

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

THIRD DIVISION

**STEFANINI PHILIPPINES
INC.,**

CTA Case No. 10920

Petitioner, Present:

MANAHAN, Chairperson,
REYES-FAJARDO, and
ANGELES, JJ.

-versus-

**COMMISSIONER OF
INTERNAL REVENUE,**

Promulgated:

Respondent.

MAR 25 2025

1:20 p.m.

X-----X

D E C I S I O N

ANGELES, J.:

THE CASE

Before the Court is a Petition for Review filed by Stefanini Philippines Inc. against the Commissioner of Internal Revenue (CIR), praying for the refund or tax credit of the amount of ₱974,625.30, representing petitioner's unutilized input Value-Added Tax (VAT) attributable to its zero-rated sales for the 1st quarter of calendar year (CY) 2020 (in addition to the amount of ₱1,181,425.41 already granted by respondent to petitioner in the latter's administrative claim for refund under *VAT Refund Notice* dated June 8, 2022).

ANTECEDENT FACTS

Petitioner is a corporation duly organized and existing under Philippine laws.¹ It is engaged in the Philippines in the business of providing business process outsource solutions and allied contact or call center services, both as principal and agent.² It is registered with

¹ *Compliance* (Joint Stipulation of Facts and Issues) dated February 14, 2023, Docket – Vol. I, p. 302.

² *Id.*

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 2 of 32

the Bureau of Internal Revenue (BIR) as a VAT taxpayer with Taxpayer Identification No. (TIN) 006-960-314-000.³

Respondent is the duly appointed Commissioner of Internal Revenue empowered to perform the duties of his office, including among others, the duty to act upon and approve claims for refund or tax credit as provided by law.⁴

Petitioner claims that during the 1st quarter of CY 2020, it rendered services (i.e., business process outsource solutions and contact or call center services) in the Philippines to its non-resident foreign affiliates engaged in business conducted outside the Philippines, specified as follows:

1. Stefanini, Inc.;
2. Stefanini Australia Pty Ltd.;
3. Stefanini or Stefanini NV/SA;
4. Stefanini UK Ltd.; and
5. Stefanini Canada.⁵

Petitioner also claims that during the same period, it paid input VAT relating to its domestic purchases of goods and services attributable to the aforementioned sale of services.⁶

On February 14, 2022, petitioner filed with the BIR its third amended *Quarterly VAT Return* for the 1st quarter of CY 2020, reporting accumulated excess input tax attributable to zero-rated sales in the amount of ₱57,925,237.41.⁷

Subsequently, on March 24, 2022, petitioner filed its amended *Quarterly VAT Return* for the 4th quarter of CY 2021, deducting therefrom accumulated unutilized input tax claimed for refund or tax credit in the amount of ₱2,156,050.71.⁸

Petitioner then filed with the BIR on March 31, 2022 an *Application for Tax Credits/Refunds* (BIR Form No. 1914), claiming for refund of its excess and unutilized input VAT for the 1st quarter of CY 2020 in the amount of ₱2,156,050.71.⁹

³ Exhibit "P-4" and "P-5", Docket – Vol. II, p. 547.

⁴ *Supra*, note 1.

⁵ Memorandum dated January 26, 2024, Docket – Vol. II, p. 787 to 788.

⁶ *Id.*

⁷ Exhibit "P-41", Docket – Vol. II, p. 645.

⁸ Exhibit "P-46", Docket – Vol. II, p. 655.

⁹ Exhibit "P-49", Docket – Vol. II, p. 661.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 3 of 32

However, on June 16, 2022, petitioner received from the BIR, acting through its Assistant Commissioner-Assessment Service, Maria Luisa I. Belen, a *VAT Refund Notice* dated June 8, 2022, partially granting its application for tax refund to the extent of ₱1,181,425.41, and denying the same to the extent of ₱974,625.30. The pertinent portions of the *VAT Refund Notice* are reproduced below:

Please be informed that upon processing of the aforementioned claim under Tax Verification Notice No. TVN201800190814 dated March 31, 2022, the amount of input tax allowable on local purchases is Php1,181,425.41 net of disallowances. Details are shown on the attached sheet marked as Annex "A" and summarized as follows:

VAT Refund Claimed	Php 2,156,050.71
Deductions from Claim	(974,625.3)
Net Allowable VAT Refund	<u>Php 1,181,425.41</u>

X X X

Moreover, please be noted that you have the judicial remedy, within thirty (30) days from the receipt of this letter, to appeal the disallowed portion of your claim with the Court of Tax Appeals (CTA).¹⁰

Aggrieved by the partial denial of its application for tax refund, petitioner filed the instant Petition on July 15, 2022.

PROCEEDINGS BEFORE THE COURT

After receiving Summons¹¹ and with the Court granting¹² its Motion for Extension of Time to File Answer,¹³ respondent filed his Answer on October 14, 2022. Respondent also transmitted the BIR Records for this case on January 9, 2023.¹⁴

Respondent and petitioner submitted their Pre-Trial Briefs on January 25, 2023¹⁵ and January 26, 2023,¹⁶ respectively. The Pre-Trial Conference was held on February 2, 2023. The parties then submitted

¹⁰ Exhibit "P-52", Docket – Vol. I, p. 46.

¹¹ Docket – Vol. I, p. 214.

¹² Docket – Vol. I, p. 222.

¹³ Docket – Vol. I, p. 217 to 219.

¹⁴ Docket – Vol. I, p. 247 to 249.

¹⁵ Docket – Vol. I, p. 264 to 267.

¹⁶ Docket – Vol. I, p. 270 to 288.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 4 of 32

their Joint Stipulation of Facts and Issues¹⁷ and Motion to Commission and Appoint Independent Certified Public Accountant,¹⁸ which the Court granted and noted, respectively, in the Resolution dated March 7, 2023.¹⁹

During the hearing on the said Motion held on April 25, 2023, petitioner presented the Independent Certified Public Accountant (ICPA), Ms. Madonna Mia S. Dayego. After completion of her testimony, the Court granted the said Motion.²⁰ Ms. Dayego proceeded to take her oath as the ICPA, and on May 24, 2023, she submitted her ICPA Report.²¹

For the presentation of petitioner's evidence held on even date, petitioner presented Ms. Jeanina B. Pepito, petitioner's Finance Manager, who testified by way of Judicial Affidavit.

Thereafter, the case was transferred from the First Division to the Third Division pursuant to the Resolution dated May 29, 2023.²²

On July 5, 2023, petitioner presented the ICPA, Ms. Dayego, who likewise testified by way of Judicial Affidavit. Petitioner filed its Formal Offer of Evidence on July 25, 2023,²³ while respondent filed his Comment thereto on July 28, 2023.²⁴ In the Resolution dated September 12, 2023,²⁵ the Court admitted petitioner's exhibits, excluding Exhibit "P-73-2-63" which was not admitted for not being found in the records of the case.

For the presentation of respondent's evidence held on September 14, 2023, respondent presented his sole witness, Revenue Officer (RO) Jelly Anne T. Mateo who testified by way of Judicial Affidavit. Respondent filed his Formal Offer of Evidence on September 18, 2023,²⁶ while petitioner filed its Comment/Opposition thereto on September 28, 2023.²⁷ In the Resolution dated December 21, 2023,²⁸ the Court admitted respondent's exhibits.

¹⁷ Docket – Vol. I, p. 302 to 318.

¹⁸ Docket – Vol. I, p. 319 to 322.

¹⁹ Docket – Vol. I, p. 342.

²⁰ Docket – Vol. I, p. 378 to 379.

²¹ Exhibit "P-78", Docket – Vol. I, p. 384 to 469.

²² Docket – Vol. I, p. 471.

²³ Docket – Vol. II, p. 502 to 534.

²⁴ Docket – Vol. II, p. 758 to 760.

²⁵ Docket – Vol. II, p. 764 to 765.

²⁶ Docket – Vol. II, p. 769 to 771.

²⁷ Docket – Vol. II, p. 774 to 777.

²⁸ Docket – Vol. II, p. 780 to 781.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 5 of 32

Petitioner filed its Memorandum²⁹ on January 26, 2024, while respondent through a Manifestation³⁰ dated January 19, 2024, adopted the arguments raised in his Answer filed on October 14, 2022 as his Memorandum.

The case was then submitted for decision on February 19, 2024.³¹

ISSUE

WHETHER OR NOT PETITIONER IS ENTITLED TO ITS CLAIM FOR REFUND OR ISSUANCE OF TAX CREDIT IN THE TOTAL AMOUNT OF ₱974,625.30 REPRESENTING PETITIONER'S UNUTILIZED INPUT TAXES ON ZERO-RATED SALES COVERING THE PERIOD 1 JANUARY 2020 TO 31 MARCH 2020.³²

ARGUMENTS OF THE PARTIES

Petitioner's arguments

Petitioner argues that it is entitled to the refund of or issuance of a TCC on its input VAT amounting to ₱974,625.30, representing the portion denied by respondent in its administrative claim for refund, pursuant to Sections 108(B)(2) and 112(A), in relation to Section 110(B), of the National Internal Revenue Code of 1997, as amended (Tax Code). Citing *Luzon Hydro Corporation v. CIR*,³³ petitioner argues that it complied with all the requisites enumerated by the Supreme Court therein to allow a claim for refund or tax credit of unutilized input VAT.³⁴

Petitioner avers that both the administrative and judicial claims for refund were timely filed. It also avers that it is duly registered with the BIR as a VAT taxpayer. It maintains that it had zero-rated sales during the 1st quarter of CY 2020, payments for which were made in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP).³⁵

²⁹ Docket – Vol. II, p. 786 to 822.

³⁰ Docket – Vol. II, p. 782 to 785.

³¹ Docket – Vol. II, p. 824.

³² *Compliance* (Joint Stipulation of Facts and Issues) dated February 14, 2023, Docket – Vol. I, p. 302 to 318.

³³ *Luzon Hydro Corporation v. CIR*, G.R. No. 188260, November 13, 2013.

³⁴ Memorandum dated January 26, 2024, Docket – Vol. II, p. 796 to 817.

³⁵ *Id.*, p. 796 to 805.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 6 of 32

In relation thereto, petitioner argues that its sale of services for the 1st quarter of CY 2020 amounting to ₱175,318,751.27, are subject to zero percent (0%) VAT pursuant to Sections 108(B)(2) of the Tax Code. Petitioner posits that such sales satisfy all the requisites necessary to qualify them for VAT zero-rating under jurisprudence.³⁶

Petitioner likewise argues that for the 1st quarter of CY 2020, it incurred input VAT in the amount of ₱2,156,050.71 which are attributable to its zero-rated sale of services. It further argues that the claimed input taxes were not applied against any output VAT liability, are not transitional input taxes, and were proportionately allocated on the basis of sales volume.³⁷

Lastly, petitioner argues that it submitted documents to support its claim for refund at the administrative level and there was no notice or request from respondent to submit additional documents. As there is no allegation nor proof from respondent that petitioner failed to submit complete documents despite notice or request, dismissal of the case for failure to substantiate the claim at the administrative level, as provided in *Pilipinas Total Gas, Inc. v. CIR* (Pilipinas Total Gas case)³⁸ and *Atlas Consolidated Mining and Development Corporation v. CIR* (Atlas Consolidated Mining case),³⁹ is not warranted. Instead, the case filed before the Court shall be litigated *de novo* so that the Court may judiciously consider evidence presented to it.⁴⁰

Respondent's counter-arguments

Respondent contends that since he rendered a decision on petitioner's refund claim at the administrative level, the Court's jurisdiction over such claim becomes strictly appellate in nature. Applying the ruling in *Pilipinas Total Gas*, respondent argues that the Court should confine itself to whether the findings of respondent are consistent with law, and to the same documents submitted at the administrative level.⁴¹

Respondent also contends that petitioner clearly failed to substantiate its claim for refund at the administrative level, particularly, it failed to demonstrate that it is entitled to a refund of unutilized input VAT in the total amount of ₱974,625.30. Respondent asserts that before the instant Petition may be given due course,

³⁶ Memorandum dated January 26, 2024, Docket – Vol. II, p. 798 to 805.

³⁷ *Id.*, p. 816 to 817.

³⁸ G.R. No. 207112, December 8, 2015.

³⁹ G.R. No. 145526, March 16, 2007.

⁴⁰ Memorandum dated January 26, 2024, Docket – Vol. II, p. 817 to 820.

⁴¹ Answer dated October 14, 2022, Docket – Vol. I, p. 224 to 226.

11

petitioner should first prove that it submitted the relevant documents to substantiate its refund claim, and that it observed the procedure laid down in Section 112(C) of the Tax Code.⁴²

Respondent discusses that based on the *Memorandum Report* dated May 18, 2022⁴³ submitted by the ROs from the VAT Credit Audit Division (VCAD) who were assigned to audit and evaluate petitioner’s refund claim, petitioner failed to substantiate such claim. Respondent’s breakdown of the disallowed input tax as reflected in the said *Memorandum Report* is reproduced as follows:

Disallowed input tax	Local
Big Ticket - no proof of payment	321.43
Non Big Ticket per vouching	498,297.74
Deferred input tax on CAPEX	189,566.42
Disallowed amortized input tax- CAPEX prior period	257,609.06
TOTAL DISALLOWANCES	Php945,794.65

Respondent further states that based on the *Memorandum Report* dated June 8, 2022⁴⁴ issued by the Tax Audit Review Division (TARD), there is an additional disallowance of ₱28,830.65 on petitioner’s amortized portion of prior year’s deferred input tax (DIT). Respondent’s breakdown of petitioner’s refund claim *vis-a-vis* the total disallowance is likewise reproduced below:

January to March 2020	Local
Amount of claim	Php2,156,050.71
Disallowances	945,764.65
Amount Recommended by VCAD	1,210,256.06
Less: Disallowance per TARD Review	
Disallowed amortized DIT from prior period claims	28,830.65
TOTAL AMOUNT AVAILABLE FOR VAT REFUND	Php1,181,425.41

⁴² *Supra*, note 41.
⁴³ Docket – BIR Records, p. 196 to 199.
⁴⁴ Exhibit “R-2”, Docket – BIR Records, p. 220 to 221.

✓

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 8 of 32

Respondent emphasizes that in an action for tax refund, the burden of proof rests on the taxpayer to prove entitlement to the refund claim and to refute the BIR's findings in the administrative evaluation of supporting documents. In this case, petitioner failed to discharge such burden of proof.⁴⁵

Moreover, respondent avers that it is not sufficient for petitioner to prove its zero-rated sales. It must also prove that the alleged unutilized input VAT were attributable to such zero-rated sales. VAT invoices and official receipts must also comply with invoicing requirements and must be duly registered with the BIR. Respondent finally reiterates that tax refunds are in the nature of tax exemptions which are construed in *strictissimi juris* against the taxpayer and liberally in favor of the government.⁴⁶

RULING OF THE COURT

Before we rule on the merits of the case, the Court shall first determine whether the instant Petition for Review was timely filed.

Records show that petitioner received the *VAT Refund Notice* dated June 8, 2022, on June 16, 2022.⁴⁷ Petitioner had thirty (30) days from such receipt, or until July 16, 2022, to file a Petition for Review with the Court pursuant to Section 3(a), Rule 8 of the Revised Rules of the Court of Tax Appeals.

Considering that petitioner filed the instant Petition on July 15, 2022, the same was timely filed.

Matters to be proved in an appeal from an unsuccessful administrative claim

Respondent argues that the ruling in *Pilipinas Total Gas* applies to the present case. Since he rendered a decision denying petitioner's refund claim at the administrative level, for failure of petitioner to substantiate such claim, the jurisdiction of the Court over such claim shifted from a trial court to an appellate tribunal. Thus, the Court should confine itself to whether the findings of respondent are consistent with law based on the same documents submitted at the administrative level.⁴⁸

⁴⁵ *Supra*, note 41.

⁴⁶ *Id.*

⁴⁷ Exhibit "P-52", Division Docket, p. 46.

⁴⁸ *Supra*, note 41.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 9 of 32

Respondent further argues that CTA cases are trial *de novo* in the sense that litigants must present anew their evidence in accordance with the Rules of Court. As the CTA is mandated as a court of record, the evidence submitted to the BIR must be properly identified and offered in Court.⁴⁹

Petitioner counters that the rulings in *Pilipinas Total Gas* and *Atlas Consolidated Mining* are inapplicable for they involve factual milieus that are different from the instant case. Instead, what is applicable is the doctrine that cases filed before the CTA are litigated *de novo* such that the Court is not barred from considering, evaluating and appreciating the evidence submitted before it.⁵⁰

Petitioner alleges that in this case, it submitted documents to support its claim for refund in compliance with applicable tax rules. As there was no notice or request from respondent to submit additional documents, the dismissal of its case for failure to substantiate its refund claim was not warranted.⁵¹

As both parties invoke the ruling of the Supreme Court in *Pilipinas Total Gas*, a clarification of the said ruling and its application to the present case is in order.

To recall, in *Pilipinas Total Gas*, the Supreme Court tackled two (2) issues: (1) whether the taxpayer's judicial claim for refund was belatedly filed or filed beyond the 30-day period to appeal under Section 112(c) of the Tax Code, as amended; and (2) whether the submission of incomplete documents at the administrative level rendered the judicial claim premature and dismissible for lack of jurisdiction.⁵²

In resolving the second issue, the Supreme Court, citing *Atlas Consolidated Mining*, discussed the **nature** of a judicial claim before the CTA. The Supreme Court held:

At this stage, a review of the nature of a judicial claim before the CTA is in order. In *Atlas Consolidated Mining and Development Corporation v. CIR*, it was ruled –

...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.**

⁴⁹ *Id.*

⁵⁰ *Supra*, note 40.

⁵¹ *Id.*

⁵² *Supra*, note 38.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 10 of 32

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 claim. 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.

A distinction must, thus, be made between administrative cases appealed due to inaction and those dismissed at the administrative level due to the failure of the taxpayer to submit supporting documents. If an administrative claim was dismissed by the CIR due to the taxpayer's failure to submit complete documents despite notice/request, then the judicial claim before the CTA would be dismissible, not for lack of jurisdiction, but of the taxpayer's failure to substantiate the claim at the administrative level. **When a judicial claim for refund or tax credit in the CTA is an appeal of an unsuccessful administrative claim, the taxpayer has to convince the CTA that the CIR had no reason to deny its claim. It, thus, becomes imperative for the taxpayer to show the CTA that *not only* is he entitled under substantive law to his claim for refund or tax credit, *but also* that he satisfied all the documentary and evidentiary requirements for an administrative claim.** It is, thus, crucial for a taxpayer in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first place. Consequently, a taxpayer cannot cure its failure to submit a document requested by the BIR at the administrative level by filing the said document before the CTA.

In the present case, however, **Total Gas filed its judicial claim due to the inaction of the BIR. Considering that the administrative claim was never acted upon; there was no decision for the CTA to review on appeal *per se*. Consequently, the CTA may give credence to all evidence presented by Total Gas, including those that may not have been submitted to the CIR as the case is being essentially decided in the first instance. The Total Gas must prove every minute aspect of its case by presenting and formally offering its evidence to the CTA,** which must necessarily include whatever is required for the successful prosecution of an administrative claim. (*Emphasis supplied*)

Based on the foregoing jurisprudence, there is now a clear distinction between the matters to be proved in an appeal from an

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 11 of 32

unsuccessful administrative claim, and the matters to be proved in an appeal from the inaction of the CIR on such claim.

When a judicial claim for refund or tax credit is in the nature of an appeal from an unsuccessful administrative claim, the taxpayer has to convince the Court that the CIR had no reason to deny its claim.⁵³ In *Atlas Consolidated Mining*, the Supreme Court noted that under RA No. 1125 (the law creating the CTA), the CTA only had appellate jurisdiction; it had no power to take cognizance of original actions. With the advent of RA No. 9282 (the law expanding the jurisdiction of the CTA), however, the CTA began to exercise original jurisdiction over certain actions. Nonetheless, its jurisdiction over refund claims has remained purely appellate.⁵⁴

Section 7(a)(1) of RA No. 9282 in particular confers upon the CTA exclusive appellate jurisdiction over decisions of the CIR in cases involving refunds of internal revenue taxes. It must be remembered that appellate jurisdiction refers to the authority of a court higher in rank to re-examine the final order or judgment of a lower court which tried the case now elevated for judicial review.⁵⁵

Following this, the Supreme Court in *Pilipinas Total Gas* has required taxpayers appealing from an unsuccessful administrative refund claim, to prove before the CTA that, **one**, it is entitled to its refund claim under substantive law; and **two**, it satisfied all the documentary and evidentiary requirements for such refund claim. Surely, the first matter to be proved entails a determination by the Court of petitioner's compliance with the requisites established by law for the refund or credit of input tax.

Relatedly, the second matter to be proved entails a review by the Court of the basis of the CIR's denial of the administrative claim **based on the documents presented at the administrative level**. The phrase "*but also that he satisfied all the documentary and evidentiary requirements for an administrative claim*", could only mean that the sufficiency of petitioner's documents and evidence shall be measured in relation to the administrative claim.

On another note, when a judicial claim for refund or tax credit is in the nature of an appeal from the inaction of the CIR on the administrative claim, such as in the case of *Pilipinas Total Gas*, the Court may give credence to all evidence presented by the taxpayer,

⁵³ *Supra*, note 38.

⁵⁴ *Supra*, note 39.

⁵⁵ *Garcia, et al. vs. De Jesus, et al.*, G.R. Nos. 88158 and 97108-09, March 4, 1992.

14

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 12 of 32

including those that may not have been submitted to the CIR, as the case is essentially being decided in the first instance.⁵⁶

In *Philippine Airlines, Inc. v. Commissioner of Internal Revenue* (PAL case),⁵⁷ the Supreme Court squarely ruled on the issue of whether evidence not presented at the BIR level can be presented in the CTA. Indeed, the High Court held that the CTA is not limited by the evidence presented at the administrative level. The claimant may present new and additional evidence to the CTA to support its case for tax refund. It also held that the review of the CTA is not limited to whether the CIR committed gross abuse of discretion, fraud, or error of law. As evidence is considered and evaluated again, the scope of the CTA's review covers factual findings.

Further, in *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc.*⁵⁸ (Univation Motor case), the High Court, citing *Pilipinas Total Gas*, stated that while the administrative claim was never acted upon and there was no decision for the CTA to review on appeal *per se*, this does not preclude the CTA from considering evidence that was not presented at the administrative level.

One must tread carefully, however, when reading the foregoing pronouncements on the admission of evidence not presented at the BIR level. Scrutiny of the *PAL* and *Univation Motor* cases reveal that **such pronouncements were said in view of the CIR's failure to act on the taxpayer's administrative claim for refund. Nowhere in the said cases was it stated, expressly or impliedly, that such pronouncements apply to all appeals filed before the CTA, including appeals from unsuccessful administrative claims. Thus, such pronouncements should only be applied to cases involving appeals from the inaction of the CIR on the administrative refund claim, as such was the situation in the *PAL* and *Univation Motor* cases.** A contrary interpretation would render useless the distinction drawn by the *Pilipinas Total Gas* case between appeals from an unsuccessful administrative claim and appeals from the inaction of the CIR.

For the above-mentioned reasons, the rule in *Pilipinas Total Gas* on the matters to be proved in an appeal from unsuccessful administrative claim, stands.

⁵⁶ *Supra*, note 38.

⁵⁷ G.R. Nos. 206079-80 & 206309, January 17, 2018.

⁵⁸ G.R. No. 231581, April 10, 2019.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 13 of 32

Consequently, when a taxpayer fails to submit a document in support of its refund claim at the administrative level, and the CIR decides on such claim based on the documents submitted before him, the taxpayer may not later on assail the decision of the CIR on the basis of the document it never submitted before him. As a matter of fairness and case law, a taxpayer cannot be allowed to cure its failure to submit a document before the CIR, by filing the same before the CTA, when it had every opportunity to submit such document at the administrative level.

As for the rule in *Pilipinas Total Gas* with respect to appeals from the inaction of the CIR on the taxpayer's administrative refund claim, the *PAL* and *Univation Motor* cases reinforced the rule that the CTA may consider all pieces of evidence formally offered by the taxpayer, whether or not they were submitted at the administrative level.

To be clear, whether a judicial claim is an appeal from an unsuccessful administrative claim, or an appeal from the inaction of the CIR on the administrative claim, **the principle that cases filed with the CTA are litigated *de novo* (or litigated anew) shall apply.** This means that whether the evidence of petitioner in its appeal to the CTA includes or excludes those documents not presented at the BIR level, as limited by the rules laid down in *Pilipinas Total Gas*, petitioner must prove every minute aspect of its case by presenting and formally offering such evidence to the CTA.⁵⁹

The principle of litigation *de novo* is rooted from Section 8 of RA 1125, as amended, where the CTA is described as a court of record. As cases filed before it are litigated *de novo*, party litigants should prove every minute aspect of their cases. No evidentiary value can be given to documents submitted (or not submitted) to the BIR as the rules on documentary evidence require that these documents must be formally offered before the CTA.⁶⁰

In view of the foregoing disquisition, and considering that the instant Petition is an appeal from an unsuccessful administrative claim, pursuant to *VAT Refund Notice* dated June 8, 2022 where respondent partially denied petitioner's application for tax refund, the Court shall now determine whether petitioner has sufficiently proved its entitlement to its refund claim under substantive law, and whether it satisfied all the documentary and evidentiary requirements for the administrative claim. Failure to establish one of the said matters before this Court shall result in the denial of the refund claim.

⁵⁹ *Supra*, note 38.

⁶⁰ *CIR vs. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.

Anent the first matter, petitioner should have shown to this Court that respondent had no reason to deny its refund claim in the amount subject of this appeal (i.e., ₱974,625.30).

Annex “A”⁶¹ of the *VAT Refund Notice* dated June 8, 2022 presents the computation of the amount approved for VAT refund, and of the amount deducted or denied, viz.:

Amount of Claim	<u>₱ 2,156,050.71</u>
Deductions from claim	
Violations of invoicing requirements, over-claimed, out of period & no original/scanned document submitted (Annex “A.1”)	₱ (498,297.74)
Disallowance on big-ticket purchases – no proof of payment	(321.43)
Disallowed amortized deferred input tax (DIT) from prior period claims (Annex “A-2”)	(286,439.71)
Deferment of input tax from CG which exceeded 1M threshold per month (Annex “A-3”)	(189,566.42)
Total Deductions	<u>₱ (974,625.30)</u>
AMOUNT APPROVED FOR VAT REFUND	<u>₱ 1,181,425.41</u>

It is noteworthy that there is no indication in the records that petitioner presented before this Court the very same documents it submitted to the BIR in support of its administrative claim.

A cursory examination of the Formal Offer of Evidence of petitioner would disclose that no evidence was specifically offered to prove which documents were actually submitted to respondent at the administrative level.⁶² To Our mind, the failure of petitioner to present and offer the said documents in evidence is fatal to its case. This is simply because the Court will not be able to review or determine with certainty whether respondent had indeed the factual bases in partially denying petitioner’s administrative claim. Without the said documents, this Court cannot determine whether the said administrative claim should have been granted in the first place.

We cannot simply assume that the documents submitted before this Court are the very same documents presented at the administrative level. This is so because no value is given to documentary evidence submitted in the BIR unless it is formally offered in Court.⁶³ Moreover, no evidence shall be considered unless formally offered with a statement of the purpose why it is being

⁶¹ Exhibit “P-52”, Docket – Vol. 1, at p. 47.
⁶² Docket – Vol. 2, pp. 502 to 533.
⁶³ *Philippine Airlines, Inc. vs. CIR*, G.R. Nos. 206079-80 and 206309, January 17, 2018.

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DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 15 of 32

offered.⁶⁴ The rule on formal offer of evidence is intertwined with the constitutional guarantee of due process. Parties must be given the opportunity to review the evidence submitted *against* them and take the necessary actions to secure their case.⁶⁵ Formal offer means that the offering party shall inform the court of the purpose of introducing its exhibits into evidence, to assist the court in ruling on their admissibility in case the adverse party objects.⁶⁶

In sum, petitioner failed to prove that its administrative claim amounting to ₱974,625.30 should have been granted in the first place. On this score alone, the instant Petition must fail.

Even if this Court glosses over the foregoing inadequacy, and considers all evidence presented by petitioner, the latter still failed to prove that it is entitled to its claim for refund.

Requisites for a successful claim for input VAT refund or credit

The relevant rules on refunds and tax credits of input tax are found in Sections 110 (B) and 112 (A) and (C) of the Tax Code, to wit:

SECTION 110. *Tax Credits.*—

(B) Excess Output or Input Tax. - If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the Vat-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters. Provided, however, That **any input tax attributable to zero-rated sales 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.**

X X X

SECTION 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

⁶⁴ Section 34, Rule 132 of the Rules of Court; *M.E. Holding Corporation vs. Court of Appeals, et al.*, G.R. No. 160193, March 3, 2008.

⁶⁵ *Republic of the Philippines vs. Gimenez, et al.*, G.R. No. 174673, January 11, 2016.

⁶⁶ *Sabay vs. People of the Philippines*, G.R. No. 192150, October 1, 2014.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 16 of 32

creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106 (A)(2)(a)(1), (2) and (B) and Section 108 (B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales.

X X X

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

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

In view of the foregoing provision, jurisprudence has laid down several requisites that taxpayers engaged in zero-rated sales must comply with to obtain a refund or tax credit of input VAT paid attributable to such sales.⁶⁷ To aid the discussion, the said requisites are enumerated and arranged as follows:

As to the timeliness of the filing of the administrative and judicial claims:

1. The administrative claim is filed with the BIR within two (2) years after the close of the taxable quarter when such sales were made;⁶⁸

⁶⁷ *Intel Technology Philippines, Inc. v. CIR*, G.R. No. 166732, April 27, 2007.

⁶⁸ *Supra*, note 47.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 17 of 32

2. In case of full or partial denial of the refund claim, or failure on the part of the CIR to act on the said claim within a period of 120 days (now 90 days), the judicial claim is filed with this Court within thirty (30) days from receipt of the decision or after the expiration of the said 120-day (now 90-day) period;⁶⁹

With reference to the taxpayer's registration with the BIR:

3. The taxpayer is VAT-registered;⁷⁰

In relation to the taxpayer's output VAT:

4. The taxpayer is engaged in zero-rated or effectively zero-rated sales;⁷¹
5. In case of zero-rated sales under Sections 106 (A)(2)(a)(1), (2) and (b), and 108 (B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with BSP rules and regulations;⁷²

As regards the taxpayer's input VAT being refunded:

6. The input taxes are not transitional input taxes;⁷³
7. The input taxes are due or paid;⁷⁴
8. The input taxes 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 one of the transactions, the input taxes shall be proportionately allocated on the basis of sales volume;⁷⁵ and
9. The input taxes have not been applied against output taxes.⁷⁶

In addition to the above requisites, claimants of tax refunds must also prove the factual basis of their claims. In claims for VAT refund or

⁶⁹ *Energy Development Corp. v. CIR*, G.R. No. 203367, March 17, 2021.

⁷⁰ *Supra*, note 47.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Supra*, note 47.

⁷⁶ *Id.*

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 18 of 32

credit in particular, claimants must satisfy the substantiation and invoicing requirements under the Tax Code and other implementing rules and regulations,⁷⁷ as it is the only way to determine the veracity of the taxpayers' claims.⁷⁸

Creditable input tax must be evidenced by a VAT invoice or official receipt issued in accordance with Section 113 (A) and (B), 237 and 238 of the Tax Code, as implemented by the relevant provisions of Revenue Regulations (RR) No. 16-05.

Furthermore, in accordance with the principle that cases filed with the CTA are litigated *de novo*, petitioner must prove every minute aspect of its case.⁷⁹ Thus, it behooves petitioner to show its compliance with each of the foregoing requisites and invoicing requirements. As a corollary, the absence of *any* of the said requisites (or the elements constituting the same) is already a valid ground to deny the claim.

First and second requisites: petitioner timely filed its administrative and judicial claims for refund.

With respect to the *first* requisite, under Section 112 (A) of the Tax Code, the period within which the administrative claim must be filed is two (2) years reckoned from the close of the taxable quarter when the pertinent zero-rated sales were made.

The present claim covers the period 1 January 2020 to 31 March 2020, or the 1st quarter of CY 2020. Counting two (2) years from the close of the said quarter, petitioner had until March 31, 2022 to file its administrative claim for tax refund. Considering that petitioner's administrative claim covering the subject quarter was filed with the BIR on March 31, 2022,⁸⁰ **the same is deemed timely filed.**

With respect to the *second* requisite, Section 112 (C) of the Tax Code provides that from the submission of complete documents to support the administrative claim, the CIR is given ninety (90) days to decide the same. In case of whole or partial denial of or inaction on

⁷⁷ *Team Energy Corp. v. CIR, et seq.*, G.R. Nos. 197663 & 197770, March 14, 2018.

⁷⁸ *Kepco Philippines Corp. v. CIR*, G.R. No. 181858, November 24, 2010.

⁷⁹ *Edison (Bataan) Cogeneration Corporation vs. CIR, et seq.*, G.R. Nos. 201665 and 201668, August 30, 2017; *CIR vs. Philippine National Bank*, G.R. No. 180290, September 29, 2014; *CIR vs. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014; *Dizon vs. Court of Tax Appeals, et al.*, G.R. No. 140944, April 30, 2008; *Atlas Consolidated Mining and Development Corporation vs. CIR*, G.R. No. 145526, March 16, 2007; and *CIR vs. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.

⁸⁰ Exhibit "P-49", Docket – Vol. II, p. 661.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 19 of 32

such claim, the taxpayer may bring the judicial claim before the CTA within a period of thirty (30) days counted from the receipt of the decision or inaction by the CIR.

The Supreme Court has repeatedly interpreted the 30-day period of appeal as mandatory and jurisdictional. Thus, noncompliance with the 30-day period renders the petition before the CTA void.⁸¹

Applying the foregoing statutory and jurisprudential precepts to the case at bar, from the filing of petitioner's administrative claim on March 31, 2022, respondent had ninety (90) days, or until June 29, 2022, to act on the claim.

Records of the case reveal that petitioner received the *VAT Refund Notice* dated June 8, 2022, partially denying its application for tax refund, on June 16, 2022.⁸² Counting thirty (30) days therefrom, petitioner had until July 16, 2022 to file its judicial claim for tax refund. Since July 16, 2022 fell on a Saturday, petitioner filed the instant Petition on July 15, 2022. **Accordingly, the judicial claim was also timely filed.**

For these reasons, petitioner sufficiently complied with the first and second requisites.

Third requisite: **petitioner is VAT-registered.**

As for the *third* requisite, evidence shows that petitioner is VAT-registered with TIN 006-960-314-000.⁸³ Hence, petitioner complied with the third requisite as well.

Fourth and fifth requisites: **petitioner was not able to establish that it was engaged in zero-rated sales for the 1st quarter of CY 2020.**

The *fourth* and *fifth* requisites mandates that the taxpayer be engaged in zero-rated or effectively zero-rated sales and for zero-rated sales under Sections 106(A)(2)(a)(1), (2) and (b), and 108(B)(1) and (2) of the Tax Code, and that the acceptable foreign currency exchange

⁸¹ *Nippon Express (Philippines) Corp. v. CIR*, G.R. No. 191495, July 23, 2018.

⁸² Exhibit "P-52", Docket – Vol. I, p. 46.

⁸³ Exhibit "P-4" and "P-5", Docket – Vol. II, p. 547.

proceeds thereof have been duly accounted for in accordance with BSP rules and regulations.

In its amended *Quarterly VAT Return* for the 1st quarter of CY 2020,⁸⁴ petitioner declared total sales/receipts in the amount of ₱187,592,016.61, which included zero-rated sales/receipts in the amount of ₱175,318,751.27, as follows:

Vatable Sales/Receipts	₱ 12,273,265.34
Zero-Rated Sales/Receipts	175,318,751.27
Total Sales/Receipts	₱ 187,592,016.61

Petitioner claims that its sales of services to its non-resident foreign clients are subject to zero percent (0%) VAT, pursuant to Section 108(B)(2) of the Tax Code, which reads as follows:

SECTION. 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 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 regulations of the Bangko Sentral ng Pilipinas (BSP);**

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%), 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

⁸⁴ Exhibit “P-41”, Docket – Vol. 2, pp. 645 to 646.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 21 of 32

business who is outside the Philippines when the services are performed;⁸⁵

2. The services fall under any of the categories under Section 108(B)(2),⁸⁶ or simply, the services rendered should be other than “processing, manufacturing or repacking goods”;⁸⁷
3. The service must be performed in the Philippines⁸⁸ 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.⁸⁹

Anent the *first* essential element, in order to be considered as a non-resident foreign corporation (NRFC) doing business outside the Philippines, each entity must be supported, at the very least, by **both** a *Certification of Non-Registration of Corporation/Partnership* issued by the Philippine SEC, **and** proof of incorporation/registration in a foreign country (e.g., *Articles/Certificate of Incorporation/Registration* and/or *Tax Residence Certificate*). The former document establishes that the recipient of the service has no registered business in the Philippines, and that it is not engaged in trade or business within the Philippines; while the latter document proves that the said recipient of the service is indeed foreign. The said documents have been consistently required by this Court for purposes of the said *first* essential element. In fact, in *Commissioner of Internal Revenue vs. Deutsche Knowledge Services Pte. Ltd.*,⁹⁰ the Supreme Court affirmed the necessity of presenting the said documents in this wise:

For purposes of zero-rating under Section 108(B)(2) of the Tax Code, the claimant must establish the two components of a client's NRFC status, viz.: (1) that their client was established under the laws of a country not the Philippines or, simply, is not a domestic corporation; and (2) that it is not engaged in trade or business in the Philippines. To be sure, there must be sufficient proof of both of these components: showing not only that the clients

⁸⁵ *Sitel Philippines Corporation (Formerly Clientlogic Phils. Inc.) vs. CIR*, G.R. No. 201326, February 08, 2017; *CIR vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007; *Accenture, Inc. vs. CIR*, G.R. No. 190102, July 11, 2012.

⁸⁶ *CIR vs. American Express International, Inc. (Philippine Branch)*, G.R. No. 152609, June 29, 2005.

⁸⁷ *CIR vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, *supra*.

⁸⁸ *Id.*

⁸⁹ *CIR vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, *supra*; *CIR vs. American Express International, Inc. (Philippine Branch)*, *supra*.

⁹⁰ G.R. No. 234445, July 15, 2020.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 22 of 32

are foreign corporations, but also are not doing business in the Philippines.

Such proof must be especially required from ROHQs such as DKS. That the law expressly authorizes ROHQs to render services to local and foreign affiliates alike only stresses the ROHQ's burden to distinguish among their clients' nationalities and actual places of business operations and establish that they are seeking refund or credit of input VAT only to the extent of their sales of services to foreign clients doing business outside the Philippines.

To recall, the CTA found that the SEC Certification of Non-Registration of Company and Authenticated Articles of Association and/or Certificates of Registration/Good Standing/Incorporation sufficiently established the NRFC status of 11 of DKS's affiliates clients.

The Court upholds these findings.

The Court accords the CTA's factual findings with utmost respect, if not finality, because the Court recognizes that it has necessarily developed an expertise on tax matters. Significantly, both the CTA Division and CTA *En Banc* gave credence to the aforementioned documents as sufficient proof of NRFC status. The Court shall not disturb its findings without any showing of grave abuse of discretion considering that the members of the tax court are in the best position to analyze the documents presented by the parties.

In any case, after a judicious review of the records, the Court still do not find any reason to deviate from the court *a quo's* findings. **To the Court's mind, the SEC Certifications of Non-Registration show that these affiliates are foreign corporations. On the other hand, the articles of association/certificates of incorporation stating that these affiliates are registered to operate in their respective home countries, outside the Philippines are *prima facie* evidence that their clients are not engaged in trade or business in the Philippines.** (*Emphases supplied*)

In this case, petitioner satisfied the *first* essential element as it proved that its clients for the subject periods of claim, save for Stefanini NV/SA, are NRFCs doing business outside the Philippines, as evidenced by the following documents:

Company Name	Certification of Non-Registration of Company issued by the SEC	Proof of incorporation/ registration in a foreign country
Stefanini, Inc.	Exhibit “P-27” ⁹¹	Exhibits “P-32”, ⁹² “P-32-A”, ⁹³ “P-33”, ⁹⁴ “P-33-A”, ⁹⁵ and “P-33-B” ⁹⁶
Stefanini Australia Pty Ltd	Exhibit “P-28” ⁹⁷	Exhibits “P-34”, ⁹⁸ and “P-34-A” ⁹⁹
Stefanini UK Ltd	Exhibit “P-30” ¹⁰⁰	Exhibits “P-36”, ¹⁰¹ and “P-36-A” ¹⁰²
Stefanini Canada Ltd	Exhibit “P-31” ¹⁰³	Exhibits “P-37”, ¹⁰⁴ “P-37-A”, ¹⁰⁵ “P-38”, ¹⁰⁶ “P-38-A”, ¹⁰⁷ “P-39”, ¹⁰⁸ and “P-39-A” ¹⁰⁹

As for Stefanini NV/SA, petitioner failed to establish that it is a NRFC doing business outside the Philippines considering that the apostille¹¹⁰ attached to its certificate of incorporation¹¹¹ is in an unofficial language. Relative thereto, Section 33, Rule 132 of the Rules of Court reads as follows:

Section 33. *Documentary evidence in unofficial language.*
— Documents written in an unofficial language shall not be admitted as evidence, unless accompanied with a translation into English or Filipino. x x x

In this case, sans any translation in English or Filipino, its contents could not be given probative value, and deemed to constitute proof of the facts stated therein.¹¹²

With regard to the *second* essential element, petitioner submitted the following agreements indicating therein the services to be provided, *i.e.*, “outsourced processing services to support [its clients’] internal operations and external customer contracts”:

⁹¹ Docket – Vol. 2, p. 611.
⁹² Docket – Vol. 2, p. 616.
⁹³ Docket – Vol. 2, p. 617.
⁹⁴ Docket – Vol. 2, p. 618.
⁹⁵ Docket – Vol. 2, p. 619.
⁹⁶ Docket – Vol. 2, pp. 620 to 621.
⁹⁷ Docket – Vol. 2, p. 612.
⁹⁸ Docket – Vol. 2, p. 622.
⁹⁹ Docket – Vol. 2, p. 623.
¹⁰⁰ Docket – Vol. 2, p. 614.
¹⁰¹ Docket – Vol. 2, p. 628.
¹⁰² Docket – Vol. 2, p. 629.
¹⁰³ Docket – Vol. 2, p. 615.
¹⁰⁴ Docket – Vol. 2, pp. 630 to 632.
¹⁰⁵ Docket – Vol. 2, p. 633.
¹⁰⁶ Docket – Vol. 2, pp. 634 to 636.
¹⁰⁷ Docket – Vol. 2, pp. 637 to 638.
¹⁰⁸ Docket – Vol. 2, pp. 639 to 641.
¹⁰⁹ Docket – Vol. 2, p. 642.
¹¹⁰ Exhibit “P-35-A”, Docket – Vol. 2, p. 627.
¹¹¹ Exhibit “P-35”, Docket – Vol. 2, pp. 624 to 626.
¹¹² Refer to *St. Martin Polyclinic, Inc., vs. LWV Construction Corporation*, G.R. No. 217426, December 4, 2017.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 24 of 32

1. Agreement for Services between Stefanini, Inc. and petitioner made on May 1, 2018 and shall remain in force until April 30, 2020;¹¹³
2. Addendum to Agreement for Services between Stefanini, Inc. and petitioner made on January 3, 2019;¹¹⁴
3. Agreement for Services between Stefanini Australia Pty Ltd and petitioner made on May 1, 2018 and shall remain in force until April 30, 2020;¹¹⁵
4. Addendum to Agreement for Services between Australia Pty Ltd and petitioner made on January 3, 2019;¹¹⁶
5. Agreement for Services between Stefanini UK Ltd. and petitioner made on September 1, 2017 and shall remain in force until August 31, 2019;¹¹⁷
6. Addendum to Agreement for Services between Stefanini UK Ltd. and petitioner made on January 3, 2019;¹¹⁸
7. Agreement for Services between Stefanini Canada Ltd and petitioner made on January 1, 2019 and shall remain in force until December 31, 2020;¹¹⁹
8. Addendum to Agreement for Services between Stefanini Canada Ltd. and petitioner made on January 3, 2019;¹²⁰

The services provided by petitioner clearly fall within the scope of “*services other than processing, manufacturing or repacking goods*”, hence, petitioner satisfactorily complied with the *second* essential element, except for those provided to Stefanini UK Ltd., considering that the *Agreement for Services* dated September 1, 2017 between Stefanini UK Ltd. and petitioner was only in force until August 31, 2019, as stated in its clause 8.1 of Article 8,¹²¹ and absent any proof of extension or amendment of the Term of the Contract.

Anent the *third* essential element, *i.e.*, the services must be performed in the Philippines by a VAT-registered person, the *Agreements for Services*¹²² do not bear any indication that the subject services were to be performed by petitioner in the Philippines. A scrutiny of the articles/clauses of the *Agreements for Services*, as amended, specifically Article 1 paragraphs 1.1-1.5 (Right, Obligations and Services to be provided) reveals that the same do not categorically

¹¹³ Exhibit “P-6”, Docket – Vol. 2, pp. 549 to 554.

¹¹⁴ Exhibit “P-6-1”, Docket – Vol. 2, pp. 555 to 557.

¹¹⁵ Exhibit “P-7”, Docket – Vol. 2, pp. 558 to 563.

¹¹⁶ Exhibit “P-7-1”, Docket – Vol. 2, pp. 564 to 566.

¹¹⁷ Exhibit “P-9”, Docket – Vol. 2, pp. 576 to 581.

¹¹⁸ Exhibit “P-9-1”, Docket – Vol. 2, pp. 582 to 584.

¹¹⁹ Exhibit “P-10”, Docket – Vol. 2, pp. 587 to 591.

¹²⁰ Exhibit “P-10-1”, Docket – Vol. 2, pp. 592 to 594.

¹²¹ Exhibit “P-9”, Docket – Vol. 2, at p. 578.

¹²² Exhibit “P-6”, Docket – Vol. 2, pp. 549 to 554; Exhibit “P-7”, Docket – Vol. 2, pp. 558 to 563; Exhibit “P-9”, Docket – Vol. 2, pp. 576 to 581; Exhibit “P-10”, Docket – Vol. 2, pp. 587 to 591.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 25 of 32

state that the contracted services shall be performed by the petitioner in the Philippines.

Nevertheless, the Addenda to the Agreements for Services¹²³ between petitioner and its clients, Stefanini, Inc., Stefanini Australia Pty Ltd., and Stefanini Canada indicate that the subject services will be performed, provided, and rendered by petitioner in the Philippines and that the Addenda shall be effective as of the execution of the Agreements. In this regard, a scrutiny of the said agreements shows that these were executed on May 2, 2018, except for the Agreement for Services between Stefanini Canada Ltd and petitioner, which was executed on January 1, 2019. Further, a review of the said addenda shows that these were executed on various dates in January 2019. Also, based on the uncontested testimony of petitioner's Finance Manager, Ms. Jeanina B. Pepito, in her Judicial Affidavit, petitioner renders outsourced processing services in the Philippines to its foreign affiliates, including Stefanini, Inc., Stefanini Australia Pty Ltd., and Stefanini Canada.¹²⁴ Thus, the Court finds the same sufficient to establish that the services were actually performed by petitioner in the Philippines. Correspondingly, petitioner complied with the said *third* essential element, but only insofar as Stefanini, Inc., Stefanini Australia Pty. Ltd., and Stefanini Canada Ltd., are concerned.

The *fourth* essential element corresponds to the *fifth* requisite that requires that for zero-rated sales under Sections 108(B)(2) of the Tax Code, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations.

Notably, the foreign currency remittances referred to under Section 108(B)(2) must not only be duly accounted for in accordance with the rules and regulations of the BSP, but must also comply with the pertinent invoicing requirements, containing all the required information under Section 113(A) and (B) of the Tax Code, as intimated earlier, to wit:

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

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

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

¹²³ Exhibit "P-6-1", Docket – Vol. 2, pp. 555 to 557; Exhibit "P-7-1", Docket – Vol. 2, pp. 564 to 566; Exhibit "P-10-1", Docket – Vol. 2, pp. 592 to 594.

¹²⁴ Q/A Nos. 13 and 14, Exhibit "P-53", Docket – Vol. 1, p. 60.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 26 of 32

(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:*

(a) The amount of the tax shall be shown as a separate item in the invoice or receipt;

(b) If the sale is exempt from value-added tax, the term '**VAT-exempt sale**' shall be written or printed prominently on the invoice or receipt;

(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;

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: *Provided, That* the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

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

(4) In the case of sales in the amount of One thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client.

These provisions are further implemented by Section 4.113-1(A) and (B) of RR No. 16-05,¹²⁵ as amended:

SECTION. 4.113-1. Invoicing Requirements. —

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

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

¹²⁵ SUBJECT: Consolidated Value-Added Tax Regulations of 2005.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 27 of 32

(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:*

(a) The amount of tax shall be shown as a separate item in the invoice or receipt;

(b) If the sale is exempt from VAT, the term 'VAT-exempt sale' shall be written or printed prominently on the invoice or receipt;

(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;

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

(3) In the case of sales in the amount of one thousand pesos (₱1,000.00) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and TIN of the purchaser, customer or client, shall be indicated in addition to the information required in (1) and (2) of this Section.

In addition to the above requirements, the sales invoices and official receipts must be duly registered with the BIR as prescribed under Section 237, in relation to Section 238, of the Tax Code, to wit:

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 28 of 32

SECTION 237. Issuance of Receipts or Sales or Commercial Invoices. —

(A) *Issuance.* — All persons subject to an internal revenue tax shall, at the point of each sale or transfer of merchandise or for services rendered valued at One hundred pesos (P100) or more, issue duly registered receipts or sale or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: xxx

xxx

SECTION 238. Printing of Receipts or Sales or Commercial Invoices. — All persons who are engaged in business shall secure from the Bureau of Internal Revenue an authority to print receipts or sales or commercial invoices before a printer can print the same

No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.

Since petitioner's claimed zero-rated sales are in the nature of sales of services under Section 108(B)(2) of the Tax Code, petitioner is required to issue BIR-registered VAT ORs for the foreign currency proceeds of each sale transaction, of which **the information contained therein must be in compliance with the applicable provisions previously cited.**

It must be emphasized that petitioner's compliance with all the VAT invoicing requirements is required to be able to file a claim for input taxes attributable to zero-rated sales.¹²⁶ To reiterate, the invoicing and substantiation requirements should be followed because it is the only way to determine the veracity of the taxpayer's claims.¹²⁷ As such, compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.¹²⁸

Furthermore, strict compliance with substantiation and invoicing requirements is necessary considering the VAT's nature and the VAT system's tax credit method, where tax payments are based on output and input taxes and where the seller's output tax becomes the buyer's input tax that is available as tax credit or refund in the same transaction. It ensures the proper collection of taxes at all stages of

¹²⁶ *J.R.A. Philippines, Inc. vs. CIR*, G.R. No. 171307, August 28, 2013.

¹²⁷ *Nippon Express (Philippines) Corporation vs. CIR*, G.R. No. 191495, July 23, 2018.

¹²⁸ *Eastern Telecommunications Philippines, Inc. vs. CIR*, G.R. No. 183531, March 25, 2015.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 29 of 32

distribution, facilitates computation of tax credits, and provides accurate audit trail or evidence for BIR monitoring purposes.¹²⁹

Here, since petitioner's declared sales/receipts are in the nature of sales of services under Section 108(B)(2) of the Tax Code, petitioner is required to issue BIR-registered VAT ORs for the foreign currency proceeds of each sales transaction, and the information contained therein must be in compliance with the applicable provisions previously mentioned, such as the word "zero-rated", and the taxpayer's TIN-VAT number.

Petitioner presented its *Schedule of Zero-Rated Sales*,¹³⁰ *Summary of Comparison of Zero-Rated Sales per Amended Quarterly VAT Return and Schedule of Zero-Rated Sales*,¹³¹ *Summary of Comparison of Schedule of Zero-Rated Sales and General Ledger Account Classification – Revenue supported by petitioner's issued ORs*,¹³² and the corresponding VAT zero-rated ORs¹³³ for the 1st quarter of CY 2020. In addition, petitioner presented the *Schedule of Inward Remittances*,¹³⁴ *Summary of Comparison of Schedule of Inward Remittances*,¹³⁵ bank statements of accounts,¹³⁶ *Payment Confirmation* from Bank of America,¹³⁷ and *Certificate of Inward Remittance*¹³⁸ issued by the Bank of America, indicating inward remittances from its foreign clients for the 1st quarter of CY 2020.

A scrutiny of the aforementioned documents reveals that the declared zero-rated sales/receipts of ₱175,318,751.27 were supported by VAT zero-rated ORs¹³⁹ and that the said sales were entirely traced to the inward remittances per the bank certificate.¹⁴⁰

At this juncture, it bears stressing that compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.¹⁴¹ The zero-rated receipts issued to petitioner's clients involve sale of services; hence, the OR is the valid supporting document.

¹²⁹ *Team Energy Corporation vs. CIR, et seq.*, supra.

¹³⁰ Exhibit "P-58", USB.

¹³¹ Exhibit "P-59", USB.

¹³² Exhibit "P-61", USB.

¹³³ Exhibits "P-11" to "P-24", Docket, Vol. 2, pp. 595 to 608; Exhibits "P-61-1" to "P-61-14", USB.

¹³⁴ Exhibit "P-62", USB.

¹³⁵ Exhibit "P-63", USB.

¹³⁶ Exhibit "P-63-1", USB.

¹³⁷ Exhibit "P-63-2", USB.

¹³⁸ Exhibit "P-40", Docket, Vol. 2, p. 643.

¹³⁹ Exhibits "P-11" to "P-24", Docket, Vol. 2, pp. 595 to 608; Exhibits "P-61-1" to "P-61-14", USB.

¹⁴⁰ Exhibit "P-40", Docket, Vol. 2, p. 643.

¹⁴¹ *Eastern Telecommunications Philippines, Inc. vs. CIR*, G.R. No. 183531, March 25, 2015.

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 30 of 32

Under Section 113(B)(3) of the Tax Code, the following information, among others, are **required** to be indicated in the VAT invoice or VAT official receipt, to wit:

- a. Date of transaction;
- b. Quantity;
- c. Unit cost; and
- d. Description of the goods or properties or **nature of the service.**

The Court observes that petitioner did not indicate the nature of the service(s) in the ORs,¹⁴² but only the corresponding number of the billing statements for which the payments received by petitioner were made. Unfortunately, petitioner did not submit in evidence the said billing statements, which could have been cross-referenced with the ORs and provided much needed data that will confirm the nature and details of the zero-rated sales. Consequently, the Court cannot ascertain on its own whether the payments received are indeed for the stipulated services rendered by petitioner. *Apropos*, the importance of complying with the substantiation and invoicing requirements of the law is of fatal importance.

Thus, the entire ₱175,318,751.27 declared zero-rated sales/receipts, albeit supported by VAT ORs, must be disallowed for failure to show the nature and details of the subject sales of services.

In *Coca-Cola Bottlers Philippines, Inc. vs. CIR*,¹⁴³ the Supreme Court said:

On a final note, the Court reiterates its consistent ruling that actions for tax refund or credit, as in the instant case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also **the pieces of evidence presented entitling a taxpayer to an exemption is strictissimi scrutinized and must be duly proven. The burden is on the taxpayer to show that he (or she) has strictly complied with the conditions for the grant of the tax refund or credit.** Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented as they are not intended to be liberally construed. xxx (*Emphasis supplied*)

Considering the foregoing, the zero-rated sales/receipts issued to petitioner's clients in the total amount of ₱175,318,751.27, cannot qualify for VAT zero-rating under Section 108(B)(2), in relation to Section 113(A)(2), (B)(1), (2)(c) and (3), both of the Tax Code.

¹⁴² Exhibits "P-11" to "P-24", Docket, Vol. 2, pp. 595 to 608; Exhibits "P-61-1" to "P-61-14", USB.

¹⁴³ G.R. No. 222428, February 19, 2018.

u

DECISION

CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 31 of 32

Ergo, petitioner failed to fulfill the *fourth* requisite, i.e., that it is engaged in zero-rated or effectively zero-rated sales during the 1st quarter of CY 2020. As such, petitioner's input VAT claim for refund or issuance of tax credit certificate in the total amount of ₱974,625.30 allegedly attributable to its zero-rated sales must necessarily fail.

Accordingly, it is no longer necessary to determine petitioner's compliance with the remaining requisites to merit favorable consideration of its claim for refund of unutilized input VAT for the 1st quarter of CY 2020.

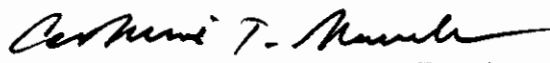
Statutes that grant tax exemptions are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority. Tax refunds in relation to VAT are in the nature of such exemptions.¹⁴⁴ It is a claimant's burden to prove the factual basis of a claim for refund or tax credit.¹⁴⁵

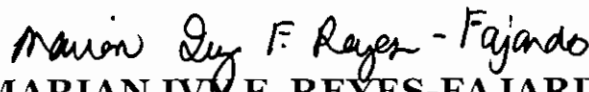
WHEREFORE, premises considered, the instant Petition for Review is **DENIED** for lack of merit.

SO ORDERED.


HENRY S. ANGELES
Associate Justice

WE CONCUR:


CATHERINE T. MANAHAN
Associate Justice


MARIAN IVY F. REYES-FAJARDO
Associate Justice

¹⁴⁴ *Panasonic Communications Imaging Corporation of the Philippines (Formerly Matsushita Business Machine Corporation of the Philippines) vs. CIR*, G.R. No. 178090, February 8, 2010.

¹⁴⁵ *Eastern Telecommunications Philippines, Inc. vs. CIR*, *supra*.

DECISION

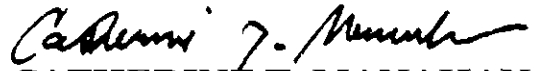
CTA Case No. 10920

Stefanini Philippines Inc. vs. Commissioner of Internal Revenue

Page 32 of 32

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.



CATHERINE T. MANAHAN

Associate Justice

Third Division 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