REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Third Division

FINANCIAL TIMES ELECTRONIC PUBLISHING PHILIPPINES, INC.,
Petitioner,

CTA CASE NO. 9378

Members:

- versus -

UY, *Chairperson*
RINGPIS-LIBAN, *and*
MODESTO-SAN PEDRO, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated: SEP 17 2020
4:02p.m.

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DECISION

RINGPIS-LIBAN, J.:

The Case

This case is a *Petition for Review* filed on June 30, 2016 by Petitioner Financial Times Electronic Publishing Philippines, Inc. against Respondent Commissioner of Internal Revenue , praying for the issuance of a tax credit certificate ("TCC") in the amount of Php1,890,422.04, representing the alleged excess and unutilized input value-added tax ("VAT") directly attributable to its VAT zero-rated sales for the period April 01, 2014 to June 30, 2014.[1]

The Parties

Petitioner Financial Times Electronic Publishing Philippines, Inc. is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines.[2] It is duly registered with the Bureau of Internal Revenue

[1] Docket, Pre-Trial Order dated May 25, 2017, Statement of the Case, p. 324.
[2] *Id.*, Exhibits "P-1" and "P-2", pp. 457 to 470.

("BIR") with Certificate of Registration No. 8RC0000057578 and with Tax Identification Number ("TIN") 204-611-007-000.[3]

Respondent is empowered to perform the duties of his office, including acting upon protest cases and approval of claims for refund or tax credit as provided by law and implementing regulations.[4]

The Facts

On February 12, 2016, Petitioner filed with the BIR its administrative claim and *Application for Tax Credits / Refunds* (BIR Form No. 1914) of input VAT in the aggregate amount of Php1,890,422.04, for the period April 01, 2014 to June 30, 2014.[5]

Subsequently, the *Letter of Authority* ("LOA") No. eLA201200035789 dated March 02, 2016 was issued by the BIR, authorizing Revenue Officer Angeline Ifurung and Group Supervisor Roderick Cantillana of Revenue Region No. 8 - Revenue District Office No. 50 South Makati, to examine Petitioner's books of accounts and other accounting records for VAT for the period from April 01, 2014 to June 30, 2014, pursuant to Section 6(A) and 10(C) of the National Internal Revenue Code ("NIRC") of 1997, as amended.[6]

The instant *Petition for Review* was filed on June 30, 2016.[7] The case was initially raffled to this Court's First Division.

On September 30, 2016, Respondent filed his *Answer*,[8] interposing the following special and affirmative defenses, to wit:

> "**SPECIAL AND AFFIRMATIVE DEFENSES**
>
> 5. Respondent reproduces and repleads all the foregoing allegations insofar as they are relevant to his defenses which are discussed hereunder and incorporates them herein by way of reference and, in addition, most respectfully avers THAT:

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3 *Id.*, Joint Stipulation of Facts and Issues (JSFI), Par. B(1), p. 290; Exhibit "P-3", p. 471.
4 *Id.*, JSFI, Par. A, p. 290.
5 *Id.*, Exhibits "P-10" and "P-11", pp. 526 to 527.
6 *Id.*, JSFI, Pars. B(4) and (5), p. 291; Exhibit "P-16", p. 533.
7 *Id.*, pp. 12 to 33.
8 *Id.*, pp. 156 to 158.

6. Petitioner's alleged claim for issuance of tax credit certificate is still subject to administrative routinary investigation /examination by the Respondent Commissioner of Internal Revenue.

7. Taxes paid and collected are presumed to have been made in accordance with law, hence, not refundable.

8. Petitioner's claim for refund or issuance of tax credit certificate, if any, in the amount of Php1,890,422.04, representing alleged unutilized/excess input VAT for the second quarter (April 1, 2014 to June 30, 2014) of 2014, were not substantiated by proper documents, such sales invoices, official receipts and others pursuant to Revenue Regulations No. 7-95 in relation to Section[s] 113 and 237 of the 1997 Tax Code.

9. In an action for refund/credit, the burden of proof is on the Petitioner to establish its right to [the claimed] refund and failure to adduce sufficient proof is fatal to the claim for tax refund/credit.

10. It is incumbent upon the Petitioner to show that it has complied with the provisions under Section 204 (c) in relation to Section 229 of the Tax Code. Otherwise, its failure to prove the same is fatal to its claim for refund.

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

The pre-trial conference was initially set on February 23, 2017.[9] However, in view of Respondent's *Motion to Reset* filed on January 17, 2017,[10] the pre-trial conference was reset to, and held on, April 04, 2017.[11]

The *Pre-Trial Brief for the Petitioner* was filed on February 14, 2017,[12] while the *Pre-Trial Brief (for the Respondent)* was submitted on March 21, 2017.[13]

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[9] *Id.*, Notice of Pre-Trial Conference dated November 02, 2016, pp. 160 to 161.
[10] *Id.*, pp. 162 to 163.
[11] *Id.*, Order dated February 02, 2017, p. 165; Minutes of the hearing held on, and Order dated, April 04, 2017, pp. 266 to 269, and 271 to 273, respectively.
[12] *Id.*, pp. 167 to 178.
[13] *Id.*, pp. 275 to 276.

The parties filed their *Joint Stipulation of Facts and Issues* ("JSFI") on April 19, 2017.[14] In the Resolution dated May 2, 2017,[15] the Court approved the said JSFI and deemed the termination of the Pre-Trial. On May 25, 2017, the Court issued the Pre-Trial Order.[16]

The trial of the case proceeded.

During trial, Petitioner presented documentary and testimonial evidence. It offered the testimonies of the following individuals, namely: Mr. Paulito B. De Pano,[17] Petitioner's Financial Controller; and Ms. Annalyn B. Artuz,[18] the Court-commissioned Independent Certified Public Accountant ("ICPA").[19]

The *Report* of the ICPA was submitted on July 03, 2017.[20]

On August 30, 2017, Petitioner filed its *Formal Offer of Evidence.*[21] Respondent failed to file his comment thereto.[22] Thus, in the Resolution dated January 10, 2018,[23] the Court admitted Petitioner's Exhibits, *except* for Exhibit "P-3-A", for being certified by the ICPA as a *"faithful reproduction of* ***scanned copy***" only and not as faithful reproduction of the original or certified true copy."

Respondent, on the other hand, filed a *Manifestion,* on January 18, 2018, stating, among others, that he will no longer be presenting any evidence.[24]

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[14] *Id.*, pp. 290 to 298.
[15] *Id.*, p. 300.
[16] *Id.*, pp. 324 to 330.
[17] *Id.*, Exhibit "P-19", pp. 183 to 196; Minutes of the hearing held on, and Order dated, July 11, 2017, pp. 343 to 348.
[18] *Id.*, Exhibit "P-46", pp. 356 to 368; Order dated August 15, 2017, pp. 437 to 438.
[19] *Id.*, Oath of Commission dated June 01, 2017, p. 336; Exhibit "P-18", pp. 310 to 313; Minutes of the hearing held on, and Order dated, June 01, 2017, pp. 333 to 335, and 337 to 338, respectively.
[20] *Id.*, pp. 340 to 342, and 369 to 432.
[21] *Id.*, pp. 440 to 456.
[22] *Id.*, Records Verification dated September 14, 2017 issued by the Judicial Records Division of this Court, p. 650.
[23] *Id.*, pp. 657 to 659.
[24] *Id.*, pp. 660 to 661.

On January 25, 2018, Petitioner filed a *Motion for Reconsideration to the Resolution Dated January 10, 2018*,[25] praying, among others, for the admission of Exhibit "P-3-A". Petitioner failed to file its comment thereto.[26]

In the Resolution dated June 29, 2018,[27] the Court: (1) granted Petitioner's *Motion for Reconsideration* and admitted Exhibit "P-3-A"; (2) noted Respondent's *Manifestation*; and (3) gave the parties a period of thirty (30) days from notice to file their respective memorandum.

Petitioner filed its *Memorandum* on September 06, 2018, [28] while Respondent failed to file his memorandum.[29] In the Resolution dated November 12, 2018, the instant case was submitted for decision.

In the Order dated September 25, 2018,[30] the instant case was transferred to this Court's Third Division.

On March 03, 2019, Petitioner filed a *Motion for Substitution of Documentary Evidence and for Suspension of the Rendition of Decision*, praying that it be allowed to recall Mr. Paulito B. De Pano to testify and identify the SEC Certification of Non-Registration of Financial Times Limited, in order to prove that the latter is a non-resident foreign corporation not doing business in the Philippines; and for the Court to suspend or hold in abeyance the rendition of decision in the instant case. Respondent failed to file his comment to the said *Motion for Substitution*.

In the Resolution dated October 10, 2019, the Court granted Petitioner's *Motion for Substitution*; recalled the November 12, 2018 Resolution, submitting the instant case for decision; and set the hearing for the recall of Petitioner's witness, Mr. De Pano.

At the hearing held on October 15, 2019, Petitioner's counsel recalled to the witness stand Mr. De Pano and offered Exhibit "P-33-a", as part of its documentary evidence. In the same hearing, the Court admitted said exhibit and, thus, treated Petitioner's *Motion for Substitution of Documentary Evidence* as a *Motion to Present Additional Documentary Evidence*; and submitted anew the instant case for decision.

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[25] *Id.*, pp. 663 to 667.

[26] *Id.*, Records Verification dated March 09, 2018 issued by the Judicial Records Division of this Court, p. 671.

[27] *Id.*, pp. 676 to 678.

[28] *Id.*, pp. 685 to 712.

[29] *Id.*, Records Verification dated September 20, 2018 issued by the Judicial Records Division of this Court, p. 714; Records Verification dated October 26, 2018 issued by the Judicial Records Division of this Court, p. 717.

[30] *Id.*, p. 716.

The Issue

The issue raised in this case is:

> "WHETHER OR NOT THE PETITIONER IS ENTITLED FOR THE ISSUANCE OF TAX CREDIT CERTIFICATES FOR THE EXCESS AND UNUTILIZED INPUT VALUE ADDED TAX (VAT) DIRECTLY ATTRIBUTABLE TO ITS VAT ZERO-RATED SALES FOR THE PERIOD FROM APRIL 1, 2014 TO JUNE 30, 2014 AMOUNTING TO P1,890,422.04".[31]

Petitioner's arguments:

Petitioner primarily argues that it is entitled to the issuance of TCC of its unutilized input VAT on its purchases of goods and services attributable to its zero-rated sales. In support thereof, Petitioner points out that it is a VAT-registered entity; that it is engaged in zero-rated or effectively zero-rated sales; that the input taxes being claimed are due or paid and have not been applied against output taxes during the quarter and in the succeeding quarters; that the input taxes being claimed are attributable to zero-rated or effectively zero-rated sales; that the claim is filed within two (2) years after the close of the taxable quarter when such sales were made; and that Petitioner seasonably filed the instant *Petition for Review* to the Court against the "deemed denial decision" due to inaction of the Respondent after the lapse of the mandatory 120-day period under Section 112(C) of the NIRC of 1997, as amended.

Respondent's counter-arguments:

In his *Answer*, Respondent contends that alleged claim for issuance of tax credit certificate is still subject to administrative routinary investigation /examination by the Respondent; that taxes paid and collected are presumed to have been made in accordance with law, hence, not refundable; that Petitioner's claim for refund or issuance of TCC in the amount of Php1,890,422.04, representing alleged unutilized/excess input VAT for the 2nd quarter (*i.e.,* April 01, 2014 to June 30, 2014) for the calendar year of 2014 were not substantiated by proper documents, such sales invoices, official receipts and others documents, pursuant to Revenue Regulations ("RR") No. 7-95 in relation to Section 113 and 237 of the NIRC of 1997, as amended; that in an action for refund/credit, the

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[31] *Id.*, JSFI, Par. C, p. 291.

burden of proof is on the Petitioner to establish its right to claim the refund, and failure to adduce sufficient proof is fatal to the claim for tax refund/credit; that it is incumbent upon the Petitioner to show that it has complied with the provisions under Section 204(c) in relation to Section 229 of the NIRC of 1997, as amended; and that claims for refund are construed strictly against herein Petitioner since the same partakes the nature of exemption from taxation, and as such, they are looked upon with disfavor.

Discussion/Ruling

The Court partially grants the instant *Petition for Review.*

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

Pertinent to the resolution of the instant case are paragraphs (A) and (C) of Section 112 of the NIRC of 1997, as amended, which read as follows:

> "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: xxx.
>
> xxx xxx xxx

> (C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.*— In proper cases, the Commissioner shall grant a refund or issue a tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.
>
> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals."

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

> <u>As to the timeliness of the filing of the administrative and judicial claims:</u>
> 1. the claim is filed with the BIR within two years after the close of the taxable quarter when the sales were made;[32]
> 2. that in case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act on the said claim within a period of 120 days, the judicial claim has been filed with this Court, within 30 days from receipt of the decision or after the expiration of the said 120-day period;[33]
>
> <u>With reference to the taxpayer's registration with the BIR:</u>
> 3. the taxpayer is a VAT-registered person;[34]

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32 Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 155732, April 27, 2007; San Roque Power Corporation v. Commissioner of Internal Revenue, G.R. No. 180345, November 25, 2009; and AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 182364, August 03, 2010.

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

34 Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 155732, April 27, 2007; San Roque Power Corporation v. Commissioner of Internal Revenue, G.R. No. 180345, November 25, 2009; and AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 182364, August 03, 2010.

<u>In relation to the taxpayer's output VAT:</u>

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[35]
5. for zero-rated sales under Sections 106(A)(2)(1) and (2); 106(B); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with Bangko Sentral ng Pilipinas ("BSP") rules and regulations;[36]

<u>As regards the taxpayer's input VAT being refunded:</u>

6. the input taxes are not transitional input taxes;[37]
7. the input taxes are due or paid;[38]
8. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales 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;[39] and
9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[40]

Relative thereto, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove <u>every minute aspect</u> of their case.[41] Thus, it behooves Petitioner to show full compliance with each of the foregoing requisites.

Petitioner's administrative and judicial claims were timely filed.

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35 *Id.*

36 *Id.*

37 *Id.*

38 *Id.*

39 Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 155732, April 27, 2007 and San Roque Power Corporation v. Commissioner of Internal Revenue, G.R. No. 180345, November 25, 2009..

40 Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 155732, April 27, 2007; San Roque Power Corporation v. Commissioner of Internal Revenue, G.R. No. 180345, November 25, 2009; and AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 182364, August 03, 2010..

41 Edison (Bataan) Cogeneration Corporation v. Commissioner of Internal Revenue, Et al., G.R. Nos. 201665 and 201668, August 30, 2017; Commissioner of Internal Revenue v. Philippine National Bank, G.R. No. 180290, September 29, 2014; Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc., G.R. No. 197515, July 02, 2014; Dizon v. Court of Tax Appeals, Et al., G.R. No. 140944, April 30, 2008; Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue, G.R. No. 145526, March 16, 2007; and Commissioner of Internal Revenue v. Manila Mining Corporation, G.R. No. 153204, August 31, 2005.

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

The present claim covers the 2nd quarter of 2014, which closed on June 30, 2014. Counting two (2) years from the said date, Petitioner had until June 30, 2016, within which to file its administrative claim for tax credit or refund. Thus, Petitioner's administrative claim was timely filed with the BIR on February 12, 2016.[42]

The *second* requisite is to the effect that the judicial claim must have been filed within thirty (30) days from receipt of Respondent's decision or after the expiration of the 120-day period under Section 112(C) of the NIRC of 1997, as amended. Considering that there is no indication that Respondent issued a decision relative to Petitioner's administrative claim, the determination of the 120+30-day period, as applied to this case, is shown as follows:

Date of Filing of Administrative Claim	End of 120 days for Respondent to decide on the claim	End of 30 days from the expiration of the 120 days
February 12, 2016	June 11, 2016	July 11, 2016

Thus, Petitioner timely filed the instant *Petition for Review* on June 30, 2016.

Such being the case, Petitioner clearly complied with the above-stated *first* and *second* requisites.

Petitioner is a VAT-registered taxpayer.

As for its compliance with the *third* requisite, Petitioner was able to comply with the parties admitted the genuniness and authenticity of BIR Certificate of Registration No. OCN 8RC0000057578 and TIN No. 204-611-007-000, indicating therein that Petitioner is liable to VAT.[43]

Petitioner was able to establish that it was engaged in zero-rated sales or

[42] Docket, Exhibits P-10 to P-13, pp. 526 to 529.
[43] *Id.*, JSFI, Par. B(1), p. 290; Exhibit "P-3", p. 471.

effectively zero-rated sales during the 2nd quarter of 2014.

Petitioner's witness, Mr. Paulito B. De Pano,[44] testified that Petitioner has rendered accounting services and business support services to Financial Times Limited which was described by the latter as *"a non-resident person not engaged in business who was outside the Philippines when the services were performed, and the consideration for which was paid for and inwardly remitted in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas."* It is for such reason that Petitioner claims that the services it rendered to Financial Times Limited was subject to zero percent (0%) VAT, pursuant to Section 108(B)(2) of the NIRC of 1997, as implemented by Section 4.108-5(b)(2) of RR No. 16-05.

The Court finds the foregoing contention tenable.

Section 108(B)(2) of the NIRC of 1997, as amended, states:

> "SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* –
>
> xxx xxx xxx
>
> (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:**
>
> (1) Processing, manufacturing or repacking of goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
>
> (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**

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[44] *Id.*, Exhibit "P-19", Answer to Question No. 19, p. 187.

regulations of the Bangko Sentral ng Pilipinas (BSP);" *(Emphases supplied)*

Based on the foregoing provision, certain essential elements must be present for a sale or supply of services to be subject to the VAT rate of zero percent (0%), under Section 108(B)(2) of the NIRC of 1997, as amended, to wit:

1) The recipient of the services is a foreign corporation, and the said corporation is doing business *outside* the Philippines, or is a non-resident person not engaged in business who is *outside* the Philippines when the services are performed;[45]

2) The services fall under any of the categories under Section 108(8)(2),[46] or simply, the services rendered should be other than *"processing, manufacturing or repacking goods"*;[47]

3) The service must be performed in the Philippines[48] by a VAT-registered person; and

4) The payment for such services should be in acceptable foreign currency accounted for in accordance with BSP rules.[49]

In this case, Petitioner was able to establish compliance with the *first* essential element when it presented the following documentary evidence, to wit: (1) the *Certification of Non-Registration of Company* dated March 07, 2019,[50] issued by the Securities and Exchange Commission ("SEC"), stating therein that the records of the latter do not show the registration of Petitioner's sole client, Financial Times Limited, as a corporation or as a partnership; and (2) the *Authenticated Articles of Incorporation of Financial Times Limited* dated February 13, 2017, issued by the Companies Registration Office for England and Wales, in favor of the same client.[51] The former document proves that the said client is

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[45] Sitel Philippines Corporation (Formerly Clientlogic Phils. Inc.) v. Commissioner of Internal Revenue, G.R. No. 201326, February 08, 2017; Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc., G.R. No. 153205, January 22, 2007; Accenture, Inc. v. Commissioner of Internal Revenue, G.R. No. 190102, July 11,2012.

[46] Commissioner of Internal Revenue v. American Express International, Inc. (Philippine Branch), supra.

[47] Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc., G.R. No. 153205, January 22, 2007

[48] Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc., G.R. No. 153205, January 22, 2007 and Commissioner of Internal Revenue v. American Express International, Inc. (Philippine Branch), G.R. No. 152609, June 29, 2005.

[49] *Id.*

[50] Exhibit P-33-a.

[51] Docket, Exhibit P-4, pp. 472 to 477.

not doing business in the Philippines; while the latter document shows that the same client is doing business outside the Philippines. Taken together, the said documents duly established Financial Times Limited as a non-resident foreign corporation not engaged in business within the Philippines.

As regards the *second* essential element, records reveal that Petitioner is licensed by the SEC under Company Registration No. A199919180[52] "to engage in and carry on the business of financial and corporate information data collection facility in the Philippines and generally to perform any and all acts connected with the business aforementioned or arising therefrom or incidental thereto as may be allowed by law."[53]

In line with the aforesaid registered activity, Petitioner entered into a Service Agreement[54] with The Financial Times Limited, whereby it agreed to supply the The Financial Times Limited Group Companies accounting process and support services, as well as, business support services.[55]

Evidently, Petitioner complied with the *second* essential element, since the said services are not in the same category as "*processing, manufacturing or repacking of goods*".

As for the *third* essential element, Petitioner was able to establish that the subject services were performed in the Philippines. It was clearly stated in the *Service Agreement* that the supply of accounting and business support services are to be rendered in the "Territory", which is "Philippines".[56]

Relative to the *fourth* essential element, Petitioner presented the Certificate of Bank Inward Remittance issued by HSBC on May 06, 2015, purportedly showing the remittances of Financial Times Limited. Considering that the certification (or proof) of inward remittances attests to the fact of payment "*in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP*", Petitioner is considered to have complied with the above-stated *fourth* essential element.[57]

However, equally important to consider is that the said foreign currency remittances referred to under Section 108(B)(2) must be duly supported by VAT zero-rated official receipts in accordance with Sections 113(A)(2), (B)(1), (2)(c)

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[52] *Id.*, Exhibit P-1, p. 457.
[53] *Id.*, Exhibit P-2-A, p. 458.
[54] *Id.*, Exhibit P-5, 478 to 491.
[55] *Id.*, Exhibits P-5-B and P-5-C, pp. 480 to 481.
[56] *Id.*, Exhibit "P-5-A", p. 480.
[57] Exhibit P-25.

and (3) of the NIRC of 1997, as amended, as implemented by Sections 4.113-1(A)(2), B(1) and (2)(c) of RR No. 16-05, which 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 VAT official receipt 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 **'zero-rated sale'** shall be written or printed prominently on the invoice or receipt;
>
> xxx xxx xxx
>
> (3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; 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*)

In the instant case, apart from the above-stated certificate of bank inward remittance, Petitioner also presented its Sales Transaction – Reconciliation of

Listing for Enforcement,[58] Summary List of Sales,[59] and the related official receipts[60] purportedly supporting its total declared zero-rated sales in the amount of Php96,103,494.22[61].

Based on the submitted summary list of sales and official receipts, the zero-rated sales of Php96,103,494.22 can be broken down as follows:

Received From	Exhibit (OR)	OR Date	Bank Remittance Reference	Amount in US Dollar	Amount in Peso
Financial Times (HK) Ltd.	"P-24-A"	4/29/2014	HK115044HN848697		114,884.70
Financial Times (HK) Ltd.	"P-24-B"	5/22/2014	HK109054HN385533		77,252.97
Financial Times (Japan) Ltd.	"P-24-C"	5/29/2014	TT TKY814770MNLN		33,418.71
Financial Times (UK) Ltd.	"P-24-D"	5/22/2014	136411262	1,408,715.00	61,089,489.46
Financial Time (Beijing) Ltd.	"P-24-E"	5/29/2014	136428138	472.74	20,500.56
Financial Times (UK) Ltd.	"P-24-F"	6/16/2014	163407273	795,327.00	34,489,673.49
-			167407673	472.38	20,484.95
Financial Times (HK) Ltd.	"P-24-G"	6/16/2014	HK113064HN483003		251,635.00
-			TT TKY818587MNLN		5,758.20
-					396.19
TOTAL				**2,204,987.12**	**96,103,494.23**[62]

Based on the foregoing, only the sales amounting to Php95,579,162.95 (Php61,089,489.46 plus Php34,489,673.49) qualify for VAT zero-rating, pursuant to Section 108(B)(2) of the NIRC of 1997, as amended. This must be so because the same were made to Financial Times (UK) Limited and were duly supported by certificate (proof) of inward remittances and zero-rated official receipts.

Having found that Petitioner had valid VAT zero-rated sales in the total amount of Php95,579,162.95 for the subject period of claim, the Court shall proceed to determine whether Petitioner complied with the remaining requisites pertaining to the input VAT being claimed for the issuance of TCC.

The input VAT being claimed does not appear to be transitional input taxes.

58 Docket, Exhibit P-9, pp. 523 to 525.
59 Exhibits P-23.
60 Exhibits P-24-A to P-24-H.
61 Docket, Line 17 of Exhibit P-7, p. 497.
62 With difference of Php0.01 due to rounding off.

In its Quarterly VAT Return for the 2nd quarter of 2014, Petitioner has declared a total input VAT of Php1,890,422.03 from its current domestic purchases of goods other than capital goods and services, as shown below:

Input VAT on:	Amount
Domestic Purchases of Goods Other than Capital Goods	Php 190,655.60
Domestic Purchases of Services	1,699,766.43
Total	**Php1,890,422.03**

The above input taxes do not appear to be transitional input taxes, as contemplated under Section 111(A) of the NIRC of 1997, as amended, to wit:

> "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 the 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."

Transitional input tax credit operates to benefit newly VAT-registered persons, whether or not they previously paid taxes in the acquisition of their beginning inventory of goods, materials and supplies. During that period of transition from non-VAT to VAT status, the transitional input tax credit serves to alleviate the impact of the VAT on the taxpayer.[63]

Since there is no showing that the above-stated input VAT are transitional input VAT, Petitioner has complied with the *sixth* requisite for the issuance of TCC.

Petitioner had input taxes due and paid which are attributable to its zero-rated sales.

[63] Fort Bonifacio Development Corporation v. Commissioner of Internal Revenue, G.R. Nos. 158885 and 170680, April 2, 2009.

In the instant case, the subject claim covers the alleged unutilized input VAT amount of Php1,890,422.03. To support such claim, Petitioner submitted the computer print-outs of Purchase Transaction – Reconciliation of Listing Enforcement[64] and the related invoices and official receipts[65] issued by its suppliers, which were duly examined by the ICPA, Ms. Analyn B. Artuz of Constantino Guadalquiver & Co.

In her *Report*, the ICPA summarized her findings as follows:[66]

Observations	Reference	Input VAT
1. Domestic purchases of goods properly supported by VAT invoices	Annex 5-1	Php 159,269.27
2. Domestic purchases of services properly supported by VAT ORs	Annex 5-2	1,075,760.71
3. Domestic purchases of goods properly supported by VAT invoices **not dated within the VAT-taxable quarter** but dated within the VAT-taxable year.[67]	Annex 5-3	5,743.40
4. Domestic purchases of services properly supported by VAT ORs **not dated within the VAT-taxable quarter** but dated within the VAT-taxable year.[68]	Annex 5-4	261,722.75
5. Domestic purchases of services supported by documents **other than VAT ORs**.[69]	Annex 5-5	270,185.05
6. Domestic purchases of goods and services supported by VAT invoices and VAT ORs issued in the Petitioner's correct name and address, but **without or with wrong Petitioner's TIN**.[70]	Annex 5-6	67,351.41
7. Domestic purchases of goods and services supported by VAT invoices and VAT ORs issued in the Petitioner's correct name and TIN, but **without or with wrong Petitioner's address**.[71]	Annex 5-7	50,389.45
	Total	**Php1,890,422.04**

Based on the foregoing, the input VAT in the total amount of Php655,392.06[72] *(items 3 to 7)* should be disallowed for not being properly substantiated by VAT invoices or official receipts as prescribed under Sections 110(A), 113(A) and (B), 237 and 238 of the NIRC of 1997, as amended, in relation to Sections 4.110-2, 4.110-8 and 4.113-1 of RR No. 16-05, as amended.

64 Exhibit P-8.
65 Exhibits P-34-1 to P-34-154.
66 Exhibit P-20, Table 11, p. 11.
67 Violates Section 110(A)(2)(a) of the NIRC of 1997, as amended, and as implemented by Section 4.110-2(b) of RR No. 16-05.
68 Violates Section 110(A)(2)(b) of the NIRC of 1997, as amended, and as implemented by Section 4.110-2(c) of RR No. 16-05.
69 Violates Section 110(A)(1), in relation to Sections 113(A)(2) and 237 of the NIRC of 1997, as amended, and as implemented by Sections 4.110-8(4) and 4.113-1(A)(2) of RR No. 16-05.
70 Violates Sections 113(B)(4) of the NIRC of 1997, as amended, and as implemented by Section 4.113-1(A), (B)(3) of RR No. 16-05.
71 Violates Sections 113(B)(4) of the NIRC of 1997, as amended, and as implemented by Section 4.113-1(A), (B)(3) of RR No. 16-05.
72 Sum of Php5,743.40, Php261,722.75, Php270,185.05, Php67,351.41 and Php50,389.45.

In addition, the input VAT in the amount of Php2,604.99 issued by Spectrum Security Services, Inc., which is included in ICPA's observation no. 2 (Annex 5-2, p. 4), should likewise be disallowed. The official receipt[73] supporting the said amount did not indicate the date when the same was issued, in violation of Section 113(B)(3) of the NIRC of 1997, as amended.

Thus, only the amount of Php1,232,424.99, which is validly supported by VAT official receipts and invoices, represents Petitioner's valid input VAT for the 2nd quarter of 2014, determined as follows:

Exhibit	Vendor's Name	Invoice / O.R. No.	Date	INPUT VAT CLAIMED
Input VAT Due on Domestic Purchases of Goods (Other than Capital Goods) properly supported by VAT invoices				
"P-34-3"	Asian Communication Edge Philippines Incorporated	14478	11-Apr-14	Php 825.00
"P-34-6"	Diskuwento Office Furniture Corporation	0503	25-Mar-14	2,603.57
"P-34-16"	Integrated Computer Systems Incorporated	310177400	04-Apr-14	7,813.93
"P-34-36"	Ray Nier Marketing Incorporated	151124	08-Apr-14	250.66
"P-34-36"	Ray Nier Marketing Incorporated	151125	08-Apr-14	1,827.75
"P-34-44"	Technicom Electronics Corporation	8698	01-Apr-14	7,457.14
"P-34-44"	Technicom Electronics Corporation	8812	15-Apr-14	4,757.14
"P-34-60"	Care 1st Corporation	15743	15-Apr-14	1,299.43
"P-34-60"	Care 1st Corporation	15863	14-Apr-14	1,644.43
"P-34-76"	Integrated Computer Systems Incorporated	210075459	28-Apr-14	93,857.14
"P-34-76"	Integrated Computer Systems Incorporated	310179490	15-May-14	5,799.11
"P-34-76"	Integrated Computer Systems Incorporated	310179558	16-May-14	857.14
"P-34-77"	Integrated Computer Systems Incorporated	210075462	28-Apr-14	8,678.57
"P-34-78"	Integrated Computer Systems Incorporated	210075639	05-May-14	12,857.14
"P-34-114"	Care 1st Corporation	16227	10-May-14	1,840.82
"P-34-114"	Care 1st Corporation	16226	10-May-14	2,083.50
"P-34-124"	Kardco Marketing Incorporated	23003	23-May-14	510.00
"P-34-143"	Technicom Electronics Corporation	9089	26-May-14	3,214.29
"P-34-148"	Water Essence Enterprises Corporation	186127	05-May-14	63.75
"P-34-148"	Water Essence Enterprises Corporation	186142	06-May-14	37.50
"P-34-148"	Water Essence Enterprises Corporation	186179	15-May-14	60.00
"P-34-148"	Water Essence Enterprises Corporation	186207	08-May-14	56.25
"P-34-148"	Water Essence Enterprises Corporation	186208	09-May-14	45.00
"P-34-148"	Water Essence Enterprises Corporation	186321	28-May-14	56.25
"P-34-149"	Water Essence Enterprises Corporation	186145	07-May-14	63.75
"P-34-149"	Water Essence Enterprises Corporation	186195	21-May-14	52.50
"P-34-151"	Forever Agape And Glory Inc	000219	18-May-14	198.16
"P-34-152"	Meridien Business Leader Inc.	14-000011484	18-May-14	145.66
"P-34-153"	Meridien Business Leader Inc.	20-000008083	18-May-14	313.69
subtotal				**Php 159,269.27**
Input VAT Paid on Domestic Purchases of Service properly supported by VAT ORs				

[73] Exhibit P-34-99.

"P-34-1"	Ascott Makati Inc.	70715	11-Apr-14	Php 71.72
"P-34-2"	Dhl Express Philippines Corp.	2502209	25-Apr-14	512.00
"P-34-4"	Dhl Express Philippines Corp.	2519414	16-May-14	8,498.00
"P-34-5"	Dhl Express Philippines Corp.	2502208	25-Apr-14	363.00
"P-34-7"	EPLDT Incorporated	22295	09-May-14	10,691.46
"P-34-8"	Fitness First Philippines Inc.	41457	25-Apr-14	13,644.00
"P-34-9"	Froehlich Tours Inc.	5129	23-Apr-14	1,285.71
"P-34-10"	Fuji Xerox Philippines Incorporated	211101	09-May-14	3,900.00
"P-34-11"	Globe Telecom Inc.	GTWR-8175	15-Apr-14	119.50
"P-34-12"	Globe Telecom Inc.	GTWR-8174	15-Apr-14	78.06
"P-34-13"	Globe Telecom Inc.	GTWR-8173	15-Apr-14	192.80
"P-34-15"	Innove Communications	IABDBD-1765	24-Apr-14	192.56
"P-34-17"	John Ivy Home Furnishings	0651	23-May-14	3,600.00
"P-34-18"	Lane Archive Technologies Corporation	39733	09-May-14	4,771.39
"P-34-19"	Manila Peninsula Hotel Incorporated	067595	02-May-14	8,166.61
"P-34-22"	Northstar International Travel Incorporated	1504	11-Jul-14	53.88
"P-34-24"	Northstar International Travel Incorporated	159220	25-Apr-14	162.36
"P-34-25"	Philamlife Tower Condominium Corporation	63831	21-Apr-14	40,222.56
"P-34-26"	Philamlife Tower Condominium Corporation	63882	24-Apr-14	28,846.57
"P-34-27"	Philamlife Tower Condominium Corporation	63915	30-Apr-14	208.50
"P-34-28"	Philamlife Tower Condominium Corporation	64004	02-May-14	118.52
"P-34-29"	Philamlife Tower Condominium Corporation	64005	02-May-14	420.00
"P-34-34"	Ponce Enrile Reyes And Manalastas	21347	11-Apr-14	600.00
"P-34-35"	Q Software Research Corporation	2082	25-Apr-14	8,190.00
"P-34-37"	Rems Electrical Services	0515	25-Apr-14	1,674.00
"P-34-38"	Rems Electrical Services	0518	06-May-14	7,534.29
"P-34-43"	Spectrum Security Services Incorporated	12021	25-Apr-14	2,604.99
"P-34-57"	Altamar Janitorial Services Inc	2624	06-Jun-14	7,256.30
"P-34-62"	DHL Express Philippines Corp.	2519411	16-May-14	67.00
"P-34-63"	DHL Express Philippines Corp.	2519412	16-May-14	289.00
"P-34-64"	DHL Express Philippines Corp.	2538116	13-Jun-14	798.00
"P-34-65"	DHL Express Philippines Corp.	2538117	13-Jun-14	1,551.00
"P-34-68"	Fitness First Philippines Inc.	41466	23-May-14	13,794.23
"P-34-69"	Froehlich Tours Inc.	5130	17-May-14	1,285.71
"P-34-70"	FTL Hotels Inc.	51954	16-May-14	654.00
"P-34-71"	Fuji Xerox Philippines Incorporated	211789	13-Jun-14	7,505.03
"P-34-72"	Fuji Xerox Philippines Incorporated	211149	16-May-14	5,559.48
"P-34-73"	Globe Telecom Inc.	GTWR-9463	13-May-14	87.87
"P-34-74"	Govestco Design And Construction	00106	20-May-14	18,504.00
"P-34-75"	Innove Communications	IABDBD-2211	23-May-14	192.56
"P-34-80"	Jobstreetcom Philippines Inc.	136587	30-May-14	26,400.00
"P-34-81"	Lane Archive Technologies Corporation	43434	25-Jul-14	141.06
"P-34-84"	Philamlife Tower Condominium Corporation	64157	20-May-14	91,666.28
"P-34-84"	Philamlife Tower Condominium Corporation	64158	20-May-14	201.84
"P-34-85"	Philamlife Tower Condominium Corporation	64269	05-Jun-14	420.00
"P-34-89"	Ponce Enrile Reyes And Manalastas	21520	16-Jun-14	600.00
"P-34-90"	Quaerito Qualitas Incorporated	9009	30-May-14	31,200.00
"P-34-91"	Quaerito Qualitas Incorporated	8949	16-May-14	31,200.00
"P-34-92"	Rems Electrical Services	520	23-May-14	2,387.00

"P-34-93"	Rems Electrical Services	519	23-May-14	1,446.00
"P-34-94"	Rems Electrical Services	521	30-May-14	4,264.29
"P-34-100"	Supermax Janitorial And General Services	6818	30-May-14	4,504.62
"P-34-101"	The Philippine American Life And General Insurance Company	2000002636	09-May-14	213,117.60
"P-34-102"	The Talkshop Learning And Training Centre	11663	16-May-14	49,090.91
"P-34-107"	Rustan Coffe Corporation	23522	26-May-14	21.96
"P-34-112"	Altamar Janitorial Services Inc.	2626	04-Jul-14	2,026.97
"P-34-115"	DHL Express Philippines Corp.	2538115	13-Jun-14	67.00
"P-34-116"	DHL Express Philippines Corp.	2538114	13-Jun-14	421.00
"P-34-119"	Fitness First Philippines Inc	41548	27-Jun-14	13,318.08
"P-34-120"	Fuji Xerox Philippines Incorporated	211790	13-Jun-14	3,756.00
"P-34-121"	Globe Telecom Inc	GTWR-1211	13-Jun-14	85.71
"P-34-129"	Philamlife Tower Condominium Corporation	64414	20-Jun-14	85,527.37
"P-34-131"	Philamlife Tower Condominium Corporation	64411	20-Jun-14	225.47
"P-34-130"	Philamlife Tower Condominium Corporation	64412	20-Jun-14	199.28
"P-34-136"	Ponce Enrile Reyes And Manalastas	21675	13-Jun-14	600.00
"P-34-138"	Rems Electrical Services	0523	20-Jun-14	5,652.00
"P-34-142"	Spectrum Security Services Incorporated	12107	27-Jun-14	2,604.99
"P-34-144"	The Philippine American Life And General Insurance Company	2000002783	06-Jun-14	227,161.80
"P-34-145"	The Talkshop Learning And Training Centre	11717	27-Jun-14	62,181.82
"P-34-147"	Trends Net Inc.	2305	04-Jul-14	8,400.00
subtotal				**Php1,073,155.72**
TOTAL				**Php1,232,424.99**

Considering that Petitioner had no other type of sales except zero-rated sales, the entire substantiated excess input VAT of Php1,232,424.99 is attributable thereto. Moreover, the ICPA ascertained that the input taxes for the 2nd quarter of 2014 are directly attributable to its zero-rated sales for the same period.

But as determined earlier, out of Petitioner's declared sales of Php96,103,494.22, only the amount of Php95,579,162.95 qualifies for VAT zero-rating. Consequently, only the input VAT of Php1,225,701.00 is attributable to the said valid zero-rated sales of Php95,579,162.95 and, thus, may be validly claim for TCC, computed as follows:

Valid Input VAT	Php1,232,424.99
Divide by Declared Zero-Rated Sales	96,103,494.22
Multiply by Valid Zero-Rated Sales	95,579,162.95
Valid Input VAT attributable to Valid Zero-Rated Sales	**Php1,225,701.00**

The subject input taxes have not been applied against output taxes in the succeeding quarters.

Lastly, Petitioner was able to prove that the claimed input VAT of Php1,890,422.04 for the 2nd quarter of 2014 was not applied against any output VAT in the succeeding quarters and the same remained unutilized as the said amount was deducted as "*VAT Refund/TCC claimed*" in its Quarterly VAT Return for the 3rd quarter of 2014.[74] Apparently, the subject claim no longer formed part of the excess input VAT of Php1,999,768.88[75] as of the end of the 3rd quarter of 2014 that 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/ies.

In sum, Petitioner is entitled to the issuance of TCC in the amount of Php1,225,701.00.

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, Respondent is ordered to issue a tax credit certificate in favor of Petitioner the amount of **Php1,225,701.00**, representing the latter's unutilized excess input VAT arising from its local purchases of goods and services directly attributable to its zero-rated sales for the 2nd quarter of calendar year 2014.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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[74] Line 23D of Exhibit P-14, Docket – Vol. 2, p. 530.
[75] Line 29 of Exhibit P-14, Docket – Vol. 2, p. 531.

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.

ERLINDA P. UY
Associate Justice
Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice