REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, *Petitioner*,	**CTA EB No. 2334** (CTA Case No. 9557)
	Present:
-versus-	**DEL ROSARIO**, *PJ*, **CASTAÑEDA, JR.**, **UY**, **RINGPIS-LIBAN**, **MANAHAN**, **BACORRO-VILLENA**, **MODESTO-SAN PEDRO**, **REYES-FAJARDO**, and **CUI-DAVID**, *JJ.*
PILIPINAS KYOHRITSU, INC., *Respondent.*	Promulgated: JAN 20 2022 2:38 a.m.

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DECISION

DEL ROSARIO, PJ.:

Before this Court is a Petition for Review posted on September 22, 2020 by the Commissioner of Internal Revenue pursuant to Section 3 (b), Rule 8 of the Revised Rules of the Court of Tax Appeals, praying that the Court *En Banc*: *(i)* reverse and set aside the Decision dated January 28, 2020 and the Resolution dated August 3, 2020 promulgated by the Court of Tax Appeals (CTA) Second Division[1] in CTA Case No. 9557, entitled *Pilipinas Kyohritsu, Inc. vs. Commissioner of Internal Revenue* which partially granted respondent's Petition for Review; and, *(ii)* render a new one denying respondent's original Petition for Review in CTA Case No. 9557 for lack of merit.

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[1] Composed of Associate Justice Juanito C. Castañeda, Jr., Associate Justice Cielito N. Mindaro-Grulla, and Associate Justice Jean Marie A. Bacorro-Villena.

The dispositive portions of the assailed Decision and Resolution of the Court in Division are as follows:

January 28, 2020 Decision:

"**WHEREFORE**, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **DIRECTED TO REFUND** petitioner the amount of ₱5,475,537.44, representing the unutilized input VAT attributable to zero-rated sales for the period covering the 3rd quarter of FY 2015, or from October 1, 2014 to December 31, 2014.

SO ORDERED."

August 3, 2020 Resolution:

"**WHEREFORE,** premises considered, respondent's Motion for Partial Reconsideration Re: Decision promulgated 28 January 2020 is **DENIED** for lack of merit.

SO ORDERED."

THE PARTIES

Petitioner is the duly appointed Commissioner of Internal Revenue (CIR) who is empowered to perform the duties of his office, including the power to deny or grant tax refunds pursuant to Section 112(C) of the National Internal Revenue (NIRC) of 1997, as amended. He holds office at the Bureau of Internal Revenue (BIR) National Building Office, Diliman, Quezon City.[2]

Respondent Pilipinas Kyohritsu, Inc. (PKI) is a domestic corporation registered with the Securities and Exchange Commission (SEC), with Company Registration No. 157828.[3] It is also registered with the Board of Investments (BOI) as a New Export Producer of Weld Cap for Automotive Application by virtue of BOI Certificate of Registration (COR) No. EP 2005-177 dated November 10, 2005[4] and as a New Export Producer of Automotive Wiring Harness by virtue of BOI COR No. 2007-060 dated March 26, 2007;[5] and with the BIR as a value-added taxpayer under Taxpayer Identification No. 000-269-082-000, with registered address at Km. 75 Laurel Highway Insoloban, Lipa City, Batangas, Philippines.[6]

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[2] Par. 6, Petition for Review, *CTA Division Docket*, Vol. I, p. 12.
[3] Exhibit "P-5", *CTA Division Docket*, Vol. I, p. 256.
[4] Exhibit "P-6", *CTA Division Docket*, Vol. I, pp. 262-267.
[5] Exhibit "P-7", *CTA Division Docket*, Vol. I, pp. 268-273.
[6] Exhibit "P-1" to "P-4", *CTA Division Docket*, Vol. I, pp. 252-255.

THE FACTS

The facts of the case as found by the Court in Division are as follows:

> "On December 19, 2016, petitioner filed an Application for Tax Credits/Refunds (BIR Form No. 1914) in the amount of ₱12,274,510.00, covering the period from October 1, 2014 to December 31, 2014. petitioner also submitted the Checklist of Mandatory Requirements for Claims for VAT Credit/Refund and the letter request for refund of its excess input tax credits for the said period.
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> On March 3, 2017, petitioner received the letter dated February 3, 2017 signed by Ms. Teresita M. Angeles, OIC – Assistant Commissioner for the Large Taxpayers Service of the BIR, stating that the refund claim cannot be given due course for petitioner's 'failure to present proof that the subject claim was deducted from the available input tax at the time of filing the same, which is part of the mandatory requirement as enumerated under Annex 'A' of Revenue Memorandum Circular (RMC) No. 54-2014'.
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> On March 29, 2017, petitioner filed the Petition for Review before the Court in Division.
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> Respondent, however, filed a Motion for Extension of Time to File Answer on April 20, 2017. This Motion for Extension was granted by the Court in the Order dated April 24, 2017.
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> On May 10, 2017, respondent filed an Urgent Motion for Extension of Time to File Answer, which was likewise granted by the Court in the Resolution dated May 26, 2017. Respondent was given a final and non-extendible period of thirty (30) days from May 6, 2017 or until June 5, 2017, within which to file his Answer.
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> On June 6, 2017, respondent filed a Final Motion for Additional Time to File Answer. In the Resolution dated July 24, 2017, the Court denied the same.
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> On August 1, 2017, petitioner filed a Motion to Declare Respondent in Default. On August 24, 2017, respondent filed his Comment/Opposition (Re: Motion to Declare Respondent in Default).
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> On September 7, 2017, respondent filed a Motion to Admit Attached Answer, to which petitioner filed its Comment/Opposition to the Respondent's Motion to Admit Attached Answer on September 20, 2017.

In the Resolution dated January 11, 2018, the Court granted petitioner's Motion to Declare Respondent in Default, and denied the respondent's Motion to Admit Attached Answer pursuant to Section 3, Rule 9 of the Rules of Court.

On February 1, 2018, respondent filed a Motion for Reconsideration (Re: Resolution dated January 1, 2018). However, in the Resolution dated March 20, 2018, the Court denied the said Motion for Reconsideration for lack of merit.

During petitioner's *ex parte* presentation of evidence, it presented the following witnesses: (1) Ms. Edna Luisa Lopez, Manager of petitioner's Finance and Management Accounting Department; (2) Ms. Evelyn Ocampo, Assistant Manager of petitioner's Management Accounting Section; (3) Ms. Ria Tadeo, petitioner's Accounting Specialist II of Finance and Management Accounting Department; and, (4) Mr. Garry S. Pagaspas, the Court-commissioned Independent Certified Public Accountant (ICPA).

On May 22, 2018, the Court received a copy of the respondent's Petition for Certiorari (With Urgent Prayer for Issuance of a Temporary Restraining Order (TRO) and/or Preliminary Injunction to suspend trial before the Court of Tax Appeals, captioned as Commissioner of Internal Revenue vs. The Court of Tax Appeals Second Division and Pilipinas Kyohritsu, Inc., filed with the Supreme Court (SC) and docketed as G.R. No. 239217.

In the meantime, the ICPA Report was submitted on June 22, 2018.

In its Resolution dated June 27, 2018, the Supreme Court dismissed respondent's Petition for Certiorari in G.R. No. 239217, for failure to show any grave abuse of discretion on the part of the CTA in rendering the challenged resolutions.

Consequently, on July 12, 2018, petitioner filed its Formal Offer of Evidence.

Meanwhile, on September 20, 2018, the Court received a copy of respondent's Motion for Reconsideration (Re: Decision Promulgated 01 August 2018) in G.R. No. 239217 filed with the SC's Third Division. In the Resolution dated January 7, 2019, the SC denied the respondent's Motion for Reconsideration with finality.

On December 17, 2018, the Court issued a Resolution directing petitioner to file its memorandum within thirty (30) days from notice thereof, among others.

> On January 21, 2019, petitioner filed its Memorandum [For the Petitioner]. Thereafter, the case was deemed submitted for decision on February 7, 2019."[7] (*Citations omitted*)

On January 28, 2020, the Court in Division rendered the assailed Decision partially granting PKI's Petition for Review.[8]

On February 13, 2020, the CIR filed a Motion for Partial Reconsideration Re: Decision dated 28 January 2020.[9] PKI filed a Motion to Admit Comment on July 17, 2020.[10]

In the Resolution dated August 3, 2020, the Court in Division granted PKI's Motion to Admit Comment and admitted its Comment as part of the records of the case. In the same Resolution, the Court denied the CIR's Motion for Partial Reconsideration for lack of merit.[11]

Undeterred, the CIR filed a Petition for Review before the Court *En Banc* on September 22, 2020.[12]

After the filing of PKI's Comment (on the Petition for Review dated 21 September 2020)[13] on January 26, 2021, the Court *En Banc* gave due course to the Petition for Review and submitted the same for decision in the Resolution dated February 17, 2021.[14]

THE ISSUE

The sole issue raised by the CIR for the Court *En Banc*'s resolution, whether the Court in Division erred when it partially granted PKI's Petition for Review and directed the CIR to refund the amount of ₱5,475,537.44.

PETITIONER'S ARGUMENTS

In arguing that PKI's claim for refund must be entirely denied, the CIR contends that:

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[7] Assailed Decision dated January 28, 2020, pp. 2-5.
[8] *CTA Division Docket*, Vol. II, pp. 778-810.
[9] *CTA Division Docket*, Vol. II, pp. 811-823.
[10] *CTA Division Docket*, Vol. II, pp. 827-842.
[11] *CTA Division Docket*, Vol. II, pp. 844-850.
[12] *CTA En Banc Docket*, pp. 6-20; the CIR filed a Motion for Extension of Time to File Petition for Review which the Court *En Banc* granted, and gave the CIR until September 23, 2020 within which to file Petition for Review.
[13] *CTA En Banc Docket*, pp. 116-130.
[14] *CTA En Banc Docket*, pp.132-133.

1. The amount of ₱12,274,510.00 representing alleged unutilized or unapplied creditable input taxes allegedly allocable and directly attributable to PKI's VAT zero-rated sales for the period October 2014 to December 2014, was not properly documented;

2. PKI failed to prove that it is entitled to the refund being prayed for;

3. PKI failed to comply with the invoicing and accounting requirements laid down in Sections 113, 114, and 236 of the NIRC of 1997, as amended, and its implementing regulations under Revenue Regulation (RR) No. 16-2005;

4. PKI was not able to prove that it has strictly complied with the submission of all supporting and relevant documents provided under Revenue Memorandum Order (RMO) No. 53-98 and other existing rules and regulations to warrant the grant of the application for refund;

5. PKI's failure to submit documents supporting its claim for refund makes its administrative claim for refund *pro-forma*; being *pro-forma*, the Court in Division has no jurisdiction to entertain the Petition for Review in CTA Case No. 9557;

6. PKI's failure to comply with a condition precedent prior to the institution of its Petition for Review before the Court in Division makes it dismissible for absence of jurisdiction on the part of the Court;

7. The taxes paid and collected by the BIR are presumed to have been made in accordance with law, rules and regulations, and the burden to prove otherwise is upon PKI; and,

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

RESPONDENT'S ARGUMENTS

PKI, on the other hand, counter argues that:

1. The CIR failed to raise matters substantially plausible to set aside the assailed Decision and Resolution considering that its arguments are rehash of those raised in the CIR's Motion for Reconsideration dated February 12, 2020;

2. RMO No. 53-98 is not applicable to the present case as there was no allegation of an audit being conducted on PKI citing *Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.) vs. Commissioner of Internal Revenue*;[15] and,

3. PKI has submitted all documents needed for the grant of its refund application.

RULING OF THE COURT *EN BANC*

The Petition for Review was filed on time

Before delving on the merits of the case, the Court *En Banc* shall determine whether the present Petition for Review was timely filed.

Section 3 (b), Rule 8 of the Revised Rules of the Court of Tax Appeals states:

> "**SEC. 3.** *Who may appeal; period to file petition.* – xxx
>
> xxx xxx xxx
>
> (b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review **within fifteen days from receipt of a copy of the questioned decision or resolution**. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (Rules of Court, Rule 42, sec. 1a)" (*Boldfacing supplied*)

Records show that the CIR received the assailed Resolution on August 24, 2020. He had fifteen (15) days from August 24, 2020 or

[15] CTA Case No. 9575, October 29, 2019.

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until September 8, 2020 within which to file his Petition for Review before the Court *En Banc*. The CIR, instead, posted a Motion for Extension of Time to File Petition for Review on September 8, 2020 *via* registered mail. The Court *En Banc* granted the CIR's Motion and the CIR was given until September 23, 2020 within which to file his Petition for Review. The present Petition for Review was timely filed on **September 22, 2020**.

As correctly pointed out by PKI, the CIR's arguments in his Petition for Review are mere rehash of his arguments in his Motion for Reconsideration filed before the Court in Division which were adequately passed upon by the Court in Division in the assailed Resolution. Nonetheless, the Court *En Banc* will address the CIR's arguments to put to rest the issues he reiterated.

Failure to submit supporting documents in the administrative level is not fatal to PKI's claim for refund

The CIR posits that PKI's failure to submit documents supporting its claim for refund makes its administrative claim for refund *pro-forma*. As such, the Court in Division was deprived of jurisdiction to entertain the Petition for Review in CTA Case No. 9557.

The Court has repeatedly ruled that the non-submission of complete supporting documents at the administrative level is not necessarily fatal to the claimant's judicial claim nor is it a condition precedent to a judicial claim.

To reiterate, a taxpayer may present additional documents before the CTA to substantiate its claim for refund, albeit the same were not presented at the administrative level. Republic Act (RA) No. 1125, as amended, provides that the CTA is a court of record, *viz.*:

> "Section 8. *Court of record; seal; proceedings.* - **The Court of Tax Appeals shall be a court of record** and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence." (*Boldfacing supplied.*)

Undeniably, cases filed before this Court are litigated *de novo*, and party-litigants are required to prove every minute aspect of their cases. In *Philippine Airlines, Inc. vs. Commissioner of Internal Revenue,*[16] the Supreme Court was explicit that a taxpayer-claimant may present new and additional evidence to the CTA to support its claim for tax refund:

> "The Commissioner contends that PAL failed to present several of its documentary evidence before the Bureau of Internal Revenue during the administrative level. Thus, she claims that the new evidence that petitioner presented in the Court of Tax Appeals should not have been considered because trial de novo in the Court of Tax Appeals must be limited to the evidence shown in the administrative claim.
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> This Court rules that the **Court of Tax Appeals is not limited by the evidence presented in the administrative claim in the Bureau of Internal Revenue.** The claimant may present new and additional evidence to the Court of Tax Appeals to support its case for tax refund.
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> Section 4 of the National Internal Revenue Code states that the Commissioner has the power to decide on tax refunds, but his or her decision is subject to the exclusive appellate jurisdiction of the Court of Tax Appeals:
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> xxx xxx xxx
>
> Republic Act No. 9282, Republic Act No. 1125, is the governing law on the jurisdiction of the Court of Tax Appeals. Section 7 provides that the Court of Tax Appeals has exclusive appellate jurisdiction over tax refund claims in case the Commissioner fails to act on them:
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> xxx xxx xxx
>
> This means that while the Commissioner has the right to hear a refund claim first, if he or she fails to act on it, it will be treated as a denial of the refund, and the Court of Tax Appeals is the only entity that may review this ruling.
>
> **The power of the Court of Tax Appeals to exercise its appellate jurisdiction does not preclude it from considering evidence that was not presented in the administrative claim in the Bureau of Internal Revenue.** Republic Act No. 1125 states that the Court of Tax Appeals is a **court of record**:
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>> Section 8. Court of record; seal; proceedings. — The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules

[16] G.R. Nos. 206079-80 and 206309, January 17, 2018.

> and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence.
>
> As such, **parties are expected to litigate and prove every aspect of their case anew and formally offer all their evidence. No value is given to documentary evidence submitted in the Bureau of Internal Revenue unless it is formally offered in the Court of Tax Appeals. Thus, the review of the Court of Tax Appeals is not limited to whether or not the Commissioner committed gross abuse of discretion, fraud, or error of law, as contended by the Commissioner. As evidence is considered and evaluated again, the scope of the Court of Tax Appeals' review covers factual findings**." (*Boldfacing supplied.*)

The Court is not barred from receiving, evaluating and appreciating evidence submitted before it. Once the claim for refund has been elevated to the Court, the admissibility, materiality, relevance, probative value, and weight of evidence presented to substantiate the claim become subject to the relevant provisions of the Rules of Court.

Anent the CIR's argument that PKI must submit all supporting and relevant documents enumerated under RMO No. 53-98 and other existing rules and regulations to warrant the grant of the application for refund, the Court finds the same specious.

There is nothing in Section 112 of the NIRC of 1997, as amended, or even in RMO No. 53-98, which states that failure to submit all documents enumerated therein would automatically result in the dismissal of the taxpayer's claim for refund. In *Commissioner of Internal Revenue vs. Chevron Holdings, Inc. [Formerly Caltex (Asia) Limited]*,[17] citing *Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue*,[18] the Supreme Court emphasized that: *(i)* RMO No. 53-98 is merely a guide addressed to the BIR's internal revenue officers and employees and not a benchmark in determining whether the documents submitted by a taxpayer are actually complete to support a claim for tax credit or refund of unutilized and excess input VAT; and, *(ii)* RMO No. 53-98 assumes relevance only on matters pertaining to **audit of tax liabilities**, *viz.*:

> "The issue of whether the failure of the taxpayer to submit all the documents enumerated in RMO No. 53-98 is fatal to its judicial claim for VAT refund had been squarely raised and amply settled in

[17] G.R. No. 233301, February 17, 2020.
[18] 774 Phil. 473, 492 (2015).

the case of *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*. The Court clarified:

> Anent RMO No. 53-98, the CTA Division found that the said order provided a checklist of documents for the BIR to consider in granting claims for refund, and served as a guide for the courts in determining whether the taxpayer had submitted complete supporting documents.
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> This should also be corrected.
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> To quote RMO No. 53-98:
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> xxx xxx xxx
>
> As can be gleaned from the above, RMO No. 53-98 is addressed to internal revenue officers and employees, for purposes of equity and uniformity, to guide them as to what documents they may require taxpayers to present **upon audit of their tax liabilities**. Nothing stated in the issuance would show that it was intended to be a benchmark in determining whether the documents submitted by a taxpayer are *actually* complete to support a claim for tax credit or refund of excess unutilized excess VAT. As expounded in *Commissioner of Internal Revenue v. Team Sual Corporation (formerly Mirant Sual Corporation)*:
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> > The CIR's reliance on RMO 53-98 is misplaced. There is nothing in Section 112 of the NIRC, RR 3-88 or RMO 53-98 itself that requires submission of the complete documents enumerated in RMO 53-98 for a grant of a refund or credit of input VAT. The subject of RMO 53-98 states that it is a 'Checklist of Documents to be Submitted by a Taxpayer upon **Audit** of his Tax Liabilities . . . .' In this case, TSC was applying for a grant of refund or credit of its input tax. There was no allegation of an audit being conducted by the CIR. Even assuming that RMO 53-98 applies, it specifically states that some documents are required to be submitted by the taxpayer 'if applicable.'
> >
> > Moreover, if TSC indeed failed to submit the complete documents in support of its application, the CIR could have informed TSC of its failure, consistent with Revenue Memorandum Circular No. (RMC) 42-03. However, the

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> CIR did not inform TSC of the document it failed to submit, even up to the present petition. The CIR likewise raised the issue of TSC's alleged failure to submit the complete documents only in its motion for reconsideration of the CTA Special First Division's 4 March 2010 Decision. Accordingly, we affirm the CTA EB's finding that TSC filed its administrative claim on 21 December 2005, and submitted the complete documents in support of its application for refund or credit of its input tax at the same time.
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> (Emphasis included; underscoring supplied)

As explained earlier and underlined in *Team Sual* above, taxpayers cannot simply be faulted for failing to submit the complete documents enumerated in RMO No. 53-98, absent notice from a revenue officer or employee that other documents are required. Granting that the BIR found that the documents submitted by Total Gas were inadequate, it should have notified the latter of the inadequacy by sending it a request to produce the necessary documents in order to make a just and expeditious resolution of the claim.

Indeed, **a taxpayer's failure with the requirements listed under RMO No. 53-98 is not fatal to its claim for tax credit or refund of excess unutilized excess VAT. This holds especially true when the application for tax credit or refund of excess unutilized excess VAT has arrived at the judicial level. After all, in the judicial level or when the case is elevated to the Court, the Rules of Court governs.** Simply put, the question of whether the evidence submitted by a party is sufficient to warrant the granting of its prayer lies within the sound discretion and judgment of the Court.

RMO No. 53-98 assumes relevance only on matters pertinent to an audit of tax liabilities. Thus, it finds no application in the present case since Chevron's claim is one for refund of its input tax." (*Boldfacing supplied and citations omitted*)

Contrary to the CIR's position, in determining PKI's entitlement to its claim for refund, the CTA may consider all pieces of exhibits formally offered before it during trial, which were admitted in evidence. Stated differently, PKI's failure to submit complete supporting documents at the administrative level does not deprive the

CTA from taking cognizance of its judicial claim nor result in the automatic denial of the claim for refund.

PKI was able to comply with the invoicing and accounting requirements

The CIR insists that PKI failed to comply with the invoicing requirements and accounting requirements laid down under Sections 113, 114, and 236 of the NIRC of 1997, as amended, and its implementing regulations.

After carefully reviewing the records, the Court *En Banc* affirms the findings of the Court in Division that PKI was able to comply with the invoicing and accounting requirements under the NIRC of 1997, as amended, and its implementing regulations.

Truth to tell, the CIR failed to identify in his Petition for Review the specific transactions of PKI which allegedly were not substantiated in accordance with the provisions of Sections 113, 114, and 236 of the NIRC of 1997, as amended, and RR No. 16-2005.

The Court *En Banc* notes that the Court in Division conducted a thorough examination of the documents presented by PKI and scrutinized the contents thereof; and thereafter, made specific factual findings which became its basis in ruling that PKI is entitled to the refund of input VAT in the amount of ₱5,475,537.44.

The Court in Division found that PKI has valid input tax in the amount of ₱8,116,543.29 for the third (3rd) quarter of Fiscal Year (FY) 2015. Since the same cannot be directly or entirely attributed to PKI's zero-rated sales and taxable sales in the amount of ₱2,209,765,901.11 for the third (3rd) quarter of FY 2015, the Court in Division properly allocated the valid input tax of ₱8,116,543.29 on the basis of PKI's total sales and found that the valid input VAT attributable to PKI's valid zero-rated sales amounts to ₱5,602,810.59.

After applying its output VAT liability in the amount of ₱131,291.81 against its valid creditable input tax attributable to its taxable sales in the amount of ₱4,018.66, PKI still has output VAT liability of ₱127,273.15. The Court in Division rightly applied the valid input VAT attributable to zero-rated sales in the amount of ₱5,602,810.59 against the said remaining output VAT liability of PKI in the amount of ₱127,273.15; thus, leaving a balance of ₱5,475,537.44 in PKI's valid input VAT attributable to zero-rated sales.

The Court *En Banc* accords great weight and respect to the factual findings of the Court in Division *vis-à-vis* the bare allegation of the CIR that PKI failed to properly substantiate its claim for refund.

In fine, the Court *En Banc* finds no cogent reason to modify, much more, reverse the assailed Decision of the Court in Division which partially granted PKI's claim for refund and ordered the CIR to refund to PKI the amount of ₱5,475,537.44 representing PKI's unutilized input VAT attributable to zero-rated sales for the third (3rd) quarter of FY 2015 or for the period October 1, 2014 to December 31, 2014.

WHEREFORE, in light of the foregoing, petitioner Commissioner of Internal Revenue's *Petition for Review* posted on September 22, 2020 is hereby **DENIED** for lack of merit. The assailed Decision dated January 28, 2020 and assailed Resolution dated August 3, 2020 of the Court in Division in CTA Case No. 9557 are hereby **AFFIRMED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

Ma. Belen M. Ringpis-Liban
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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