT-registered person shall issue:

(1) A <u>VAT invoice</u> for every sale, barter or exchange of goods or properties; and

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;

xxx xxx xxx

(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;

xxx xxx xxx

(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service;" *(Underscoring supplied)*

This is implemented by Section 4.113-1(A)(1), (B)(1) and (2)(c) of Revenue Regulations (RR) No. 16-2005, which reads:

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

(A) A VAT-registered person shall issue: —

(1) A <u>VAT invoice</u> for every sale, barter or exchange of goods or properties; and

xxx xxx xxx

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

In addition to the above-stated requirements, the sales invoices supporting the export sales must likewise be duly registered with the BIR as prescribed under Section 237, in relation to Section 238, both of the NIRC of 1997, as amended, which respectively provide as follows:

> "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. . . . ."

> "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." *(Underscoring supplied)*

Pursuant to the foregoing provisions of Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, in relation to Sections 113(A)(1), (B)(1), (2)(c) and (3), 237 and 238 of the same Code, and Section 4.113-1(A)(1), (B)(1) and (2)(c) of RR No. 16-2005, as amended, any VAT-registered person claiming VAT zero-rated export sales must present the following documents, to wit:

1. the pertinent sales invoice, which must be compliant with the invoicing and registration requirements under the law, as proof of sale of goods;
2. the pertinent bills of lading or airway bills as proof of actual shipment of goods from the Philippines to a foreign country; and
3. bank credit advice, certificate of bank remittance, or any other convincing document proving payment for the goods in acceptable foreign currency or its equivalent in goods and services, accounted for in accordance with BSP rules and regulations.

Thus, only the sales supported by the above-stated documents shall qualify for VAT zero-rating under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended.

In its Amended Quarterly VAT Return for the 2nd quarter of taxable year 2013, petitioner declared zero-rated sales in the amount of ₱1,998,260,627.81.[58] Petitioner submitted the Bills of Lading[59], certain provisional invoices[60] and the supposed VAT zero-rated sales invoices[61] to support the said zero-rated sales.

A perusal of the said documents, however, reveals that out of the said declared zero-rated sales of ₱1,998,260,627.81, only the amount of ₱1,995,524,661.81 (equivalent to US$47,477,682.00), as shown below, were duly substantiated, detailed as follows:

Bill of Lading			Provisional Invoice			Exchange Rate	Peso (₱) Equivalent
Exhibit No.[62]	**Doc. No.**	**Date**	**Exhibit No.**[63]	**Date Issued**	**Amount (in US$)**		
"P-80.1"	HP-04-01	April 7, 2013	"P-73.1"	April 8, 2013	12,983,117.00	41.1422	534,153,996.24
"P-80.4"	ES-05-02	May 29, 2013	"P-73.2"	May 30, 2013	11,610,132.00	41.2976	479,470,587.28
"P-80.2"	ES-06-01	June 13, 2013	"P-73.3"	June 14, 2013	11,787,882.00	42.9069	505,781,474.19
"P-80.3"	EE-06-02	June 30, 2013	"P-73.4"	July 1, 2013	11,096,551.00	42.9069	476,118,604.10
			Total		**47,477,682.00**		**1,995,524,661.81**

Correspondingly, the amount of ₱2,735,966.00 (*i.e.*, the difference between the amounts of ₱1,998,260,627.81 and ₱1,995,524,661.81) pertaining to the supposed sales amount declared per VAT return which are not duly proved are denied outright for VAT zero-rating.

In addition, it is noteworthy that the provisional invoice dated July 1, 2013 representing the amount of ₱476,118,604.10 (equivalent to US$11,096,551.00),[64] is outside of the period of the present claim for refund or tax credit certificate, or pertains to the 3rd quarter of taxable year 2013; and thus, should not be considered for purposes of the present claim which only covers the 2nd quarter of the same taxable year.

Nevertheless, upon careful examination of all the said provisional invoices issued by petitioner in support of its export sales, the same reveals that the word ***"zero-rated"*** was not written or printed prominently thereon, which is a clear violation of the above-quoted Section 113(B)(2)(c) of the NIRC of 1997, as amended, and Section 4.113-1(B)(2)(c) of RR No. 16-2005, as amended. Hence, the zero-rated sales supported by the said provisional invoices in the

[58] Par. 6, Stipulation of Facts, JSFI, Docket – Vol. I, p. 644; Exhibit "P-8.2", Docket, Vol. II, p. 897.
[59] Exhibits "P-80.1" to "P-80.4", Box No. 18, Folder 64.
[60] Exhibits "P-73.1" to "P-73.4", Box No. 18, Folder 57.
[61] Exhibits "P-74.1" to "P-74.4", Box No. 18, Folder 58.
[62] Box No. 18, Folder 64.
[63] Box No. 18, Folder 57.
[64] Exhibit "P-73.4", Box No. 18, Folder 57.

amount of ₱1,995,524,661.81 shall likewise be denied *in toto* for VAT zero-rating.

Although certain VAT zero-rated sales invoices[65] were offered to and admitted by the Court, such invoices were dated outside the subject period of the claim (*i.e.*, outside of the 2nd quarter of taxable year 2013); and thus, cannot likewise be considered for purposes of the present claim for refund or tax credit certificate.

Under Section 114 of the NIRC of 1997, as amended,[66] a VAT-registered taxpayer is required to file a quarterly return of the amount of **its gross sales or receipts for each taxable quarter**. Furthermore, as already intimated, pursuant to Sections 113 and 237 of the same Code, each of the reported sales or receipts for the quarter should be properly substantiated by duly-registered VAT invoice or official receipt, as the case may be, showing, among others, **the date of the sales transaction**.

Since the said VAT zero-rated sales invoices are dated August 30, 2013, October 4, 2013, September 28, 2013, and October 24, 2013,[67] these invoices apparently represent sales transactions for the periods covered by the 3rd (July to September) and 4th (October to December) quarters of taxable year 2013, respectively, which are both clearly beyond the scope of the present claim for refund or tax credit certificate.

In view of the foregoing findings, petitioner's reported zero-rated sales for the 2nd quarter of taxable year 2013 in the amount of ₱1,998,260,627.81 **cannot qualify** for VAT zero-rating under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended.

Ergo, petitioner failed to fulfill the *fourth* requisite *i.e.*, that it is engaged in zero-rated or effectively sales during the 2nd quarter of taxable year 2013. As such, petitioner's input VAT refund claim of ₱1,265,929,377.57 allegedly attributable to its zero-rated sales must perforce fail.

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[65] Exhibits "P-74.1" to "P-74.4", Box No. 18, Folder 58.

[66] SEC. 114. *Return and Payment of Value-Added Tax.*-

(A) *In General.* - Every person liable to pay the value-added tax imposed under this Title shall file a quarterly return of the amount of his gross sales or receipts within twenty-five (25) days following the close of each taxable quarter prescribed for each taxpayer: *Provided, however,* That VAT-registered persons shall pay the value-added tax on a monthly basis.

[67] Collectively, as Exhibits "P-74.1" to "P-74.4", Box No. 18, Folder 58.

Consequently, it is no longer necessary to determine petitioner's compliance with the remaining requisites to merit favorable consideration of its claim for refund of unutilized input VAT for the 2nd quarter of taxable year 2013.

It bears stressing that actions for tax refund or credit, as in the present case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven. The burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit. Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented as they are not intended to be liberally construed.[68]

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is hereby **DENIED** for lack of merit.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

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

[68] *Coca-Cola Bottlers Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 222428, February 19, 2018.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ATTESTATION

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

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
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