21-000445-0057

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10676

SANKYU-ATS CONSORTIUM-B,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

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

ATTY. AYESHA HANIA B. GUILING-MATANOG
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
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LMA LAW OFFICES
12th Floor Unit 12D, 6805 Ayala Avenue
Multinational Bancorporation Centre
Bel-Air 1209, City of Makati
Fourth District, National Capital Region (NCR)

GREETINGS:

You are hereby notified by these presents that on **September 2, 2025,**a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **September 8, 2025.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

SANKYU-ATS CONSORTIUM-B,
Petitioner,

CTA Case No. **10676**

Members:

- versus -

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
SEP 02 2025 4:30 p.m.

x - x

DECISION

BACORRO-VILLENA, J.:

Before the Court is a Petition for Review[1] filed by petitioner Sankyu-Ats Consortium-B (**petitioner**) on 15 November 2021 pursuant to Section 3(a)[2], Rule 8 in relation to Section 3(a)(1)[3], Rule 4 of the

[1] Division Docket, Volume I, pp. 6-41.

[2] **SEC. 3**. *Who may appeal; period to file petition.* —
(a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

[3] **SEC. 3**. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue[.]

Revised Rules of the Court of Tax Appeals (**RRCTA**), challenging respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) partial denial of its administrative claim for refund or issuance of tax credit certificate (**TCC**) in the amount of ₱1,269,224.57 out of ₱4,821,286.42, which represents the excess and unutilized input Value-Added Tax (**VAT**) on purchases of goods and services attributable to zero-rated sales for the second (2^{nd}) quarter of calendar year (**CY**) 2019.

PARTIES OF THE CASE

Petitioner is a consortium duly created by virtue of a "Consortium Agreement" between ATS Construction International, Inc. and Sankyu, Inc. on 04 October 2017.[4] It is a VAT-registered taxpayer with Tax Identification Number (**TIN**) 710-338-514-000, engaged in supplying services and construction materials.[5]

Respondent, on the other hand, is the duly appointed CIR of the Bureau of Internal Revenue (**BIR**) vested under the appropriate laws with the authority to carry out the functions, duties, and responsibilities of said office, including, *inter alia*, the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the National Internal Revenue Code (**NIRC**) of 1997, as amended, or other laws or portions thereof administered by the BIR.[6]

FACTS OF THE CASE

For the 2^{nd} quarter of CY 2019, petitioner filed its Amended[7] Quarterly VAT Return (**BIR Form No. 2550-Q**) on 02 June 2020[8], through the BIR's Electronic BIR (**eBIR**) Forms facility. There, it declared a total zero-sales amount of ₱50,391,306.00.[9]

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4 Exhibit "P-10", Division Docket, Volume II, pp. 593-596.
5 Paragraph 1, Facts Admitted, Joint Stipulation of Facts (JSF), id., Volume I, p. 362; Exhibit "P-1", id., Volume I, p. 490.
6 See Par. 2, Facts Admitted, JSF, id., pp. 362-363.
7 Original Quarterly VAT Return for the 2^{nd} quarter of CY 2019 was filed on 24 July 2019.
8 Division Docket, Volume I, p. 499.
9 Exhibit "P-4", id., pp. 496-498.

For the same period, petitioner claimed to have accumulated excess input tax in the total amount of ₱4,821,286.42 from its current domestic purchases of goods and services and amortized input VAT on purchases of capital goods from previous quarters, which is the subject of the present petition, as shown on the following tabulation[10]:

Input tax on domestic purchases of goods other than capital goods	₱227,142.14
Input tax on domestic purchase of services	4,595,198.09
Total Input Taxes for the 2nd quarter of CY 2019	**₱4,822,340.23**
Less: Amount excluded from the refund claim	1,053.81[11]
Amount of claim for refund	**₱4,821,286.42**

On 29 June 2021, petitioner filed with the BIR Revenue District Office (**RDO**)-98 an administrative claim for refund of its excess and/or unutilized creditable input VAT attributable to its zero-rated sales for the 2nd quarter of CY 2019 in the total amount of ₱4,821,286.42.[12]

On 14 October 2021, petitioner received a check amounting to ₱3,552,061.85, representing the partial grant of petitioner's application for VAT refund.[13]

On 28 October 2021, petitioner wrote a formal letter addressed to respondent requesting a copy of the BIR's report containing the reasons for the disallowance or a letter specifying the same.[14] The BIR allegedly did not inform petitioner of the reasons or grounds for its partial denial on its application.[15]

Due to the BIR's alleged inaction, petitioner filed the present petition on 15 November 2021. The case was initially raffled to this Court's Second Division.[16]

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10 Id.
11 Difference between the amount *per* Petition for Review and Administrative Claim of ₱4,821,286.42 and *per* VAT Return of ₱4,822,340.23.
12 Par. 3, Facts Admitted, JSFI, Division Docket, Volume I, p. 363; Exhibit "P-7", Division Docket, Volume II, pp. 578-590.
13 Exhibit "P-12", id., pp. 599-600.
14 Exhibit "P-13", id., p. 601.
15 Par. 3.1.7, Petition for Review, supra at note 1, p. 9.
16 Composed of Associate Justice Erlinda P. Uy (Ret.), as Chairperson, Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David as Members.

PROCEEDINGS BEFORE THE COURT

In its petition before Us, petitioner asserted its entitlement to a refund of the full amount of ₱4,821,286.42, representing its excess and/or unutilized creditable input VAT attributable to its zero-rated sales for the 2nd quarter of CY 2019, claiming that all the requisites for a successful claim for VAT refund have been duly satisfied, it alleged that: (1) it is a VAT-registered taxpayer; (2) its sales of ₱50,391,306.00 are valid zero-rated sales; (3) the excess and/or unutilized creditable input VAT are attributable to its valid zero-rated sales; (4) it has excess input VAT that were not applied against any output VAT liability; and (5) it timely filed its administrative and judicial claims for VAT refund. Petitioner further asseverated that respondent's failure to state in writing the legal and factual bases for partially denying its application for VAT refund for the 2nd quarter of CY 2019 violates its right to due process.

On 22 November 2021, the Court issued Summons[17] on respondent. In compliance therewith, respondent filed his or her Answer[18] through registered mail on 31 January 2022.

In his or her Answer, respondent invoked the well-settled rule that a claim for refund, partaking of the nature of a tax exemption, must be construed in *strictissimi juris* against the taxpayer-claimant, *i.e.*, petitioner. Respondent insisted that the partial denial at the administrative level stemmed from petitioner's own failure to submit all requisite supporting documents within the audit period, *per* Revenue Memorandum Order (**RMO**) No. 47-2020.[19] Respondent, citing *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*[20] (**Total Gas**), underscores that judicial review of such a denial is circumscribed: the Court of Tax Appeals (**CTA**) cannot cure evidentiary deficiencies by admitting documents not presented during the administrative stage. Respondent also averred that petitioner's right to due process was not violated, for it was duly apprised of the factual and legal bases of the denial through the evaluation report and reply letter.

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17 Division Docket, Volume I, p. 316.

18 Id., pp. 324-332.

19 Consolidated and Updated Guidelines and Procedures on the Processing of Claims for Value-Added Tax Credit/Refund Except Those under the Authority and Jurisdiction of the Legal Group.

20 G.R. No. 207112, 08 December 2015.

The Court set and conducted the pre-trial conference on 02 May 2022.[21] Prior thereto, petitioner filed its Pre-Trial Brief[22] on 26 April 2022, while respondent filed his or her Pre-Trial Brief[23] on 27 April 2022.

On 23 May 2022, the parties submitted their Joint Stipulation of Facts and Issues[24] (**JSFI**), which the Court approved and adopted in the Pre-Trial Order dated 22 June 2022[25], thereby terminating the pre-trial proceedings.

When trial ensued, petitioner presented its witnesses, namely: (1) Yvonne Karla M. Telan (**Telan**), its Accounting Clerk and (2) Josefino F. Garcia (**Garcia**), the Court-commissioned Independent Certified Public Accountant (**ICPA**), who all testified *via* their respective judicial affidavits.

On the witness stand, Telan declared essentially that: (1) petitioner is a consortium created by virtue of a Consortium Agreement dated 04 October 2017 between ATS Construction International, Inc. and Sankyu, Inc. and is a VAT-registered taxpayer with BIR OCN No. 2RC0001269536 and TIN of 710-338-514-000; (2) petitioner only sold goods and services to Philippine Sinter Corporation (**PSC**) for the claim period; (3) PSC is an enterprise registered with the Philippine Economic Zone Authority (**PEZA**) as an Export Enterprise at the Phividec Industrial Estate – Economic Zone; (4) petitioner reported the total amount of ₱50,391.306.00 as its zero-rated sales for the period; (5) petitioner, in the course of generating the company's sales for the period, purchased goods and services in the aggregate amount of ₱40,186,168.56 for which it paid input tax in the amount of ₱4,821,286.42; (6) its excess input taxes are attributable to its zero-rated sales for the period; (7) petitioner's excess input taxes for the period were not utilized in subsequent succeeding periods; (8) petitioner timely filed its administrative and judicial claims for refund of its excess and/or unutilized creditable input VAT in the amount of ₱4,821,286.42 on 29 June 2021 with the RDO-98; (19) petitioner submitted all the documents required in RMO

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21 See Notice of Pre-Trial Conference dated 03 March 2022, Division Docket, Volume I, pp. 335-336; See Minutes of the Hearing dated 02 May 2022, Division Docket, Volume I, p. 356.

22 Id., pp. 337-346.

23 Id., pp. 350-353.

24 Id., pp. 362-368; Denominated merely as JSF but provided the issue/s for the Court's resolution.

25 Id., pp. 393-396.

No. 47-2020[26], as attached to the administrative claim for refund; (**10**) the invoices and receipts it submitted in support of its claim for refund are compliant with the substantiation requirements; (**11**) on 14 October 2021, petitioner, through Ms. Rosalie Biloro (**Biloro**), picked-up a check amounting to ₱3,552,061.85, representing the partial grant of its application for VAT refund; (**12**) on the same day, Biloro asked RDO-98 to provide a formal letter or report stating the reasons of partially denying ₱1,269,224.57; (**13**) on 28 October 2021, petitioner wrote a formal letter addressed to RDO-98, requesting a copy of the BIR's report containing the reasons for the disallowance or in the alternative, a written letter specifying the same; and (**14**) as to date, petitioner has not received any letter explanation, or any letter reply from respondent concerning his or her ground for partially denying petitioner's claim for VAT refund for the 2nd quarter of CY 2019.[27]

Telan, in the course of her cross-examination, testified that all of petitioner's purchases were properly supported with invoices and/or official receipts (**ORs**). On redirect examination, she clarified that the submitted documents comply with the existing rules and regulations. Upon re-cross examination, she further declared that she had personally prepared the documents submitted during the administrative stage and subsequently filed before this Court, and confirmed that the very same documents presented to the BIR are those now before Us.[28]

On 03 April 2023, ICPA Garcia submitted "Exhibit 1 – ICPA Report" (**ICPA Report**).[29] Thereafter, on 25 April 2023, respondent transmitted the BIR's case records, consisting of eight (8) folders.[30]

During ICPA Garcia's testimony, he declared that: (1) petitioner has no other sales to other customers other than its zero-rated sales during the 2nd quarter of CY 2019; (2) the entire amount of input VAT is attributable to its zero-rated sales; (3) petitioner did not carry over and use the input VAT applied for refund in the succeeding periods; (4) the input VAT applied for refund was declared in the Amended VAT Return

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26 Supra at note 19.

27 Judicial Affidavit (JA) of Yvonne Karla M. Telan, Exhibit "P-18", id., Volume I, pp. 174-197; Minutes of the Hearing held on, and Order both dated 27 October 2022, id., pp. 411 and 412, respectively.

28 TSN dated 27 October 2022, pp. 5-8.

29 Exhibit "P-24", Division Docket, Volume I, pp. 423-427.

30 See Compliance dated 25 April 2023, id., pp. 441-443.

for the period; and (5) the remaining amount of ₱1,269,224.57 is properly supported and thus petitioner is entitled to a refund of the said amount.[31]

In the *interim*, in a Resolution dated 06 July 2023, the present case was transferred to the Court's First Division pursuant to Administrative Circular No. 01-2023 (Reorganizing the Divisions of the Court) dated 23 May 2023.[32]

Thereafter, during the hearing held on 22 August 2023, ICPA Garcia, on cross-examination, clarified that the documents he examined were mere photocopies of those submitted to the BIR (since the originals were still in respondent's possession). On redirect examination, he reiterated that he could not have examined petitioner's suppliers' original invoices and/or ORs as these, at the time of his review, were in respondent's possession.[33]

No re-cross examination was conducted.[34]

Petitioner filed its Formal Offer of Evidence[35] (**FOE**) on 04 September 2023 and respondent filed his or her "Comment (on Petitioner's [FOE])"[36] on 21 September 2023. In the Court's Resolution dated 28 February 2024[37], the Court admitted all of petitioner's exhibits and rested its case.

In turn, respondent offered the testimony of Revenue Officer (**RO**) Yoko Hannah C. Alterado (**Alterado**) who testified *via* her judicial affidavit.

On the witness stand, Alterado declared that: (1) she personally examined petitioner's administrative claim; (2) she recommended the partial grant of petitioner's administrative claim and her findings were exhaustively discussed in the Memorandum Report dated 17 August 2021 addressed to the Revenue District Officer (**RDOr**)[38]; and

[31] Supplemental JA of ICPA Josefino F. Garcia, Exhibit "P-23", id., pp. 452-460.
[32] Id., p. 471.
[33] TSN dated 22 August 2023, pp. 16-20.
[34] Id., p. 20.
[35] Division Docket, Volume I, pp. 479-489.
[36] Id., Volume II, pp. 607-609.
[37] Id., pp. 637-638.
[38] Exhibit "R-2", BIR Records, Main Folder, pp. 33-34.

(3) subsequently, her Memorandum Report was adopted and approved by the RDOr Boy Omar G. Datudacula (**Datudacula**) and Regional Director (**RD**) Esmeralda M. Tabule (**Tabule**), through Memorandum dated 23 August 2021.[39]

During her cross-examination, Alterado clarified that: (1) petitioner was furnished with a copy of the Tax Verification Notice (**TVN**) on 17 August 2021; and (2) petitioner was not furnished with a copy of the memorandum reports since the same are internal documents.[40]

No redirect examination followed.[41]

On 30 April 2024, respondent filed his or her FOE[42] and petitioner filed its "Comment (on Respondent's [FOE] dated 30 April 2024)"[43] on 06 May 2024. The Court, in its Resolution dated 08 July 2024[44], admitted all of respondent's exhibits.

On 9 August 2024, petitioner filed its "Memorandum for Refund and/or Issuance of a [TCC] (for Petitioner)."[45] Respondent, however, did not file his or her memorandum.[46]

On 04 September 2024, the Court submitted the case for decision.[47]

ISSUE

As can be gleaned from the parties' JSFI[48], the sole issue for this Court's resolution is –

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39 Exhibit "R-3", id., pp. 8-9.
40 TSN dated 25 April 2024, pp. 7-16.
41 Id., p. 16.
42 Division Docket, Volume II, pp. 644-647.
43 Id., pp. 650-655.
44 Id., pp. 661-662.
45 Id., pp. 663-699.
46 See Records Verification dated 16 August 2024, id., p. 701.
47 See Resolution dated 04 September 2024, id., p. 702.
48 See supra at note 24.

WHETHER PETITIONER SANKYU-ATS CONSORTIUM-B IS ENTITLED TO A REFUND OR THE ISSUANCE OF A TAX CREDIT CERTIFICATE (TCC) OF ITS ALLEGED UNUTILIZED INPUT VALUE-ADDED TAX (VAT) ALLEGEDLY ATTRIBUTABLE TO ZERO-RATED SALE OF SERVICES FOR THE SECOND (2ND) QUARTER OF CALENDAR YEAR (CY) 2019 IN THE AMOUNT OF ₱1,269,224.57.

ARGUMENTS

In support of its petition, petitioner essentially argues that its excess and unutilized input VAT being claimed for refund, amounting to ₱4,821,286.42, are all attributable to its zero-rated sales of goods and services to PSC. According to it, PSC is a PEZA-registered entity entitled to zero-rated VAT on its purchases of supply of goods and services needed for its export sales, pursuant to Sections 106(A)(2)(a)[49] and 108(B)[50] of the NIRC of 1997, as amended.[51]

Petitioner insists that it fully complied with all statutory requisites for a VAT refund, namely: (1) it is a VAT-registered taxpayer; (2) it had zero-rated sales amounting to ₱50,391,306.00 for the 2nd quarter of CY 2019 to a PEZA-registered enterprise; (3) its input VAT of ₱4,821,286.42 was entirely attributable to said zero-rated sales; (4) the input VAT was not applied against any output VAT; (5) the administrative claim was filed within the two (2)-year prescriptive period; and (6) the judicial claim was timely filed within thirty (30) days from receipt of the BIR's partial denial of the same.

Petitioner further contends that it also fully complied with BIR's documentary requirements under RMC No. 47-2020[52], submitting all necessary certifications, returns, financial statements, sworn declarations, and photocopies of sales invoices and ORs. It underscores that any noncompliance with invoicing requirements should be

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49 **SEC. 106.** *Value-added Tax on Sale of Goods or Properties.* —
(A) *Rate and Base of Tax.* — …
…
(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
(a) *Export Sales.* — …

50 **SEC. 108.** *Value-added Tax on Sale of Services and Use or Lease of Properties.*
…
(B) *Transactions Subject to Zero Percent (0%) Rate.* — …

51 As amended by Republic Act (RA) No. 10963 or Tax Reform for Acceleration and Inclusion (TRAIN) but before RA 11534 or Corporate Recovery and Tax Incentives for Enterprises Act (CREATE).

52 Supra at note 19.

attributed to the seller-issuer, not the buyer-claimant, and that denial of refund on such basis unjustly penalizes the buyer despite fulfillment of other legal requisites. Finally, petitioner maintains that respondent's failure to provide a written statement of the legal and factual grounds for partial denial violates due process, depriving it of an opportunity to address the alleged deficiencies, and results in unjust enrichment by the government through double VAT collection from both buyer and seller.

Respondent, on the other hand, argues that, being in the nature of a tax exemption, refund claims must be strictly construed against the taxpayer. Likewise, the BIR's partial denial was a result of petitioner's own failure to submit all required supporting documents within the audit period under RMO No. 47-2020.[53] Citing *Total Gas,* respondent also maintains that this Court's review of the present case could not extend to evidence not presented at the administrative level. He or she further contends that, contrary to petitioner's insistence, the latter's right to due process was observed as the factual and legal grounds for the partial denial (of its refund claim) were conveyed to it.

<u>RULING OF THE COURT</u>

After a careful and thorough evaluation of the parties' respective evidence and the applicable laws, rules and regulations, the Court finds the instant petition bereft of merit.

Petitioner anchors its claim on Sections 110(B)[54], 112(A) and (C) of the NIRC of 1997, as amended by RA 10963 or Tax Reform for Acceleration and Inclusion (**TRAIN**), which are quoted hereunder:

> ...
> **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: *Provided, however,* That any input tax attributable to zero-rated sales

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[53] Supra at note 19.

[54] As amended by Republic Act No. 9361, "AN ACT AMENDING SECTION 110(B) OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES".

by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.

...

SEC. 112. *Refunds or Tax Credits of Input Tax.* —

(A) *Zero-Rated or Effectively Zero-Rated Sales.* — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.

...

(C) *Period within which Refund of Input Taxes shall be Made.* — In proper cases, the Commissioner shall grant a refund for creditable input taxes within ninety (90) days **from the date of submission of the official receipts or invoices and other documents in support of the application** filed in accordance with Subsections (A) and (B) hereof: *Provided,* That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.

In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals: *Provided, however,* That failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code.[55]

...

[55] Emphasis supplied and italics in the original text.

In *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*[56] (**Deutsche Knowledge Services**), the Supreme Court laid down the requisites for the entitlement to tax refund or credit of excess input VAT attributable to zero-rated sales, to wit:

> ...
>
> Under Section 4.112-1(a) of Revenue Regulations No. (RR) 16-05, otherwise known as the Consolidated VAT Regulations of 2005, in relation to Section 112 of the Tax Code, a claimant's entitlement to a tax refund or credit of excess input VAT attributable to zero-rated sales hinges upon the following requisites: "(1) the taxpayer must be VAT-registered; (2) the taxpayer must be engaged in sales which are zero-rated or effectively zero-rated; (3) the claim must be filed within two years after the close of the taxable quarter when such sales were made; and (4) the creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax."
>
> ...

Applying the foregoing principle, the Court will proceed to determine whether petitioner complied with the aforementioned requisites. For an orderly discussion, We shall start with the third (3rd) requisite, followed by the first (1st) and second (2nd) requisites, then the fourth (4th) requisite.

<u>THIRD (3RD) REQUISITE:</u>
THE CLAIM MUST BE FILED WITHIN TWO (2) YEARS AFTER THE CLOSE OF THE TAXABLE QUARTER WHEN SUCH SALES ARE MADE.

In accordance with Section 112(A) and (C)[57] of the NIRC of 1997, as amended by TRAIN, the administrative claim for refund of unutilized input VAT must be filed with the BIR within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales are made.

Petitioner's present claim covers the 2nd quarter of CY 2019. Counting two (2) years from the close of the said quarter, the last day

[56] G.R. No. 234445, 15 July 2020; Citations omitted.
[57] Supra at p. 11.

for the filing of the administrative claim is **30 June 2021**. Thus, petitioner timely filed the administrative claim on **29 June 2021**.[58]

As to the timeliness of petitioner's judicial claim, respondent had ninety (90) days or until 27 September 2021, to decide on petitioner's administrative claim. However, considering that during the said period, enhanced community quarantine (**ECQ**) and modified enhanced community quarantine (**MECQ**) were imposed due to corona virus disease 2019 (**COVID-19**) pandemic[59], thereby further extending the 90-day period to act, and taking into account the additional 30 days after the lifting thereof *per* Revenue Regulations (**RR**) No. 27-20[60], the 90-day to act now fell on 29 November 2021. Given that petitioner received a check amounting to ₱3,552,061.85, representing the partial grant of petitioner's application for VAT refund on 14 October 2021[61], petitioner had 30 days therefrom or until 14 November 2021, within which to file a judicial claim before this Court. Thus, the instant Petition for Review was also seasonably filed on 15 November 2021 (since 14 November 2021 fell on a Sunday).[62] Such being the case, the Court finds that petitioner satisfied the above-stated 3rd *requisite*.

FIRST (1ST) REQUISITE:
PETITIONER MUST BE VALUE-ADDED
TAX (VAT)-REGISTERED.

Undeniably, petitioner is a VAT-registered taxpayer with TIN 710-338-514-000, as shown in its BIR Certificate of Registration Number OCN 2RC0001269536.[63] Thus, petitioner complied with the *1st requisite*.

58 Supra at note 12.

59

Dates	Imposed Quarantine Restriction	Number of days	COVID-19-related Issuances
06 August 2021 to 20 August 2021	ECQ	15	IATF-EID Resolution No. 130-A, 29 July 2021
21 August 2021 to 31 August 2021	MECQ	11	IATF-EID Resolution No. 134, 19 August 2021
01 September 2021 to 07 September 2021	MECQ	7	IATF-EID Resolution No. 135-A, 26 August 2021
Total		**33**	

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

61 Exhibit "P-12", Division Docket, Volume II, pp. 599-600.

62 Supra at note 1.

63 Supra at note 5.

SECOND (2[ND]) REQUISITE:
PETITIONER MUST BE ENGAGED IN SALES WHICH ARE ZERO-RATED OR EFFECTIVELY ZERO-RATED.

The *2nd requisite* requires that the taxpayer be engaged in zero-rated or effectively zero-rated sales. Petitioner alleges that its sales to PSC, a PEZA-registered entity, are zero-rated pursuant to Sections 106(A)(2)(a)(5) and 108(B)(3) of the NIRC of 1997, as amended by TRAIN, which state:

> ...
> **SEC. 106.** *Value-added Tax on Sale of Goods or Properties-*
>
> (A) *Rate and Base of Tax.* - There shall be levied, assessed and collected on every sale, barter or exchange of goods ox properties, a value-added tax equivalent to twelve percent (12%) of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor.
>
> ...
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (a) *Export Sales.* - The term 'export sales' means:
>
> ...
>
> (5) Those **considered export sales** under Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, and **other special laws**[.]
>
> ...
>
> **SEC. 108.** *Value-added Tax on Sale of Services and Use or Lease of Properties.*
>
> ...
>
> (B) *Transactions Subject to Zero Percent (0%) Rate.* - The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> ...
>
> (3) Services rendered to persons or entities **whose exemption under special laws** or international agreements to which the Philippines is a signatory effectively subjects the supply of such services to zero percent (0%) rate[.][64]
>
> ...

64 Emphasis supplied and italics in the original text.

The special law applicable to this case is Republic Act (**RA**) No. 7916[65], as amended by RA 8748[66], otherwise known as "The Special Economic Zone Act of 1995". Sections 8 and 24 thereof read:

> ...
>
> SEC. 8. *ECOZONE to be Operated and Managed as Separate Customs Territory.* – **The ECOZONES shall be managed and operated by the PEZA as separate customs territory.**
>
> The PEZA is hereby vested with the authority to issue certificates of origin for products manufactured or processed in each ECOZONE in accordance with the prevailing rules of origin, and the pertinent regulations of the Department of Trade and Industry and/or the Department of Finance.
>
> ...
>
> SEC. 24. *Exemption from National and Local Taxes.* – Except for real property taxes on land owned by developers, **no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE. In lieu thereof, five percent (5%) of the gross income earned by all business enterprises within the ECOZONE shall be paid and remitted** as follows:
>
> (a) Three percent (3%) to the National Government;
>
> (b) Two percent (2%) which shall be directly remitted by the business establishments to the treasurer's office of the municipality or city where the enterprise is located.[67]
>
> ...

Since the ECOZONE is viewed as a foreign territory by legal fiction, sales of goods and services made by a VAT-registered person in the Philippine customs territory to an entity registered and operating within the ECOZONE are considered exports to a foreign country subject to 0% VAT. In the case of *Commissioner of Internal Revenue v. Toshiba Information Equipment (Phils.), Inc.*[68], the Supreme Court elucidated thusly —

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65 AN ACT PROVIDING FOR THE LEGAL FRAMEWORK AND MECHANISMS FOR THE CREATION, OPERATION, ADMINISTRATION, AND COORDINATION OF SPECIAL ECONOMIC ZONES IN THE PHILIPPINES, CREATING FOR THIS PURPOSE, THE PHILIPPINE ECONOMIC ZONE AUTHORITY (PEZA), AND FOR OTHER PURPOSES.

66 AN ACT AMENDING REPUBLIC ACT NO. 7916, OTHERWISE KNOWN AS THE "SPECIAL ECONOMIC ZONE ACT OF 1995".

67 Emphasis supplied and italics in the original text.

68 G.R. No. 150154, 09 August 2005; Citations omitted and emphasis supplied.

...

This Court agrees, however, **that PEZA-registered enterprises, which would necessarily be located within ECOZONES, are VAT-exempt entities**, not because of Section 24 of Rep. Act No. 7916, as amended, which imposes the five percent (5%) preferential tax rate on gross income of PEZA-registered enterprises, in lieu of all taxes; but, rather, **because of Section 8 of the same statute which establishes the fiction that ECOZONES are foreign territory**.

... An ECOZONE or a Special Economic Zone has been described as —

> ... [S]elected areas with highly developed or which have the potential to be developed into agro-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers whose metes and bounds are fixed or delimited by Presidential Proclamations. An ECOZONE may contain any or all of the following: industrial estates (IEs), export processing zones (EPZs), free trade zones and tourist/recreational centers.

The national territory of the Philippines outside of the proclaimed borders of the ECOZONE shall be referred to as the Customs Territory.

Section 8 of Rep. Act No. 7916, as amended, mandates that the PEZA shall manage and operate the ECOZONES as a separate customs territory; thus, creating the fiction that the ECOZONE is a foreign territory. As a result, sales made by a supplier in the Customs Territory to a purchaser in the ECOZONE shall be treated as an exportation from the Customs Territory. Conversely, sales made by a supplier from the ECOZONE to a purchaser in the Customs Territory shall be considered as an importation into the Customs Territory.

Given the preceding discussion, what would be the VAT implication of sales made by a supplier from the Customs Territory to an ECOZONE enterprise?

The Philippine VAT system adheres to the Cross[-]Border Doctrine, according to which, no VAT shall be imposed to form part of the cost of goods destined for consumption outside of the territorial border of the taxing authority. Hence, actual export of goods and services from the Philippines to a foreign country must be free of VAT; while, those destined for use or consumption within the Philippines shall be imposed with ten percent (10%) VAT.[69]

...

The Cross-Border Doctrine mandates "that no VAT shall be imposed to form part of the cost of goods destined for consumption outside the territorial border of the taxing authority."[70] On the other hand, the Destination Principle requires that "goods and services are taxed only in the country where these are consumed."[71]

Based on the foregoing, in order for a sale of goods and services to PEZA-registered entities to qualify for VAT zero-rating under Sections 106(A)(2)(a)(5) and 108(B)(3) of the NIRC of 1997, as amended, the following essential elements must be present —

1. The sale was made by a VAT-registered person; and,

2. The sale of goods must be to a PEZA-registered entity; and

3. It must be shown that the goods were consumed, or the services were rendered in the ECOZONE.

As determined earlier, petitioner is a VAT-registered entity. Hence, the *first* essential element was already fulfilled.

Relative to the *second* essential element, the case records show that petitioner only sold goods and services for the subject period to PSC. To prove that PSC is duly registered with PEZA, petitioner presented PSC's PEZA Certification dated 18 January 2019 with Certificate No. 2019-0963 covering the period 01 January to 30 June 2019, which includes the period subject of the present case – thereby satisfying the *second* essential element.

Anent the *third* essential element, the Supreme Court, in *Coral Bay Nickel Corporation v. Commissioner of Internal Revenue*[72] (**2016**

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69 Now at 12% Value-Added Tax (VAT) rate.

70 *Commissioner of Internal Revenue v. Filminera Resources Corporation*, G.R. No. 236325, 16 September 2020; Citations omitted.

71 Id.

72 G.R. No. 190506, 13 June 2016; Citations omitted.

Coral Bay), denied Coral Bay's appeal upon finding that the *locus* of the subject purchases of goods and services was **within the ECOZONE** and that such purchases were destined for consumption therein. Consequently, the transactions should have been zero-rated, and Coral Bay was not entitled to claim a refund for purchases already falling within the ambit of 0% VAT, to wit:

> ...
>
> The petitioner's principal office was located in Barangay Rio Tuba, Bataraza, Palawan. Its plant site was specifically located inside the Rio Tuba Export Processing Zone — a special economic zone (ECOZONE) created by Proclamation No. 304, Series of 2002, in relation to Republic Act No. 7916. As such, the purchases of goods and services by the petitioner that were destined for consumption within the ECOZONE should be free of VAT; hence, no input VAT should then be paid on such purchases, rendering the petitioner not entitled to claim a tax refund or credit. Verily, if the petitioner had paid the input VAT, the CTA was correct in holding that the petitioner's proper recourse was not against the Government but against the seller who had shifted to it the output VAT following RMC No. 42-03, which provides[.]
>
> ...

Apropos is the recent case of *Coral Bay Nickel Corporation v. Commissioner of Internal Revenue*[73] (**2025 Coral Bay**), the Supreme Court sustained Coral Bay's appeal, holding this time that Coral Bay had sufficiently established that the goods in question were consumed, and the services rendered, **outside the ECOZONE**, viz:

> ...
>
> **VAT is a tax on consumption**. As such, the cross-border doctrine and the destination principle apply. Indeed, the situs of VAT is determined by **where goods are consumed or where services are rendered**.
>
> ...
>
> Applied to the present case, the CTA *En Banc* erred in treating Coral Bay as an absolutely VAT-exempt entity and declaring that its purchase of services outside of the ecozone should likewise be subject to zero-rating.
>
> **Having been consumed outside of the ecozone, the cross-border doctrine finds no application**. The same could not have been deemed "exported" to Coral Bay. Having been rendered within

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[73] G.R. Nos. 251333-34, 05 March 2025; Citations omitted and emphasis supplied.

> the Philippines' customs territory, it is naturally subject to national internal revenue laws such as VAT.
>
> ...

As the foregoing discourse makes manifest, sales to PEZA-registered entities are not *ipso facto* subject to 0% VAT. It is still incumbent upon the taxpayer-claimant to establish that the *locus* of the transaction, *i.e.*, the place of consumption of goods or the rendering of services, is within the ECOZONE, which is recognized as a separate customs territory.

In the present case, petitioner never specifically alleged that its sale of goods and services were actually consumed or rendered within the ECOZONE, a crucial predicate to render them zero-rated pursuant to the Cross-Border Doctrine and Destination Principle. A perspicacious review of petitioner's pleadings yields no specific averment to this effect. Instead, to justify its claim of zero-rating, petitioner merely avers:[74]

> ...
>
> 30. The scope of the previously mentioned provisions was broadened through existing jurisprudence and BIR issuances, wherein the "Cross[-]Border Doctrine" or "Destination Principle" was used as the basis for certain transactions subjected to zero-rating under the mentioned provisions:
>
> ...
>
> 31. In this case, **the Petitioner's sales of goods and services to PSC, a PEZA-registered entity**, clearly falls under the scope of zero-rated sales under the NIRC, as amended.
>
> 32. Again, the witness testified in her direct examination that Petitioner's sales amounting to Php50,391,306.00 for Q2 TY2019 were VAT zero-rated, to wit:
>
> > *"11. Q: Is Philippine Sinter Corporation (PSC) a client of the company?*
> >
> > *A: Yes, in fact it is the only client of SAC-B.*
> >
> > *12. Q: Ms. Witness, what kind of transaction does SAC-B have with PSC?*

[74] Division Docket, Volume II, pp. 671-673; Citation omitted and emphasis supplied.

A: It [is] a zero-rated sale of goods and services because ***SAC-B supplies it with goods and services in relation to its export business.***

13. ***Q: How did the transactions with PSC become zero-rated?***

A: We have on file the PEZA Certification of PSC.

14. Q: Ms. Witness, if I show you the PEZA Certificate of PSC, would you be able to recognize it?

A: Yes.

15. Q: I am showing you this PEZA Certificate of Philippine Sinter Corporation with Certificate No. 2019-0963, previously marked as Annex "I" of the Petition for Review, is this the same document you were referring to in your previous answer?

A: Yes.

16. Q: Ms. Witness, can you please read aloud the first two paragraphs of this PEZA Certificate?

A: "This is to certify that Philippine Sinter Corporation at the Phividec Industrial Economic Zone, is a PEZA-registered Ecozone Export Enterprise with Registration Certificate No. 11-04 dated 31 January 2011.

This is to further certify that PSC is a qualified enterprise for the purpose of VAT zero-rating of its transaction with its local suppliers of goods, properties and services in connection with its PEZA-registered activities, in accordance with Section 4.106-6 and 4.108-6 of Revenue Regulations No. 16-2005, the Consolidated Value-Added Tax Regulations 2005."

33. From the foregoing, **both documentary and testimonial pieces of evidence established that Petitioner's sales are zero-rated considering that its only client is a PEZA-registered entity.**

...

Like any other requisites, the *locus* of the actual services rendered by petitioner during the claim period, *i.e.*, 2nd quarter of CY 2019, must be established by sufficient and competent evidence and the same is *strictissimi* scrutinized.[75] Yet, what emerges in the present case is a glaring omission: petitioner never asserts, much less substantiates, that the *locus* of its sales for the claim period was within the ECOZONE.

Moreover, petitioner's ORs merely provide the following as nature of its sale transactions and nowhere therein is the *locus* of said sales indicated:

Exhibit No.	OR No.	Nature
F.1-ICPA	0259	supply of labor, equipment and supervision for Sinter machine installation (24.84%) and removal 25.52%
F.2-ICPA	0260	28.96% progress billing for installation works of Sinter machine extension (PO # 4500026755)
F.3-ICPA	0262	39.57% 54.00% progress billing for sone removal and 33.10% payment for installation works of sone
F.4-ICPA	0263	supply of labor, equipment and supervision for Sinter machine installation (36.91%) and removal (67.14%)

Moreover, petitioner failed to proffer as evidence the corresponding purchase orders (**POs**) or contract with PSC which would have enabled this Court to determine, with certainty, the *locus* of the foregoing transactions. This omission is a fatal defect that strikes at the very heart of petitioner's claim.

The partial grant of petitioner's claim before the BIR is of no moment. Petitioner itself has squarely placed in issue the zero-rating of its sales, as is evident from its petition[76], FOE[77] and memorandum.[78] Additionally, it bears stressing that cases filed in the CTA, being a court of record, are litigated *de novo*; thus, the party-litigants before it are required to substantiate *every minute aspect* of their claims.[79]

In conclusion, We reiterate that actions for tax refund or credit, as in the instant case, are in the nature of a claim for exemption and the pieces of evidence presented to entitle a taxpayer to an exemption is

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75 See *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222428, 19 February 2018, citing *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 159490, 18 February 2008.

76 Division Docket, Volume I, pp. 13 and 17-19.

77 Id., p. 480.

78 Id., Volume II, pp. 670-673.

79 See *Commissioner of Internal Revenue v. CE Casecnan Water and Energy Company, Inc.*, G.R. No. 212727, 01 February 2023.

strictissimi scrutinized and must be duly proven. The burden is on the taxpayer-claimant to show that it has strictly complied with the conditions for the grant of the tax refund or credit.[80]

For failure to substantiate the alleged zero-rated sales, petitioner cannot claim for refund the input taxes attributable thereto.

Accordingly, We find it unnecessary to determine whether petitioner complied with the remaining requisite under Section 112[81] of the NIRC of 1997, as amended, *i.e.*, that the creditable input tax due or paid must be attributable to such sales (except the transitional input tax to the extent that such input tax has not been applied against the output tax). A further discussion or resolution thereof could no longer change the outcome of the herein case.

WHEREFORE, premises considered, the instant Petition for Review filed on 15 November 2021 by petitioner Sankyu-Ats Consortium-B is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LANEE S. CUI-DAVID
Associate Justice

80 *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, supra at note 75.
81 Supra at p. 11.

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice