REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SPECIAL SECOND DIVISION

MAIBARARA GEOTHERMAL, INC.,
Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NOS. 9455, 9500, 9529 & 9555

Present:

RINGPIS-LIBAN, *P.J., Chairperson*,
MODESTO-SAN PEDRO, and
FERRER-FLORES, *JJ.*

Promulgated:

FEB 02 2026

3:10 p.m.

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DECISION

FERRER-FLORES, J.:

The **Petitions for Review** pray that judgment be rendered ordering respondent to refund in favor of petitioner the aggregate amount of ₱17,216,478.45 representing unutilized value-added tax (VAT) input taxes for the four quarters of taxable year (TY) 2014, broken down as follows:

C.T.A. Case No.	Quarter	Amount
9455	First	₱ 3,592,865.27
9500	Second	1,905,076.06
9529	Third	9,884,107.52
9535	Fourth	1,834,429.60
	Total	**₱ 17,216,478.45**

THE PARTIES

Petitioner **Maibarara Geothermal, Inc.** is a domestic corporation duly organized under and by virtue of the laws of the Philippines,[1] with principal

[1] Exhibit "P-1", Docket – Vol. III, p. 1275.

business address at 7th Floor, JMT Condominium Corporation, ADB Avenue, Ortigas Center, San Antonio, Pasig City.[2] It is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer, under Taxpayer Identification Number (TIN) 006-960-314-00000.[3]

Respondent **Commissioner of Internal Revenue** is sued in his official capacity, having been duly appointed and empowered to perform the duties of his office, as the chief of the BIR, the government agency charged with the assessment and collection of all internal revenue taxes, fees and charges, and the enforcement of all forfeitures, penalties and fines connected therewith. He may be served with summons, notices and other court processes at his office at the BIR National Office Building, Diliman, Quezon City.[4]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

Petitioner filed with the BIR its Applications for Tax Credits/Refunds (BIR Form No. 1914) with the BIR on March 30, 2016,[5] June 29, 2016,[6] September 29, 2016,[7] and December 22, 2016,[8] for the first, second, third, and fourth quarters of TY 2014, respectively.

On January 4, 2017[9] and March 1, 2017,[10] petitioner received letters denying its claim for refund and tax credit certificate for the third and fourth quarters of TY 2014, respectively.

PROCEEDINGS BEFORE THIS COURT

A. CTA Case No. 9455

On August 26, 2016, petitioner filed the present *Petition for Review*.[11] The case was raffled to the Second Division of this Court.

Respondent then filed, on October 24, 2016, his *Answer*,[12] interposing his special and affirmative defenses. W

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2 Exhibit "P-7", Docket – Vol. III, p. 1301.
3 *Id.*
4 Par. 2, Summary of Admitted Facts, JSFI, Docket – Vol. III, p. 1045.
5 Exhibit "P-9", Docket – Vol. III, p. 1310.
6 Exhibit "P-11", Docket – Vol. III, p. 1320.
7 Exhibit "P-13", Docket – Vol. II, p. 1330.
8 Exhibit "P-15", Docket – Vol. II, p. 1340.
9 Exhibit "P-42", Docket – Vol. IV, p. 1610.
10 Exhibit "P-50", Docket – Vol. IV, p. 1715.
11 Docket – Vol. I (CTA Case No. 9455), pp. 12 to 33.
12 Docket – Vol. I (CTA Case No. 9455), pp. 120 to 123.

The case was initially set for Pre-Trial Conference on February 14, 2017.[13]

Petitioner subsequently filed a *Motion to Consolidate (With Motion to Defer Pre-Trial Conference)* on January 25, 2017,[14] praying that CTA Case No. 9455 and CTA Case No. 9500, which was raffled to the Second Division of this Court, be consolidated, and that the Pre-Trial Conference of CTA Case No. 9455 set on February 14, 2017 be deferred.

In its Resolution dated February 7, 2017,[15] the Court granted petitioner's *Motion to Defer Pre-Trial Conference,* and ordered respondent to comment on petitioner's *Motion to Consolidate*. Respondent, however, failed to file his comment thereon.[16]

The Second Division then granted petitioner's *Motion to Consolidate* in its Resolution on February 24, 2017,[17] consolidating CTA Case No. 9500 with CTA Case No. 9455, the case bearing the lower docket number, subject to the conformity of the Third Division. The Third Division of this Court granted the same in the Resolution dated March 2, 2017.[18]

In the meantime, petitioner filed a second *Motion to Consolidate* on February 27, 2017,[19] praying that CTA Case No. 9455, CTA Case No. 9500, and CTA Case No. 9529, which was raffled to the Second Division, be consolidated. Respondent, however, failed to file his comment thereon.[20]

The Second Division granted petitioner's *Motion to Consolidate* in its Resolution on March 27, 2017,[21] consolidating CTA Case No. 9529 with CTA Case No. 9455, the case bearing the lower docket number, subject to the conformity of the Third Division. The Third Division of the Court granted the same in the Resolution dated April 21, 2017.[22]

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13 Notice of Pre-Trial Conference dated November 2, 2016, Docket – Vol. I (CTA Case No. 9455), pp. 124 to 125.
14 Docket – Vol. I (CTA Case No. 9455), pp. 136 to 138.
15 Docket – Vol. I (CTA Case No. 9455), p. 144.
16 Records Verification dated February 21, 2017 issued by the Judicial Records Division of this Court, Docket – Vol. I (CTA Case No. 9455), p. 145.
17 Docket – Vol. I (CTA Case No. 9455), p. 152.
18 Docket – Vol. I (CTA Case No. 9455), p. 154 to 155.
19 Docket – Vol. I (CTA Case No. 9455), pp. 146 to 148.
20 Records Verification dated April 5, 2017 issued by the Judicial Records Division of this Court, Docket – Vol. I (CTA Case No. 9455), p. 160.
21 Docket – Vol. I (CTA Case No. 9455), p. 159.
22 Docket – Vol. I (CTA Case No. 9455), pp. 162 to 163.

On May 2, 2017, petitioner filed a third *Motion to Consolidate*,[23] praying that CTA Case No. 9555 be consolidated with CTA Case Nos. 9455, 9500 & 9529, to which respondent failed to file his comment.[24] The Court granted the same in the Resolution dated June 14, 2017,[25] consolidating CTA Case No. 9555 with CTA Case Nos. 9455, 9500 and 9529.

B. CTA Case No. 9500

On November 25, 2016, petitioner filed the present *Petition for Review*.[26]

Respondent filed his *Answer*[27] on January 16, 2017 where he interposed his special and affirmative defenses.

The Pre-Trial Conference for CTA Case No. 9500 was initially set on February 16, 2017.[28] *Respondent*'s *Pre-Trial Brief* was filed on January 30, 2017.[29]

In the meantime, petitioner filed a *Motion to Consolidate (With Motion to Defer Pre-Trial Conference)* on January 25, 2017.[30] The Court granted petitioner's *Motion to Defer Pre-Trial Conference* in the Resolution dated January 31, 2017,[31] and ordered respondent to comment on petitioner's *Motion to Consolidate*. Respondent, however, failed to file his comment thereon.[32]

As earlier detailed, the Court granted petitioner's *Motion to Consolidate* in its Resolution on February 24, 2017,[33] consolidating CTA Case No. 9500 with CTA Case No. 9455.

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23 Docket – Vol. I (CTA Case No. 9455), pp. 164 to 165.
24 Records Verification Report dated May 23, 2017 issued by the Judicial Records Division of this Court, Docket – Vol. I (CTA Case No. 9455), p. 171.
25 Docket – Vol. I (CTA Case No. 9455), pp. 174 to 175.
26 Docket – Vol. I (CTA Case No. 9500), pp. 14 to 36.
27 Docket – Vol. I (CTA Case No. 9500), pp. 91 to 95.
28 Notice of Pre-Trial Conference dated January 19, 2017, Docket – Vol. I (CTA Case No. 9500), pp. 96 to 97.
29 Docket – Vol. I (CTA Case No. 9500), pp. 98 to 101.
30 Docket – Vol. I (CTA Case No. 9500), pp. 103 to 104.
31 Docket – Vol. I (CTA Case No. 9500), p. 109.
32 Records Verification dated February 21, 2017 issued by the Judicial Records Division of this Court, Docket – Vol. I (CTA Case No. 9500), p. 110.
33 Docket – Vol. I (CTA Case No. 9500), p. 112.

C. CTA Case No. 9529

On January 26, 2017, petitioner filed the present *Petition for Review*[34] to which respondent filed his *Answer*,[35] interposing his special and affirmative defenses, on February 16, 2017.

The Pre-Trial Conference for CTA Case No. 9529 was initially set on March 2, 2017.[36] Respondent, however, filed a *Motion for Resetting of Pre-Trial Conference* on February 23, 2017,[37] which the Court granted in the Order dated February 24, 2017,[38] resetting the same to March 30, 2017.

On February 27, 2017, petitioner filed a *Motion to Consolidate (With Motion to Defer Pre-Trial Conference)*.[39] The Court noted petitioner's *Motion to Defer Pre-Trial Conference* without action in the Resolution dated March 3, 2017,[40] and ordered respondent to comment on petitioner's *Motion to Consolidate*. Respondent failed to file his comment thereon.[41]

As mentioned previously, the Court granted petitioner's *Motion to Consolidate* in the Resolution on March 27, 2017.[42]

D. CTA Case No. 9555

Petitioner filed the present *Petition for Review*[43] on March 28, 2017

Thereafter, on May 2, 2017, petitioner filed a *Motion to Consolidate*.[44]

In the meantime, on May 22, 2017, respondent filed his *Answer*[45] where he interposed his special and affirmative defenses. W

34 Docket – Vol. I (CTA Case No. 9529), pp. 10 to 33.
35 Docket – Vol. I (CTA Case No. 9529), pp. 81 to 84.
36 Notice of Pre-Trial Conference dated February 20, 2017, Docket – Vol. I (CTA Case No. 9529), pp. 86 to 87.
37 Docket – Vol. I (CTA Case No. 9529), pp. 88 to 90.
38 Docket – Vol. I (CTA Case No. 9529), p. 96.
39 Docket – Vol. I (CTA Case No. 9529), pp. 98 to 101.
40 Docket – Vol. I (CTA Case No. 9529), p. 109.
41 Records Verification dated March 23, 2017 issued by the Judicial Records Division of this Court, Docket – Vol. I (CTA Case No. 9529), p. 105.
42 Docket – Vol. I (CTA Case No. 9529), p. 108.
43 Docket – Vol. I (CTA Case No. 9555), pp. 10 to 33.
44 Docket – Vol. I (CTA Case No. 9555), pp. 98 to 101.
45 Docket – Vol. I (CTA Case No. 9555), pp. 111 to 113.

As detailed earlier, the Court granted the consolidation of the case in the Resolution dated June 14, 2017,[46] consolidating CTA Case No. 9555 with CTA Case Nos. 9455, 9500 and 9529.

For the consolidated cases:

On August 10, 2017, respondent transmitted the *BIR Records* for this case, contained in one folder, consisting of 292 pages.[47]

The Pre-Trial Conference was set and held on September 5, 2017.[48] Prior thereto, *Respondent's Pre-Trial Brief* was filed on August 29, 2017,[49] while petitioner's *Consolidated Pre-Trial Brief* was submitted on August 31, 2017.[50]

On September 20, 2017, the parties submitted their *Joint Stipulation of Facts and Issues*.[51] The Pre-Trial Order was then issued on October 12, 2017.[52]

As trial ensued, petitioner offered the testimonies of the following individuals, namely: (1) Mr. Helenio B. Seraspi,[53] petitioner's Accounting Manager; (2) Maria Victoria M. Olivar,[54] petitioner's Geosciences Manager; and, (3) Clifford, E. Chua,[55] the Court-commissioned Independent Certified Public Accountant (ICPA).[56]

The *Report* of the ICPA was submitted on February 14, 2018.[57]

On March 7, 2019, Ms. Olivar and ICPA Chua were presented as petitioner's witnesses.

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46 Docket – Vol. I (CTA Case No. 9455), pp. 174 to 175.
47 *Compliance* dated August 10, 2017, Docket – Vol. I (CTA Case No. 9455), pp. 191 to 192.
48 Notice of Pre-Trial Conference dated July 3, 2017, Docket – Vol. I, pp. 177 to 178; Minutes of the hearing held on, and Order dated, September 5, 2017, Docket – Vol. II, pp. 652 and 654 to 655, respectively.
49 Docket – Vol. I, pp. 198 to 201.
50 Docket – Vol. I, pp. 221 to 228.
51 Docket – Vol. II, pp. 656 to 661.
52 Docket – Vol. II, pp. 673 to 679.
53 Exhibit "P-51", Docket – Vol. I, pp. 236 to 255; Minutes of the hearing held on, and Order dated, January 15, 2018, Docket – Vol. 2, pp. 709, and 711, respectively.
54 Exhibits "P-55", Docket – Vol. I, pp. 212 to 217; Minutes of the hearing held on, and Order dated March 7, 2019, Docket – Vol. 2, pp. 808 to 810.
55 Exhibits "P-60" and "P-53", Docket – Vol. 2, pp. 703 to 707, and pp. 768 to 788, respectively; Minutes of the hearing held on, and Order dated, January 15, 2018, Docket – Vol. 2, pp. 709, and 711, respectively; and Minutes of the hearing held on, and Order dated March 7, 2019, Docket – Vol. 2, pp. 808 to 810.
56 *Oath of Commission* dated January 15, 2018, Docket – Vol. 2, p. 709; Minutes of the hearing held on, and Order dated, January 15, 2018, Docket – Vol. 2, pp. 709, and 711, respectively.
57 Exhibit "P-52", Docket – Vol. 2, pp. 716 to 760.

Subsequently, petitioner filed a *Motion to Reopen Proceedings (with Motion to Defer Filing of Formal Offer of Evidence and Motion to Recall the ICPA)*[58] on April 8, 2019, which was granted by the Court in the Resolutions dated April 12, 2019[59] and June 17, 2019.[60] The hearing for the recall of ICPA Chua was held on September 12, 2019.[61]

Respondent filed a *Manifestation*, stating that he will no longer present any witness for this case, on October 16, 2019.[62]

On October 17, 2019, petitioner filed a *Motion to Recall Witness (with Motion to Defer Filing of Formal Offer of Evidence)*,[63] which was granted by the Court in the Resolution dated December 13, 2019.[64] The hearing for the recall of Mr. Seraspi was held on March 12, 2020.[65]

Petitioner filed on July 17, 2020 its *Formal Offer of Evidence*[66] and *Omnibus Motion to Recall Helenio B. Seraspi and Motion to Defer Resolution of Formal Offer of Evidence,*[67] to which respondent failed to file his comment.[68] The Court, thus, granted petitioner's *Omnibus Motion* and held in abeyance the resolution of petitioner's *Formal Offer of Evidence*.[69]

On October 5, 2023, petitioner moved for the substitution of Mr. Seraspi, with Mr. Anthony Joseph A. Salarda.[70] Hearing was conducted for the presentation of Mr. Salarda on October 12, 2023.[71] During the hearing, the Court submitted for resolution the *Formal Offer of Evidence* previously filed by petitioner.

In the Resolution dated April 26, 2024,[72] the Court admitted petitioner's offered exhibits, *except* Exhibits "P-341" and "P-478", for being totally

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58 Docket – Vol. 2, pp. 815 to 820.
59 Docket – Vol. 2, p. 822.
60 Docket – Vol. 2, pp. 825 to 827.
61 Exhibit "P-56", Docket – Vol. 2, pp. 835 to 862; Minutes of the hearing held on, and Order dated, September 12, 2019, Docket – Vol. III, pp. 1166, and 1167 to 1168, respectively.
62 Docket – Vol. III, pp. 1181 to 1182.
63 Docket – Vol. III, pp. 1183 to 1187.
64 Docket – Vol. III, pp. 1213 to 1216.
65 Exhibit "P-57", Docket – Vol. III, pp. 1195 to 1204; Minutes of the hearing held on, and Order dated, March 12, 2020, Docket – Vol. III, pp. 1217, and 1218 to 1219, respectively.
66 Docket – Vol. III, pp. 1243 to 1272.
67 Docket – Vol. III, pp. 1227 to 1232.
68 Records Verification Report dated July 6, 2023 issued by the Judicial Records Division of this Court, Docket – Vol. IV, p. 1866.
69 Resolution dated August 4, 2023, Docket – Vol. IV, pp. 1870 to 1872.
70 *Motion to Substitute Witness (with attached Judicial Affidavit of Anthony Joseph A. Salarda dated October 4, 2023),* Docket – Vol. IV, pp. 1873 to 1876.
71 Exhibit "P-59", Docket – Vol. IV, pp. 1887 to 1895; Minutes of the hearing held on, and Order dated, October 12, 2023, Docket – Vol. IV, pp. 1969, and 1970, respectively.
72 Docket – Vol. V, pp. 1972 to 1974.

blurred or unreadable, and Exhibits "P-291", "P-294", "P-405", "P-429 to 432", "P-487", "P-488 to 499", "P-524 to 528", "P-580", "P-580-B", "P-580-C", "P-580-D, "P-581-B", "P-581-C", "P-581-D", "P-582", "P-582-B", "P-582-C", "P-582-D", "P-583", "P-583-B", "P-583-C", "P-583-D", "P-584", "P-584-B", "P-584-C", "P-585", "P-585-B", "P-586", "P-586-B", "P-586-C", "P-587", "P-587-B", "P-587-C", "P-588", "P-588-B", "P-588-C", "P-589", "P-589-B", "P-589-C", "P-593-C", "P-590", "P-590-B", "P-590-C", "P-591", "P-591-B", "P-591-C", "P-592", "P-592-A", "P-592-B", "P-592-C", "P-593", "P-593-A", "P-593-B", "P-593-C", "P-594", "P-594-A", "P-594-B", "P-594-C", "P-595", "P-595-A", "P-595-B", "P-595-C", "P-599", "P-599-A", "P-599-B", "P-599-C", "P-600", "P-600-A", "P-601", "P-601-A", "P-602", "P-602-A", "P-603", "P-603-A", and "P-603-B", for not being found in the records of the case.

Thereafter, upon the filing of petitioner's *Omnibus Motion for Reconsideration*, which was filed on May 17, 2024,[73] and respondent having failed to file a comment,[74] the Court, in its Resolution dated October 2, 2024,[75] admitted Exhibits "P-580", "P-580-B", "P-580-C", "P-580-D, "P-581-B", "P-581-C", "P-581-D", "P-582", "P-582-B", "P-582-C", "P-582-D", "P-583", "P-583-B", "P-583-C", "P-583-D", "P-584", "P-584-B", "P-584-C", "P-585", "P-585-B", "P-586", "P-586-B", "P-586-C", "P-587", "P-587-B", "P-587-C", "P-588", "P-588-B", "P-588-C", "P-589", "P-589-B", "P-589-C", "P-593-C", "P-590", "P-590-B", "P-590-C", "P-591", "P-591-B", "P-591-C", "P-592", "P-592-A", "P-592-B", "P-592-C", "P-593", "P-593-A", "P-593-B", "P-593-C", "P-594", "P-594-A", "P-594-B", "P-594-C", "P-595", "P-595-A", "P-595-B", "P-595-C", "P-599", "P-599-A", "P-599-B", "P-599-C", "P-600", "P-600-A", "P-601", "P-601-A", "P-602", "P-602-A", "P-603", "P-603-A", and "P-603-B".

Thereafter, on November 25, 2024, petitioner filed its *Memorandum*.[76] Respondent, however, failed to file his memorandum.[77]

The present case was considered submitted for decision on January 14, 2025.[78]

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73 Docket – Vol. V, pp. 1976 to 1986.
74 Records Verification dated June 25, 2024, issued by the Judicial Records Division of this Court, Docket – Vol. V, p. 2109.
75 Docket – Vol. V, pp. 2112 to 2115.
76 Docket – Vol. V, pp. 2117 to 2170.
77 Records Verification dated January 7, 2024 issued by the Judicial Records Division of this Court, Docket – Vol. V, p. 2174.
78 Minute Resolution dated January 14, 2025, Docket – Vol. V, p. 2175.

THE STIPULATED ISSUES

As stipulated by the parties, the issues for this Court's resolution are:

> Whether petitioner is entitled to refund for the unutilized VAT input taxes in the total amount of ₱17,216,478.45 for TY 2014;
>
> 1. Whether petitioner is entitled to the refund of the unutilized input VAT it paid in the amount of Three Million, Five Hundred Thousand, Eight Hundred Sixty-Five and 27/100 Pesos (₱3,592,865.27) for the first quarter of TY 2014 (**CTA Case No. 9455**);
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> 2. Whether petitioner is entitled to the refund of the unutilized input VAT it paid in the amount of One Million, Nine Hundred Five Thousand, and 6/100 Pesos (₱1,905,076.06) for the second quarter of TY 2014 (**CTA Case No. 9500**);
>
> 3. Whether petitioner is entitled to the refund of the unutilized input VAT in the amount of Nine Million, Eight Hundred Eighty-Four Thousand, One Hundred Seven and 52/100 Pesos (₱9,884,107.52) for the third quarter of TY 2014 (**CTA Case No. 9529**); and,
>
> 4. Whether petitioner is entitled to the refund of the unutilized input VAT in the amount of One Million, Eight Hundred Thirty-Four Thousand, Four Hundred Twenty-Nine and 60/100 Pesos (₱1,834,429.60) for the fourth quarter of TY 2014 (**CTA Case No. 9555**).[79]

Petitioner's arguments:

Petitioner argues that it timely filed its administrative and judicial claims for refund and/or issuance of tax credit; that it is a VAT-registered entity; that it is engaged in zero-rated or effectively zero-rated sales; that input taxes being claimed are due or paid; that the input taxes are due or paid and have not been applied against output taxes during the quarter and in the succeeding quarters; that the input taxes being claimed are attributable to zero-rated sales. Petitioner claims that it is entitled to a claim for refund or issuance of tax credit certificate of unutilized input taxes attributable to zero-rated sales/receipts for TY 2014 in the total amount of ₱17,216,478.45.

[79] Statement of the Issues, JSFI, Docket – Vol. 2, pp. 656 to 657.

Respondent's counter-arguments:

Respondent, in his *Answers*, contends that claims for refund are governed by one same rule—that respondent still has to investigate and ascertain the veracity of the claim. Respondent posits that taxes paid and collected are presumed to have been paid in accordance with law and regulations, hence, not refundable and, to validly claim for refund, it is imperative for petitioner to prove its compliance with the requirements laid down by the National Internal revenue Code (NIRC) of 1997, as amended, and its implementing rules and regulations. For a tax credit or refund, like tax exemption, is strictly construed against the taxpayer. The taxpayer has the burden of proving his claims for refund; that petitioner must prove that its export sale qualifies as VAT zero-rated pursuant to Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended; and, that petitioner must prove that it complied with the invoicing requirements provided in Section 113 of the NIRC of 1997, as amended; that petitioner must also prove that it complied with the provisions of Section 4.110-8 of Revenue Regulations (RR) No. 16-05, as amended, as to the substantiation of Input Tax Credits. Respondent avers that petitioner must comply with the requirements provided under Revenue Memorandum Order No. 53-98; and that petitioner failed to comply with the requirements set-forth under the NIRC of 1997, as amended, to validly warrant refund/tax credit of allegedly unutilized input taxes for TY 2014. Finally, respondent asserts, that the judicial claim for the third quarter of TY 2014 was filed on January 26, 2017, or more than two years after the close of the taxable quarter when the sales were made.

THE COURT'S RULING

The present consolidated *Petitions for Review* lack merit.

Requisites under the law for the refund or issuance of tax credit certificate of input VAT.

Section 112 of the NIRC of 1997, as amended by Republic Act (R.A.) No. 9337,[80] provides, in part, as follows:[81]

SEC. 112. *Refunds or Tax Credits of Input Tax.* —

[80] AN ACT AMENDING SECTIONS 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

[81] The administrative and judicial claims were filed prior to the effectivity of R.A. No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN); hence, the provisions applicable to the present case are that of the NIRC of 1997, prior to the TRAIN amendments.

> (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 or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and nonzero-rated sales.
>
> xxx xxx xxx
>
> (C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.*— In proper cases, the Commissioner shall grant a refund or issue a tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.
>
> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.

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

> <u>As to the timeliness of the filing of the administrative and judicial claims:</u>
>
> 1. the refund claim is filed with the BIR within two years after the close of the taxable quarter when the sales were made;[82]
>
> 2. in case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act on the said

[82] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009; and *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010.

claim within a period of 120 days, the judicial claim has been filed with this Court, within 30 days from receipt of the decision or after the expiration of the said 120-day period;[83]

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

3. the taxpayer is a VAT-registered person;[84]

In relation to the taxpayer's output VAT:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[85]

5. for 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 have been duly accounted for in accordance with the BSP rules and regulations;[86]

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[87]

7. the input taxes are due or paid;[88]

8. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume;[89] and,

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[90]

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

[84] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc., vs. Commissioner of Internal Revenue*, supra.

[85] *Id.*

[86] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc., vs. Commissioner of Internal Revenue*, supra.

[87] *Id.*

[88] *Id.*

[89] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.

[90] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, supra.

In addition, in claims for VAT refund/credit, applicants must satisfy the substantiation and invoicing requirements under the NIRC and other implementing rules and regulations.[91] Thus, petitioner's compliance with all the VAT invoicing requirements is required to be able to file a claim for input taxes attributable to zero-rated sales.[92] The invoicing and substantiation requirements should be followed because it is the only way to determine the veracity of the taxpayer's claims.[93] Moreover, it must be pointed out that compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.[94]

Strict compliance with substantiation and invoicing requirements is necessary considering VAT's nature and VAT system's tax credit method, where tax payments are based on output and input taxes and where the seller's output tax becomes the buyer's input tax that is available as tax credit or refund in the same transaction. It ensures the proper collection of taxes at all stages of distribution, facilitates computation of tax credits, and provides accurate audit trail or evidence for BIR monitoring purposes.[95]

Furthermore, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove every minute aspect of their case.[96] Thus, it behooves petitioner to show compliance with each of the foregoing requisites and invoicing requirements. As a corollary, the absence of *any* of the said requisites is already a valid ground to deny the refund claim.

***First and second requisites:* Petitioner timely filed its administrative and judicial claims.**

The *first* requisite provided in Section 112(A) of the NIRC of 1997, as amended, commands the taxpayer to file an administrative claim for input VAT refund within two years from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

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91 *Team Energy Corporation vs. Commissioner of Internal Revenue, et seq.*, G.R. Nos. 197663 and 197770, March 14, 2018.

92 *J.R.A. Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013.

93 *Nippon Express (Philippines) Corporation vs. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018.

94 *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.

95 *Team Energy Corporation vs. Commissioner of Internal Revenue, et seq.*, supra.

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

The present claim covers the four quarters of TY 2014 from January 1, 2014 to December 31, 2014. As illustrated below, counting two years from the close of the subject taxable quarters, petitioner timely filed its administrative claims before the expiration of the two-year period:

Period Covered (TY 2014)	Close of Taxable Quarter	Last Day to File Administrative Claim	Filing of Administrative Claim
1st Quarter	March 31, 2014	March 31, 2016	**March 30, 2016**[97]
2nd Quarter	June 30, 2014	June 30, 2016	**June 29, 2016**[98]
3rd Quarter	September 30, 2014	September 30, 2016	**September 29, 2016**[99]
4th Quarter	December 31, 2014	December 31, 2016	**December 22, 2016**[100]

As regards the *second* requisite, the same necessitates that the judicial claim must have been filed within 30 days from receipt of respondent's decision or after the expiration of the 120-day period under Section 112(C) of the NIRC of 1997, as amended.

Contrary to respondent's contention, under Section 112(C) of the NIRC of 1997, as amended, it is not necessary that petitioner file its *judicial* claim for refund within two years after the close of the taxable quarter when the sales were made.

Petitioner correctly pointed out that in the case of *Mindanao I Geothermal Partnership vs. Commissioner of Internal Revenue*,[101] the Supreme Court stated that it had already previously "clarified that the two (2)-year period only applies to administrative claims, and does *not* extend to judicial claims."

From the filing of petitioner's administrative claims as detailed above, respondent had 120 days therefrom, or until the following dates, to decide on the petitioner's claim for refund:

Period Covered (TY 2014)	Filing of Administrative Claim	Last Day to Act on the Administrative Claim
1st Quarter	March 30, 2016	July 28, 2016
2nd Quarter	June 29, 2016	October 27, 2016
3rd Quarter	September 29, 2016	January 27, 2017
4th Quarter	December 22, 2016	April 21, 2017

Petitioner did not receive any decision from respondent regarding its claims for the <u>first</u> and <u>second</u> quarters of TY 2014 before July 28, 2016 and

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97 Exhibits "P-8" and "P-9", Docket – Vol. III, pp. 1302 to 1310.
98 Exhibits "P-10" and "P-11", Docket – Vol. III, pp. 1311 to 1320.
99 Exhibits "P-12" and "P-13", Docket – Vol. III, pp. 1321 to 1330.
100 Exhibits "P-14" and "P-15", Docket – Vol. III, pp. 1331 to 1340.
101 G.R. No. 197519, November 8, 2017.

October 27, 2016, respectively. Hence, it filed the corresponding judicial claims on August 26, 2016,[102] and on November 25, 2016,[103] within 30 days from the expiration of the 120-day period for each of those claims.

On the other hand, petitioner received the letters of denial from respondent for its claims in relation to the third and fourth quarters of TY 2014 on January 4, 2017,[104] and on March 1, 2017,[105] respectively. Counting 30 days therefrom, petitioner had until February 3, 2014 and March 31, 2017 to file its judicial claims for refund for the said periods, respectively.

In sum, the present *Petitions for Review* were likewise timely filed on the following dates:

Period Covered (TY 2014)	Last Day to Act on Administrative Claim	Petitioner's Receipt of Respondent's Decision	Filing of Judicial Claim
1st Quarter	July 28, 2016	-	August 26, 2016
2nd Quarter	October 27, 2016	-	November 25, 2016
3rd Quarter	January 27, 2017	January 4, 2017	January 26, 2017
4th Quarter	April 21, 2017	March 1, 2017	March 28, 2017

Such being the case, the Court finds that petitioner complied with the above-stated *first* and *second* requisites.

Third requisite: Petitioner is a VAT-registered entity.

It is undisputed that petitioner also satisfied the *third* requisite since it is duly registered with the BIR as a VAT taxpayer with TIN 007-843-328-000.[106]

Fourth and fifth requisites: Petitioner failed to sufficiently establish its zero-rated sales.

The *fourth* and *fifth* requisites require that the taxpayer be engaged in zero-rated or effectively zero-rated sales and, for zero-rated sales under Sections 106(A)(2)(a)(1), (2) and (b), and 108(B)(1) and (2) of the NIRC of 1997, as amended, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations.

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[102] Docket – Vol. I (CTA Case No. 9455), pp. 12 to 33.
[103] Docket – Vol. I (CTA Case No. 9500), pp. 14 to 36.
[104] Exhibit "P-42", Docket – Vol. IV, pp. 1610 to 1618.
[105] Exhibit "P-50", Docket – Vol. IV, p. 1715.
[106] Exhibit "P-7", Docket – Vol. III, p. 1301.

In its *Memorandum*, petitioner claims that the sale of fuel from renewable energy sources or power generated from renewable energy such as geothermal energy is a transaction or activity subject to zero percent (0%) VAT pursuant to Section 108(B)(7) of the NIRC of 1997, as amended, and by R.A. No. 9513, otherwise known as the "Renewable Energy Act of 2008".

Indeed, Section 108(B)(7) of the NIRC of 1997, as amended, provides that the sale of power generated through renewable sources of energy is among the transactions subject to 0% VAT, to wit:

> SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* –
>
> xxx xxx xxx
>
> (B) *Transactions Subject to Zero Percent (0%) Rate.* – The following services performed in the Philippines by **VAT-registered persons shall be subject to zero percent (0%) rate:**
>
> xxx xxx xxx
>
> (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. *(Emphasis supplied)*

Further, Section 4.108-5(b)(7) of RR No. 16-2005,[107] implementing the foregoing provision, qualifies the applicability of such zero-rating as follows:

> SECTION 4.108-5. Zero-Rated Sale of Services. -
>
> xxx xxx xxx
>
> (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:**
>
> xxx xxx xxx
>
> (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. *(Emphasis supplied)*

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[107] SUBJECT: Consolidated Value-Added Tax Regulations of 2005.

As a corollary to the above provision, Section 4.108-3(f) of RR No. 16-2005 states:

> SECTION 4.108-3. Definitions and Specific Rules on Selected Services. –
>
> xxx xxx xxx
>
> (f) Sale of electricity by generation, transmission, and distribution companies shall be subject to 10% VAT on their gross receipts: Provided, **That 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 sources using technologies such as fuel cells and hydrogen fuels **shall be subject to 0% VAT.**
>
> **"Generation companies"** refers to persons or entities authorized by the Energy Regulatory Commission (ERC) to operate facilities used in the generation of electricity. For this purpose, generation of electricity refers to the production of electricity by a generation company or a co-generation facility pursuant to the provisions of the R.A. No. 9136 (EPIRA). They shall include all Independent Power Producers (IPPs) and NPC/Power Sector Assets and Liabilities Management Corporation (PSALM)-owned generation facilities. *(Emphasis supplied)*

Moreover, Section 15(g) of R.A. No. 9513, grants certain tax incentives to Renewable Energy (RE) developers, such as petitioner. The pertinent portion of which is reproduced below:

> **CHAPTER VII**
> GENERAL INCENTIVES
>
> Section 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:**
>
> xxx xxx xxx
>
> **(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.

> 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. *(Emphasis supplied)*

Moreover, Part III, Rule 5, Section 13.G, of the Implementing Rules and Regulations (IRR) of R.A. No. 9513,[108] provides:

> **SEC. 13. Fiscal Incentives for Renewable Energy Projects and Activities** –
>
> DOE-certified existing and new RE Developers of RE facilities, including Hybrid Systems, in proportion to and to the extent of the RE component, for both Power and Non-Power Applications, shall be entitled to the following incentives:
>
> xxx xxx xxx
>
> ***G. Zero Percent Value-Added Tax Rate***
>
> The following transactions/activities 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:
>
> (a) Sale of fuel from RE sources 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;
>
> (b) **Purchase of local goods, properties and services needed for the development, construction, and installation of the plant facilities of RE Developers**; and
>
> (c) **Whole process of exploration and development of RE sources up to its conversion into power**, including, but not limited to, the services performed by subcontractors and/or contractors." *(Emphasis supplied)*

Based on the foregoing provisions, all RE Developers are entitled to zero-rated VAT on their purchases of local supply of goods, properties and services needed for the development, construction and installation of plant facilities. Furthermore, the law declares that the VAT zero-rating applies 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.

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108 Department of Energy Circular No. DC2009-05-0008 dated May 25, 2009.

However, the same Part III, Rule 5 of the IRR of R.A. No. 9513 further states the conditions for the availment of incentives and other privileges under the said law. Section 18(A), (B), and (C) thereof reads:

> **SEC. 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*** **- issued to an RE Developer holding a valid RE Service/Operating Contract.**
>>
>> For existing RE projects, the new RE Service/Operating Contract shall pre-terminate and replace the existing Service Contract that the RE Developer has executed with the DOE subject to the Transitory Provision in Rule 13, Section 39.
>>
>> The DOE Certificate of Registration shall be issued immediately upon award of an RE Service/Operating Contract covering an existing or new RE project or upon approval of additional investment.
>>
>> Any investment added to existing RE projects shall be subject to prior approval by the DOE.
>>
>> xxx xxx xxx
>
> ***B. Registration with the Board of Investments (BOI)***
>
> The RE sector is hereby declared a priority investment sector that will regularly form part of the country's Investment Priority Plan (IPP), unless declared otherwise by law.
>
> **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.**
>
> The registration with the BOI shall be carried out through an agreement and an administrative arrangement between the BOI and the DOE, with the end-view of facilitating the registration of qualified RE facilities. The applications for registration shall be favorably acted upon immediately by the BOI, on the basis of the certification issued by the DOE.
>
> ***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 for in the Act only after securing a Certificate of**

> **Endorsement from the DOE, through the REMB, on a per transaction basis.**
>
> The DOE, through the REMB, shall issue said certification within fifteen (15) days upon request of the RE Developer or manufacturer, fabricator, and supplier; *Provided,* That the certification issued by the DOE shall be without prejudice to any further requirements that may be imposed by the government agencies tasked with the administration of the fiscal incentives mentioned under Rule 5 of this IRR.
>
> xxx xxx xxx. *(Emphasis and underscoring supplied)*

However, the DOE, expressing its contemporaneous interpretation on the conditions for the availment of incentives and other privileges of RE Developers under R.A. No. 9513, issued DC No. DC2021-12-0042, amending Section 18(C) of the IRR of R.A. No. 9513, to state that, as a rule, RE Developers are ***automatically*** qualified to avail of the incentives provided for in R.A. No. 9513 after securing a DOE *Certificate of Registration* and that a *Certificate of Endorsement* is necessary only on importations by an RE developer, viz.:

> SEC. 18. Conditions for Availment of Incentives and Other Privileges –
>
> xxx xxx xxx
>
> **C. DOE ENDORSEMENT FOR AVAILMENT OF INCENTIVES AND DUTY-FREE IMPORTATIONS OF MACHINERY, EQUIPMENT, AND MATERIALS**
>
> RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall be AUTOMATICALLY qualified to avail of the incentives provided for in the Act, OTHER THAN THE INCENTIVE OF DUTY-FREE IMPORTATION OF QUALIFIED MACHINERY, EQUIPMENT, MATERIALS, PARTS AND COMPONENTS, after securing a Certificate of Registration from the DOE.
>
> RE DEVELOPERS THAT IMPORT RE EQUIPMENT, EQUIPMENT, MATERIALS, PARTS AND COMPONENTS SHALL SECURE A CERTIFICATE OF ENDORSEMENT FROM THE DOE, THROUGH THE REMB, ON A PER IMPORTATION BASIS.
>
> xxx xxx xxx *(Underscoring supplied)*

Thus, in order to qualify for and be entitled to VAT zero-rating on an RE Developer's purchases as contemplated under R.A. No. 9513 and its IRR, the RE developer must present the following documents:

1. Registration with the DOE; and,
2. Registration with the Board of Investments (BOI).

Petitioner is an RE developer registered with the DOE under DOE *Certificate of Registration No. GRESC 2011-01-025*,[109] and with the BOI as a "New Renewable Energy Developer of a 20 MW Maibarara Geothermal Power Generation Project".[110] Hence, petitioner is entitled to zero-rated purchases from its local suppliers of goods, properties and services needed for the development, construction, and installation of the plant facilities and for the whole process of exploration and development of RE sources up to its conversion into power. To qualify for VAT zero-rating, petitioner must, however establish by sufficient evidence that it is engaged in the sale of power or fuel generated through renewable sources of energy.

Based on its *Articles of Incorporation*,[111] petitioner's primary purpose is to explore, extract, exploit, or otherwise obtain from the earth, store, hold, use, treat, reinject, prepare for market, buy, sell, distribute, exchange and transport geothermal steam and brine, and all their products, compounds and derivatives; **to convert geothermal energy into electric power** and to build, construct, erect, own, equip, install, operate, maintain, sell, lease power generation plants, facilities, machineries, equipment that utilize, geothermal energy; **to sell, trade, transmit or distribute any electricity generated by such power plants**; to utilize geothermal steam and brine for industrial, agricultural, health, tourism, mineral recovery and processing and other similar direct and indirect uses of geothermal steam and brine.

Records likewise show that petitioner was issued a *Certificate of Compliance* by the Energy Regulatory Commission on October 7, 2013,[112] confirming its ownership and operation of a geothermal power plant located in Sitio Capoz, Brgy. San Rafael, Sto. Tomas, Batangas. In addition, its BIR *Certificate of Registration* indicates as its line of business/industry the generation, collection, and distribution of electricity.[113]

Nevertheless, petitioner must still show compliance with the pertinent invoicing requirements under Section 113(A) and (B) of the NIRC of 1997, as amended, and as implemented by Section 4.113-1(A) and (B) of RR No. 16-2005, which provide that a VAT taxpayer, like herein petitioner, shall for every lease of goods or properties, and for every sale, barter or exchange of services, issue a VAT official receipt which must contain the information stated in the said provisions. Also, the official receipts (ORs) must be duly registered with the BIR as prescribed under Section 237, in relation to Section 238 of the NIRC of 1997, as amended.

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[109] Exhibit "P-3", Docket – Vol. III, p. 1291.
[110] Exhibit "P-4", Docket – Vol. III, p. 1292.
[111] Exhibit "P-2", Docket – Vol. III, p. 1277.
[112] Exhibit "P-6", Docket – Vol. III, p. 1300.
[113] Exhibit "P-7", Docket – Vol. III, p. 1301.

In its original and amended Quarterly VAT Returns for TY 2014, petitioner reported total sales amounting to ₱574,795,034.15, consisting of vatable sales of ₱912,366.56, and zero-rated sales of ₱573,882,667.59, as summarized below:

Period	Vatable Sales	Zero-Rated Sales	Total
First Quarter[114]	-	₱ 39,032,500.00	₱ 39,032,500.00
Second Quarter[115]	₱ 30,532.59	191,318,244.16	191,348,776.75
Third Quarter[116]	653,750.00	137,763,292.98	138,417,042.98
Fourth Quarter[117]	228,083.97	205,768,630.45	205,996,714.42
Total	**₱ 912,366.56**	**₱ 573,882,667.59**	**₱ 574,795,034.15**

Petitioner's zero-rated sales for TY 2014 are broken down as follows:

Exhibit No. (USB, Exhibit "P-54")	Date	OR No.	Client	Amount of Zero-rated Sales
"P-60"	Mar. 25, 2014	0501	Trans-Asia Oil and Energy Development Corporation	₱ 39,032,500.00
"P-61"	Apr. 25, 2014	0502	Trans-Asia Oil and Energy Development Corporation	62,105,291.72
"P-62"	May 23, 2014	0504	Trans-Asia Oil and Energy Development Corporation	66,922,893.77
"P-63"	June 26, 2014	0505	Trans-Asia Oil and Energy Development Corporation	62,290,058.67
"P-64"	July 25, 2014	0506	Trans-Asia Oil and Energy Development Corporation	63,556,489.46
"P-65"	Aug. 20, 2014	0507	Trans-Asia Oil and Energy Development Corporation	41,588,546.38
"P-66"	Sept. 26, 2014	0514	Trans-Asia Oil and Energy Development Corporation	32,618,257.14
"P-67"	Oct. 27, 2014	0516	Trans-Asia Oil and Energy Development Corporation	69,015,343.62
"P-68"	Nov. 24, 2014	0519	Trans-Asia Oil and Energy Development Corporation	67,082,596.48
"P-69"	Dec. 23, 2014	0522	Trans-Asia Oil and Energy Development Corporation	69,670,690.35
			Total	**₱ 573,882,667.59**

Upon scrutiny of the aforesaid supporting ORs, however, the Court finds that petitioner failed to meet the invoicing requirement, particularly its failure to indicate the nature of services it performed in the supporting ORs.

Section 113 of the NIRC of 1997, as amended by R.A. No. 9337, provides the VAT invoicing requirements under the law, to wit:

[114] Exhibit "P-17", Docket – Vol. III, pp. 1350 to 1352.
[115] Exhibit "P-19", Docket – Vol. III, pp. 1363 to 1371.
[116] Exhibit "P-21", Docket – Vol. III, pp. 1382 to 1390.
[117] Exhibit "P-22", Docket – Vol. III, pp. 1391 to 1403.

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);

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided*, That:

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

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

(c) If the sale is subject to zero percent (0%) value-added tax, the term **'zero-rated sale'** shall be written or printed prominently on the invoice or receipt;

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

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

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

xxx xxx xxx

Implementing the foregoing provision, Section 4.113-1 of RR No. 16-2005[118] provides as follows:

> SEC. 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 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. M

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[118] SUBJECT: Consolidated Value-Added Tax Regulations of 2005.

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

In sum, based on the foregoing, the following information, among others, are **required** to be indicated in the VAT invoice or VAT OR, to wit:

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

The Court, however, observed that petitioner did not indicate in particularity the nature of the service(s) in the ORs but only the billing statement number. The law is clearly worded in stating that the "nature of service", among others, is required to be indicated in the duly registered VAT official receipt. Consequently, the Court cannot ascertain whether the payments received are indeed for the services claimed to have been rendered by petitioner.

Apropos, the importance of complying with the substantiation and invoicing requirements of the law is hereby reiterated. It also bears stressing that, in *Coca-Cola Bottlers Philippines, Inc. vs. Commissioner of Internal Revenue*,[119] the Supreme Court said:

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

An applicant for a claim for tax refund or tax credit must not only prove entitlement to the claim but also compliance with all the documentary and evidentiary requirements.[120] Unfortunately, petitioner failed to prove that its sales of services are subject to the zero percent (0%) VAT rate, pursuant to

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[119] G.R. No. 222428, February 19, 2018.
[120] *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.

Section 108(B)(7) of the NIRC of 1997, as amended, and R.A. No. 9513; hence, the Court cannot grant its claim for the refund of the unutilized input VAT attributable thereto.

As such, it is no longer necessary to further discuss or determine petitioner's compliance with the other remaining requisites to successfully obtain a credit/refund of input VAT.

WHEREFORE, in light of the foregoing considerations, the present consolidated **Petitions for Review** are **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

MARIA ROWENA MODESTO-SAN PEDRO
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 consolidated cases were assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice