Republic of the Philippines

COURT OF TAX APPEALS

Quezon City

SECOND DIVISION

DEUTSCHE KNOWLEDGE SERVICES, PTE. LTD., Petitioner,	**CTA Case No. 9079**
	Members:
-versus-	**CASTAÑEDA, JR.**, *Chairperson,* **CASANOVA,** *and* **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JAN 09 2018 2:40 p.m.

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DECISION

CASANOVA, *J.*:

This is a Petition for Review[1] filed on June 30, 2015 by petitioner Deutsche Knowledge Services Pte. Ltd. against respondent Commissioner of Internal Revenue to seek the refund or issuance of a Tax Credit Certificate (TCC) in the amount of ₱23,816,670.55, allegedly representing its excess and unutilized input Value Added Tax (VAT) on purchases of goods and services attributable to zero-rated sales for the second quarter of calendar year (CY) 2013.

Petitioner is the Philippine branch of a multinational company organized and existing under and by virtue of the laws of Singapore, with registered office address at One Raffles Quay, #17-10 South Tower, Singapore 048583.[2] It was registered with the Bureau of

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[1] Docket (Vol. I), pp. 10-21.

[2] Par. 1, Joint Stipulation of Facts and Issues (JSFI), Docket (Vol. IV), p. 1421.

Internal Revenue (BIR) on June 16, 2005 as a VAT-registered taxpayer with Taxpayer Identification No. (TIN) 238-763-115-000.[3]

Petitioner is licensed to do business as a regional operating headquarters (ROHQ) in the Philippines by the Securities and Exchange Commission (SEC) on April 25, 2005, pursuant to the Omnibus Investment Code of 1987, as amended by Republic Act (RA) No. 8756 and its implementing rules and regulations, to engage in general administration and planning; business planning and coordination; sourcing/procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistic services; research and development services and product development; technical support and maintenance; data processing and communication and business development.[4]

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR) who has 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) or other laws or portions thereof administered by the BIR. He holds office at 5th Floor, BIR Building, Diliman, Quezon City.

On February 27, 2015, petitioner filed with the BIR-Large Taxpayers Regular Audit Division 3, an application for tax credit/refund of its excess and unutilized input VAT for the second quarter of CY 2013 in the amount of ₱23,816,670.55.[5]

There being no action taken by respondent on petitioner's administrative claim for refund or issuance of TCC, petitioner filed the present Petition for Review before the Court on June 30, 2015.

On July 16, 2015, respondent filed his Answer[6] interposing the following Special and Affirmative Defenses:

"SPECIAL AND AFFIRMATIVE DEFENSES

[3] Par. 3, JSFI, Docket (Vol. IV), p. 1422.
[4] Par. 2, JSFI, Docket (Vol. IV), pp. 1421-1422.
[5] Par. 5, JSFI, Docket (Vol. IV), p. 1422.
[6] Docket (Vol. I), pp. 35-43.

4. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau.

5. The amount of P23,816,670.55 allegedly representing excess and unutilized input VAT on alleged purchases of goods and services allegedly attributable to zero-rated sales for the 2nd quarter of CY 2013 was not properly documented.

6. 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/credit.

7. Petitioner must show that it has complied with the provisions of Section 229 of the NIRC of 1997 on the prescriptive period for claiming tax refund/credit.

8. There is no record of petitioner ever submitting complete documents to substantiate its administrative claim for refund. Such is a requirement, otherwise, the administrative body will have sufficient reason to deny the claim. As held by the Honorable Supreme Court in the case of *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue, G.R 145526, 16 March 2007:*

> '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)

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 *(sic)* 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 xxx 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 Statement, 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 Taxpayers
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.

Far from complying with the checklist of requirements, petitioner merely stated that it submitted complete documents in support of its administrative claim for refund. This is not a claim for erroneously or illegally collected taxes where petitioner has the discretion of choosing the evidence it deems fit to prove its case. This is a claim for excess but legally collected, unutilized input taxes. It does not have to prove its case because the law already acknowledges it is entitled to refund. Thus, it merely has to substantiate the export sales and the excess/unutilized amount of input taxes attributable to the said export sales. Hence, 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.

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 ***(Mactan Cebu International Airport Authority vs. Marcos, 261 SCRA 667, 690).*** 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. In the instant petition, the failure of petitioner to comply with such periods is fatal to its cause.

Moreover, petitioner's failure to submit documents supporting its claim for refund makes its administrative claim for refund pro-forma. This pro-forma administrative claim should not be taken as proper compliance with the requirements of the law that an administrative claim for refund should have been filed prior to the institution of a judicial claim for refund. Thus, without a validly and duly filed administrative claim for refund, the Honorable Court is without jurisdiction to entertain the Petition for Review. Petitioner's failure to comply with a condition precedent prior to the institution of its petition for review makes it dismissible for absence of jurisdiction on the part of the Honorable Court.

The claimant has the burden of proof to establish the factual basis of his claim for tax credit or refund. After all tax refunds, like tax exemptions, are construed strictly against the taxpayer **(Citibank N.A. vs. Court of Appeals and Commissioner of Internal Revenue, 280 SCRA 459; Commissioner of Internal Revenue vs. Tokyo Shipping Co., Ltd., 244 SCRA 332, both cited in Benguet Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5392 promulgated October 30, 1998).**

Partaking of the nature of exemptions, claims for refund are strictly construed against the claimant and cannot be allowed unless granted in the most explicit and categorical language **(Sps. Aguilar vs. Commissioner of Internal Revenue, et al., CA G.R.SP No. 16432, March 30, 1999).** Being in the nature of tax exemptions, these claims are regarded as in derogation of sovereign authority and to be construed *strictissimi juris* against the claimant and liberally in favor of the taxing authority **(Commissioner of Internal Revenue vs. Procter and Gamble Philippines Manufacturing Corporation, 204 SCRA 377).**

Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation *(Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95)* and such, they are looked upon with disfavor *(Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211)*."

The Pre-Trial Conference was reset[7] on October 29, 2015. Respondent's Pre-Trial Brief[8] was filed on August 11, 2015; while petitioner's Pre-Trial Brief[9] was filed on September 24, 2015.

The parties filed their Joint Stipulation of Facts and Issues[10] on December 17, 2015, which was approved by the Court in its Pre-Trial Order[11] dated January 21, 2016.

Petitioner presented as its witnesses, Ms. Rachel Concepcion[12] and Independent Certified Public Accountant (ICPA) Katherine O. Constantino.[13]

On April 28, 2016, petitioner filed its Formal Offer of Evidence[14], offering Exhibits "P-1" to "P-753", inclusive of submarkings, as its documentary evidence. Respondent filed his Comment (Re: Petitioner's Formal Offer of Evidence)[15], on May 2, 2016.

[7] Notice of Resetting dated September 24, 2015, Docket (Vol. III), p. 1386.
[8] Docket (Vol. I), pp. 46-49.
[9] Docket (Vol. I), pp. 56-65.
[10] Docket (Vol. IV), pp. 1421-1429.
[11] Docket (Vol. IV), pp. 1466-1470.
[12] Minutes of the Hearing on January 27, 2016, Docket (Vol. IV), p. 1480.
[13] Minutes of the Hearing on April 6, 2016, Docket (Vol. IV), p. 1497.
[14] Docket (Vol. IV), pp. 1502-1537.
[15] Docket (Vol. IV), pp. 1538-1541.

In the Resolution[16] dated June 1, 2016, the Court admitted petitioner's Exhibits except for Exhibits "P-7.8", "P-8", "P-8.1", "P-8.2", "P-12", "P-13", "P-14", "P-16", "P-17", "P-18", "P-19", "P-20", "P-21", "P-22", "P-23" to "P-78", "P-80" to "P-95", "P-98" to "P-109", "P-112" to "P-208", "P-210", "P-79", "P-96" to "P-97", "P-110" to "P-111", "P-209", "P-254" to "P-694", "P-211" to "P-217", "P-218" to "P-253", "P-753", "P-8.3", "P-8.4", "P-8.5", "P-8.6", "P-8.7", "P-8.8", "P-8.9", "P-8.10", "P-8.11", "P-8.12", "P-8.13", "P-8.14", "P-8.15", "P-8.16", "P-8.17", "P-8.18", "P-8.19", "P-8.20", "P-8.21", "P-8.22", "P-8.23", "P-8.24", "P-8.25", "P-8.26", "P-8.27", "P-8.28", "P-8.29", "P-8.30", "P-8.31", "P-8.32", "P-8.33", "P-8.34" and "P-8.35".

Considering the manifestation of respondent's counsel that there is no report of investigation submitted by the Revenue Officer and upon motion, the parties were granted a period of thirty (30) days within which to file their respective memoranda.[17]

On July 26, 2016, respondent filed his Memorandum[18], while petitioner filed its Omnibus Motion (1) For leave of Court to submit evidence; (2) To admit evidence; and (3) To defer submission of Petitioner's Memorandum[19] on July 29, 2016 sans respondent's, comment thereto.[20] In the Resolution[21] dated August 16, 2016, the Court granted petitioner's motion to defer submission of its memorandum. In the Resolution[22] dated October 20, 2016 the Court granted petitioner's Motion for leave to submit evidence; and partially granted petitioner's Motion to admit evidence.

On December 29, 2016, petitioner filed its Memorandum[23] through registered mail and the same was received by the Court on January 11, 2017. In a Resolution[24] dated January 17, 2017, the case was submitted for decision.

The parties stipulated the following issues [25]:

[16] Docket (Vol. IV), pp. 1543-1545.
[17] Minutes of the hearing on July 11, 2016, Docket (Vol. IV), p. 1546.
[18] Docket (Vol. IV), pp. 1548-1558.
[19] Docket (Vol. IV), pp. 1559-1570.
[20] Records Verification dated September 2, 2016, Docket (Vol. IV), p. 1578.
[21] Docket (Vol. IV), p. 1577.
[22] Docket (Vol. IV), pp. 1580-1584.
[23] Docket (Vol. IV), pp. 1593-1619.
[24] Resolution dated January 17, 2017, Docket, (Vol. IV), p. 1621.
[25] JSFI, Docket (Vol. IV), p. 1422-1423.

Whether or not petitioner is entitled to the claim for refund of or issuance of TCC for its alleged excess or unutilized input VAT in the amount of ₱23,816,670.55 for the 2nd quarter of CY 2013.

The main issue may be broken down into the following sub-issues:

A. Whether or not petitioner incurred input VAT on its alleged purchases of goods and services attributable to zero-rated sales for the 2nd quarter of CY 2013.

B. Whether or not petitioner had zero-rated sales during the 2nd quarter of CY 2013, the consideration for which were allegedly paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP.

C. Whether or not the input VAT allegedly incurred by petitioner for the 2nd quarter of CY 2013 is duly supported by VAT invoices and official receipts.

D. Whether or not the input VAT allegedly incurred by petitioner for the 2nd quarter of CY 2013 amounting to ₱23,816,670.55 was applied against any output VAT or carried over to succeeding taxable periods.

E. Whether or not petitioner's administrative and judicial claims for refund of or issuance of TCC for its alleged excess and unutilized input VAT on purchases of goods and services attributable to its zero-rated sales were filed within the period prescribed under the Tax Code.

The provisions of the NIRC of 1997, as amended, relevant to the case at hand are Sections 110(B) and 112(A) and (C), which, respectively, read:

"**SEC. 110.** ***Tax Credits.*** –

x x x x x x x x x

"**(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 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."[26]

"**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 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: *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 nonzero-rated sales."

x x x x x x x x x

"**(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

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[26] NIRC of 1997, as amended by R.A. 9361, November 21, 2006.

> 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, in order to be entitled to a refund or tax credit of input VAT attributable to zero-rated or effectively zero-rated sales, the following requisites must be complied with:

1. that the taxpayer is VAT-registered;
2. that the claim for refund was filed within the prescriptive periods;
3. there must be zero-rated or effectively zero-rated sales;
4. that input taxes were incurred or paid;
5. that such input taxes are attributable to zero-rated or effectively zero-rated sales; and
6. that the input taxes were not applied against any output VAT liability.

First Requisite: The taxpayer is a VAT-registered entity

It is undisputed that petitioner is registered with the BIR on June 16, 2005 as a VAT taxpayer with TIN 238-763-115-000 and with BIR Certificate of Registration No. OCN 9RC0000270209.[27]

Second Requisite: Timeliness of administrative and judicial claims

[27] Par. 3, Stipulated Facts, JSFI, Docket (Vol. IV), p.1422; Exhibit "P-2".

Applying Section 112(A) of the NIRC of 1997, as amended, the two (2)-year prescriptive period in filing administrative claim is reckoned from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim covers the second quarter of CY 2013, which closed on June 30, 2013. Counting two years from the said date, petitioner had until June 30, 2015, within which to file its administrative claim for refund. Thus, petitioner's administrative claim filed on February 27, 2015[28] was timely filed.

As to the timeliness of petitioner's judicial claim, Section 112(C) of the NIRC of 1997, as amended, provides that the Commissioner of Internal Revenue (CIR) has 120 days from the date of submission of the complete documents in support of the application for refund or tax credit certificate within which to grant or deny the claim. In case of full or partial denial by the CIR, the taxpayer's recourse is to file an appeal before the Court of Tax Appeals within thirty (30) days from receipt of the decision of the CIR. However, if, after the 120-day period, the CIR fails to act on the application for tax refund/credit, the remedy of the taxpayer is to appeal the inaction of the CIR to the Court of Tax Appeals within thirty (30) days.

However, starting June 21, 2014 when Revenue Memorandum Circular (RMC) No. 54-2014 took effect, the 120-day period shall be reckoned from the date the administrative claim was filed and the taxpayer-claimant is required to submit complete supporting documents and attest to the completeness of the same at the time of filing the claim.

At this point, it is relevant to refer to the pronouncement of the Supreme Court in the case of *Pilipinas Total Gas, Inc. vs Commissioner of Internal Revenue*[29]. In the said case, the Supreme Court went to discuss that RMC No. 54-2014 dated June 11, 2014 mandates that the application for VAT refund or tax credit must be accompanied by complete supporting documents, and a statement under oath attesting to the completeness of the submitted documents, which are the only documents the taxpayer will present to support the claim; that upon submission of the administrative claim and its supporting documents,

[28] Exhibits "P-4" and "P-4-a".
[29] G.R. No. 207112, December 8, 2015.

the claim shall be processed and no other documents shall be accepted or required from the taxpayer in the course of its evaluation and a decision shall be rendered by the Commissioner based only on the documents submitted by the taxpayer, to wit:

> "It bears mentioning at this point that the foregoing summation of the rules *should only be made applicable to those claims for tax credit or refund filed prior to June 11, 2014*, such as the claim at bench. As it now stands, RMC 54-2014 dated June 11, 2014 mandates that:
>
>> The application for VAT refund/tax credit must be accompanied by complete supporting documents as enumerated in Annex "A" hereof. In addition, the taxpayer shall attach a statement under oath attesting to the completeness of the submitted documents (Annex B). The affidavit shall further state that the said documents are the only documents which the taxpayer will present to support the claim. If the taxpayer is a juridical person, there should be a sworn statement that the officer signing the affidavit (i.e., at the very least, the Chief Financial Officer) has been authorized by the Board of Directors of the company.
>>
>> Upon submission of the administrative claim and its supporting documents, the claim shall be processed and no other documents shall be accepted/required from the taxpayer in the course of its evaluation. A decision shall be rendered by the Commissioner based only on the documents submitted by the taxpayer. The application for tax refund/tax credit shall be denied where the taxpayer/claimant failed to submit the complete supporting documents. For this purpose, the concerned processing/investigating office shall prepare and issue the corresponding Denial Letter to the taxpayer/ claimant.
>
> Thus, under the current rule, the reckoning of the 120-day period has been withdrawn from the taxpayer by

> RMC 54-2014, since it requires him at the time he files his claim to complete his supporting documents and attest that he will no longer submit any other document to prove his claim. Further, the taxpayer is barred from submitting additional documents after he has filed his administrative claim."

Since petitioner's administrative claim was filed after June 11, 2014, the rules under RMC No. 54-2014 shall apply. Thus, the 120-day period shall be reckoned from the date the administrative claim was filed.

Applying the foregoing, upon the filing of its administrative claim on February 27, 2015, respondent had 120 days or until June 27, 2015 to decide on the petitioner's claim. Since respondent failed to act on the said claim, petitioner had until July 27, 2015, the last day of the thirty (30)-day period, within which to file its judicial claim. Clearly, petitioner, timely filed its judicial claim via a Petition for Review on June 30, 2015.

Third Requisite: Existence of zero-rated or effectively zero-rated sales

Petitioner asserts that its sales of services to its various nonresident foreign clients, the consideration for which was paid in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP) are subject to zero percent (0%) VAT pursuant to Section 108(B)(2) of the NIRC of 1997, as amended, which provides:

> **"SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* –**
>
> x x x x x x x x x
>
> **"(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:
>
> x x x x x x x x x

> "(2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);"

In the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*[30], the Supreme Court held that in order for the supply of services to be VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the following requisites must be met:

1. the services must be other than processing, manufacturing or repacking of goods;
2. payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations; and
3. the recipient of such services is doing business outside the Philippines.

Petitioner satisfied the first requisite.

Petitioner is licensed to do business as a regional operating headquarters (ROHQ) in the Philippines by the SEC on April 25, 2005, pursuant to the Omnibus Investment Code of 1987, as amended by Republic Act (RA) No. 8756, and its implementing rules and regulations, to engage in general administration and planning; business planning and coordination; sourcing/procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistic services; research and development services and product development; technical support and maintenance; data processing and communication and business development.[31] Such services are not in the same category as "processing, manufacturing or repacking of goods". a

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[30] G.R. No.153205, January 22, 2007.
[31] Par. 2, Stipulated Facts, JSFI, Docket (Vol. IV), pp. 1421-1422; Exhibit "P-1".

In compliance with the third requisite, petitioner presented the following documents showing that its clients/affiliates are non-resident foreign corporations doing business outside the Philippines:

1. SEC Certifications of Non-Registration of Company[32];
2. IntraGroup Service Agreements[33];
3. Company Registration Documents (Certificate of Registration/ Certificate of Incorporation/ Association)[34];
4. AMInet Company Profile Fact Sheets[35]; and
5. Deutsche Bank Comprehensive List of Shareholdings 2013[36].

However, each of the aforesaid documents, standing alone, is inadequate proof that petitioner's client is, indeed, a non-resident foreign corporation doing business outside the Philippines.

The Certificates of Registration/Foreign Incorporation/ Association, as well as the List of Shareholdings, only prove that the named entities therein were incorporated/organized/domiciled abroad. They, however, do not establish that such entities are not doing business in the Philippines.

Also, while the SEC Certificates of Non-Registration show that the named entities therein are not registered corporations/partnerships in the Philippines, the same do not, however, prove that such entities are non-resident foreign corporations doing business outside the Philippines.

Likewise, the Service Agreements only show the names and addresses of petitioner's clients to whom it renders services but the same do not establish that such clients are non-resident foreign corporations doing business outside the Philippines.

In the case of *Sitel Philippines Corporation (formerly Clientlogic Phils., Inc.) vs. Commissioner of Internal Revenue*,[37] the Supreme Court already held that while Sitel's documentary evidence, which includes Certifications issued by the Securities and Exchange Commission and Agreements between Sitel and its foreign clients, may

[32] Exhibits "P-5" to "P-5.50".
[33] Exhibits "P-6" to "P-6.37".
[34] Exhibits "P-7" to "P-7.7", "P-7.9" to "P-7.11".
[35] Exhibits "P-9" to "P-9.49".
[36] Exhibit "P-10".
[37] G.R. No. 201326, February 8, 2017.

have established that Sitel rendered services to foreign corporations and received payment therfor through inward remittances, said documents failed to specifically prove that such foreign clients were doing business outside the Philippines or have a continuity of commercial dealings outside the Philippines.

Hence, to be considered as non-resident foreign corporation doing business outside the Philippines, each entity must be supported at the very least by **both** SEC certificate of Non-Registration of Corporation/Partnership **and** Certificate/Articles of Foreign Incorporation/Association/Registration and that there is no other indication that the recipient of the services is doing business in the Philippines.

This Court, however, cannot give credence to the purported foreign business registration print-outs retrieved from the AMInet database which is a database set up by Deutsche Bank Global (the Head Office located in Germany). The said documents are not sufficient to establish the fact that the service recipients are non-resident foreign corporations doing business outside the Philippines, as they may be considered self-serving and can be easily manipulated to favor petitioner in view of its affinity with the entity that maintains or keeps the said database.

In this case, the following table shows whether petitioner complied with the third requisite as it presented admitted evidence of the said SEC Certificate of Non-Registration and Certificates of Registration/ Foreign Incorporation/Association for each of the recipients of the services rendered by petitioner:

Name of Client/Affiliate	**SEC Certificate of Non-Registration**	**Certificate of Registration/ Incorporation/ Association**
Bankers International Corporation	P-5	***None***
DB Consorzio S. Cons. A.R.L.	P-5.1	***None***
DB Energy Trading LLC	P-5.2	***None***
DB Investment Partners Inc.	P-5.3	***None***
DB Services New Jersey, Inc	P-5.4	***None***
Deutsche Asia Pacific Holdings Pte. Ltd.	P-5.5	P-7
Deutsche Asset Management (Korea) Company Limited	P-5.6	***None***
Deutsche Bank (Malaysia) Berhad	P-5.7	P-7.1
Deutsche Bank (Suisse) SA	P-5.8	***None***
Deutsche Bank Aktiengensellschaft	***None***	P-7.7 / P-7.9

Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	P-5.10	P-7.2
Deutsche Bank Aktiengesellschaft, Filiale Amsterdam	P-5.11	***None***
Deutsche Bank Aktiengesellschaft, Filiale Bangkok	P-5.12	***None***
Deutsche Bank Aktiengesellschaft, Filiale Dubai (DIFC)	P-5.13	***None***
Deutsche Bank Aktiengesellschaft, Filiale Ho Chi-Minh City	P-5.14	***None***
Deutsche Bank Aktiengesellschaft, Filiale Hongkong	P-5.15	P-7.3
Deutsche Bank Aktiengesellschaft, Filiale Karachi	P-5.16	***None***
Deutsche Bank Aktiengesellschaft, Filiale Labuan	P-5.17	***None***
Deutsche Bank Aktiengesellschaft, Filiale London	P-5.18	P-7.11
Deutsche Bank Aktiengesellschaft, Filiale New York	P-5.19	P-7.4
Deutsche Bank Aktiengesellschaft, Filiale Paris	P-5.20	***None***
Deutsche Bank Aktiengesellschaft, Filiale Prag	P-5.21	***None***
Deutsche Bank Aktiengesellschaft, Filiale Riad	P-5.22	***None***
Deutsche Bank Aktiengesellschaft, Filiale Seoul	P-5.23	P-7.5
Deutsche Bank Aktiengesellschaft, Filiale Singapur	P-5.24	P-7.6
Deutsche Bank Aktiengesellschaft, Filiale Tokyo	P-5.25	***None***
Deutsche Bank Aktiengesellschaft, Filiale Wien	P-5.26	***None***
Deutsche Bank Aktiengesellschaft, Filiale Zurich	P-5.27	***None***
Deutsche Bank Aktiengesellschaft, Inlandsbank	P-5.28	***None***
Deutsche Bank AS	P-5.9	***None***
Deutsche Bank Luxembourg S.A.	P-5.29	***None***
Deutsche Bank National Trust Company	P-5.30	***None***
Deutsche Bank Netherland N.V.	P-5.31	***None***
Deutsche Bank PBC Spolka Akcyjna	P-5.32	***None***
Deutsche Bank Polska Spolka Akcyjna	P-5.33	***None***
Deutsche Bank Privat-UND Geschaftskunden Aktiengesellschaft	P-5.34	***None***
Deutsche Bank Securities Inc	P-5.35	***None***
Deutsche Bank Societa per Azioni	P-5.36	***None***
Deutsche Bank Trust Company Americas	P-5.37	***None***
Deutsche Bank, Sociedad Anonima Espanola	P-5.38	***None***
Deutsche Group Services Pty Limited	P-5.39	***None***
Deutsche Investment Management Americas, Inc.	P-5.40	***None***
Deutsche Securities Inc.	P-5.41	P-7.10
Deutsche Securities Korea Co.	P-5.42	***None***
Deutsche Trust Company Limited Japan	P-5.43	***None***
Deutsche Trustees Malaysia Berhad	P-5.44	***None***
DWS Holding & Service GmbH	P-5.45	***None***
DWS Investment S.A.	P-5.46	***None***
OOO Deutsche Bank	P-5.47	***None***
PT. Deutsche Securities Indonesia	P-5.48	***None***
RREEF Management GmbH	P-5.49	***None***
RREEF Management LLC	P-5.50	***None***

Correspondingly, only the sales of services by petitioner to entities which have the said two (2) required documents will be treated as subject to the 0% VAT rate, pursuant to Section 108(B)(2) of the NIRC of 1997, as amended.

Corollary to the second requisite, Sections 113(A)(2), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended, as implemented by Sections 4.113-1(A)(2), B(1) and (2)(c) of Revenue Regulations (RR) No. 16-05 provide that a VAT taxpayer, like herein petitioner, shall for every lease of goods or properties, and for every sale, barter or exchange of services, issue a VAT official receipt which must contain the following information:

> **"SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* —**
>
> "(A) *Invoicing Requirements.* — A VAT-registered person shall issue:
>
> xxx xxx xxx
>
> "(2) A <u>VAT official receipt</u> for every lease of goods or properties, and for every sale, barter or exchange of services
>
> "(B) *Information Contained in the VAT Invoice or VAT Official Receipt.* — The following information shall be indicated in the VAT invoice or VAT official receipt:
>
> "(1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
>
> "(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:
>
> xxx xxx xxx
>
> "(c) If the sale is subject to zero percent (0%) value-added tax, the term **<u>'zero-rated sale'</u>** 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; and xxx" (*underlining supplied*)

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

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

xxx xxx xxx

(2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.

Only VAT-registered persons are required to print their TIN followed by the word "VAT" in their invoice or official receipts. Said documents shall be considered as a "VAT Invoice" or VAT official receipt. All purchases covered by 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:

xxx xxx xxx

(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; (*underlining supplied*)

Pursuant to the foregoing provisions, the foreign currency remittances referred to under Section 108(B)(2) of the NIRC of 1997, as amended, must likewise be supported by VAT zero-rated official receipts.

To prove that it rendered services to its foreign affiliates and was paid in foreign currency duly accounted for in accordance with the rules and regulations of the BSP for the second quarter of CY 2013, petitioner submitted in evidence its VAT zero-rated official receipts (ORs) with attached invoices[38] issued to its alleged non-resident foreign clients and Certificate of Inward Remittance[39] issued by Deutsche Bank AG Manila.

Upon scrutiny of the documents submitted, the Court finds that out of the ₱1,105,734,437.79[40] zero-rated sales declared per VAT Return for the second quarter of CY 2013, only the amount of €9,725,820.10 with peso equivalent of ₱522,720,069.53, as detailed below, qualifies for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended:

Customer's Name	**O.R. Exhibit No.**	**O.R. Date**	**O.R. Number**	**Amount (in Euro)**	**Amount (in Peso)**
Deutsche Bank Aktiengesellschaft, Filiale London	P-28	8-Apr-13	3149	979,193.36	52,546,825.37
Deutsche Bank Aktiengesellschaft, Filiale New York	P-32	10-Apr-13	3153	43,122.42	2,321,653.31
Deutsche Bank Aktiengesellschaft, Filiale London	P-33	10-Apr-13	3154	494,390.96	26,617,346.81
Deutsche Securities Inc.	P-38	10-Apr-13	3159	140,139.92	7,544,945.51
Deutsche Bank Aktiengesellschaft, Filiale London	P-49	16-Apr-13	3171	1,095,610.50	59,152,624.44
Deutsche Bank Aktiengesellschaft, Filiale Singapur	P-50	16-Apr-13	3172	235,086.13	12,692,431.81
Deutsche Bank (Malaysia) Berhad	P-51	16-Apr-13	3173	845.12	45,628.50
Deutsche Bank (Malaysia) Berhad	P-54	17-Apr-13	3176	18,724.73	1,016,742.35
Deutsche Bank Aktiengesellschaft, Filiale Hongkong	P-61	18-Apr-13	3183	108,135.00	5,818,146.39
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	P-62	18-Apr-13	3184	220,953.04	11,888,261.26
Deutsche Bank Aktiengesellschaft, Filiale Singapur	P-64	19-Apr-13	3186	734,597.25	39,447,431.61
Deutsche Bank Aktiengesellschaft, Filiale London	P-65	19-Apr-13	3187	2,422,044.20	130,019,216.95
Deutsche Securities Inc.	P-67	19-Apr-13	3189	40,260.24	2,161,950.73
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	P-68	19-Apr-13	3190	31,677.30	1,701,052.01
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	P-77	23-Apr-13	3199	1,633,881.00	87,688,873.76
Deutsche Asia Pacific Holdings Pte Ltd	P-78	23-Apr-13	3200	2,811.39	150,884.69
Deutsche Bank Aktiengesellschaft, Filiale Seoul	P-80	23-Apr-13	3202	28,739.60	1,542,427.60

[38] Exhibits "P-23" to "P-78" and "P-80" to "P-95".
[39] Exhibits "P-21".
[40] Exhibit "P-3".

Deutsche Bank Aktiengesellschaft, Filiale New York	P-83	24-Apr-13	3205	483,452.03	25,898,211.00
Deutsche Bank Aktiengesellschaft, Filiale London	P-87	25-Apr-13	3209	1,012,155.91	54,465,415.43
Total				**9,725,820.10**	**522,720,069.53**

Fourth and Fifth Requisites: Petitioner had input taxes attributable to its zero-rated sales

Having resolved that petitioner had valid VAT zero-rated sales for the second quarter of CY 2013 in the amount of ₱522,720,069.53, we proceed to determine the amount of input VAT attributable thereto.

In its Quarterly VAT Return for the second quarter CY 2013, petitioner declared input VAT of ₱24,020,395.21 on its current purchases of goods and services, of which the amount of ₱23,816,670.55 is the subject of the present claim, as shown below:

	Amount
Input tax on Purchase of Capital Goods not exceeding ₱1M *(Line 18B)*	₱ 130,605.62
Input tax on Domestic Purchases of Goods other than Capital Goods *(Line 18F)*	208,138.23
Input tax on Domestic Purchase of Services *(Line 18J)*	23,277,651.34
Input tax on Services rendered by Non-residents *(Line 18L)*	404,000.02
Total Input Taxes on Current Purchases	**₱ 24,020,395.21**
Divide by Total Declared Sales	1,115,192,744.62
Multiply by Declared Zero-rated Sales	1,105,734,437.79
Input VAT claimed for refund/TCC	**₱ 23,816,670.55**

In support of its input VAT on current purchases of goods and services amounting to ₱24,020,395.21, petitioner presented various official receipts and invoices[41] issued by its suppliers and BIR Forms No. 1600 with payment confirmations[42], which were all examined by the Court-commissioned Independent Certified Public Accountant (ICPA), Ms. Katherine O. Constantino of Constantino Guadalquiver & Co. In her Report, the ICPA noted the following exceptions:[43]

[41] Exhibits "P-254" to "P-691".
[42] Exhibits "P-692" to "P-694".
[43] Exhibit "P-11".

OTHER FINDINGS		Reference	Amount
PURCHASE OF GOODS			
1.	Purchase of goods supported by VAT REG. TIN Invoices without VAT breakdown	***Annex 9-i***	₱ 659.92
2.	Purchase of goods supported by VAT REG. TIN / TIN NO. V Invoices with date not within the quarter of claim	***Annex 9-j***	14,780.67
3.	Purchase of goods supported by VAT REG. TIN Invoices with date not within the quarter of claim, with incomplete Petitioner's address and without VAT breakdown	***Annex 9-k***	6,037.50
4.	Purchase of goods supported by a Certified True Copy VAT REG. TIN Invoice with date not within the quarter of claim and with incomplete Petitioner's address	***Annex 9-l***	3,460.71
5.	Purchase of goods supported by VAT REG. TIN Invoice with date not within the quarter of claim and without VAT breakdown shown in the support	***Annex 9-m***	1,462.31
	Subtotal		***₱ 26,401.11***
PURCHASE OF SERVICES			
1.	Purchase of services supported by VAT REG. TIN. / TIN NO. V ORs with date not within the quarter of claim	***Annex 9-n***	₱ 88,515.17
2.	Purchase of services supported by VAT REG. TIN. ORs with date not within the quarter of claim	***Annex 9-o***	36,071.52
3.	Purchase of services supported by VAT REG. TIN. ORs with altered date without countersign	***Annex 9-p***	9,360.00
4.	Purchase of services supported by VAT REG. TIN. ORs with date not within the quarter of claim and with wrong Petitioner's address	***Annex 9-q***	39,267.70
5.	Purchase of services supported by VAT REG. TIN. ORs with date not within the quarter of claim and without VAT shown in the support	***Annex 9-r***	214.29
6.	Purchase of services supported by VAT REG. TIN. ORs with date not within the quarter of claim and with VAT claimed that is more than the VAT shown in the support but equal to our independent computation	***Annex 9-s***	1,574.86
7.	Purchase of services supported by VAT REG. TIN. ORs with date not within the quarter of claim and with VAT shown in the support but not placed in the "12% VAT" line	***Annex 9-t***	1,814.04
8.	Purchase of services supported by VAT REG. TIN. ORs with date not within the quarter of claim and such date was altered but countersigned and the claimed input VAT are more than the VAT shown in the supporting documents and our independent computation	***Annex 9-u***	36,846.67
9.	Purchase of services supported by VAT REG. TIN. ORs with date not within the quarter of claim and such date was altered but countersigned and the claimed input VAT are less than the VAT shown in the supporting documents and our independent computation	***Annex 9-v***	33,907.41
10.	Purchase of services supported by VAT REG. TIN. ORs with date not within the quarter, with incomplete Petitioner's name and with VAT claimed that is more than the VAT shown in the support but equal to our independent computation	***Annex 9-w***	12,895.92
11.	Purchase of services supported by VAT REG. TIN. ORs with incorrect Petitioner's TIN, without Petitioner's address and the claimed input VAT are less than the VAT shown in the supporting documents and our independent computation	***Annex 9-x***	158,361.40
12.	Purchase of services supported by VAT REG. TIN. ORs without BIR permit number and printing date indicated in the support and incorrect Petitioner's TIN	***Annex 9-y***	214.08

13.	Purchase of services supported by VAT REG. TIN. / TIN NO. V OR with incomplete Petitioner's address and the claimed input VAT are more than the VAT shown in the supporting documents and our independent computation	***Annex 9-z***	24,340.71
14.	Purchase of services supported by VAT REG. TIN. ORs with claimed input VAT that is greater than the VAT shown in the supporting documents but less than our independent computation	***Annex 9-aa***	34,896.33
15.	Purchase of services supported by Certified True Copy VAT REG. TIN. ORs without BIR permit number and printing date indicated in the support	***Annex 9-ab***	804.12
16.	Purchase of services supported by photocopy VAT REG. TIN. OR with VAT claimed that is more than the VAT shown in the support but equal to our independent computation	***Annex 9-ac***	420.00
17.	Purchase of services supported by VAT REG. TIN. / TIN No. ORs with note that states "Not to be used for claim of Input Tax"	***Annex 9-ad***	527,848.28
18.	Purchase of services supported by VAT REG. TIN. OR with incomplete Petitioner's name, with incorrect Petitioner's TIN., with date not within the quarter of claim, and with VAT claimed that is more than the VAT shown in the support but equal to our independent computation	***Annex 9-ae***	9,360.00
19.	Purchase of services supported by documents other than VAT ORs	***Annex 9-af***	331,602.81
20.	Purchase of services supported by VAT REG. TIN. ORs where the claimed input VAT is different from schedule - VAT shown in the official receipts is lower than the VAT in the schedule and the computed amount. This pertains to excess claim of input tax.	***Annex 9-c***	28,385.72
21.	Purchase of services supported by VAT REG. TIN. ORs where the claimed input VAT shown in the official receipt is different from schedule - the VAT shown in the receipts and the independent computation is lower than the schedule. This pertains to excess claim of input tax.	***Annex 9-d***	1,390.76
22.	Purchase of services supported by VAT REG. TIN. ORs where the claimed input VAT shown in the official receipt is different from schedule - the VAT shown in the receipts and the independent computation is lower than the schedule (independent computation differs from official receipt and schedule amount). This pertains to excess claim of input tax.	***Annex 9-e***	1,645.74
	Subtotal		***₱ 1,379,737.53***
PURCHASE OF CAPITAL GOODS NOT EXCEEDING ONE (1) MILLION			
1.	Purchase of capital goods not exceeding one (1) million supported by VAT REG. TIN Invoices with date not within the quarter of claim.	***Annex 9-ag***	₱ 910.72
	Subtotal		***₱ 910.72***
Purchases of services without supporting documents			***₱ 250,312.38***
Grand Total			**₱ 1,657,361.74**

The above-noted exceptions found by the ICPA in the amount of ₱1,657,361.74 should be disallowed for not being properly substantiated by VAT invoices or official receipts as prescribed under Sections 110(A) and 113(A) and (B) of the NIRC of 1997, as amended, in relation to Sections 4.110-2, 4.110-8 and 4.113-1 of Revenue Regulations (RR) No. 16-05, as amended.

Further verification of the ICPA report, together with the supporting documents, reveals that the additional input VAT of ₱10,174,946.65, shall, likewise, be disallowed for the reasons stated below:

Exhibit No.	Supplier	OR No.	Amount
1. Purchases of goods supported by VAT invoices w/ATPs dated between Jan. 1, 2011 to Jan. 17, 2013 not stamped "valid until October 31, 2013 only" in violation of RMC No. 52-2013.			
P-254	1618 OFFICE SOLUTIONS INC.	3903	₱ 541.07
P-340	AVLS ALL VISUAL & LIGHTS	035393	41,078.57
P-388	MERCURY DRUG CORPORATION	283-93671	1,617.05
P-389	MERCURY DRUG CORPORATION	283-93672	1,020.19
P-390	MERCURY DRUG CORPORATION	283-93673	485.20
P-391	MERCURY DRUG CORPORATION	283-94066	550.45
P-392	MERCURY DRUG CORPORATION	283-94067	332.28
P-449	QUARTZ BUSINESS PRODUCTS CORP	493693	6,006.86
P-450	QUARTZ BUSINESS PRODUCTS CORP	496091	15,474.64
P-611	THE FLOWER FARM CORPORATION	127779	492.86
P-612	THE FLOWER FARM CORPORATION	127783	267.86
P-613	THE FLOWER FARM CORPORATION	127782	439.29
P-627	DISTINCTIVE BLINDS & OFFICE	64885	68,307.59
P-628	GB DISTRIBUTORS, INC.	1020054538	34,821.43
P-629	GB DISTRIBUTORS, INC.	1020054537	5,357.14
	Subtotal		***₱ 176,792.48***
2. Purchases of services supported by VAT ORs w/ATPs dated between Jan. 1, 2011 to Jan. 17, 2013 not stamped "valid until October 31, 2013 only" in violation of RMC No. 52-2013.			
P-311	ACCENTURE, INC.	12662	₱ 461,940.00
P-312	ACCENTURE, INC.	12684	656,059.01
P-313	ACCENTURE, INC.	12693	104,745.00
P-315	ADVENTURE INTERNATIONAL TOURS,	200-00019813	17,072.40
P-320	ARISTEDES TAN	3118	16,236.71
P-323	ASIAPEOPLEWORKS! INC.	501	1,075.24
P-324	ASIAPEOPLEWORKS! INC.	569	3,343.90
P-325	ASIAPEOPLEWORKS! INC.	566	1,455.13
P-326	ASIAPEOPLEWORKS! INC.	568	1,455.98
P-327	ASIAPEOPLEWORKS! INC.	590	3,415.18
P-328	ASIAPEOPLEWORKS! INC.	591	1,682.68
P-329	ASIAPEOPLEWORKS! INC.	592	3,053.86
P-330	ASIAPEOPLEWORKS! INC.	0634	2,696.78
P-331	ASIAPEOPLEWORKS! INC.	0635	3,015.58
P-332	ASIAPEOPLEWORKS! INC.	0682	1,658.88
P-333	ASIAPEOPLEWORKS! INC.	0680	1,678.72
P-334	ASIAPEOPLEWORKS! INC.	0681	1,964.43
P-336	ATLANTICA FIRE SAFETY SYSTEMS,	3510	7,872.00
P-337	ATLANTICA FIRE SAFETY SYSTEMS,	3521	7,258.68
P-341	BANIQUED & BANIQUED	3844	7,800.00
P-342	BANIQUED & BANIQUED	3843	7,800.00
P-344	BAYANTEL A/C 337550509	943625	182.04
P-345	BAYANTEL A/C 337550509	955049	178.81
P-346	BAYANTEL A/C 337550509	956682	182.04
P-347	BAYANTEL A/C 342578098	943140	19,200.00
P-348	BAYANTEL A/C 342578098	956681	9,600.00
P-349	Bayantel A/C 345079866	942869	182.04
P-350	BAYANTEL AC 337550363	942870	182.04

P-351	BUSINESSWORKS, INC.	3596	17,688.00
P-352	BUSINESSWORKS, INC.	3597	8,250.00
P-353	BUSINESSWORKS, INC.	3599	5,940.00
P-354	HEADSTRONG PHILIPPINES INC.	2135	83,383.90
P-355	HEADSTRONG PHILIPPINES INC.	2146	419,385.80
P-356	HEADSTRONG PHILIPPINES INC.	2162	231,288.00
P-357	HEWLETT-PACKARD PHILIPPINES	129674	7,466.34
P-358	HEWLETT-PACKARD PHILIPPINES	130168	6,799.76
P-359	HOSPITALITY INTERNATIONAL, INC	8154	3,602.48
P-360	HOSPITALITY INTERNATIONAL, INC	8155	17,714.29
P-361	HOSPITALITY INTERNATIONAL, INC	8156	17,142.86
P-362	HOSPITALITY INTERNATIONAL, INC	8184	55,637.27
P-363	IBM PHILIPPINES, INC.	24293	244,584.72
P-364	IBM PHILIPPINES, INC.	24812	81,734.40
P-365	INDRA Philippines Inc	2097	17,142.86
P-366	INDRA Philippines Inc	2150	17,142.86
P-370	JEBSEN & JESSEN COMMUNICATIONS	1771	6,569.28
P-372	JOHN CLEMENTS CONSULTANTS, INC	114775	154,782.24
P-373	JOHN CLEMENTS CONSULTANTS, INC	114934	375,822.96
P-374	JOHN CLEMENTS CONSULTANTS, INC	115168	153,093.94
P-396	MISNET EDUCATION INC.	12007	19,071.43
P-397	MISNET EDUCATION INC.	11898	38,142.86
P-400	NET PACIFIC, INC.	13306	5,943.39
P-401	NEXT STEP TRAINING AND	0184	12,504.00
P-402	NEXT STEP TRAINING AND	0186	18,230.00
P-403	NEXT STEP TRAINING AND	0187	26,544.00
P-404	NEXT STEP TRAINING AND	0193	12,612.00
P-405	NEXT STEP TRAINING AND	0194	12,000.00
P-406	NEXT STEP TRAINING AND	0197	8,040.00
P-407	NEXT STEP TRAINING AND	0200	23,640.00
P-408	OVE ARUP AND PARTNERS	3388	152,896.14
P-409	OVE ARUP AND PARTNERS	3395	102,640.63
P-410	OVE ARUP AND PARTNERS	3416	20,115.00
P-411	OVE ARUP AND PARTNERS	3417	85,533.86
P-417	PAUL CALVIN DELI	0911	9,245.36
P-418	PAUL CALVIN DELI	0919	2,970.00
P-425	PREMIUM SECURITY & INVESTIGATI	69576	29.66
P-426	PREMIUM SECURITY & INVESTIGATI	69633	8,540.71
P-427	PREMIUM SECURITY & INVESTIGATI	69749	84.29
P-428	PREMIUM SECURITY & INVESTIGATI	69825	41.76
P-430	PREMIUM SECURITY & INVESTIGATI	65012	9,214.13
P-431	PREMIUM SECURITY & INVESTIGATI	69974	834.43
P-433	PREMIUM SECURITY & INVESTIGATI	69972	714.79
P-434	PREMIUM SECURITY & INVESTIGATI	69975	107.70
P-435	PREMIUM SECURITY & INVESTIGATI	69990	13.19
P-453	REALFORM FURNITURE SHOP	1253	8,451.36
P-454	GLOBE TELECOM A/C 49622252	2305003	1,488.95
P-455	INNOVE AC 830635288	0368834	62,369.15
P-456	INNOVE AC 106886134	0371607	298.93
P-457	INNOVE AC 830635288	0373458	30,617.18
P-458	GLOBE TELECOM A/C 45413292	2298496	19,949.77
P-465	BUSINESSWORKS, INC.	3617	7,232.14
P-466	CHITTICK FIRE & SECURITY	8178	324.58
P-467	CHITTICK FIRE & SECURITY	8103	10,764.00
P-468	CHITTICK FIRE & SECURITY	8224	10,764.00
P-469	CHITTICK FIRE & SECURITY	8261	3,981.64
P-470	CIBI INFORMATION, INC.	32120	540.00
P-471	CIBI INFORMATION, INC.	32213	180.00
P-472	CITYWAY PRINTING SERVICES	91	1,072.71
P-473	CITYWAY PRINTING SERVICES	92	3,367.98

P-474	CITYWAY PRINTING SERVICES	111	6,181.61
P-475	CITYWAY PRINTING SERVICES	112	9,173.08
P-476	CITYWAY PRINTING SERVICES	113	5,566.22
P-478	DESIGN & CREATIVE LOGIC INC	4021	2,335.71
P-482	DEVELOPMENT DIMENSIONS	14158	25,845.56
P-483	DEVELOPMENT DIMENSIONS	14157	12,922.28
P-484	DHL EXPRESS (PHILIPPINES) CORP	2243603	33.60
P-485	DHL EXPRESS (PHILIPPINES) CORP	2243606	1,615.00
P-486	DHL EXPRESS (PHILIPPINES) CORP	2243608	7,947.00
P-487	DHL EXPRESS (PHILIPPINES) CORP	2243605	1,335.78
P-488	DHL EXPRESS (PHILIPPINES) CORP	2243604	33.60
P-489	DHL EXPRESS (PHILIPPINES) CORP	2258227	1,359.00
P-490	DHL EXPRESS (PHILIPPINES) CORP	2258226	103.02
P-491	DHL EXPRESS (PHILIPPINES) CORP	2258225	1,052.00
P-492	DHL EXPRESS (PHILIPPINES) CORP	2260678	6,503.00
P-493	DHL EXPRESS (PHILIPPINES) CORP	2262391	92.38
P-494	DHL EXPRESS (PHILIPPINES) CORP	2265204	33.60
P-495	DHL EXPRESS (PHILIPPINES) CORP	2265203	33.60
P-496	DHL EXPRESS (PHILIPPINES) CORP	2265207	3,342.00
P-497	DHL EXPRESS (PHILIPPINES) CORP	2265206	1,258.00
P-498	DHL EXPRESS (PHILIPPINES) CORP	2265202	81.66
P-499	DHL EXPRESS (PHILIPPINES) CORP	2265205	1,827.00
P-500	DHL EXPRESS (PHILIPPINES) CORP	2178042	3,537.47
P-501	DHL EXPRESS (PHILIPPINES) CORP	2178043	67.20
P-523	REALFORM FURNITURE SHOP	1254	1,472.04
P-524	REALFORM FURNITURE SHOP	1255	360.00
P-527	REUTERS LIMITED	37144	221,565.69
P-542	FUJI XEROX PHILIPPINES INC	178371	7,346.22
P-543	FUJI XEROX PHILIPPINES INC	178370	26,233.77
P-544	FUJI XEROX PHILIPPINES INC	178378	10,874.48
P-545	FUJI XEROX PHILIPPINES INC	179702	12,095.64
P-546	FUJI XEROX PHILIPPINES INC	179834	25,562.46
P-547	FUJI XEROX PHILIPPINES INC	179833	11,028.84
P-548	FUJI XEROX PHILIPPINES INC	179839	90.05
P-549	FUJI XEROX PHILIPPINES INC	179842	21.73
P-550	FUJI XEROX PHILIPPINES INC	179841	37,426.14
P-551	GLOBAL CITY CAR LEASE &	9464	27,385.51
P-552	GLOBAL CITY CAR LEASE &	9475	25,623.43
P-553	GLOBAL CITY CAR LEASE &	9482	746.29
P-554	GLOBAL CITY CAR LEASE &	9484	35,539.81
P-555	GLOBAL CITY CAR LEASE &	9483	14,902.07
P-556	GLOBAL CITY CAR LEASE &	9501	197.68
P-557	GLOBAL CITY CAR LEASE &	9502	55,162.18
P-558	GLOBAL CITY CAR LEASE &	9505	25,795.34
P-559	GLOBAL CITY CAR LEASE &	9525	17,046.96
P-560	GLOBAL CITY CAR LEASE &	9524	309.64
P-561	GLOBAL CITY CAR LEASE &	9541	4,606.39
P-562	GLOBAL CITY CAR LEASE &	9542	6,464.04
P-563	GLOBAL CITY CAR LEASE &	9549	27,530.14
P-564	GLOBAL CITY CAR LEASE &	9547	11,458.71
P-565	GLOBAL CITY CAR LEASE &	9548	12,990.75
P-566	GLOBAL CITY CAR LEASE &	9553	25,094.89
P-567	GLOBAL CITY CAR LEASE &	9563	32,369.74
P-573	SALVADOR & ASSOCIATES,	7317	10,183.08
P-574	SALVADOR & ASSOCIATES,	7318	5,092.29
P-575	SALVADOR & ASSOCIATES,	7407	10,254.29
P-576	SALVADOR & ASSOCIATES,	7408	11,174.77
P-577	SANTA FE MOVING AND RELOCATION	8757	641.40
P-586	SGV & CO.	MK00005708	49,060.25
P-587	SGV & CO.	MK00005709	29,070.00

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P-588	SGV & CO.	MK00006664	2,908.09
P-589	SGV & CO.	MK00006663	228,300.00
P-590	SGV & CO.	MK00006662	129,722.49
P-591	SGV & CO.	MK00008289	3,600.00
P-592	SGV & CO.	MK00009280	5,985.21
P-593	SGV & CO.	MK00008724	2,550.00
P-595	SGV & CO.	MK00009279	3,600.00
P-597	SQ RESOURCES, INC.	52025	32,436.00
P-598	SQ RESOURCES, INC.	52026	3,261.15
P-599	SQ RESOURCES, INC.	52027	5,961.78
P-600	SQ RESOURCES, INC.	52028	18,510.99
P-601	SQ RESOURCES, INC.	52037	2,052.00
P-602	SQ RESOURCES, INC.	52458	6,732.00
P-603	SQ RESOURCES, INC.	52481	59,657.58
P-604	SQ RESOURCES, INC.	52467	9,540.00
P-605	Taurus Electrical Services	0088	12,931.43
P-606	Taurus Electrical Services	0089	431,047.72
P-607	Taurus Electrical Services	0095	61,460.52
P-608	Taurus Electrical Services	0092	19,640.33
P-609	TECOMA CORPORATION	01571	32,894.31
P-615	TOWERS WATSON PHILIPPINES INC.	24963	1,800.00
P-616	TOWERS WATSON PHILIPPINES INC.	24964	85,440.00
P-617	TOWERS WATSON PHILIPPINES INC.	24128	2,160.00
P-619	ZUNIEGA OLASO MACAPUNDAG	1530	120.00
P-620	ZUNIEGA OLASO MACAPUNDAG	1531	13,920.00
P-621	ZUNIEGA OLASO MACAPUNDAG	1538	3,495.00
P-624	ACCENTURE, INC.	12682	105,435.18
	Subtotal		***₱ 6,169,488.66***
3. Purchases of services supported by VAT ORs without the TIN of petitioner			
P-255	6-24 PROPERTY HOLDINGS INC.	3666	₱ 2,305,615.20
P-462	ePLDT INC.	14910	1,237,846.28
	Subtotal		***₱ 3,543,461.48***
4. Purchase of service supported by VAT OR but with alteration on the year of the date			
P-377	Johnson Controls IFM Phils. Co	3313	₱ 98,258.05
	Subtotal		***₱ 98,258.05***
5. Purchases of services supported by VAT ORs but with notation "not to be used for claim/not valid as source of input tax"			
P-623	ACCENT MICRO TECHNOLOGIES INC	69277	₱ 2,148.33
P-386	LANTRO PHILS INC	0405	7,962.48
P-387	LANTRO PHILS INC	0436	6,723.21
	Subtotal		***₱ 16,834.02***
6. Purchases of services supported by VAT ORs but without the BIR Authority to Print			
P-631	PLDT	PBMOR001227204	₱ 235.13
P-632	PLDT	PELOR000858865	4.27
P-633	PLDT	PBMOR001253406	235.13
P-634	PLDT	PELOR000892057	4.27
P-635	PLDT	PELOR000892059	4.27
P-636	PLDT	PBMOR001253408	235.13
P-637	PLDT	PELOR000892061	582.86
P-638	PLDT	PBMOR001253410	32,057.14
P-639	PLDT	PELOR000892062	2.72
P-642	PLDT	PELOR000892069	6.43
P-643	PLDT	PBMOR001253417	353.57
P-644	PLDT	PELOR000892056	4.27
P-645	PLDT	PBMOR001253405	235.13
P-648	PLDT	PBMOR001227201	235.13
P-649	PLDT	PELOR000858862	4.27
P-650	PLDT	PELOR000859370	4.27
P-651	PLDT	PBMOR001227205	235.13
P-652	PLDT	PELOR000859371	582.86

P-653	PLDT	PBMOR001227206	32,057.14
P-654	PLDT	PELOR000858868	2.70
P-655	PLDT	PBMOR001253411	149.89
P-656	PLDT	PBMOR001253416	151.09
P-657	PLDT	PELOR000859381	6.43
P-658	PLDT	PBMOR001227215	353.57
P-659	PLDT	PELOR000859367	4.27
P-660	PLDT	PBMMOR001227202	235.13
P-661	PLDT	PELOR000859368	2.87
P-662	PLDT	PBMOR001227203	157.84
P-663	PLDT	PELOR000859375	1.91
P-664	PLDT	PBMOR001227210	105.13
P-667	PLDT	PELOR000892065	1.91
P-668	PLDT	PBMOR001253414	105.13
P-671	PLDT	PELOR000892060	4.27
P-672	PLDT	PBMOR001253409	235.13
P-673	PLDT	PELOR000892058	2.87
P-674	PLDT	PBMOR001253407	157.84
P-675	PLDT	PELOR000892070	6.43
P-676	PLDT	PBMOR001253418	353.57
	Subtotal		***₱ 69,117.10***
7. Purchases of capital goods not exceeding ₱1M supported by VAT invoices w/ATPs dated between Jan. 1, 2011 to Jan. 17, 2013 not stamped "valid until October 31, 2013 only" in violation of RMC No. 52-2013.			
P-262	ACCENT MICRO TECHNOLOGIES INC	147619	₱ 482.14
P-263	ACCENT MICRO TECHNOLOGIES INC	147508	2,410.71
P-264	ACCENT MICRO TECHNOLOGIES INC	147735	6,292.99
P-265	ACCENT MICRO TECHNOLOGIES INC	147736	3,199.11
P-266	ACCENT MICRO TECHNOLOGIES INC	147734	1,446.43
P-267	ACCENT MICRO TECHNOLOGIES INC	147740	42.86
P-268	ACCENT MICRO TECHNOLOGIES INC	147739	42.86
P-269	ACCENT MICRO TECHNOLOGIES INC	147617	193.71
P-270	ACCENT MICRO TECHNOLOGIES INC	147795	964.29
P-271	ACCENT MICRO TECHNOLOGIES INC	147796	2,410.71
P-272	ACCENT MICRO TECHNOLOGIES INC	148086	4,821.43
P-273	ACCENT MICRO TECHNOLOGIES INC	147618	42.86
P-274	ACCENT MICRO TECHNOLOGIES INC	147989	42.86
P-275	ACCENT MICRO TECHNOLOGIES INC	147942	696.43
P-276	ACCENT MICRO TECHNOLOGIES INC	148087	964.29
P-277	ACCENT MICRO TECHNOLOGIES INC	147379	42.86
P-278	ACCENT MICRO TECHNOLOGIES INC	148645	6,292.99
P-279	ACCENT MICRO TECHNOLOGIES INC	149080	482.14
P-280	ACCENT MICRO TECHNOLOGIES INC	149081	482.14
P-281	ACCENT MICRO TECHNOLOGIES INC	148946	1,607.14
P-282	ACCENT MICRO TECHNOLOGIES INC	149082	42.86
P-283	ACCENT MICRO TECHNOLOGIES INC	148893	2,089.29
P-284	ACCENT MICRO TECHNOLOGIES INC	149294	4,821.43
P-285	ACCENT MICRO TECHNOLOGIES INC	149301	696.43
P-286	ACCENT MICRO TECHNOLOGIES INC	149133	12,585.98
P-287	ACCENT MICRO TECHNOLOGIES INC	149640	42.86
P-288	ACCENT MICRO TECHNOLOGIES INC	149642	6,292.99
P-289	ACCENT MICRO TECHNOLOGIES INC	149641	39,051.36
P-290	ACCENT MICRO TECHNOLOGIES INC	149298	2,410.71
	Subtotal		***₱ 100,994.86***
Grand Total			**₱10,174,946.65**

Thus, out of petitioner's total reported input VAT on current purchases of ₱24,020,395.21 for the second quarter of 2013, only the amount of ₱12,188,086.82 represents its valid input VAT, as computed hereunder:

Total Input VAT on Current Purchases per Returns		₱ 24,020,395.21
Less: Disallowances		
Per ICPA's findings	₱1,657,361.74	
Per Court's further verification	10,174,946.65	11,832,308.39
Valid Input VAT		**₱12,188,086.82**

However, a portion of the ₱12,188,086.82 shall be applied against the reported output VAT liability of ₱1,134,996.82[44]. Consequently, only the remaining input VAT of ₱11,053,090.00 can be attributed to the entire zero-rated sales amounting to ₱1,105,734,437.79 and only the input VAT of ₱5,225,189.50 is attributable to the valid zero-rated sales of ₱522,720,069.53, computed as follows:

Valid Input VAT	₱ 12,188,086.82
Less: Output tax due	1,134,996.82
Excess Input VAT	**₱11,053,090.00**
Divide by Total Declared Zero-Rated Sales	1,105,734,437.79
Multiply by Valid Zero-Rated Sales	522,720,069.53
Excess Input VAT attributable to Valid Zero-Rated Sales	**₱ 5,225,189.50**

Sixth Requisite: Excess input taxes were not applied against any output VAT liability

Although the claimed input VAT was carried-over by petitioner in its succeeding Quarterly VAT Returns[45], the same remained unutilized until it was deducted as "VAT Refund/TCC Claimed"[46] in its Amended Quarterly VAT Return for the first quarter of CY 2015. Thus, the excess input VAT of ₱155,729,598.48[47] as of the end of the first quarter of 2015, which was carried-over to the succeeding second quarter of 2015, no longer included the subject claim.

[44] Exhibit "P-3".
[45] Exhibits "P-3.1", "P-3.3", "P-3.4", "P-3.7", "P-3.9", "P-3.11", "P-3.15".
[46] Exhibit "P-3.15".
[47] Exhibit "P-3.15".

WHEREFORE, premises considered, the Petition for Review is **PARTIALLY GRANTED**. Accordingly, let a tax refund or a Tax Credit Certificate be issued in favor of petitioner in the reduced amount of **₱5,225,189.50**, representing its unutilized and excess input VAT attributable to zero-rated sales for the attributable to zero-rated sales for the second quarter of CY 2013.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

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

Catherine T. Manahan
CATHERINE T. MANAHAN
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, Second Division

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