REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PHILIPPINE GEOTHERMAL PRODUCTION COMPANY, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NOS. 9440, 9501, 9534 and 9588

Members:

CASTAÑEDA, JR., *Chairperson, and*
BACORRO-VILLENA, ***JJ.***

Promulgated:
NOV 18 2020
8:15 a.m.

x- x

DECISION

BACORRO-VILLENA, J.:

At bar are consolidated Petitions for Review[1] filed by Philippine Geothermal Production Company, Inc. (**petitioner/PGPCI**) pursuant to Rule 4, Section 3[2] of the Revised Rules of the Court of Tax Appeals

---

[1] Division Docket (CTA Case No. 9440), Volume I, pp. 10-27; Division Docket (CTA Case No. 9501), pp. 12-30; Division Docket (CTA Case No. 9534), pp.10-29; Division Docket (CTA Case No. 9588), pp. 12-30.

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

(**RRCTA**). They seek the refund or issuance of a tax credit certificate (**TCC**) in the amount of Thirty-One Million Six Hundred Seventy-Nine Thousand Two Hundred Five Pesos and Sixty Centavos (**₱31,679,205.60**), representing petitioner's unutilized input taxes for the four (4) quarters of calendar year (**CY**) 2014.

THE PARTIES

Petitioner is a domestic corporation, duly organized and existing under and by virtue of the laws of the Republic of the Philippines. On the other hand, respondent is the duly appointed Commissioner of Internal Revenue (**respondent/CIR**) vested with the authority to carry out the functions and duties of said office, among which, is to decide and grant claims of tax refund and execute an implement tax laws, rules and regulations.

FACTS OF THE CASE

On 30 March 2016, petitioner filed with the Bureau of Internal Revenue (**BIR**) its Application for Tax Credits or Refunds[3] (BIR Form No. 1914) for its unutilized input taxes for the 1st quarter of taxable year (TY) 2014 in the aggregate amount of ₱5,258,975.31.

Respondent failed to act on petitioner's administrative claim within the 120 days which ended on 28 July 2016. Taking the former's inaction as a denial of its claim, petitioner elevated its case before this Court on 25 August 2016 and the same was docketed **CTA Case No. 9440**.

---

matters arising under the National Internal Revenue Code or Revised Rules of the Court of Tax Appeals other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action: Provided, that m case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; Provided, further, that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules; and Provided, still further, that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with page 9 Revised Rules of the Court of Tax Appeals the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code.

3 Exhibit "P-14", Division Docket (CTA Case No. 9440), Volume V, p. 2140.

Per the BIR Records, respondent endorsed[4] a partial approval of petitioner's claim to the Bureau of Customs (**BOC**). At the time of the filing its petition, petitioner appears to have not yet received any notice of approval.

Likewise on 30 June 2016, petitioner filed with the BIR its Application for Tax Credits or Refunds[5] for its unutilized input taxes for the 2nd quarter of TY 2014 in the aggregate amount of ₱5,072,782.04.

On 26 October 2016, respondent issued a TCC[6] in favor of petitioner in the amount of ₱85,441.47. Attached thereto is an Authority to Issue VAT Credit/Refund authorizing the issuance of a TCC to petitioner amounting to ₱474,109.00. The aggregate amount of the credit/refund granted petitioner totaled to ₱559,550.49.

Unsatisfied with only a partial approval of its claim, petitioner elevated its claim to this Court on 25 November 2016 *via* a Petition for Review docketed as **CTA Case No. 9501** and was raffled to the Court's First Division.

Also on 30 September 2016, petitioner filed with the BIR its Application for Tax Credits or Refunds[7] for its unutilized input taxes for the 3rd quarter of TY 2014 in the aggregate amount of ₱16,913,072.67.

Acting on its claim, respondent issued a TCC[8] in favor of petitioner in the amount of ₱40,419.28 on 10 January 2016 with a letter[9] recommending the issuance further of another TCC amounting to ₱16,544,046.99. The total tax credits granted petitioner amounted to a ₱16,584,466.27.

Contesting the disallowance of the amount ₱328,606.40, petitioner appealed respondent's decision before the Court on 09

---

4 BIR Records, p. 2580.
5 Exhibit "P-16", Division Docket (CTA Case No. 9440), Volume V, p. 2150.
6 Exhibit "P-17", id., p. 2151.
7 Exhibit "P-22", id., p. 2174.
8 Exhibit "P-23", id., p. 2175.
9 Exhibit "P-24", id., p. 2176.

February 2017 *via* **CTA Case No. 9534** and this case was raffled to the Court's Second Division.

Lastly, on 27 December 2016, petitioner filed with the BIR its Application for Tax Credits or Refunds[10] for its unutilized input taxes for the 4th quarter of TY 2014 in the aggregate amount of ₱4,434,375.58.

Respondent issued a TCC on 25 April 2017 and partially approved petitioner's claim in the amount of ₱39,886.70. An Authority to Issue VAT Credit/Refund[11] was attached thereto authorizing the issuance of another TCC amounting to ₱3,813,695.00 for an aggregate allowed claim of ₱3,853,581.79.

Similarly in disagreement with petitioner's action, respondent filed another Petition for Review[12] against the CIR's partial grant of its refund on 09 May 2017 *via* **CTA Case No. 9588**. The case was likewise raffled to this Court's Second Division.

PROCEEDINGS BEFORE THE COURT

Respondent filed his Answer[13] in CTA Case No. 9440 on 16 November 2016. Thereafter, petitioner filed a Motion to Consolidate[14] with the Court's First and Second Division, seeking the consolidation of CTA Case No. 9501 with CTA Case No. 9440. The same was granted on 24 January 2017.[15]

Subsequently, petitioner filed another Motion to Consolidate[16] CTA Case No. 9534 with CTA Case No. 9440. The same was granted *via* a Resolution dated 14 March 2017.[17]

---

10 Exhibit "P-26", id., p. 2186.
11 Exhibit "P-29", id., Volume VI, p. 2189.
12 Division Docket (CTA Case No. 9588), pp. 12-30.
13 Division Docket (CTA Case No. 9440), pp. 71-79
14 Division Docket (CTA Case No. 9501), pp. 78-82.
15 Id., p. 85.
16 Division Docket (CTA Case No. 9534), pp. 69-73.
17 Division Docket (CTA Case No. 9440), Volume II, pp. 606-607.

Petitioner's Motion to Consolidate[18] CTA Case No. 9588 with CTA Case No. 9440 on 09 June 2017 was likewise granted on 13 July 2017.[19]

After all the four (4) cases were consolidated, both petitioner and respondent filed their respective pre-trial briefs (**PTB**).[20] The Court thereafter terminated the pre-trial and ordered both parties to submit their Joint Stipulation of Facts and Issues (**JSFI**) within fifteen (15) days from such order.[21] The parties' filed their JSFI[22] on 04 August 2017.

Subsequently, trial ensued where petitioner presented its witnesses Rosaluz R. Feliciano (**Feliciano**), Katherine O. Constantino (**Constantino**) and Ma. Fe Concepcion L. Guirnalda-Lucero (**Lucero**).

Feliciano, as petitioner's Accounting Supervisor, testified essentially on her involvement in the preparation of petitioner's tax returns and other pertinent documents, as well as petitioner's right to the refund being claimed.[23]

Constantino, the Court-appointed Independent Certified Public Accountant (**ICPA**), assumed the witness stand next. She testified to verifying the various documents submitted by petitioner, including the contents of her ICPA Report.[24]

Lastly, the testimony of petitioner's Legal Counsel and Corporate Secretary, Lucero, was offered next. On the witness stand, she testified primarily on the fact of petitioner's status as a Renewable Energy (**RE**) Developer, and the veracity of all documents pertinent thereto.[25]

---

18 Division Docket (CTA Case No. 9588), pp. 72-76.
19 Division Docket (CTA Case No. 9440), Volume III, pp. 1234-1235.
20 Petitioner and respondent's Pre-Trial Briefs filed on 19 July 2017 and 20 July 2017, respectively, id., pp. 1246-1264 and 1267-1270.
21 Id., p. 1265.
22 Id., pp. 1317-1323.
23 Judicial Affidavit, id., Volume V, pp. 1740-1768.
24 Exhibit "P-100".
25 Judicial Affidavit, Exhibit "P-67", id., Volume IV, pp. 1343-1358.

Petitioner rested its case and filed its Formal Offer of Evidence[26] (**FOE**). The Court eventually resolved to admit all of petitioner's exhibits[27], except Exhibits "**P-1041**" to "**P-1044**", "**P-1058**", "**P-1116**" to "**P-1119**", "**P-1121**" to "**P-1127**", "**P-1132**", "**P-1140**" to "**P-1141**", "**P-1164**", "**P-1193**" to "**P-1195**", **P-1197**" to "**P-1201**", "**P-1203**", and "**P-1205**" to "**P-1207**".[28]

For his part, respondent sought to present the testimony of Revenue Officer (**RO**) Alexander Atienza (**Atienza**) but failed to do so due to his medical condition. Thereafter, he offered the testimony of RO Leonila DC Manuel[29] (**Manuel**) who testified to her audit of petitioner particularly, the results contained in her memorandum report[30] and a letter sent to petitioner regarding the results of the BIR's investigation.[31]

With no further witnesses to present, respondent filed his FOE.[32] On 06 August 2019[33], the Court admitted all of respondent's documentary exhibits (which were part of the BIR Records). The Court further ordered the parties to submit their respective Memoranda.

---

26 Formal Offer of Evidence filed 12 March 2018, Division Docket (CTA Case No. 9440), Volume V, pp. 1995-2020; Supplemental Formal Offer of Evidence, dated 08 February 2019, id., Volume VI, pp. 2608-2616.

27 Resolution dated 07 August 2018, id., Volume VI, pp. 2493-2494; Resolution dated 26 February 2019, id., Volume VII, pp. 2727-2729.

28

"P-1041" to "P-1044"	Statement of Settlement of Duties and Taxes (SSDTs)
"P-1058"	Statement of Settlement of Duties and Taxes
"P-1116" to "P-1119"	Assessment Notice
"P-1121" to "P-1127"	Assessment Notice
"P-1132"	Assessment Notice
"P-1140" to "P-1141"	Assessment Notice
"P-1164"	Assessment Notice
"P-1193" to "P-1195"	Assessment Notice
"P-1197" to "P-1201"	Statement of Accounts
"P-1203"	Statement of Accounts
"P-1205 to "P-1207"	Statement of Accounts

29 Exhibit "R-14", Division Docket (CTA Case No. 9440), Volume VII, pp. 2756-2758.

30 Exhibit "R-12", BIR Records, p. 1876.

31 Exhibit "R-13", id., p. 1889.

32 On 15 July 2019, Division Docket (CTA Case No. 9440), Volume VII, pp. 2774-2780.

33 Id., pp. 2786-2789.

Respondent filed his Memorandum on 24 September 2019[34] while, petitioner filed its own on 28 October 2019.[35] On 18 November 2019[36], the case was considered submitted for decision.

ISSUE

WHETHER PETITIONER IS ENTITLED TO A REFUND OR TO THE ISSUANCE OF TAX CREDIT CERTIFICATE FOR ITS UNUTILIZED INPUT TAXES FOR ALL QUARTERS OF TAXABLE YEAR 2014 IN THE FULL AMOUNT OF ₱31,679,205.60.

ARGUMENTS

In support of the above issue, petitioner argues that, as an RE Developer, it is subject to zero-rated value-added tax (**VAT**) on its local purchases under Republic Act (**RA**) No. 9513.[37] Under this law, RE Developers are entitled to zero-rating treatment of its sale of fuel or power generated from renewable sources of energy and its purchases of local supply of goods, properties and services related to the development, construction and installation of its power facilities.

Petitioner further cites Section 108(B)(7)[38] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, subjecting its transactions of geothermal energy resources to zero percent rate.

Petitioner also claims that, since its transactions with its suppliers are subject to zero-rated VAT, it is entitled to a refund or

---

34 See Resolution, id., pp. 2796-2806.

35 Id., pp. 2813-2854.

36 Id., p. 2855.

37 AN ACT PROMOTING THE DEVELOPMENT, UTILIZATION AND COMMERCIALIZATION OF RENEWABLE ENERGY RESOURCES AND FOR OTHER PURPOSES.

38 **SEC. 108.** *Value-added Tax on Sale of Services and Use or Lease of Properties.*

...

(B) *Transactions Subject to Zero Percent (0%) Rate.* - The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

...

(7) Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels.

credit of these unutilized input taxes in accordance with Section 112(A)[39] of the NIRC of 1997, as amended.

Respondent, on the other hand, challenges petitioner's right to a refund or tax credit on the ground that the latter has failed to present certain documents before the BIR for its administrative claim before it.

Respondent also finds petitioner's computations of its claimed amount of unutilized input VAT to be erroneous and baseless. Insistent on the denial of petitioner's present claims, respondent prays for the strict construction of tax exemptions against petitioner.

<u>RULING OF THE COURT</u>

After a careful scrutiny of the records of the case and the parties' contrasting arguments, the Court finds partial merit in petitioner's claims.

Relevant to the resolution of herein cases is Section 112(A) and (C) of the NIRC of 1997, as amended, to wit:

> ...
> **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

---

[39] **SEC. 112.** *Refunds or Tax Credits of Input Tax.* –
(A) *Zero-Rated or Effectively Zero-Rated Sales.* – ...

> attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108 (B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
>
> ...
>
> (C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* – In proper cases, the Commissioner shall grant a refund or issue the 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.
>
> ...

Based on the foregoing provision, to be entitled to refund or tax credit of input tax due or paid attributable to zero-rated or effectively zero-rated sales, the following requisites must be satisfied:

> ...
>
> 1. The taxpayer is VAT-registered;
> 2. The claim for refund was filed within the prescriptive period;
> 3. There must be zero-rated or effectively zero-rated sales;
> 4. Input taxes were incurred or paid;
> 5. Such input taxes are attributable to zero-rated or effectively zero-rated sales; and,
> 6. The input taxes were not applied against any output VAT liability.

1ST REQUISITE: PETITIONER IS A VAT-REGISTERED ENTITY

Undisputedly, petitioner is a VAT-registered entity with TIN 214-127-981-000 as evidenced by its Certificate of Registration Number OCN 8RC0000038356 dated October 30, 2001.[40]

2ND REQUISITE: PETITIONER'S ADMINISTRATIVE AND JUDICIAL CLAIMS WERE FILED WITHIN THE PRESCRIPTIVE PERIOD

In accordance with the above-quoted Section 112(A), the administrative claim for the issuance of a tax credit certificate or refund of excess input VAT must be filed with the BIR within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim for refunds/TCCs covers all quarters of CY 2014. The last day for petitioner's filing of its administrative claim for the different quarters of CY 2014 and its actual filing fell on the following dates:

Period Covered	**Last Day to File Administrative Claim**	**Actual Date of Filing of Administrative Claim**
January to March 2014 (1st Quarter)	March 31, 2016	March 30, 2016
April to June 2014 (2nd Quarter)	June 30, 2016	June 30, 2016
July to September 2014 (3rd Quarter)	September 30, 2016	September 30, 2016
October to December 2014 (4th Quarter)	December 31, 2016	December 27, 2016

40 Exhibit "P-4", Division Docket (CTA Case No. 9440), Volume V, p. 2041.

Clearly, petitioner's administrative claims for refund/TCC were filed within the prescriptive period.

As regards the timeliness of petitioner's judicial claims, Section 112(C) of the NIRC of 1997, as amended, provides that respondent has 120 days from the date of submission of the complete documents (in support of the application for refund or tax credit) within which to grant or deny the claim.

In case respondent denies the claim for refund, in full or partially, the taxpayer's recourse is to file an appeal before the CTA within 30 days from receipt of the former's decision. However, if after the 120-day period, the BIR Commissioner fails to act on the application for refund/tax credit, the taxpayer's remedy is to appeal the inaction to the CTA within 30 days from the expiration of the said period.

The table below shows that petitioner was able to file its judicial claims well within the 30-day period and only after respondent's decision or the lapse of the 120-day period, to wit:

Period Covered	Filing of Administrative Claim	End of 120-day Period	Date of Receipt of Denial	Actual date of filing of judicial claim
1st Quarter	March 30, 2016	July 28, 2016	-	August 25, 2016
2nd Quarter	June 30, 2016	October 28, 2016	October 28, 2016[41]	November 25, 2016
3rd Quarter	September 30, 2016	January 28, 2017	January 10, 2017[42]	February 9, 2017
4th Quarter	December 27, 2016	April 26, 2017	May 2, 2017[43]	May 9, 2017

Evidently, petitioner satisfies the jurisdictional requirement for this Court to take cognizance of its petitions for review.

---

41 Exhibit "R-13", BIR Records, p. 1889.
42 Exhibit "R-8", id., p. 2519.
43 Exhibit "R-9", id., p. 2210.

3RD REQUISITE: PETITIONER IS ENGAGED IN ZERO-RATED OR EFFECTIVELY ZERO-RATED SALES DURING THE 1ST TO 4TH QUARTERS OF CY 2014

Petitioner is primarily engaged in the exploration, development and exploitation of geothermal energy and similar resources.[44]

An RE Developer is defined under RA 9513 as "individual/s or a group of individuals formed in accordance with existing Philippine Laws engaged in the exploration, development and utilization of RE resources and actual operation of RE systems/facilities".[45]

Section 15(g) thereof further provides for the zero-rating incentives that an RE Developer enjoys, to wit:

> ...
>
> **CHAPTER VII**
> **GENERAL INCENTIVES**
>
> **SEC. 15.** ***Incentives for Renewable Energy Projects and Activities.*** - RE Developers of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications, **as duly certified by the DOE, in consultation with the BOI**, shall be entitled to the following incentives:
>
> ...
>
> (g) *Zero Percent Value-Added Tax Rate.* - The sale of fuel or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337.
>
> **All RE Developers shall be entitled to zero-rated value[-]added tax on its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities.**

---

44 Amended Articles of Incorporation, Exhibit "P-2", Division Docket (CTA Case No. 9440), Volume V, pp. 2022-2040.

45 Section 4 (pp), Renewable Energy Act of 2008, Republic Act No. 9513.

This provision shall also apply to the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors.[46]

...

Pursuant to the abovementioned provision, to avail of the incentives, an RE Developer must be duly certified by the Department of Energy (**DOE**). More specifically, under the Implementing Rules and Regulations[47] (**IRR**) of RA 9513, an RE Developer must comply with the following requirements:

...

Section 18. *Conditions for Availment of Incentives and Other Privileges.* —

A. Registration/Accreditation with the DOE

For purposes of entitlement to the incentives and privileges under the Act, existing and new RE Developers, and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall register with the DOE, through the Renewable Energy Management Bureau (REMB). The following certifications shall be issued:

(1) DOE Certificate of Registration – ...

...

B. Registration with the Board of Investments (BOI)

...

To qualify for the availment of the incentives under Sections 13 and 15 of this IRR, RE Developers, and manufacturers, fabricators, and suppliers of locally-produced RE equipment, shall register with the BOI.

...

C. Certificate of Endorsement by the DOE

RE Developers, and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall be qualified to avail of the incentives provided in the Act only after securing a Certificate of Endorsement from the DOE, through the REMB, on a per transaction basis.

...

---

46 Emphasis supplied.
47 Department Circular No. DC2009-05-0008, 25 May 2009.

In relation thereto, Section 108(B)(7) of the NIRC of 1997, as amended, provides:

> ...
> **SEC. 108.** *Value-added Tax on Sale of Services and Use or Lease of Properties.* -
> ...
>
> (B) Transactions Subject to Zero Percent (0%) Rate. - The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
> ...
>
> > (7) Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels.
>
> ...

While, Section 4.108-5(b)(7) of Revenue Regulations (**RR**) No. 16-2005 implementing the above provision qualifies the applicability of such zero-rating as follows:

> ...
> **SEC. 4.108-5.** ***<u>Zero-Rated Sale of Services</u>***. –
> ...
>
> **(b)** ***Transactions Subject to Zero Percent (0%) VAT Rate.*** – The following services performed in the Philippines by a VAT registered person shall be subject to zero percent (0%) VAT rate:
> ...
>
> > (7) Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal and steam, ocean energy, and other emerging sources using technologies such as fuel cells and hydrogen fuels; *Provided,* however, that zero-rating shall apply strictly to the sale of power or fuel generated through renewable sources of energy, and shall not extend to the sale of services related to the maintenance or operation of plants generating said power.
>
> ...

Petitioner is registered with the DOE as "RE Developer of Geothermal Energy Resources" under Certificate of Registration (**COR**) Nos. GSC 2013-04-045[48] and GSC 2013-04-044[49], in accordance with the provisions of the Omnibus Investment Code of 1987. Both DOE CORs provide that petitioner's registration as an RE Developer took effect on 25 April 2013.

Likewise, petitioner was issued COR Nos. 2014-067[50] and 2014-66[51] by the Board of Investments (**BOI**) as an RE Developer of 236 MW Makiling-Banahaw (Mak-Ban) and 136 MW Tiwi Geothermal Resources, respectively. Both BOI CORs were issued on 15 April 2014.

The specific terms and conditions issued to petitioner by the BOI for both the Makiling-Banahaw (Mak-Ban) Geothermal Production Field and the Tiwi Geothermal Production Field specifically provide that petitioner's sale of power is subject to zero-rated VAT, to wit:[52]

> ...
> The sale of power generated by the enterprise as well as its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities and the whole process of exploration and development of RE sources up to its conversion into power shall be subject to zero percent value-added tax pursuant to the NIRC.
> ...

As regards petitioner's BOI CORs, the Court finds the same to have been issued beyond the 1st quarter of 2014, one of the subject quarters of petitioner's application for refund. However, it bears stressing that petitioner was already DOE-certified as RE Developer during the concerned period hence, it was already entitled to the incentives provided under the Renewable Energy Act of 2008. This is supported by the intent of the legislators in inserting the Board of Investments in the Renewable Energy Act of 2008, *viz*:[53]

48 Exhibit "P-5", Division Docket (CTA Case No. 9440), Volume V, p. 2042.
49 Exhibit "P-6", id., p. 2080.
50 Id., p. 2119.
51 Id., p. 2126.
52 Exhibit "P-9", id., p. 2123.
53 Session No. 23, Journal of the Senate, 2nd Regular Session, (2008-2009), Volume III, Monday, 24 September 2008, pp. 503-504.

> ...
>
> Asked if the BOI has any discretion to add to or delete any of the incentives provided for in the bill, Senator Angara replied in the negative, saying that to his understanding, there is already a list of mandatory incentives precisely to attract investors. He agreed with Senator Enrile that the **BOI's duty is ministerial, merely the clearinghouse and the keeper of the - records of the incentives given.**
>
> Senator Enrile stated that the **registration of renewable energy producers is the function of the DOE** which must ensure that they have met all the requirements to undertake the project in terms of capacity, technical skills, management capability and financial muscle. Senator Angara agreed as he pointed out that the Committee sought to make the package more attractive.[54]
>
> ...

Clearly from the foregoing, it is the intent of the legislators that once a taxpayer is registered with the DOE as an RE Developer, taxpayer's sale of power generated from renewable sources of energy is already VAT zero-rated.

It is important to note, however, that the ministerial function in the issuance of BOI CORs cannot be said as regards the DOE Certificate of Endorsement (**COE**) since such document is provided by DOE on a "*per* transaction" basis; the issuance of which rests upon the DOE's exercise of sound discretion. The records do not yield that petitioner considered this to be one of its pieces of evidence in its bid to seek full refund of its input VAT before this Court. Had this been disputed, the Court would have been inclined to deny petitioner's claim. Nevertheless, **to underscore, respondent has already granted partially petitioner's refund claims.** The BIR's prior action thus is indicative of petitioner's compliance with all the necessary documentation requirements. Consistent with the presumption of regularity[55] in the discharge of respondent's official duties, the Court finds no reason to doubt that he has verified the completeness of petitioner's documents before granting a partial refund of its claimed input VAT. Therefore, there being no contest as to whether petitioner complied with the COE requirement, its sales of energy could only be deemed to be undoubtedly subject to zero-rated VAT.

---

[54] Emphasis supplied.

[55] *The People of the Philippines v. Jolliffe*, G.R. No. L-9553, 13 May 1959.

With petitioner's right to the enjoyment of the foregoing incentives having been established, We proceed with the computation of the amount of refund it is actually entitled to. Petitioner's amended quarterly VAT returns for CY 2014 reported total sales of ₱4,866,073,133.28, broken down as follows:

	1st quarter of 2014	2nd quarter of 2014	3rd quarter of 2014	4th quarter of 2014	Total
Vatable Sales	₱ -	₱4,755.33	₱6,928.13	₱ -	₱11,683.46
Zero-rated Sales	1,284,716,925.76	1,470,388,783.54	1,149,894,278.84	961,061,461.68	4,866,061,449.82
Total	**₱1,284,716,925.76**	**₱1,470,393,538.87**	**₱1,149,901,206.97**	**₱961,061,461.68**	**₱4,866,073,133.28**

To substantiate the foregoing, petitioner presented official receipts[56] (**ORs**) and billing statements to show its sale of steam generated through renewable geothermal energy from AP Renewables, Inc. These documents were verified and examined by the ICPA who summarized the following exceptions:

	1st quarter of 2014	2nd quarter of 2014	3rd quarter of 2014	4th quarter of 2014	Total[57]
Supported by zero-rated OR dated not within the period of claim.	₱ -	₱ -	₱ -	₱654,125,937.37[58]	₱654,125,937.37
Unsupported foreign currency differential	5,418,220.34[59]	16,275,530.64[60]	(10,930,017.49)[61]	5,546,063.10[62]	16,309,796.59
Unsupported variance between the accrual and reversal of sales	(13,207,380.76)[63]	(7,156,183.92)[64]	(20,973,254.10)[65]	(1,138,198.88)[66]	(42,475,017.66)
Total	**(₱7,789,160.42)**	**₱9,119,346.73**	**(₱31,903,271.59)**	**₱658,533,801.59**	**₱627,960,716.30**

56 Exhibit "P-132" to "P-143", CD.
57 Gross of 2% withholding tax.
58 Annex 2-4Q-b, Consolidated ICPA Report.
59 Annex 2-1Q-c, id.
60 Annex 2-2Q-c, id.
61 Annex 2-3Q-c, id.
62 Annex 2-4Q-c, id.
63 Annex 2-1Q-d, id.
64 Annex 2-2Q-d, id.
65 Annex 2-3Q-d, id.
66 Annex 2-4Q-d, id.

As represented by petitioner, the foreign currency variance is due to the difference between the billing rate and collection rate. However, the Court cannot determine, with certainty, the corresponding rates that petitioner used as indicated in the schedules provided. Also, the Court could not give credence to the difference due to the reversal and accrual of sales since these were only journal entries generated from the company's accounting system support them. Essentially, the difference noted was the reversal of accrual from December 2013 and the accrual from December 2014 which will reverse the following year. The Court, therefore, is unable to recognize whether the same was actually declared in petitioner's VAT returns owing to the absence of documents supporting the reversal and accrual of the said zero-rated sales.

The Court agrees with the ICPA's findings as regards the above-noted exceptions in the amount of ₱627,960,716.30. Further verification of petitioner's documents likewise prompts a disallowance of the amount of ₱493,790,595.84 due to the following reason:

Exhibit	OR No.	Date	Amount (gross of 2% withholding)	Reason for disallowance
P-135	01262	6/3/2014	₱493,790,595.84	Supported by OR but with unreadable details

In sum, out of the total zero-rated sales of ₱4,866,061,449.82 for the first to fourth (1st to 4th) quarters of CY 2014, only the amount of ₱3,704,617,705.66 qualifies as valid zero-rated sales, as follows:

	1st quarter of 2014	2nd quarter of 2014	3rd quarter of 2014	4th quarter of 2014	Total
Total declared zero-rated sales	₱1,284,716,925.76	₱1,470,388,783.54	₱1,149,894,278.84	₱961,061,461.68	₱4,866,061,449.82
Less: Disallowances					
Per ICPA Report	-[67]	9,119,346.73	-[68]	658,533,801.59	667,653,148.32

67 Disallowance of net foreign currency reversal was not reflected because it would result to an amount greater than the zero-rated sales declared in the 1st Quarter VAT return.

68 Disallowance of net foreign currency reversal was not reflected because it would result to an amount greater than the zero-rated sales declared in the 3rd Quarter VAT return.

Per Court's further verification		493,790,595.84			493,790,595.84
Total Valid Zero-Rated Sales	**₱1,284,716,925.76**	**₱967,478,840.97**	**₱1,149,894,278.84**	**₱302,527,660.09**	**₱3,704,617,705.66**

4TH and 5TH REQUISITE:
PETITIONER INCURRED AND PAID INPUT TAXES WHICH ARE ATTRIBUTABLE TO ITS ZERO-RATED SALES.

In its quarterly VAT returns for the 1st to 4th quarters of CY 2014, petitioner claimed input taxes in the amount of ₱31,680,607.62, broken down as follows:

	1st Quarter of 2015[69]	**2nd Quarter of 2015[70]**	**3rd Quarter of 2015[71]**	**4th Quarter of 2015[72]**	**Total**
Domestic purchase of goods other than capital goods	₱37,043.56	₱53,007.48	₱49,124.24	₱69,346.04	₱208,521.32
Importation of goods other than capital goods	4,890,251.08	4,742,435.85	16,544,046.99	4,087,666.00	30,264,399.92
Domestic purchase of services	331,680.67	277,909.35	320,732.82	277,363.54	1,207,686.38
Total Input Taxes for the period	**₱5,258,975.31**	**₱5,073,352.68**	**₱16,913,904.05**	**₱4,434,375.58**	**₱31,680,607.62**

To establish that petitioner incurred/paid the aforementioned input VAT, it submitted various ORs and sales invoices on the local purchases of goods and services which included medical, office supplies, utilities and transportation expenses. Petitioner also submitted the original printouts of Statement of Settlement of Duties and Taxes[73] (**SSDT**) and Single Administrative Document[74] (**SAD**) or Manual Import Entry and Internal Revenue Declaration and bank

69 Exhibit "P-34", Division Docket (CTA Case No. 9440), Volume VI, p. 2198.
70 Exhibit "P-37", id., p. 2204.
71 Exhibit "P-38", id., p. 2206.
72 Exhibit "P-39", id., p. 2208.
73 "P-1032" to "P-1111", CD.
74 "P-965" to "P-1031", CD.

certifications to substantiate its importations of goods other than capital goods.

Upon verification of petitioner's importation of goods other than capital goods, the ICPA ascertained that the amount of ₱567,749.08 should be disallowed for the following reasons as detailed below:

Particulars	1st quarter of 2014	2nd quarter of 2014	3rd quarter of 2014	4th quarter of 2014	Total
Supported by SSDT and photocopied Assessment Notice with manual IEIRD further supported by Bank Certifications *(Annex 7-1Q-a, Annex 7-2Q-a, Annex 7-3Q-a, Annex 7-4Q-a)*	₱184,213.99	₱48,975.00	₱6,981.00	₱12,522.00	₱252,691.99
Supported by SAD, photocopied SSDT and photocopied Assessment Notice with manual IEIRD further supported by Bank Certifications *(Annex 7-2Q-e)*	-	4,169.00	-	-	4,169.00
Supported by SSDT and photocopied Assessment Notice with manual IEIRD dated not within the quarter but within the period of claim further supported by Bank Certifications *(Annex 7-1Q-c)*	12,889.00	-	-	-	12,889.00
Supported by photocopied SSDT and photocopied Assessment Notice with manual IEIRD further supported by Bank Certifications *(Annex 7-1Q-d)*	124,718.00	-	-	-	124,718.00
Supported by photocopied Assessment Notice with manual IEIRD further supported by Bank Certifications *(Annex 7-1Q-e)*	21,068.09	-	-	-	21,068.09
Supported by photocopied Assessment Notice further supported by Bank Certifications *(Annex 7-1Q-f)*	18,943.00	-	-	133,270.00	152,213.00
Total	**₱361,832.08**	**₱53,144.00**	**₱6,981.00**	**₱145,792.00**	**₱567,749.08**

After a careful scrutiny of petitioner's documentary evidence, We find the ICPA's findings above in order. Accordingly, only the amount of ₱29,696,650.85 out of the ₱30,264,399.92 represents petitioner's valid importation of goods other than capital goods.

As for petitioner's domestic purchases of goods other than capital goods and purchase of services, *per* independent verification and examination of petitioner's documents, the Court finds that only ₱118,476.07 of the total input VAT on local purchases (i.e., ₱1,416,207.70)[75] are properly substantiated and compliant with the invoicing requirements mandated by Sections 113[76] and 237[77] of the NIRC of 1997, as amended, and Section 4.113-1[78] of RR 16-2005, as summarized below:

---

75 Results of Verification, ICPA Report, pp. 32-33.

76 **SEC. 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

(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); and

(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 known 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 involved 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 known 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**. (Emphasis supplied)

77 **SEC. 237.** *Issuance of Receipts or Sales or Commercial Invoices.* – All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: *Provided, however*, That where the receipt is issued to cover payment made as rentals, commissions, compensations, fees, receipts or invoices **shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client: *Provided, further*, That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser**. (Emphasis supplied)

...

78 **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

(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

	1st Quarter of CY2014	2nd Quarter of CY2014	3rd Quarter of CY2014	4th Quarter of CY2014	TOTAL
a. Input Tax on purchases of goods other than capital goods	₱-	₱-	₱-	₱5,009.57	₱5,009.57
b. Input tax on purchases of services	6,712.46	56,900.60	21,353.69	28,499.75	113,466.50
TOTAL	₱6,712.46	₱56,900.60	₱21,353.69	₱33,509.32	₱118,476.07

The total disallowed input VAT on local purchases amounting to ₱1,297,731.63 is broken down as follows:

A. Purchase of Goods other than Capital Goods	1st Quarter of CY2014	2nd Quarter of CY2014	3rd Quarter of CY2014	4th Quarter of CY2014	TOTAL
VAT Reg. TIN invoice labeled as "This does not serve as an invoice" *(Annex 5-1Q-e, Annex 5-2Q-d, Annex 5-4Q-d)*	₱16,588.43	₱6,315.55	₱-	₱12,385.77	₱35,289.75
VAT Reg. TIN invoice dated not within the quarter but within the period of claim labeled as "This does not serve as an invoice" *(Annex 5-1Q-f, Annex 5-2Q-e, Annex 5-4Q-e)*	7,555.81	3,432.15	-	6,870.22	17,858.18

---

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 (P1,000.00) 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.** (Emphasis supplied)

Domestic purchase of goods other than capital goods supported by other than VAT invoices *(Annex 5-1Q-g, Annex 5-2Q-j, Annex 5-3Q-h, Annex 5-4Q-g)*	12,899.32	23,495.07	10,211.64	36,731.54	83,337.57
VAT Reg. TIN invoices dated not within the quarter but within the period of claim with incomplete Petitioner's name *(Annex 5-2Q-f, Annex 5-4Q-l)*	-	5,687.99	-	1,777.50	7,465.49
VAT Reg. TIN No invoices dated not within the quarter but within the period of claim with incomplete Petitioner's name and incorrect Petitioner's address *(Annex 5-2Q-g)*	-	5,142.85	-	-	5,142.85
VAT Reg. TIN No invoices dated not within the quarter but within the period of claim with BIR permit and printing date not indicated *(Annex-5-2Q-h)*	-	2,092.80	-	-	2,092.80
VAT Reg. TIN No invoices with incomplete Petitioner's name and incorrect Petitioner's TIN *(Annex 5-2Q-i)*	-	6,841.07	-	-	6,841.07
Domestic purchase of goods other than capital goods supported by Registered TIN invoices labeled as "This invoice does not serve as an invoice" and stamped as "CANCELLED" *(Annex 5-3Q-d)*	-	-	21,988.51	-	21,988.51
Domestic purchase of goods other than capital goods supported by Registered TIN invoices dated not within the quarter but within the period of claim labeled as "This invoice does not serve as an invoice" and stamped as "CANCELLED" *(Annex 5-3Q-e)*	-	-	13,210.40	-	13,210.40
Domestic purchase of goods other than capital goods supported by VAT Reg. TIN invoices dated not within the period of claim with VAT amount not shown separately *(Annex 5-3Q-f)*	-	-	342.86	-	342.86
Domestic purchase of goods other than capital goods supported by VAT Reg. TIN invoices stamped as "CANCELLED" without BIR permit and printing date indicated *(Annex 5-3Q-g)*	-	-	885.12	-	885.12
Domestic purchase of goods other than capital goods supported by VAT ORs only *(Annex 5-3Q-i)*	-	-	2,485.71	-	2,485.71

Domestic purchase of goods other than capital goods supported by VAT Reg. TIN invoices dated not within the quarter but within the period of claim without Petitioner's TIN *(Annex 5-4Q-f)*	-	-	-	2,324.72	2,324.72
Subtotal	***₱37,043.56***	***₱53,007.48***	***₱49,124.24***	***₱60,089.75***	***₱199,265.03***
B. Purchase of Services					
Overclaimed VAT amount *(Annex 5-1Q-c, Annex 5-1Q-d, Annex 5-2Q-c, Annex 5-3Q-c)*	9,675.66	9.38	763.57	-	10,448.61
VAT Reg. TIN ORs/Invoice dated not within the quarter but within the period of claim with abbreviated Petitioner's name without Petitioner's TIN and with incorrect address *(Annex 5-1Q-h)*	1,630.33	-	-	-	1,630.33
VAT Reg. TIN ORs dated not within the quarter but within the period of claim and without Petitioner's TIN and address and VAT amount was not shown separately *(Annex 5-1Q-i)*	19,588.87	-	-	-	19,588.87
VAT Reg. TIN ORs dated not within the quarter but within the period of claim and without Petitioner's TIN and address and with underclaimed VAT amount *(Annex 5-1Q-j)*	1,420.71	-	-	-	1,420.71
VAT Reg. TIN ORs dated not within the quarter but within the period of claim and without Petitioner's TIN and address and with overclaimed VAT amount *(Annex 5-1Q-k, Annex 5-2Q-l)*	6,635.46	1,248.54	-	-	7,884.00
VAT Reg. TIN ORs dated not within the quarter but within the period of claim and without Petitioner's TIN and VAT amount not shown separately *(Annex 5-1Q-l, Annex 5-2Q-p)*	19,629.56	57,521.03	-	-	77,150.59
VAT Reg. TIN ORs dated not within the quarter but within the period of claim with BIR permit and printing date not indicated *(Annex 5-1Q-m)*	624	-	-	-	624.00
VAT Reg. TIN ORs dated not within the quarter but within the period of claim with VAT amount not shown separately *(Annex 5-1Q-n, Annex 5-3Q-n)*	8,655.34	-	33,150.85	-	41,806.19
VAT Reg. TIN ORs with alteration on date without countersign without Petitioner's TIN and address and VAT amount not shown separately *(Annex 5-1Q-o)*	1,778.84	-	-	-	1,778.84

VAT Reg. TIN ORs with incorrect Petitioner's name, TIN and address and with overclaimed VAT amount *(Annex 5-1Q-p)*	920.25	-	-	-	920.25
VAT Reg. TIN ORs with incomplete Petitioner's name, without Petitioner's TIN, with incomplete Petitioner's address and with VAT amount not shown separately *(Annex 5-1Q-q)*	2,076.30	-	-	-	2,076.30
VAT Reg. TIN ORs with incomplete Petitioner's name, without Petitioner's TIN and address and with VAT amount not shown separately *(Annex 5-1Q-r, Annex 5-2Q-u, Annex 5-3Q-t)*	66,936.06	24,977.24	17,333.58	-	109,246.88
VAT Reg. TIN ORs with abbreviated Petitioner's name without Petitioner's TIN and with incorrect Petitioner's address *(Annex 5-1Q-s)*	6,331.57	-	-	-	6,331.57
Domestic purchase of services supported by VAT Reg. TIN ORs without Petitioner's TIN *(Annex 5-1Q-t)*	5,550.68	-	-	-	5,550.68
VAT Reg. TIN ORs with Petitioner's TIN and address written on a different ink and VAT amount not shown separately *(Annex 5-1Q-u)*	6,975.81	-	-	-	6,975.81
VAT Reg. TIN ORs without Petitioner's TIN and address written on a different ink and VAT amount not shown separately *(Annex 5-1Q-v)*	14,683.21	-	-	-	14,683.21
VAT Reg. TIN ORs without Petitioner's TIN and address and with VAT amount not shown separately *(Annex 5-1Q-w, Annex 5-3Q-x)*	44,111.77	-	34,223.65	-	78,335.42
VAT Reg. TIN ORs without Petitioner's TIN and address and with underclaimed VAT amount *(Annex 5-1Q-x)*	83,173.73	-	-	-	83,173.73
VAT Reg. TIN ORs without Petitioner's TIN and address and with overclaimed VAT amount *(Annex 5-1Q-y)*	1,785.86	-	-	-	1,785.86
Non-VAT Reg. TIN ORs without Petitioner's TIN, with incorrect address and with VAT amount not shown separately *(Annex 5-1Q-z)*	2,383.93	-	-	-	2,383.93
VAT Reg. TIN ORs without Petitioner's TIN and with alteration on VAT amount with countersign *(Annex 5-1Q-aa)*	540.89	-	-	-	540.89

VAT Reg. TIN ORs with VAT amount not shown separately *(Annex 5-1Q-ab, Annex 5-2Q-ai, Annex 5-3Q-ac, Annex 5-4Q-y)*	19,441.83	51,239.54	121,691.89	119,928.09	312,301.35
Domestic purchase of services supported by other than VAT ORs *(Annex 5-1Q-ac, Annex 5-4Q-z)*	91.84	-	-	2,609.62	2,701.46
Domestic purchase of services without supporting documents at the time of verification *(Annex 5-1Q-ad, Annex 5-4Q-h)*	325.71	-	-	6,024.22	6,349.93
Non-VAT Reg. TIN ORs dated not within the quarter but within the period claim with incorrect Petitioner's address and with VAT amount not shown separately *(Annex 5-2Q-k)*	-	2,298.21	-	-	2,298.21
VAT Reg. TIN ORs dated not within the quarter but within the period of claim with incorrect Petitioner's TIN and VAT amount not shown separately *(Annex 5-2Q-m)*	-	526.1	-	-	526.10
VAT Reg. TIN ORs dated not within the quarter but within the period of claim with alteration on the Petitioner's TIN without countersign *(Annex 2Q-n)*	-	1,122.64	-	-	1,122.64
VAT Reg. TIN ORs dated not within the quarter but within the period of claim with BIR permit and printing date not indicated and VAT amount not shown separately *(Annex 5-2Q-o)*	-	491.4	-	-	491.40
VAT Reg. TIN ORs with no date and VAT amount not shown separately *(Annex 5-2Q-q)*	-	349.71	-	-	349.71
VAT Reg. TIN ORs with incorrect Petitioner's name without Petitioner's TIN and incorrect Petitioner's address *(Annex 5-2Q-r, Annex 5-3Q-r)*	-	55.52	708.67	-	764.19
VAT Reg. TIN ORs with incorrect Petitioner's name and address without Petitioner's TIN and VAT amount not shown separately *(Annex 5-2Q-s)*	-	309.31	-	-	309.31
VAT Reg. TIN ORs with incorrect Petitioner's name and address without Petitioner's TIN and with overclaimed VAT amount *(Annex 5-2Q-t)*	-	317.46	-	-	317.46

VAT Reg. TIN ORs with incomplete Petitioner's name and incorrect Petitioner's address with overclaimed VAT amount *(Annex 5-2Q-v)*	-	171.43	-	-	171.43
VAT Reg. TIN ORs with abbreviated Petitioner's name and alteration on Petitioner's TIN without countersign and with incorrect Petitioner's address *(Annex 5-2Q-w)*	-	125.02	-	-	125.02
VAT Reg. TIN ORs with no Petitioner's TIN and address and without ATP printing date *(Annex 5-2Q-x, Annex 3Q-w)*	-	14,809.97	65,257.55	-	80,067.52
VAT Reg. TIN ORs with no Petitioner's TIN and address without ATP printing date and VAT amount not shown separately *(Annex 5-2Q-y)*	-	23,980.41	-	-	23,980.41
VAT Reg. TIN ORs without Petitioner's TIN and address and with overclaimed VAT amount but correct per independent computation *(Annex 5-2Q-z)*	-	2,149.50	-	-	2,149.50
VAT Reg. TIN ORs with no Petitioner's TIN and incorrect Petitioner's address *(Annex 5-2Q-aa)*	-	876.9	-	-	876.90
VAT Reg. TIN ORs with incorrect Petitioner's TIN without Petitioner's address and VAT amount not shown separately *(Annex 5-2Q-ab)*	-	18,231.53	-	-	18,231.53
VAT Reg. TIN ORs with alteration on Petitioner's TIN without countersign *(Annex 5-2Q-ac, Annex 5-3Q-z, Annex 5-4Q-w)*	-	2,388.31	2,248.19	4,905.87	9,542.37
VAT Reg. TIN ORs with alteration on Petitioner's TIN without countersign and without Petitioner's address but with underclaimed VAT amount *(Annex 5-2Q-ad)*	-	2,047.16	-	-	2,047.16
VAT Reg. TIN ORs with alteration on Petitioner's TIN without countersign and with incorrect Petitioner's address *(Annex 5-2Q-ae)*	-	2,134.58	-	-	2,134.58
VAT Reg. TIN ORs with alteration on Petitioner's TIN without countersign and with underclaimed VAT amount *(Annex 5-2Q-af)*	-	1,643.79	-	-	1,643.79
VAT Reg. TIN ORs without Petitioner's address but with underclaimed VAT amount *(Annex 5-2Q-ag)*	-	11,434.47	-	-	11,434.47

VAT Reg. TIN ORs with BIR permit and printing date not indicated and VAT amount not shown separately *(Annex 5-2Q-ah)*	-	549.6	-	-	549.60
Domestic purchase of services supported by VAT Reg. TIN ORs dated not within the quarter but within the period of claim with incorrect Petitioner's name without Petitioner's TIN and with incorrect Petitioner's address *(Annex 5-3Q-j)*	-	-	300.29	-	300.29
Domestic purchase of services supported by VAT Reg. TIN ORs dated not within the quarter but within the period of claim with incomplete Petitioner's name and altered Petitioner's TIN without countersign *(Annex 5-3Q-k)*	-	-	1,213.48	-	1,213.48
Domestic purchase of services supported by VAT Reg. TIN ORs dated not within the quarter but within the period of claim with altered Petitioner's TIN without countersign and with VAT amount not shown separately *(Annex 5-3Q-l)*	-	-	630.1	-	630.10
Domestic purchase of services supported by VAT Reg. TIN ORs dated not within the quarter but within the period of claim with altered Petitioner's address without countersign and with VAT amount not shown separately *(Annex 5-3Q-m)*	-	-	8,558.44	-	8,558.44
Domestic purchase of services supported by VAT Reg. TIN ORs with altered date without countersign and incorrect Petitioner's TIN with overclaimed VAT amount but correct per independent computation *(Annex 5-3Q-o)*	-	-	1,034.87	-	1,034.87
Domestic purchase of services supported by VAT Reg. TIN ORs with altered date without countersign and with VAT amount not shown separately *(Annex 5-3Q-p)*	-	-	144.77	-	144.77
Domestic purchase of services supported by VAT Reg. TIN ORs without year indicated and incorrect Petitioner's TIN with overclaimed VAT amount but correct per independent computation *(Annex 5-3q-q)*	-	-	816.21	-	816.21

Domestic purchase of services supported by VAT Reg. TIN ORs with incomplete Petitioner's name and without Petitioner's TIN *(Annex 5-3Q-s)*	-	-	749.89	-	749.89
Domestic purchase of services supported by VAT Reg. TIN ORs with incomplete Petitioner's name and altered Petitioner's TIN without countersign *(Annex 5-3Q-u, Annex 5-4Q-s)*	-	-	1,745.01	749.89	2,494.90
Domestic purchase of services supported by VAT Reg. TIN ORs with abbreviated Petitioner's name and VAT amount not shown separately *(Annex 5-3Q-v)*	-	-	214.29	-	214.29
Domestic purchase of services supported by VAT Reg. TIN ORs with incorrect Petitioner's TIN without Petitioner's address *(Annex 5-3Q-y)*	-	-	2,790.32	-	2,790.32
Domestic purchase of services supported by VAT Reg. TIN ORs with inserted Petitioner's TIN without countersign and without Petitioner's address and with overclaimed VAT amount but correct per independent computation *(Annex 5-3Q-aa)*	-	-	789.43	-	789.43
Domestic purchase of services supported by VAT Reg. TIN ORs with altered Petitioner's address without countersign and VAT amount not shown separately *(Annex 5-3Q-ab)*	-	-	3,621.22	-	3,621.22
Non-VAT Reg. TIN ORs with incorrect Petitioner's address and VAT amount not shown separately *(Annex 5-3Q-ad)*	-	-	1,392.86	-	1,392.86
Domestic purchase of services supported by VAT Reg. TIN ORs dated not within the period of claim *(Annex 5-4Q-i)*	-	-	-	789.43	789.43
Domestic purchase of services supported by VAT Reg. TIN ORs dated not within the period of claim with altered Petitioner's name with countersign without Petitioner's TIN and address and VAT amount not shown separately *(Annex 5-4Q-j)*	-	-	-	23,463.00	23,463.00

Domestic purchase of services supported by VAT Reg. TIN ORs dated not within the period of claim with altered Petitioner's name without countersign and VAT amount not shown separately *(Annex 5-4Q-k)*	-	-	-	728.00	728.00
Domestic purchase of services supported by VAT Reg. TIN ORs dated not within the period of claim with incomplete Petitioner's name with incorrect Petitioner's address and VAT amount not shown separately *(Annex 5-4Q-m)*	-	-	-	58.15	58.15
Domestic purchase of services supported by VAT Reg. TIN ORs dated not within the period of claim with incomplete Petitioner's name with VAT amount not shown separately *(Annex 5-4Q-n)*	-	-	-	18,167.37	18,167.37
Domestic purchase of services supported by VAT Reg. TIN ORs dated not within the period of claim without Petitioner's TIN and address and ATP printing date not indicated *(Annex 5-4Q-o)*	-	-	-	30,535.90	30,535.90
Domestic purchase of services supported by VAT Reg. TIN ORs dated not within the period of claim with VAT amount not shown separately *(Annex 5-4Q-p)*	-	-	-	41,317.46	41,317.46
Domestic purchase of services supported by VAT Reg. TIN ORs with incorrect Petitioner's name without Petitioner's TIN with incorrect Petitioner's address and with overclaimed VAT amount *(Annex 5-4Q-q)*	-	-	-	784.58	784.58
Domestic purchase of services supported by VAT Reg. TIN ORs with incomplete Petitioner's name and with VAT amount not shown separately *(Annex 5-4Q-t)*	-	-	-	1,087.41	1,087.41
Domestic purchase of services supported by VAT Reg. TIN ORs without Petitioner's TIN *(Annex 5-4Q-u)*	-	-	-	872.09	872.09
Domestic purchase of services supported by VAT Reg. TIN ORs with incorrect Petitioner's TIN *(Annex 5-4Q-v)*	-	-	-	789.43	789.43

Domestic purchase of services supported by VAT Reg. TIN ORs with incorrect Petitioner's address and with overclaimed VAT amount but correct per independent computation *(Annex 5-4Q-x)*	-	-	-	300.00	300.00
Subtotal	***₱324,968.21***	***₱221,008.75***	***₱299,379.13***	***₱253,110.51***	***₱1,098,466.60***
TOTAL	₱362,011.77	₱274,016.23	₱348,503.37	₱313,200.26	₱1,297,731.63

Accordingly, out of petitioner's total declared input VAT of ₱31,680,607.62 for CY 2014, only the amount of ₱29,815,126.91 represents valid input VAT, as detailed below:

	1st Quarter of CY2015	**2nd Quarter of CY2015**	**3rd Quarter of CY2015**	**4th Quarter of CY2015**	**Total**
Input VAT claim	₱5,258,975.31	₱5,073,352.68	₱16,913,904.05	₱4,434,375.58	₱31,680,607.62
Less: Disallowances					
Importation of goods other than capital goods	361,832.08	53,144.00	6,981.00	145,792.00	567,749.08
Domestic purchase of goods and services	362,011.77	274,016.23	348,503.37	313,200.26	1,297,731.63
Total Valid Input VAT	**₱4,535,131.46**	**₱4,746,192.45**	**₱16,558,419.68**	**₱3,975,383.32**	**₱29,815,126.91**

Although petitioner has a total valid input VAT of ₱29,815,126.91, the same is not entirely attributable to zero-rated sales since petitioner also had VATable sales. Hence, the same shall be allocated based on the volume of total sales as computed below:

	1st Quarter CY2014	**2nd Quarter CY2014**	**3rd Quarter CY2014**	**4th Quarter CY2014**	**TOTAL**
Zero-rated sales [A]	1,284,716,925.76	1,470,388,783.54	1,149,894,278.84	961,061,461.68	4,866,061,449.82
Valid zero-rated sales [B]	1,284,716,925.76	967,478,840.97	1,149,894,278.84	302,527,660.09	3,704,617,705.66
Percentage of valid zero-rated sales [C=B/A]	100%	65.80%	100%	31.48%	
Valid Input VAT [D]	4,535,131.46	4,746,192.45	16,558,419.68	3,975,383.32	29,815,126.91
Output VAT [E]		570.64	831.38		1,402.02
Valid less Output [F=D-E]	4,535,131.46	4,745,621.81	16,557,588.30	3,975,383.32	29,813,724.89
Input VAT for refund [F x C]	4,535,131.46	3,122,619.15	16,557,588.30	1,251,450.67	25,466,789.58

Due to the BIR's previous partial approval of petitioner's claim up to the amount of ₱21,223,062.08, the excess input VAT attributable to valid zero-rated sales of ₱25,466,789.58 should be further reduced, broken down as follows:

	BOC	BIR	Total
January to March 2014[79]	₱225,462.65	₱-	₱225,462.65
April to June 2014[80]	474,109.90	85,441.47	559,551.37
July to September 2014[81]	16,544,046.99	40,419.28	16,584,466.27
October to December 2014[82]	3,813,695.00	39,886.79	3,853,581.79
Total	**₱21,057,314.54**	**₱165,747.54**	**₱21,223,062.08**

As already stated, as of the filing of CTA Case No. 9440 before the Court, petitioner has yet to receive respondent's partial grant of its application for refund for the 1st quarter of TY 2014. Thus, for purposes of computing the remaining input VAT to be refunded to it, the Court shall deduct the amount of ₱225,462.6 following respondent's grant of petitioner's claim for refund from the excess input VAT attributable to valid zero-rated sales. Hence, petitioner is entitled to a lesser input VAT claim of ₱4,243,727.50 after taking into consideration the partial grant of its claim, as shown below:

Excess Input VAT attributable to Valid Zero-Rated Sales	₱25,466,789.58
Less: Input VAT partially granted by BIR	21,223,062.08
Net Input VAT attributable to Zero-Rated Sales	**₱4,243,727.50**

As gleaned from the above computations, petitioner did not have any output VAT liabilities during the 1st and 4th quarters of CY 2014, while, petitioner's output VAT liability did not exceed the input tax it incurred or paid during the 2nd and 3rd quarters. The same remained unutilized until it was deducted as "VAT Refund/TCC Claimed" as follows:

79 Exhibit "R-7", BIR Records, p. 2578.
80 Supra at note 41.
81 Supra at note 42.
82 Supra at note 43.

	Amended 4th Quarter 2015 VAT Return[83]	Amended 1st Quarter 2016 VAT Return[84]	Amended 2nd Quarter 2016 VAT Return[85]	Amended 3rd Quarter 2016 VAT Return[86]
23D VAT Refund/TCC claimed	5,258,975.31[87]	5,072,782.04[88]	16,913,072.67[89]	4,434,375.58[90]

Clearly, the subject claim no longer formed part of the excess input VAT as of the end of the 3rd quarter of CY 2016 that was to be carried over or applied to the succeeding quarters. As such, it eliminates the possibility that petitioner's claimed unutilized input VAT was applied to its subsequent output VAT liabilities.

Lastly, in arguing that petitioner cannot offer here the evidence documents it failed to supply the BIR during the pendency of its administrative claim, the CIR cites the Supreme Court's ruling in *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*[91], wherein it was held:

> ...
>
> 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.
>
> ...

83 Exhibit "P-46", Division Docket (CTA Case No. 9440), Volume V, pp. 1951-1952.
84 Exhibit "P-47", id., pp. 1953-1955.
85 Exhibit "P-50", id., pp. 1960-1961.
86 Exhibit "P-52", id., pp. 1964-1965.
87 Amount being claimed for refund for the 1st Quarter of 2014.
88 Amount being claimed for refund for the 2nd Quarter of 2014.
89 Amount being claimed for refund for the 3rd Quarter of 2014.
90 Amount being claimed for refund for the 4th Quarter of 2014.
91 G.R. No. 207112, 08 December 2015.

While the Court may agree with respondent on this particular note, he did not, however, specify what documents had petitioner withheld from the BIR. As can be recalled, respondent's lone witness testified only about the BIR's investigation of petitioner and the results thereof (as contained in certain memorandum reports).

WHEREFORE, the foregoing considered, petitioner Philippine Geothermal Production Company, Inc.'s consolidated Petitions for Review in CTA Case No. 9440, CTA Case No, 9501, CTA Case No. 9534 and CTA Case No. 9588, all entitled *Philippine Geothermal Production Company, Inc. v. CIR*, are **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND or ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **₱4,243,727.50**, representing its excess and unutilized input VAT attributable to zero-rated sales for the four quarters of CY 2014.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

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

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
2nd Division Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII 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 cases were assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice