REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

COLT COMMERCIAL, INC.,
Petitioner,

- versus -

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9110

Members:

CASTAÑEDA, JR., *Chairperson,*
CASANOVA, *and*
MANAHAN, *JJ.*

Promulgated:

MAR 2 7 2018 10:00 am

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AMENDED DECISION

CASANOVA, *J.*:

For the Court's resolution is petitioner's **Motion for Reconsideration (of the Decision dated November 17, 2017)**, filed on December 4, 2017, with respondent's **Comment (To Petitioner's Motion for Reconsideration of the Decision dated November 17, 2017)**, filed by registered mail on December 27, 2017 and received by the Court on January 4, 2018.

Petitioner moves for the reconsideration of the Decision dated November 17, 2017 (assailed Decision), the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the instant Petition for Review is **DENIED** for insufficiency of evidence.
>
> **SO ORDERED.**

The denial of the instant petition was mainly due to petitioner's failure to prove that it had zero-rated sales of goods in accordance with Section 106(A)(2)(c) of the National Internal Revenue Code of 1997, as amended (Tax Code). More particularly, the Court found that the authenticity and veracity of the Philippine Economic Zone Authority (PEZA), Subic Bay Metropolitan Authority (SBMA) and Board of Investment (BOI) Certificates of Registration, and PEZA ERD Forms No. 97-01 and BOI Certificates of Tax Exemption of petitioner's clients were not confirmed by the Court-commissioned Independent Certified Public Accountant (ICPA) as petitioner failed to provide the originals thereof for verification. Thus, the said documents were not given credence by the Court.

Further, the Court found that the Certificate dated February 16, 2016[1] which the ICPA used as basis to confirm the PEZA registration of petitioner's clients[2] was not formally offered. The Court observed that a mere copy of the said document was only introduced by the ICPA as attachment to his report. Nowhere can it be seen from the said report that the ICPA examined its original or that the same is a faithful reproduction of the original document.

In the instant motion, petitioner alleges that there is no basis in the findings of this Court that it failed to discharge the burden to prove that it had zero-rated sales for first quarter of the taxable year 2013.

According to petitioner, the ICPA, Mr. Garry Pagaspas, attested to the authenticity and due execution of the documents attached to his Judicial Affidavit, including the ICPA Report and its exhibits as shown in his Sworn Statement dated December 1, 2017, a copy of which was attached to the motion as Annex "A"-MR.

Petitioner further claims that the PEZA Certificate dated February 16, 2016 was attached as Exhibit "P-60" of the ICPA Report dated April 6, 2016 and that this documentary exhibit, together with its attached exhibits, were marked and formally offered as Exhibit "P-36". These documents were allegedly admitted as part of the evidence in chief of the petitioner as stated in the Resolution of this Court dated July 15, 2016. Thus, there is no basis for the Court to rule that petitioner was not able to adduce sufficient evidence that its clients are PEZA and/or SBMA-registered entities.

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[1] Exhibit "P-60".
[2] Page 9 of Exhibit "P-36".

On the other hand, respondent, in his comment, submits that he completely agrees with the assailed Decision denying the instant Petition for Review for insufficiency of evidence.

The Court finds the motion to be partly meritorious.

As found by the Court, the PEZA Certification dated February 16, 2016, stating that the entities listed therein are registered with PEZA, which the ICPA used as basis to confirm the PEZA registration of petitioner's clients, was not formally offered. Thus, the Court did not consider the same in the assailed Decision, pursuant to Section 34 of Rule 132, which provides that no evidence which has not been formally offered shall be considered[3].

However, the above rule may be relaxed, as held by the Supreme Court in the case of *Dizon vs. Court of Tax Appeals*[4] to wit:

> "Under Section 8 of RA 1125, the CTA is categorically described as a court of record. As cases filed before it are litigated *de novo*, party-litigants shall prove every minute aspect of their cases. Indubitably, no evidentiary value can be given the pieces of evidence submitted by the BIR, as the rules on documentary evidence require that these documents must be formally offered before the CTA. Pertinent is Section 34, Rule 132 of the Revised Rules on Evidence which reads:
>
> > **SEC. 34.** *Offer of evidence.* — The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.
>
> The CTA and the CA rely solely on the case of *Vda. de Oñate*, which reiterated this Court's previous rulings in *People v. Napat-a* and *People v. Mate* on the admission and consideration of exhibits which were not formally offered during the trial. Although in a long line of cases many of which were decided after *Vda. de Oñate*, we held that courts cannot consider evidence which has not been

[3] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 159490, February 18, 2008.
[4] G.R. No. 140944, April 30, 2008.

formally offered, nevertheless, petitioner cannot validly assume that the doctrine laid down in *Vda. de Oñate* has already been abandoned. Recently, in *Ramos v. Dizon*, this Court, applying the said doctrine, ruled that the trial court judge therein committed no error when he admitted and considered the respondents' exhibits in the resolution of the case, notwithstanding the fact that the same were not formally offered. Likewise, in *Far East Bank & Trust Company v. Commissioner of Internal Revenue*, the Court made reference to said doctrine in resolving the issues therein. Indubitably, the doctrine laid down in *Vda. De Oñate* still subsists in this jurisdiction. In *Vda. de Oñate*, we held that:

> From the foregoing provision, it is clear that for evidence to be considered, the same must be formally offered. Corollarily, the mere fact that a particular document is identified and marked as an exhibit does not mean that it has already been offered as part of the evidence of a party. In *Interpacific Transit, Inc. v. Aviles* [186 SCRA 385], we had the occasion to make a distinction between identification of documentary evidence and its formal offer as an exhibit. We said that the first is done in the course of the trial and is accompanied by the marking of the evidence as an exhibit while the second is done only when the party rests its case and not before. A party, therefore, may opt to formally offer his evidence if he believes that it will advance his cause or not to do so at all. In the event he chooses to do the latter, the trial court is not authorized by the Rules to consider the same.
>
> However, in *People v. Napat-a* [179 SCRA 403] citing *People v. Mate* [103 SCRA 484], **we relaxed the foregoing rule and allowed evidence not formally offered to be admitted and considered by the trial court provided the following requirements are present, viz.: first, the same must have been duly identified by testimony duly recorded and, second,**

> **the same must have been incorporated in the records of the case.**
>
> From the foregoing declaration, however, it is clear that *Vda. de Oñate* is merely an exception to the general rule. **Being an exception, it may be applied only when there is strict compliance with the requisites mentioned therein**; otherwise, the general rule in Section 34 of Rule 132 of the Rules of Court should prevail." (*Emphasis supplied*)

From the foregoing, evidence not formally offered may be admitted and considered by the Court, so long as the same has been duly identified by testimony duly recorded, and has been incorporated in the records of the case.

Here, the PEZA Certification dated February 16, 2016, pre-marked as Exhibit "P-60", was not formally offered by petitioner. Nonetheless, said exhibit was identified by the ICPA, Mr. Garry S. Pagaspas, in his Judicial Affidavit dated April 22, 2016[5], as stated in his Sworn Statement attached to the instant motion. In the same Sworn Statement, the ICPA further attested that the said certification is a faithful reproduction of the original and was submitted to this Court as part of the records of this case. Thus, the Court deems it proper to apply in this case the exception to the general rule in Section 34 of Rule 132 of the Rules of Court.

Accordingly, the Court shall now proceed to the determination of petitioner's refundable claim, taking into consideration the PEZA Certification dated February 16, 2016.

As previously stated in the assailed Decision, petitioner must prove the following in order to be entitled to a refund or issuance of a tax credit certificate of input VAT paid[6]:

1) the taxpayer is VAT registered;

2) the taxpayer is engaged in zero-rated or effectively zero-rated sales;

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[5] Exhibit "P-35".
[6] Page 6 of the Assailed Decision.

3) the input taxes are due or paid;

4) the input taxes are not transitional input taxes;

5) the input taxes have not been applied against output taxes during and in the succeeding quarters;

6) the input taxes claimed are attributable to zero-rated or effectively zero-rated sales;

7) for zero-rated sales under Section 106(A)(2)(a)(1) and (2); and 106(B); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas;

8) where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume; and

9) The claim is filed within two years after the close of the taxable quarter when such sales were made.[7]

1st and 9th requisites:

As discussed in the November 17, 2017 Decision, petitioner complied with the first and ninth requisites.[8]

2nd requisite: *Petitioner is engaged in zero-rated or effectively zero-rated sales.*

Petitioner is a stock corporation duly registered with the Securities and Exchange Commission (SEC) under Company Registration No. CS201212819 issued on July 17, 2012[9] with the following primary purposes:[10]

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[7] *Luzon Hydro Corporation vs. Commissioner of internal Revenue*, G.R. No. 188260, November 13, 2013.
[8] Pages 6 to 9 of the Assailed Decision.
[9] Exhibit "P-1".
[10] Exhibit "P-2".

1.) To engage in the business of merchandising, distributing and marketing, whether as principal, agent, indenter or manufacturer's representative, wholesale or retail, such as but not limited to industrial, agricultural, manufacturing tools and equipment, engineering products, hardware items, construction materials, and electrical supplies, and or any and all kinds of goods, wares and merchandise; and,

2.) To engage in the business of import and export as principals, factors, representatives, agents or commissioned merchants with respect to buying, selling, trading or dealing in any and all kinds of goods, wares, products of all classes and description, distribution, import and export business.

For the first quarter of 2013, petitioner reflected total sales of ₱18,129,609.70 in its amended Quarterly VAT Return:[11]

Sales Type	Amount
VATable	₱ 4,860,974.98
Zero-Rated	13,268,634.72
Total	**₱ 18,129,609.70**

Petitioner alleges that majority of its clients are entities doing business within the economic zone and registered with the PEZA and SBMA.

Indeed, these sales are entitled to the benefit of VAT zero-rating pursuant to Section 106(A)(2)(c) of the Tax Code, to wit –

"SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* –

(A) *Rate and Base of Tax.* – x x x

[11] Exhibit "P-21".

(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

xxx xxx xxx

(c) Sales to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects such sales to zero rate."

Thus, to qualify for VAT zero-rating, petitioner must prove by sufficient evidence that its reported zero-rated sales are valid sales to entities duly registered and accredited with the PEZA and SBMA under Section 106 (A)(2)(c) of the Tax Code, in relation to Section 113(A)(1), (B)(1), (2)(c) and (3) of the same Code; and Section 4.113-1 (A)(1), (B)(1) and (2)(c) of Revenue Regulations (RR) No. 16-05, by presenting the following documents:

1. The sales invoice as proof of sale of goods;
2. Any proof of the buyer's entitlement to tax incentives under special laws (i.e. Certificates of Registration with the PEZA or SBMA pursuant to Republic Act (RA) No. 7916[12] and RA 7227[13], respectively, for the corresponding taxable year)"

Out of the ₱13,268,634.72 zero-rated sales reported for the first quarter of 2013, petitioner was only able to account for a total of ₱13,221,188.53, which is broken down in the Summary of Zero-Rated Sales,[14] while the balance of ₱47,446.19 remained unaccounted.

Considering the Certification[15] issued by PEZA dated February 16, 2016, petitioner was able to prove that the following entities, with which it had sales during the first quarter of 2013, were issued VAT zero-rating certifications and were entitled to VAT zero-rating on their local purchases of goods, properties and services for the year 2013:

	Customer Name	Zone Location	VAT Cert. No.	VAT Cert. Date
1	Applied Machining Corporation	Laguna Technopark-SEZ	939	28-Jan-13
2	Daitoh Precisions, Inc.	Mactan Economic Zone	1578	22-Apr-13

[12] The Special Economic Zone Act of 1995.
[13] Bases Conversion and Development Act of 1992.
[14] Exhibit "P-36".
[15] Exhibit "P-60".

3	Delta Design Philippines, LLC.	Carmelray Industrial Park II-SEZ; Baguio City Economic Zone	782	18-Jan-13
4	Exas Philippines, Inc.	Mactan Economic Zone	1358	27-Feb-13
5	Famous Secret Precision Machining, Inc.	Daiichi Industrial Park-SEZ	362	03-Jan-13
6	Fujitsu Die-Tech Corporation of the Phils.	Laguna Technopark Inc.-SEZ	450	07-Jan-13
7	Gunma Gohkin Philippines Corporation	Light Industry & Science Park I-SEZ	313	28-Dec-12
8	Imasen Philippine Manufacturing Corp.	Laguna Technopark Inc.-SEZ	121	13-Dec-12
9	Ina Micro Opto Corporation	Mactan Economic Zone II-SEZ	1367	01-Mar-13
10	Kodachi Seiki Philippines, Inc.	Cavite Economic Zone	1459	13-Mar-13
11	Laguna Auto-Parts Manufacturing Corp.	Laguna Technopark Inc.-SEZ	79	10-Dec-12
12	Laguna Metts Corporation	Laguna Technopark Inc.-SEZ	286	28-Dec-12
13	Makoto Metal Technology Incorporated	Mactan Economic Zone II-SEZ	167	17-Dec-12
14	Manufacturing Automation Solutions International Inc.	Calamba Premier International Park-SEZ	1694	27-Jun-13
15	Meinan Philippines Inc.	Laguna Technopark Inc.-SEZ	734	17-Jan-13
16	MKP, Inc.	Cavite Economic Zone	887	23-Jan-13
17	Nidec Philippines Corporation	Laguna Technopark Inc.-SEZ	428	07-Jan-13
18	Nidec Precision Philippines Corporation	Laguna Technopark Inc.-SEZ	443	07-Jan-13
19	Parts Philippines Inc.	Cavite Economic Zone	1263	18-Feb-13
20	Penta Technological Products, Inc.	Laguna Technopark Inc.-SEZ	747	07-Jan-13
21	Philippine Nagano Seiko, Inc.	People's Technology Complex-SEZ	861	22-Jan-13
22	Philippine TRC, Inc.	Lima Technology Center-SEZ	879	22-Jan-13
23	Precise Techno Inc.	Cavite Economic Zone	1313	20-Feb-13
24	Sinag Precision Manufacturing Laguna, Inc.	Laguna Technopark Inc.-SEZ	1827	27-Aug-13
25	Suminac Philippines, Inc.	First Cavite Industrial Estate-SEZ	355	02-Jan-13
26	T&S Laser Solutions, Inc.	First Philippine Industrial Park-SEZ	30	05-Dec-12
27	Tamiya Philippines, Inc.	Mactan Economic Zone II-SEZ	1939	11-Nov-13
28	TMX Philippines, Inc.	Mactan Economic Zone	1001	29-Jan-13
29	Tsukuba Philippine Diecasting Corporation	Cavite Economic Zone	718	17-Jan-13
30	Vitalo Packaging International, Inc.	Laguna Technopark-SEZ	395	04-Jan-13

Petitioner likewise submits sales invoices of goods[16] supporting the Summary of Zero-Rated Sales for the first quarter of 2013 which were examined by the ICPA to be in compliance with the VAT invoicing requirements under Section 113(A) and (B) of the Tax

[16] Exhibits "P-10" sub-series.

Code, as implemented by Sections 4.113-1(A) and (B) of RR No. 16-05.

Based on this summary and further scrutiny of the documents submitted to prove zero-rated sales during the first quarter of 2013, the amount of ₱411,905.00 shall be disallowed due to the following reasons:

Exhibit No.	Client/Customer	Invoice No.	Invoice Date	Amount
Sales to clients without proof of PEZA VAT exemption				
P-10.1	Histotech Precision (Ph) Inc.	9	1/8/2013	₱ 2,160.00
P-10.2	Histotech Precision (Ph) Inc.	10	1/8/2013	800.00
P-10.98	Histotech Precision (Ph) Inc.	207	2/1/2013	2,505.00
P-10.318	Histotech Precision (Ph) Inc.	623	3/5/2013	3,500.00
P-10.380 to 381	Histotech Precision (Ph) Inc.	747 to 748	3/12/2013	2,560.00
P-10.451	Histotech Precision (Ph) Inc.	860	3/20/2013	4,240.00
P-10.494	Histotech Precision (Ph) Inc.	970	3/25/2013	8,000.00
P-10.496	Histotech Precision (Ph) Inc.	972	3/25/2013	420.00
P-10.73 to 75	Polarmarine Incorporated	176 to 178	1/31/2013	90,850.00
P-10.217	Polarmarine Incorporated	452	2/20/2013	350.00
P-10.261 to 262	Polarmarine Incorporated	524 to 525	2/26/2013	60,050.00
P-10.490 to 493	Polarmarine Incorporated	966 to 969	3/25/2013	21,900.00
P-10.497	Polarmarine Incorporated	974	3/25/2013	62,700.00
P-10.501 to 502	Polarmarine Incorporated	987 to 989		30,875.00
P-10.55	Silan Technologies Corporation	141	1/28/2013	1,440.00
P-10.122	Silan Technologies Corporation	259	2/5/2013	6,505.00
P-10.142	Silan Technologies Corporation	300	2/8/2013	350.00
P-10.401	Silan Technologies Corporation	777	3/14/2013	2,400.00
P-10.121	Turu Santechno Corp.	258	2/5/2013	2,055.00
P-10.136	Turu Santechno Corp.	291	2/5/2013	1,800.00
P-10.335	Turu Santechno Corp.	654	3/7/2013	1,780.00
P-10.495	Turu Santechno Corp.	971	3/25/2013	1,880.00
P-10.220 to 221	Delfingen West Inc.	458 to 459	2/20/2013	13,880.00
	Subtotal			***₱ 323,000.00***
Copy of sales invoice on records is incomplete				
P-10.104	Precise Techno Inc.	225	2/4/2013	***₱ 14,500.00***
Sales invoice date was altered without corresponding authorized countersignature				
P-10.648	Precise Techno Inc.	648	3/6/2013	₱ 465.00
P-10.347	Delta Design Philippines Inc	676	3/8/2013	50,500.00
	Subtotal			***₱ 50,965.00***
No sales invoice found on records; Sales to clients without proof of PEZA VAT exemption				
	Silan Technologies Corporation	512		***₱ 15,580.00***
No sales invoice found on records				
	Precise Techno Inc.	439		***₱ 6,390.00***
Copy of sales invoice on records is incomplete				
P-10.171	Nidec Precision Philippines Corp	339	2/13/2013	***₱ 1,470.00***

	Grand Total			**₱ 411,905.00**

To summarize, out of the ₱13,268,634.72 zero-rated sales declared by petitioner in its amended Quarterly VAT Return for the first quarter of TY 2013, only ₱12,809,283.53, as computed below, can be considered as valid zero-rated sales:

Total Reported Zero-Rated Sales		₱ 13,268,634.72
Less:		
Unaccounted by petitioner	₱ 47,446.19	
Disallowed by this Court	411,905.00	459,351.19
Total Valid Zero-Rated Sales		**₱ 12,809,283.53**

7th requisite: *For 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 have been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas*

Note that only zero-rated sales under Sections 106(A)(2)(a)(1), (2) and (B) and Section 108 (B)(1) and (2) of the Tax Code are required to be paid for in acceptable foreign currency duly accounted for in accordance with the BSP rules and regulations. Since the claimed zero-rated sales fall under Section 106(A)(2)(c) of the Tax Code, the seventh requisite for VAT refund is, therefore, not applicable to the present case.

3rd to 6th and 8th requisites: *The input taxes due or paid do not include transitional input taxes, were attributable to zero-rated sales and were not applied against any output VAT liability.*

Petitioner's amended first Quarterly VAT Return for TY 2013 reflected excess input taxes amounting to ₱811,768.91, which is the subject of the present claim, computed as follows:

Input Taxes on Local Purchases of Goods Other Than Capital Goods	₱ 1,315,864.90
Input Taxes on Importations of Goods Other Than Capital Goods	79,221.00
Total Input Taxes	**₱1,395,085.90**
Less: Output Taxes on VATable Sales	583,316.99
Excess Input Taxes for the 1st Quarter of TY 2013	**₱ 811,768.91**

As can be seen in the return, the above input taxes do not include transitional input taxes provided under Section 111 of the Tax Code[17], as petitioner had already been registered as a VAT taxpayer since its registration date with the BIR on August 31, 2012.[18]

To support the total input taxes of ₱1,395,085.90, petitioner submits suppliers' invoices, and Bureau of Customs (BOC) Statements and Receipts of Duties Collected on Informal Entry[19] which were examined by the ICPA. These documents only accounted for a total of ₱1,390,711.71. Thus, the unsupported input VAT amounting to ₱4,374.19[20] shall be disallowed for refund.

Out of the total accounted input VAT of ₱1,390,711.71, the ICPA found the following exceptions totaling ₱170,929.26:

Findings	ICPA Report Reference[21]	Amount
Invoices with alteration	Table 6	₱ 3,660.34
Invoices not under petitioner's complete name	Table 7	29,798.70
Invoices not under petitioner's registered address	Table 8	100,906.88
Invoices nor under petitioner's TIN	Table 9	273.18
Invoices claimed out of period	Table 11	36,290.16
Total		**₱170,929.26**

In addition to the above findings by the ICPA, an examination of the documents supporting the Summary of Domestic Purchases and Importation[22] leads us to the disallowance of the amount of ₱47,114.84 for non-compliance with the substantiation requirements under Sections 110(A) and 113(A) and (B) of the Tax Code, in relation to Sections 4.110-2, 4.110-3, 4.110-8 and 4.113-1 of RR No. 16-05, as amended. Below is the detailed breakdown of the disallowed input VAT of ₱47,114.84:

[17] SEC. 111. *Transitional/Presumptive Input Tax Credits.* —
(A) *Transitional Input Tax Credits.* — A person who becomes liable to value-added tax or any person who elects to be a VAT-registered person shall, subject to the filing of an inventory according to rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, be allowed input tax on his beginning inventory of goods, materials and supplies equivalent to two percent (2%) of the value of such inventory or the actual value-added tax paid on such goods, materials and supplies, whichever is higher, which shall be creditable against the output tax.

[18] Exhibit "P-5".

[19] Exhibits "P-12" sub-series.

[20] ₱1,395,085.90 less ₱1,390,711.71.

[21] Exhibit "P-36".

[22] Exhibit "P-36".

Exhibit No.	Supplier	Invoice No.	Invoice Date	VAT Amount
Unsupported domestic purchase of goods other than capital goods				
	Grind Tech Abrasives Corp.	9591	3/7/2013	₱ 208.13
	Guan Yian Hardware	127417	2/22/2013	232.20
	Oriental Construction & Electrical Supply Co., Inc.	597633	3/6/2013	410.36
		Subtotal		***₱ 850.69***
Domestic purchase of goods other than capital goods supported by VAT Reg. TIN Invoice but with wrong petitioner's address				
P-12.3	Colt Commercial	81903	1/15/2013	₱ 2,404.01
P-12.6	Colt Commercial	81906	1/13/2013	8,147.86
P-12.20	Colt Commercial	81923	1/28/2013	1,161.50
P-12.21	Colt Commercial	81924	1/28/2013	5,067.67
P-12.25	Colt Commercial	81929	1/11/2013	270.37
			Subtotal	***₱ 17,051.41***
Domestic purchase of goods other than capital goods supported by VAT Reg. TIN Invoice but with incomplete petitioner's address				
P-12.180	Valqua Industrial Corporation	177110	3/22/2013	***280.71***
Domestic purchase of goods other than capital goods supported by VAT Reg. TIN Invoice but VAT amount is not shown separately				
P-12.1	Colt Commercial	81901	1/8/2013	₱ 6.56
P-12.36	GYH Industrial Sales Corp.	646481	1/30/2013	158.36
P-12.126	Colt Commercial	82256	3/4/2013	10,629.64
		Subtotal		***₱ 10,794.56***
Domestic purchase of goods other than capital goods supported by VAT Reg. TIN Invoice but VAT amount is not shown separately and with incomplete petitioner's address				
P-12.181	Cham Samco & Sons, Inc.	5215	3/20/2013	***₱ 156.38***
Importation of goods with proof of VAT payment but issued to Colt Commercial, not to petitioner				
P-12.189	YG-1 Tools Asia Pte Ltd.	800238442CM	3/12/2013	***₱ 1,894.00***
Overclaimed input VAT				
P-12.82	Colt Commercial	82171	2/12/2013	
	Amount claimed		₱ 4,742.00	
	Amount per sales invoice		4,233.93	₱ 508.07
P-12.184	Micronphil Industrial Sales Co.	1461	3/11/2013	
	Amount claimed		₱ 2,100.00	
	Amount per sales invoice		1,875.00	225.00
		Subtotal		***₱ 733.07***
Domestic purchase of goods other than capital goods supported by VAT Reg. TIN Invoice but the copy of the invoice is incomplete, the amount of purchase price and VAT cannot be seen				
P-12.5	Colt Commercial	81905	1/3/2013	₱ 13,259.11
P-12.109	Anglingco Sons Marketing Corp	792267	2/21/2013	59.20
P-12.183	Maxilite Merchandising Inc.	49921	3/26/2013	2,035.71
		Subtotal		***₱ 15,354.02***
		Grand Total		**₱ 47,114.84**

Based on the foregoing, petitioner's input VAT allowable as tax credits for the first quarter of TY 2013 only amounted to ₱1,172,667.61, as computed below:

Total Input VAT reported in 1Q of TY 2013		₱ 1,395,085.90
Less:		
Unaccounted Input VAT	₱ 4,374.19	
Disallowances by the ICPA	170,929.26	
Disallowances by the Court	47,114.84	222,418.29

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Allowable Input VAT for the 1Q of TY 2013		**₱ 1,172,667.61**

However, a portion of the ₱1,172,667.61 shall be applied against the reported output VAT liability of ₱583,316.99. Consequently, only the remaining input VAT of ₱589,350.62 can be attributed to the entire zero-rated sales amounting to ₱13,268,634.72 and only the input VAT of ₱568,947.70 is attributable to the valid zero-rated sales of ₱12,809,283.53, computed as follows:

Allowable Input VAT		**₱ 1,172,667.61**
Less: Output VAT		583,316.99
Excess Input VAT Available for Refund		**₱ 589,350.62**
Multiply by Percentage of Valid Zero-Rated Sales over Total Zero-Rated Sales:		
Valid Zero-Rated Sales	₱ 12,809,283.53	
Divided by Total Reported Zero-Rated Sales	13,268,634.72	96.54%
Excess Input VAT Attributable to the Valid Zero-Rated Sales		**₱ 568,947.70**

Moreover, although the claimed input VAT was carried-over by petitioner in its succeeding Quarterly VAT Returns,[23] the same remained unutilized until it was deducted as "VAT Refund/TCC Claimed" in its Quarterly VAT Return for the 4th quarter of TY 2014.[24] Consequently, the subject claim no longer formed part of the excess input VAT of ₱13,535,267.01[25] as of the end of the 4th quarter of TY 2014 which was to be carried over/applied to the succeeding quarters. As such, it eliminates the possibility that the present claim would be applied to future output VAT liability.

WHEREFORE, petitioner's **Motion for Reconsideration (of the Decision dated November 17, 2017)** is **PARTIALLY GRANTED**. Accordingly, the assailed Decision dated November 17, 2107 is amended to read as follows:

> **WHEREFORE,** the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND** to petitioner the amount of **₱568,947.70**, representing its unutilized input taxes

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[23] Exhibits "P-21", "P-22", "P-23" and "P-20".
[24] Exhibit "P-20", Line 23D.
[25] Exhibit "P-20", Line 29.

attributable to its zero-rated sales for the period covering January 1 to March 31, 2013.

SO ORDERED.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

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

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Acting Presiding Justice