REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION[1]

COLT COMMERCIAL, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9539

Members:

Castañeda, Jr., *Chairperson, and*
Manahan, *JJ.*

Promulgated:

JAN 1 4 2019
3:20 p.m.

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DECISION

CASTAÑEDA, JR., *J.*:

This case is a claim for refund in the total amount of ₱3,577,338.15 which allegedly represents petitioner's unutilized input tax payments attributable to its zero-rated sales for the third (3rd) and fourth (4th) quarters of taxable year 2014.

THE PARTIES

Petitioner Colt Commercial, Inc. is a corporation duly organized and existing under the laws of the Philippines, with business address at Suite 508 Padilla Delos Reyes Bldg., 232 Juan Luna St., Barangay

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[1] Section 1, Rule VIII of the Internal Rules of the Court of Tax Appeals: "Section 1. *Case assigned to a justice for study and report.* --- Every Division Case, whether appealed or original, assigned to a Justice for study and report shall be retained by him even if he is transferred to another Division. The Justice, though transferred, shall write the report with the other members of the Division to which the case was originally submitted for decision. Their Division shall be called Special (No.) Division."

289 Zone 027, Binondo, Manila.[2] Petitioner is registered with Revenue District Office No. 30 Binondo, Manila, as a Value-added Tax (VAT) taxpayer, with Taxpayer Identification No. 008-327-264-000.[3]

On the other hand, respondent Commissioner of Internal Revenue (CIR) is the government official charged with the administration and enforcement of national internal revenue laws, including the granting of refunds and tax credits of taxes erroneously or illegally collected. He holds office at the Bureau of Internal Revenue (BIR) National Office Building, BIR Road, Diliman, Quezon City.

THE FACTS

Petitioner is principally engaged in the business of selling cutting tools and hardware. Majority of its clients are entities doing business within the economic zones, such as the Philippine Economic Zone Authority (PEZA) and Subic Bay Metropolitan Authority (SBMA). Intrinsically, petitioner's sales to its clients in the economic zones are classified as effectively zero-rated transactions pursuant to Section 106 (2)(C) of the National Internal Revenue Code (NIRC) of 1997, as amended.

On February 3, 2016, petitioner filed its amended Quarterly VAT Returns for the third (3rd)[4] and fourth (4th)[5] quarters of taxable year 2014, allegedly reflecting unutilized input tax payments in the amount of of One Million Eight Hundred Twenty Four Thousand Six Hundred Sixty Eight and Forty Three Centavos (₱1,824,668.43) and One Million Seven Hundred Fifty Two Thousand Six Hundred Sixty Nine and Seventy Two Centavos (₱1,752,669.72), respectively.

On September 29, 2016, petitioner filed its Administrative Claim for Excess Input VAT Refund[6] for the 3rd and 4th quarters of taxable year 2014.

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[2] Paragraph 1.a., Joint Stipulation of Facts and Issues (JSFI), Docket (Vol. II), p. 381.
[3] Par. 1.b., *Id.*
[4] Exhibit P-17-C.
[5] Exhibit P-17-D.
[6] Exhibits P-13 and P-14.

Thereafter, claiming inaction thereof, petitioner filed the instant Petition for Review[7] on February 24, 2017.

On April 20, 2017, respondent filed his Answer[8], interposing the following special and affirmative defenses, viz.:

> **"It is incumbent upon petitioner to prove that it is entitled to the refund sought because a claim for refund is not ipso facto granted upon filing of the claim.**
>
> x x x
>
> 9. It must be pointed out that taxes remitted to the Bureau are presumed to have been made in the regular course of business and in accordance with provisions of law.
>
> 10. All claims for refund are governed by one same rule: that respondent still has to investigate and ascertain the veracity of the claim. AS the Supreme Court stated in one case, '**A corporate taxpayer's option to avail of tax credit does not, however, mean that it is *ipso facto* granted.**' Hence, petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau of Internal Revenue.
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> 11. Also to support its claim, it is imperative for petitioner to prove and present the following:
>
> a. The registration requirements of a value-added taxpayer in compliance with *[S]*ection 6 (a) and (b) of Revenue Regulations No. 6-97 in relation to Section 4.107-1 (a) of Revenue Regulations No. 7-95, and Section 236 of the Tax Code, as amended;
>
> b. The invoicing and accounting requirements for VAT-registered persons, as well as the filing and payment of VAT in compliance with the provisions of Section 113 and 114 of the Tax Code, as amended;
>
> c. Proof of compliance with the prescribed checklist of requirements to be submitted involving claim for VAT refund pursuant to Revenue Memorandum Order No. 53-98, otherwise there would be no sufficient compliance with the filing of an administrative application for refund which is a condition sine qua non prior to the filing of a judicial claim in accordance with

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[7] Docket (Vol. I), pp. 11-22.
[8] *Id.*, pp. 257-267.

Section 112 of the Tax Code, as amended. This requires the submission of complete documents in support of the application filed with the Bureau of Internal Revenue before the 120-day audit period shall apply, and before the taxpayer could avail of the judicial remedies as provided for in the law. Hence, petitioner's failure to submit proof of compliance with the above-stated requirements warrants immediate dismissal of the petitioner*[sic]* for review;

d. That the input taxes of Php3,577,338.15 allegedly incurred by petitioner for the 3rd and 4th Quarters of 2014 was attributable to its zero-rated sales and such have not been applied against any output tax and were not carried over to the succeeding taxable quarter or quarters;

e. That petitioner's administrative and judicial claims for tax credit or refund of the unutilized input tax (VAT) was filed within the periods provided in Sections 112 (A) and (C) of the Tax Code, as amended;

f. That petitioner's domestic purchases of goods and services were made in the course of trade or business, properly supported by VAT invoices and/or official receipts and other documents, such as subsidiary purchase Journal showing that it actually paid VAT in accordance with Sections 110 (A)(2) and 113 of the Tax Code, as amended, and pursuant to Section 4.104-5 (a) and (b) of Revenue Regulations No. 7-95 (Re: Substantiation of Claims for Input Tax Credits);

g. The requirements as enumerated under Section 4.104-5 of Revenue Regulations No. 7-95 (Re: Substantiation of Claims for Input Tax Credits).

12. With due respect, respondent humbly manifests that petitioner failed to substantiate its claim that it is entitled to the refund being prayed for. Petitioner failed to comply with the invoicing and accounting requirements laid down in Section*[s]* 113, 114 and 236 of the NIRC of 1997, as amended, and its implementing rules and regulations under RR. 16-2005.

13. In addition, petitioner 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 application for refund.

14. The aforementioned provisions of the NIRC as well as the existing rules and regulations are necessary to establish its claim that indeed there is the presence of valid zero-rated sales that would warrant the grant of administrative application for refund on its

unapplied/unutilized input VAT as well as the submission of supporting documents to corroborate the claim being applied for.

15. Further, Section 4.108-1 of Revenue Regulations No. 7-95 specifically enumerates the information that must appear on the face of the receipt or invoice issued by all VAT-registered persons.

> Section 4.108-1 of Revenue Regulations No. 7-95. — Invoicing Requirements. — All VAT-registered persons shall, for every sale or lease of goods or properties or services, issue duly registered receipts or sales or commercial invoices which must show:
>
> 1. the name, TIN and address of seller;
>
> 2. date of transaction;
>
> 3. quantity, unit cost and description of merchandise or nature of service;
>
> 4. the name, TIN, business style, if any, and address of the VAT-registered purchaser, customer or client;
>
> 5. the word 'zero rated' imprinted on the invoice covering zero-rated sales; and
>
> 6. the invoice value or consideration

16. The requirement of imprinting the word 'zero-rated' is useful, practical and necessary not only with respect to the proper implementation of the provisions of the 1997 NIRC on zero-rated transactions but more importantly, to prevent the granting of refund or tax credit to non-existent input VAT.

x x x

20. Another, petitioner must likewise prove that the input taxes have not yet been applied against its output taxes during and in the succeeding quarters.

21. As here, it was made apparent from the VAT returns of the taxpayer that the entire amount of the input tax, sought to be refunded, was already been carried over to the 4th Quarter VAT Return for taxable year 2014, amounting to Php7,298,577.24 and to the 1st Quarterly VAT Return for taxable year 2015, amounting to Php6,510,915.49.

22. Per report of the examiner the said amounts also include the excess input taxes carried over from the 1st and 2nd Quarter of 2014. Hence, the input tax being claimed by petitioner has already been applied against its output tax.

x x x

Petitioner's claim for refund *[was]* filed out of time.

25. It must be stressed as well that Section 112 (A) of the NIRC explicitly reads:

'(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 <u>after the close of the taxable quarter when the sales were made</u>, apply for the issuance of a tax credit certificate or refund of creditable input tax <u>due or paid</u> attributable to such sales**, except transitional input tax, to the extent that such input tax has not been applied against output tax: x x x.'

x x x

27. Here, the petition must have been filed on or before 30 September 2016 for the 3rd quarter claim and 31 December 2016 for the 4th quarter claim. Unfortunately, it was filed only on 24 February, 2017.

Tax refund must be construed *strictissimi juris*.

x x x

29. For this reason, the right of taxation cannot easily be surrendered, statutes granting tax exemptions are considered as a derogation of the sovereign authority. Since tax refunds are regarded as tax exemptions, therefore, these are to construed *strictissimi juris* against the person or entity claiming the exemption.

30. In an action for refund, the burden of proof is on the taxpayer who claims the exemption and he must justify his claim by the clearest grant under the Constitutional or statutory law and cannot be permitted by vague implications. The taxpayer is charged with the heavy burden of proving that he has complied and satisfied all the statutory and administrative requirements to be entitled to the tax refund.

31. Following the premise above-mentioned, petitioner has the burden of proving that the right to such tax refund indubitably exists and well-founded doubt is fatal to its claim." *(Citations Omitted)* 𝒿𝒸

On May 3, 2017, respondent filed his Pre-Trial Brief for the Respondent[9] while, petitioner, on the other hand, filed its Pre-Trial Brief[10] on May 8, 2017. Thereafter, a Joint Stipulation of Facts and Issues[11] (JSFI) was filed by the parties, via registered mail, on May 26, 2017.

Consequently, on June 9, 2017, the Court issued a Pre-Trial Order[12] which deemed the pre-trial terminated.

During trial, petitioner presented its witnesses: the instant case's Independent Certified Public Accountant (ICPA), Sonny S. Bonilla; petitioner's corporate President, Mr. Cyrus S. Chung, Jr.; its corporate Secretary and Treasurer, Ms. Cherilyn R. Chung; and, its Accounting Head, Ms. Jennifer S. Mañago. After their respective testimonies, petitioner filed its Formal Offer of Evidence (with CD Volumes 1 and 2)[13] on October 2, 2017, offering Exhibits P-1 to P-27-A, inclusive of sub-markings, as its documentary evidence.

In a Resolution[14] dated November 17, 2017, the Court admitted petitioner's evidence except for the following exhibits for petitioner's failure to present their original copies for comparison:

Exhibit No.	Description
P-7 series	PEZA Certificate of Registration, BIR Certificate of Registration and PEZA Form ERD 97-01 of Petitioner's clients/purchasers
P-9	Certified True Copy of Sales Invoices
P-11	Certified True Copies of Sales Invoices for purchase of goods
P-20	Import Entry and Internal Revenue Declarations duly validated by bank with O.R. and BOC receipts/Confirmation receipts evidencing payment of VAT

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9 Docket (Vol. I), pp. 272-274.
10 *Id.*, pp. 309-324.
11 Docket (Vol II), pp. 381-389.
12 *Id.*, pp. 392-396.
13 *Id.*, pp. 478-500
14 *Id.*, pp. 725-726.

Meanwhile, in the Order[15] dated November 22, 2017, the Court noted counsel for respondent's manifestation that she has no witness to present in this case. Henceforth, the Court gave respondent a period of thirty (30) days within which to submit his Memorandum, while, on the other hand, gave petitioner a period of twenty (20) days within which to submit its Memorandum.

In compliance, petitioner submitted its Memorandum[16] on January 3, 2018, while respondent's Memorandum[17] was filed on December 22, 2017.

Accordingly, in the Resolution[18] dated January 22, 2018, the instant case was deemed submitted for decision.

THE ISSUE

The sole issue[19] to be resolved in this case is whether petitioner is entitled to a refund in the amount of ₱1,824,668.43 and ₱1,752,669.72 for the 3rd and 4th quarters of taxable year 2014, respectively, representing the unutilized input VAT it incurred in the 3rd and 4th quarters of taxable year 2014.

Petitioner's Arguments

Petitioner argues that its claim for refund was filed on time. Its administrative claim was filed within the two-year period provided under Section 112 of the NIRC of 1997, as amended, while its judicial appeal complied with the mandatory 120-day and 30-day periods provided under the same law. Thus, petitioner insists that it is entitled to the amount sought to be refunded.

Petitioner further contends that its sales are considered zero-rated under Section 106 (A)(2) of the NIRC of 1997, as amended. Moreover, petitioner maintains that its unutilized input VAT for the 3rd

[15] *Id.*, p. 727.
[16] *Id.*, pp. 729-753.
[17] *Id.*, pp. 754-763.
[18] *Id.*, p. 765.
[19] Par. 2, JSFI, Docket (Vol. II), p. 382.

and 4th quarters of taxable year 2014 is duly substantiated by its documentary evidence.

Respondent's Arguments

Respondent primarily asserts that petitioner failed to prove that it has duly complied with the documentary requirements needed to claim refund. He also argues that the subject input tax being claimed for by petitioner has already been applied against its output taxes.

THE COURT'S RULING

After due consideration, the Court finds the instant Petition is partly meritorious.

Section 112(A) and (C) of the 1997 NIRC, as amended, provides the basis for refund or tax credit of input tax attributable to zero-rated or effectively zero-rated sales, 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 or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales. x x x"

x x x

> (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, in order to be entitled to a refund or issuance of a Tax Credit Certificate (TCC) for unutilized input VAT attributable to zero-rated or effectively zero-rated sales, the following requisites must be complied with, viz.:

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

In the instant case, petitioner has sufficiently proven its compliance with the ***first requisite***: that it is a VAT-registered entity, registered with Revenue District Office No. 30, Binondo, Manila with Taxpayer Identification No. (TIN) 008-327-264-000.[20]

[20] Par. 1.b, JSFI, Docket, (Vol. II), p. 381; Exhibit P-5.

With regard to the ***second requisite:*** the Court finds that petitioner have timely filed its administrative and judicial claims.

Under Section 112(A) of the 1997 NIRC, as amended, the administrative claim for the issuance of a TCC or refund of 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.

Considering, the present claim covers the 3rd and 4th quarters of TY 2014, the close of the taxable quarter would be September 30, 2014 and December 31, 2014, respectively. Counting two years therefrom, petitioner had until September 30, 2016 and December 31, 2016, respectively, within which to file its administrative claim for refund/TCC. Clearly, the administrative claim for refund was timely filed by petitioner on September 29, 2016.

As to the timeliness of petitioner's judicial appeal, Section 112(C) of the NIRC of 1997, as amended, provides that the CIR has 120 days from the date of the submission of the complete documents in support of the application for tax refund/credit within which to grant or deny the claim. In case of full or partial denial by the CIR, the taxpayer's recourse is to file an appeal before this Court within thirty (30) days from receipt of the decision of the CIR. However, if after the 120-day period, the CIR fails to act on the application for tax refund/credit, the remedy of the taxpayer is to appeal the inaction of the CIR to this Court within 30 days.

From the filing of petitioner's administrative claim, together with the supporting documents, on September 29, 2016, respondent had one hundred twenty (120) days or until January 27, 2017 to act on the said claim. Since respondent failed to act on the said claim after the lapse of the 120-day period, petitioner had 30 days or until February 27, 2017[21] within which to file a judicial claim before this Court. Evidently, petitioner's judicial appeal by way of a Petition for Review filed on February 24, 2017 is *well within* the period provided by law.

As to the ***third requisite***: the Court finds that petitioner is engaged in zero-rated or effectively zero-rated sales. As stated in its

[21] Should be February 26, 2017 but it fell on a Sunday.

Articles of Incorporation,[22] petitioner is primarily incorporated for the following purposes:

1. To engage in the business of merchandising, distributing and marketing, whether as principal, agent, indenter or manufacturer's representative, wholesale or retail, such as but not limited to industrial, agricultural, manufacturing tools and equipment, engineering products, hardware items, construction materials and electrical supplies, and or any and all kinds of goods, wares and merchandise.

2. To engage in the business of import and export as principals, factors, representatives, agents or commissioned merchants with respect to buying, selling, trading or dealing in any and all kind of goods, wares, products of all classes and description, distribution, import and export business.

Incidentally, petitioner claims that majority of its clients are entities doing business within the economic zone and registered with the Philippine Economic Zone Authority (PEZA) and Subic Bay Metropolitan Authority (SBMA). Under Section 106 (A)(2)(c) of the NIRC of 1997, as amended, such transactions are classified as zero-rated, viz.:

"**SEC. 106.** ***Value-Added Tax on Sale of Goods or Properties.*** **–**

(A) Rate and Base of Tax. – x x x

(1) x x x

(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate: x x x

(a) x x x

(b) x x x

(c) Sales to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects such sales to zero rate."

[22] Exhibit P-2.

Relative thereto, Section 4.106-5 (c) of Revenue Regulations (RR) No. 16-2005,[23] as amended, states that:

"**SEC. 4.106-5.** *Zero-Rated Sales of Goods or Properties.* – x x x.

The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

(a) x x x

(b) x x x

(c) *'Sales to Persons or Entities Deemed Tax-exempt under Special Law or International Agreement'.* – Sales of goods or property to persons or entities who are tax-exempt under special laws, *e.g.* sales to enterprises duly registered and accredited with the Subic Bay Metropolitan Authority (SBMA) pursuant to R.A. No. 7227, sales to enterprises duly registered and accredited with the Philippine Economic Zone Authority (PEZA) or international agreements to which the Philippines is signatory, such as, Asian Development Bank (ADB), International Rice Research Institute (IRRI), etc., shall be effectively subject to VAT at zero-rate."

Clearly, there is no doubt that the sales of goods to entities registered with the PEZA and SBMA are subject to VAT at zero percent (0%) rate.

To prove that its clients are duly registered with the PEZA, petitioner submitted a Confirmation Letter[24] dated July 5, 2016, from the PEZA Deputy Director General for Operations, Ms. Mary Harriet O. Abordo, addressed to petitioner's President Mr. Cyrus S. Chung, Jr., validating the issuance of VAT zero-rating certifications to the following entities:

	Name of Enterprise	**Zone Location**	**VAT Cert. No.**	**VAT Cert. Date**
1	ALPHA TECHNO PRECISION TOOLINGS INC.	Cavite Economic Zone	2014-1122	24 January 2014
2	APPLIED MACHINING CORPORATION	Laguna Technopark-SEZ	2014-0172	10 December 2013

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[23] CONSOLIDATED VALUE-ADDED TAX REGULATIONS OF 2005, September 1, 2005.
[24] Exhibit P-6.

3	ASIAN TRANSMISSION CORPORATION	Carmelray Industrial Park I-SEZ	2014-1661	01 April 2014
4	CITIZEN MACHINERY PHILIPPINES, INC. FORMERLY: MIYANO PHILIPPINES, INC.	First Philippine Industrial Park-SEZ	2014-0023	09 December 2013
5	CLAYMOUNT ASSEMBLIES PHILIPPINES, INC.	Calamba Premiere International Park-SEZ	2014-0668	09 January 2014
6	DAITOH PRECISIONS, INC.	Mactan Economic Zone	2014-1079	23 January 2014
7	DAIWA SEIKO PHILIPPINES CORPORATION	Laguna International Industrial Park-SEZ	2014-0552	02 January 2014
8	DELFINGEN PH-FILIPINAS, INC. FORMERLY: SOFANOU (PHILIPPINES), INC.	Mactan Economic Zone II-SEZ	2014-1665	02 April 2014
9	DELTA DESIGN PHILIPPINES LLC	Carmelray Industrial Park II-SEZ	2014-0854	16 January 2014
10	E N CORPORATION	Cavite Economic Zone	2014-0708	13 January 2014
11	EXAS PHILIPPINES, INC.	Mactan Economic Zone	2014-1752	13 May 2014
12	FAMOUS SECRET PRECISION MACHINING INC.	Daiichi Industrial Park-SEZ	2014-0536	02 January 2014
13	FATEC CORPORATION	First Cavite Industrial Estate-SEZ	2014-1251	29 January 2014
14	FERUSCHE STAINLESS, INC.	Filinvest Technology Park Calamba-SEZ	2014-0573	03 January 2014
15	FIRSTEC METALLICS, INC.	Light Industry & Science Park I-SEZ	2014-0534	27 December 2013
16	FUJITSU DIE-TECH CORPORATION OF THE PHILIPPINES	Laguna Technopark Inc.-SEZ	2014-0334	17 December 2013
17	GUNMA GOHKIN PHILIPPINES CORPORATION	Light Industry & Science Park I-SEZ	2014-0679	09 January 2014
18	HARADA AUTOMOTIVE ANTENNA (PHILIPPINES), INC. FORMERLY: NIPPON ANTENNA (PHILIPPINES) INC.	First Cavite Industrial Estate-SEZ	2014-0146	10 December 2013
19	HISTOTECH PRECISION (PH) INC.	Light Industry & Science Park I-SEZ	2014-2017	08 October 2014
20	HITACHI INDUSTRIAL MACHINERY PHILIPPINES CORP.	First Cavite Industrial Estate-SEZ	2014-0185	11 December 2013
21	HONDA PARTS MANUFACTURING CORPORATION	Laguna Technopark Inc.-SEZ	2014-0331	17 December 2013
22	IMASEN PHILIPPINE MANUFACTURING CORPORATION	Laguna Technopark Inc.-SEZ	2014-0346	17 December 2013
23	INA MICRO OPTO CORPORATION	Mactan Economic Zone II-SEZ	2014-1476	24 February 2014
24	JFS PRECISION TECHNOLOGY CORP.	Golden Mile Business Park-SEZ Baguio City Economic Zone	2014-1023	22 January 2014
25	KNOWLES ELECTRONICS (PHILIPPINES) CORPORATION	Cebu Light Industrial Park-SEZ	2014-0747	13 January 2014
26	KODACHI SEIKI PHILIPPINES, INC.	Cavite Economic Zone	2014-1376	10 February 2014
27	LAGUNA AUTO-PARTS MANUFACTURING CORPORATION	Laguna Technopark Inc.-SEZ	2014-0028	09 December 2013
28	LAGUNA METTS CORPORATION	Laguna Technopark Inc.-SEZ	2014-0607	07 January 2014
29	MAKOTO METAL TECHNOLOGY, INC.	Mactan Economic Zone II-SEZ	2014-0638	08 January 2014
30	MANUFACTURING AUTOMATION SOLUTIONS INTERNATIONAL, INC.	Calamba Premiere International Park-SEZ	2014-0460	26 December 2013
31	MEINAN PHILIPPINES, INC.	Laguna Technopark Inc.-SEZ	2014-1252	29 January 2014
32	MENIMA CASTING PRODUCTS INC.	First Cavite Industrial Estate-SEZ	2014-1007	21 January 2014

33	MICRO-MECHANICS TECHNOLOGY INTERNATIONAL INC.	Carmelray Industrial Park II-SEZ	2014-0751	13 January 2014
34	MICRON PRECISION PHILIPPINES, INC.	Calamba Premiere International Park-SEZ	2014-1419	13 February 2014
35	MKP, INC.	Cavite Economic Zone	2014-0905	17 January 2014
36	MTE TECHNOLOGY, INC.	Carmelray Industrial Park II-SEZ	2014-0256	13 December 2013
37	NAKASHIMA PHILIPPINES CORPORATION (NPC) FORMERLY: MIKADO PHILIPPINES CORPORATION	Cavite Economic Zone	2014-0614	07 January 2014
38	NEW ELECTRONICS SYSTEM CO., INC.	Cavite Economic Zone	2014-0141	10 December 2013
39	NIDEC PHILIPPINES CORPORATION	Laguna Technopark Inc.-SEZ	2014-0226	11 December 2013
40	NIDEC PRECISION PHILIPPINES CORPORATION	Laguna Technopark Inc.-SEZ	2014-0680	09 January 2014
41	NIDEC SANKYO PHILIPPINES CORPORATION	Laguna Technopark Inc.-SEZ	2014-1756	16 May 2014
42	NUVALI STEEL PROCESSING CENTER, INC.	Laguna Technopark Annex-SEZ	2014-1505	28 February 2014
43	ORBIS PRECISION TECH. INC.	Laguna International Industrial Park-SEZ	2014-0946	20 January 2014
44	PARTS PHILIPPINES, INC.	Cavite Economic Zone	2014-0787	15 January 2014
45	PENTA TECHNOLOGICAL PRODUCTS INC.	Laguna Technopark Inc.-SEZ	2014-0444	26 December 2013
46	PHILIPPINE KENKO CORPORATION	Mactan Economic Zone	2014-1744	13 May 2014
47	PHILIPPINE NAGANO SEIKO, INC.	People's Technology Complex-SEZ	2014-0541	02 January 2014
48	PHILIPPINE PRECISION TECHNOLOGY, INC.	Carmelray Industrial Park I-SEZ	2014-1663	02 April 2014
49	PHILIPPINE SANITARY FITTINGS, INC.	Light Industry & Science Park III-SEZ First Cavite Industrial Estate-SEZ	2014-1750	13 May 2014
50	PHILIPPINES TRC, INC.	Lima Technology Center-SEZ	2014-1480	24 February 2014
51	PRECISE TECHNO INCORPORATED	Cavite Economic Zone	2014-1694	11 April 2014
52	PROPHILE SOUND INDUSTRIES, INC.	Cavite Economic Zone	2014-0725	13 January 2014
53	RAMCAR TECHNOLOGY, INC.	Sta. Maria Industrial Park	2014-1604	17 March 2014
54	SEO JIN TRONICS, INC.	First Cavite Industrial Estate-SEZ	2014-1296	03 February 2014
55	SINAG PRECISION MANUFACTURING LAGUNA, INC.	Laguna Technopark Inc.-SEZ	2014-1831	23 June 2014
56	SHIMANO (PHILIPPINES) INC.	First Philippine Industrial Park-SEZ	2014-0389	18 December 2013
57	SONION PHILIPPINES INC.	First Philippine Industrial Park-SEZ	2014-0519	27 December 2013
58	SUMINAC PHILIPPINES INC.	First Cavite Industrial Estate-SEZ	2014-0073	09 December 2013
59	SUNNELIT PHILIPPINES CORPORATION	Laguna Technopark Inc.-SEZ	2014-1124	24 January 2014
60	T&S LASER SOLUTIONS, INC.	First Philippine Industrial Park-SEZ	2014-0433	20 December 2013
61	TAMIYA (PHILIPPINES), INC.	Mactan Economic Zone II-SEZ	2014-0980	21 January 2014
62	TMX PHILIPPINES, INC.	Mactan Economic Zone	2014-1035	22 January 2014
63	TSUKUBA PHILIPPINE DIECASTING CORPORATION	Cavite Economic Zone	2014-0050	09 December 2013
64	URE-SHII TECHNOLOGIES INC.	Golden Mile Business Park-SEZ	2014-2039	28 October 2014
65	VITALO PACKAGING INTERNATIONAL, INC.	Laguna Technopark-SEZ	2014-0671	09 January 2014

66	WACKER NEUSON MANILA, INC. FORMERLY: WACKER MACHINERY PHILIPPINES, INC.	First Cavite Industrial Estate-SEZ	2014-0678	09 January 2014
67	YUTAKA MANUFACTURING (PHILS.) INC.	Laguna Technopark Inc.-SEZ	2014-0082	09 December 2013

However, with respect to its alleged SBMA registered clients, petitioner was not able to submit any document to substantiate its entitlement to VAT zero-rating.

Thus, only the sales made to the above-enumerated PEZA entities during the 3rd and 4th quarters of TY 2014 shall qualify for VAT zero-rating.

In line with this, Sections 113(A)(1), (B)(1), (2)(c) and (3) of the 1997 NIRC, as amended, as implemented by Sections 4.113-1 (A)(1), B(1) and (2)(c) of RR No. 16-05, in relation to Sections 237 and 238 of the same Code, provide that a VAT taxpayer, like herein petitioner, shall for every sale, barter or exchange of goods or properties, issue a VAT invoice which must contain the following information:

"**Sec. 113.** ***Invoicing and Accounting Requirements for VAT-registered Persons. –***

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

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

x x x

(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:

x x x

(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;

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

"**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) x x x

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 invoice/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) x x x

(b) x x x

(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;" *(Emphases Supplied)* gr

"**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: x x x

x x x." *(Emphases Supplied)*

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

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

x x x."

In petitioner's Amended Quarterly VAT Returns[25] for the 3rd and 4th quarters of TY 2014, it reported a total sales of ₱78,219,628.95, detailed below as follows:

Exhibit	Period Covered	Vatable Sales	Zero-Rated Sales	Total sales
P-17-C	3rd Quarter	₱ 9,075,906.44	₱ 27,832,672.40	₱ 36,908,578.84
P-17-D	4th Quarter	9,433,303.05	31,877,747.06	41,311,050.11
Total	**Total**	**₱18,509,209.49**	**₱59,710,419.46**	**₱78,219,628.95**

In support of its zero-rated sales and to prove compliance with the VAT invoicing requirements, petitioner submitted its Summary of Zero-Rated Sales[26] and the corresponding supporting sales invoices[27], ✓

[25] Exhibits P-17-C and P-17-D.
[26] Annex C to C.1 of ICPA Report (Exhibit P-27).
[27] Exhibits ICPA ZSQ3-1 to ICPA ZSQ3-820 and ICPA ZSQ4-1 and ICPA ZSQ4-874, ICPA Report (Exhibit P-27).

which were examined by the court-commissioned ICPA, Mr. Sonny S. Bonilla.

In his report, the ICPA noted and verified that there were transactions attributable to export sales, thus, are considered zero-rated sales. The said export sales were made to customers namely, Euroasia Technics SDN BHD, Premtool E.K., PT Power Machine Tools and TKM Industries (M) SDN BHD. In addition, the ICPA also claims that one customer, Ebara Benguet, Inc., is registered with the Board of Investments (BOI) were the BOI issued a certification and a list where the said customer is included.[28]

Unfortunately, however, petitioner failed to provide proof of actual exportation of the alleged export sales, and also, that of the purported BOI certificate of registration of Ebara Benguet, Inc. Furthermore, the letter and list issued by the BOI which supposedly supports the BOI registration of Ebara Benguet, Inc. were among the documents[29] which were not ascertained by the ICPA as faithful reproduction of the originals. Therefore, the Court cannot consider the claimed sales of goods to the said entities as entitled to VAT zero-rating.

More so, the ICPA found that petitioner's alleged zero-rated sales to the PEZA entities supported by sales invoices only had a total amount of ₱59,673,984.96, which is lower than the amount reported per VAT Returns by ₱36,434.50, as shown below:[30]

	Zero-Rated Sales per ICPA	**Zero-Rated Sales per VAT Returns**	**Difference**
3rd Quarter	₱ 27,830,415.84	₱ 27,832,672.40	(₱ 2,256.56)
4th Quarter	31,843,569.12	31,877,747.06	(34,177.94)
Total	**₱59,673,984.96**	**₱59,710,419.46**	**(₱36,434.50)**

The ICPA continues that the above-noted difference of ₱36,434.50 is attributable to the following:[31]

[28] *See* Par. 3.C, page 7, ICPA Report (Exhibit P-27).
[29] Annex B of the ICPA Report (Exhibit P-27).
[30] *See* Par. 3.H, page 8, ICPA Report (Exhibit P-27).
[31] Par. 3.J, *Ibid.*

a	Out of period sale *(Exhibit ICPA D-1)*	₱ (37,900.00)
b	Difference between actual invoice vis-à-vis per schedule-3rd quarter *(Exhibit ICPA-ZSQ3-263 and ICPA-ZSQ3-564)*	(48,800.00)
c	Out of period credit memo-4th quarter *(Exhibit ICPA OP 1)*	31,844.99
d	Difference between actual invoice vis-à-vis per schedule-4th quarter *(Exhibit ICPA-ZSQ4-739)*	100.00
e	Unsupported difference between the actual schedule vis-a-vis VAT return-4th quarter	18,320.50
	Total	**₱ (36,434.51)**[32]

Out of the ₱36,434.51 difference accounted by the ICPA, items a to c in the aggregate amount of ₱54,855.01[33] shall be considered for the purpose of determining the amount of zero-rated sales to which the valid input VAT may be attributed. On the other hand, the difference between the actual invoice vis-à-vis per schedule in the amount of ₱100 and the unsupported difference of ₱18,320.50 (items d & e above) which apparently pertain to the amounts not actually reported in petitioner's VAT Returns for the subject period shall be disregarded.

Also, the following reported zero-rated sales in the total amount of ₱3,407,517.97, shall be disallowed and, thus, cannot qualify for VAT zero-rating since they were made to entities without proof of PEZA/SBMA/BOI registration and of actual export sales, viz.:

Invoice No.	**Client**	**Amount**	**Exhibit No.**[34]
Third Quarter			
Export Sales without proof of actual exportation			
9315	PREMTOOL E.K.	₱ 224,018.61	ICPA ZSQ3-284
9381	EUROASIA TECHNICS SDN BHD	5,856.20	ICPA ZSQ3-317
10081	PREMTOOL E.K.	75,504.56	ICPA ZSQ3-689
Sales to clients without proof of PEZA/SBMA registration			
8785	POLARMARINE INC.	2,600.00	ICPA-ZSQ3-23
8789	PRECISE PARTS COOPERATION INC.	10,200.00	ICPA-ZSQ3-25
8903	POLARMARINE INC.	7,800.00	ICPA-ZSQ3-87
8904	POLARMARINE INC.	1,950.00	ICPA-ZSQ3-88
8905	POLARMARINE INC.	39,383.00	ICPA-ZSQ3-89
8998	POLARMARINE INC.	14,500.00	ICPA-ZSQ3-128
8999	POLARMARINE INC.	18,582.00	ICPA-ZSQ3-129
9083	POLARMARINE INC.	3,500.00	ICPA-ZSQ3-172
9165	CEBU AOI DEVELOPMENT TECHNOLOGIES CORP.	19,100.00	ICPA-ZSQ3-203
9242	CEBU AOI DEVELOPMENT TECHNOLOGIES CORP.	5,300.00	ICPA-ZSQ3-245
9243	CEBU AOI DEVELOPMENT TECHNOLOGIES CORP.	8,950.00	ICPA-ZSQ3-246
9190	TURU SANTECHNO CORPORATION	5,860.00	ICPA-ZSQ3-220

[32] With a discrepancy of 0.01 due to erroneous computation of ICPA in item e, which should be ₱18,320.51.
[33] Total of (₱37,900.00), (₱48,800.00), and ₱31,844.99.
[34] Annex C to C.1 of the ICPA Report (Exhibit P-27).

9244	POLARMARINE INC.	3,800.00	ICPA-ZSQ3-247
9245	POLARMARINE INC.	33,120.00	ICPA-ZSQ3-248
9246	POLARMARINE INC.	76,020.00	ICPA-ZSQ3-249
9247	POLARMARINE INC.	70,750.00	ICPA-ZSQ3-250
9248	POLARMARINE INC.	14,000.00	ICPA-ZSQ3-251
9249	TURU SANTECHNO CORPORATION	1,440.00	ICPA-ZSQ3-252
9322	POLARMARINE INC.	5,500.00	ICPA-ZSQ3-290
9530	POLARMARINE INC.	90,300.00	ICPA-ZSQ3-392
9618	HITACHI TERMINALS MECHATRONICS PHILS. CORP.	68,000.00	ICPA-ZSQ3-431
9643	HITACHI TERMINALS MECHATRONICS PHILS. CORP.	4,400.00	ICPA-ZSQ3-441
9644	POLARMARINE INC.	98,350.00	ICPA-ZSQ3-442
9768	POLARMARINE INC.	77,050.00	ICPA-ZSQ3-506
9908	PRECISE PARTS COOPERATION INC.	11,160.00	ICPA-ZSQ3-582
10053	POLARMARINE INC.	61,200.00	ICPA-ZSQ3-669
10079	WARREN & BROWN PHILIPPINES	1,600.00	ICPA ZSQ3-688
10095	PRECISE PARTS COOPERATION INC.	14,860.00	ICPA-ZSQ3-694
10134	SILAN TECHNOLOGIES CORPORATION	14,010.00	ICPA ZSQ3-717
10169	POLARMARINE INCORPORATED	4,000.00	ICPA-ZSQ3-738
	subtotal	***₱1,092,664.37***	
Fourth Quarter			
Export Sales without proof of actual exportation			
10398	TKM INDUSTRIES (M) SDN BHD	₱ 16,696.10	ICPA-ZSQ4-21
10399	PREMTOOL E.K.	52,242.65	ICPA-ZSQ4-22
10423	PREMTOOL E.K.	87,071.08	ICPA-ZSQ4-40
10424	PREMTOOL E.K.	8,707.11	ICPA-ZSQ4-41
10453	TKM INDUSTRIES (M) SDN BHD	16,704.87	ICPA-ZSQ4-56
10513	EUROASIA TECHNICS SDN BHD	147,840.45	ICPA-ZSQ4-86
10807	PREMTOOL E.K.	113,246.09	ICPA-ZSQ4-267
10831	EUROASIA TECHNICS SDN BHD	18,001.16	ICPA-ZSQ4-278
11012	TKM INDUSTRIES (M) SDN BHD	21,646.80	ICPA-ZSQ4-384
11054	PT POWER MACHINE TOOLS	148,146.90	ICPA-ZSQ4-407
11055	PT POWER MACHINE TOOLS	121,862.05	ICPA-ZSQ4-408
11056	PT POWER MACHINE TOOLS	50,733.58	ICPA-ZSQ4-409
11057	PT POWER MACHINE TOOLS	45,481.10	ICPA-ZSQ4-410
11058	PT POWER MACHINE TOOLS	44,906.47	ICPA-ZSQ4-411
11257	EUROASIA TECHNICS SDN BHD	108,392.87	ICPA-ZSQ4-516
11259	PREMTOOL E.K.	235,120.85	ICPA-ZSQ4-517
11284	PT POWER MACHINE TOOLS	86,629.83	ICPA-ZSQ4-538
11285	PT POWER MACHINE TOOLS	39,165.44	ICPA-ZSQ4-539
11803	PREMTOOL E.K.	277,208.20	ICPA-ZSQ4-835
Sales to client without proof of BOI registration			
10979	EBARA BENGUET, INC.	13,650.00	ICPA-ZSQ4-361
11226	EBARA BENGUET, INC.	5,850.00	ICPA-ZSQ4-502
Sales to clients without proof of PEZA/SBMA registration			
10402	POLARMARINE INCORPORATED	42,800.00	ICPA-ZSQ4-23
10409	POLARMARINE INCORPORATED	36,600.00	ICPA-ZSQ4-28
10524	PRECISE PARTS COOPERATION INC.	3,720.00	ICPA-ZSQ4-94
10540	POLARMARINE INCORPORATED	1,700.00	ICPA-ZSQ4-106
10547	POLARMARINE INCORPORATED	52,000.00	ICPA-ZSQ4-107
10598	PRECISE PARTS COOPERATION INC.	5,370.00	ICPA-ZSQ4-136
10599	PRECISE PARTS COOPERATION INC.	6,290.00	ICPA-ZSQ4-137
10600	PRECISE PARTS COOPERATION INC.	5,680.00	ICPA-ZSQ4-138
10601	PRECISE PARTS COOPERATION INC.	8,100.00	ICPA-ZSQ4-139
10602	PRECISE PARTS COOPERATION INC.	5,200.00	ICPA-ZSQ4-140
10603	PRECISE PARTS COOPERATION INC.	6,990.00	ICPA-ZSQ4-141
10641	POLARMARINE INCORPORATED	18,000.00	ICPA-ZSQ4-161
10724	POLARMARINE INCORPORATED	21,360.00	ICPA-ZSQ4-209

10725	POLARMARINE INCORPORATED	6,600.00	ICPA-ZSQ4-210
10897	POLARMARINE INCORPORATED	43,700.00	ICPA-ZSQ4-313
10898	HITACHI TERMINALS MECHATRONICS PHILS. CORP.	34,650.00	ICPA-ZSQ4-314
10960	POLARMARINE INCORPORATED	11,400.00	ICPA-ZSQ4-346
10961	POLARMARINE INCORPORATED	20,800.00	ICPA-ZSQ4-347
11119	POLARMARINE INCORPORATED	100,100.00	ICPA-ZSQ4-443
11120	POLARMARINE INCORPORATED	19,700.00	ICPA-ZSQ4-444
11197	PRECISE PARTS COOPERATION INC.	3,220.00	ICPA-ZSQ4-492
11296	DELFINGEN WEST INC.	23,600.00	ICPA-ZSQ4-548
11359	POLARMARINE INCORPORATED	49,700.00	ICPA-ZSQ4-585
11419	DELFINGEN WEST INC.	15,000.00	ICPA-ZSQ4-618
11440	POLARMARINE INC.	37,500.00	ICPA-ZSQ4-634
11503	PRECISE PARTS COOPERATION INC.	15,270.00	ICPA-ZSQ4-669
11701	POLARMARINE INC.	16,450.00	ICPA-ZSQ4-779
11702	POLARMARINE INC.	1,600.00	ICPA-ZSQ4-780
11850	POLARMARINE INC.	26,900.00	ICPA-ZSQ4-861
11851	POLARMARINE INC.	2,850.00	ICPA-ZSQ4-862
11852	POLARMARINE INC.	4,600.00	ICPA-ZSQ4-863
11853	POLARMARINE INC.	4,600.00	ICPA-ZSQ4-864
11863	PRECISE PARTS COOPERATION INC.	3,500.00	ICPA-ZSQ4-873
	subtotal	***₱2,314,853.60***	
	Total	**₱3,407,517.97**	

From the foregoing, only the amount of ₱56,248,046.48 represents petitioner's valid zero-rated sales, computed hereafter as follows:

	3rd Quarter	4th Quarter	Total
Total Reported Zero-Rated Sales	₱ 27,832,672.40	₱ 31,877,747.06	₱ 59,710,419.46
Add (Less): Adjustments			
Per ICPA findings	(86,700.00)[35]	31,844.99	(54,855.01)
Disallowances by this Court	(1,092,664.37)	(2,314,853.60)	(3,407,517.97)
Total Valid Zero-Rated Sales	**₱26,653,308.03**	**₱29,594,738.45**	**₱56,248,046.48**

Having resolved that petitioner had VAT zero-rated sales for the 3rd and 4th quarters of TY 2014 in the total amount of ₱56,248,046.48, the Court shall now proceed to determine the amount of input VAT attributable thereto.

As to the ***fourth, fifth and sixth requisite***: the Court finds that there were input taxes incurred/paid attributable to its zero-rated sales and were not applied against any output VAT liability.

For the 3rd and 4th quarters of TY 2014, petitioner incurred input taxes on its local purchases and importations of goods, other than

[35] Total of Out of Period Sale and Difference between actual invoice vis-à-vis per Schedule-3rd quarter (items a to c).

capital goods, in the total amount of ₱5,798,443.29. A portion of which, in the amount of ₱3,577,338.15, net of output tax due, is the subject herein of petitioner's claim for refund, to wit:

	3rd Quarter (Exh. P-17-C)	**4th Quarter (Exh. P-17-D)**	**Total**
Input Tax on Purchases of Goods Other than Capital Goods (Line 21F)	₱ 654,782.20	₱ 687,146.09	₱ 1,341,928.29
Importation of Goods Other than Capital Goods (Line 21H)	2,258,995.00	2,197,520.00	4,456,515.00
Total Input Taxes	**₱2,913,777.20**	**₱2,884,666.09**	**₱5,798,443.29**
Less: Output Tax (Line 15B)	1,089,108.77	1,131,996.37	2,221,105.14
Excess input tax claimed	**₱1,824,668.43**	**₱1,752,669.72**	**₱3,577,338.15**

In support of its total input taxes of ₱5,798,443.29, petitioner submitted various sales invoices[36] for its local purchases of goods, Import Entry and Internal Revenue Declarations (IEIRDs) and Bureau of Customs (BOC) receipts/Confirmation receipts[37] evidencing payment of VAT for its imported goods.

However, upon examination of the said documents, the ICPA noted some exceptions on petitioner's local purchases of goods in the total amount of ₱6,390.65, summarized as follows:[38]

	Description	**3rd Quarter**	**4th Quarter**	**Total**
1	Vat not indicated separately in the invoice *(Exhibits "ICPA G-1" to "ICPA G-13")*	₱ 692.14	₱ 2,184.27	₱ 2,876.41
2	Point of Sale (POS) receipts only *(Exhibits "ICPA G-12" to "ICPA G-13")*	-	87.86	87.86
3	VAT written as zero-rated sales *(Exhibit "ICPA-13")*	62.68	-	62.68
4	Not validated due to unavailability of supporting documents	642.35	2,515.34	3,157.69
5	Unsupported difference between the actual schedule vis-à-vis vat return	6,007.42[39]	(5,801.41)	206.01
	Total	**₱7,404.59**	**₱(1,013.94)**	**₱6,390.65**

From the above findings, items 1 to 4, in the aggregate amount of ₱6,184.64[40] shall be disallowed for failure to meet the substantiation

[36] Annex F to F.1, ICPA Report (Exhibit P-27).
[37] Annex H to H.1, *Ibid.*
[38] *See* Par. 5.E., page 11, *Id.*
[39] Should be ₱6,007.43.
[40] Total of ₱2,876.41, ₱87.86, ₱62.68 and ₱3,157.69.

requirements under Sections 110 (A) and 113 (A) and (B) of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-8 and 4.113-1 of RR No. 16-05.

As to the unsupported difference between actual schedule and the VAT return (item no. 5), further review reveals that the amount of ₱6,007.4*[3]* for the third quarter shall be disallowed for not being duly supported. While, conversely, the difference for the fourth quarter which *actually* amounts to (₱5,796.06), shall, likewise, be disregarded for the same does not form part of the instant claim. The particulars of the said amounts are presented below, viz.:

	Input Tax per Return[41]	**Input Tax Per Schedule**[42]	**Difference**
3rd Quarter	₱ 654,782.20	₱ 648,774.77	₱ 6,007.43
4th Quarter	687,146.09	692,942.15	(5,796.06)
Total	**₱ 1,341,928.29**	**₱ 1,341,716.92**	**₱ 211.37**

Furthermore, the input VAT on petitioner's local purchases in the amount of ₱30,576.27 shall also be disallowed for various reasons, which are stated in the table hereafter, for ease of reference:

Supplier's Name	**Invoice No.**	**Amount**	**Exhibit No.**[43]	**Reason for disallowance**
Third Quarter				
Aching Industrial Sales	12505	₱ 3,428.57	ICPA PQ3-6	Supported by VAT invoice but not issued in petitioner's registered name
Bon Industrial Sales	219859	7,141.50	ICPA PQ3-74	Supported by VAT invoice with alteration on the amount but without countersignature
Globe International Distributor Center Inc.	63390	258.79	ICPA PQ3-128	Supported by VAT invoice with alteration on the amounts but without countersignature
Manila United Electrical Supply, Inc.	230386	1,325.14	ICPA PQ3-332	Supported by VAT invoice but with incomplete TIN of petitioner
Plastic Consumer Corporation	38927	188.30	ICPA PQ3-430	Supported by VAT invoice but without the address of petitioner
Plastic Consumer Corporation	39395	146.04	ICPA PQ3-432	Supported by VAT invoice but without the address of petitioner

[41] Exhibits 17-C and 17-D.
[42] Exhibit P-10.
[43] Annex F to F.1, ICPA Report (Exhibit P-27).

Screw City Hardware	245311	321.43	ICPA PQ3-466	Supported by VAT invoice but without the address of petitioner
Screw City Hardware	245694	1,285.71	ICPA PQ3-468	Supported by VAT invoice but without the address of petitioner
Screw City Hardware	246077	237.21	ICPA PQ3-469	Supported by VAT invoice but without the address of petitioner
United Bearing Industrial Corp.	67826	1,542.86	ICPA PQ3-557	Supported by VAT invoice but without the address of petitioner
United Bearing Industrial Corp.	68597	337.18	ICPA PQ3-559	Supported by VAT invoice but without the address of petitioner
Vicente Lim Jr. Gen. Mdsg.	189586	192.86	ICPA PQ3-567	Supported by VAT invoice but without the address of petitioner
Subtotal		***₱16,405.59***		
Fourth Quarter				
Bon Industrial Sales	227103	₱ 181.29	ICPA PQ4-84	Supported by VAT invoice but without the TIN of petitioner
G.P. Enterprises Inc.	523409	450.00	ICPA PQ4-117	Supported by VAT invoice but without the TIN of petitioner
Guan Yiac Hardware	155770	812.25	ICPA PQ4-142	Supported by VAT invoice but issued not in petitioner's registered name and without the TIN of petitioner
Mjs Appliance Center	126478	2,250.00	ICPA PQ4-304	Supported by VAT invoice but without the address and TIN of petitioner
Mjs Appliance Center	126894	2,250.00	ICPA PQ4-305	Supported by VAT invoice but without the address and TIN of petitioner
Sanyoseiki Stainless Steel Corp.	157642	6,000.00	ICPA PQ4-386	Supported by VAT invoice with alteration on the amounts but without countersignature
Union Hardware	34846	246.87	ICPA PQ4-455	Supported by VAT invoice but without the TIN of petitioner
Union Hardware	34848	1,517.41	ICPA PQ4-457	Supported by VAT invoice but without the TIN of petitioner
Union Hardware	35649	462.86	ICPA PQ4-526	Supported by VAT invoice but the input VAT amount was not separately indicated
Subtotal		***₱14,170.68***		
Total		**₱30,576.27**		

Meanwhile, upon examination of the documents supporting petitioner's input VAT on importations[44] in the amount of ₱4,456,515.00, the Court finds that the same complies with the invoicing and substantiation requirements prescribed under Sections 110 (A) and 113 (A) and (B) of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-8 and 4.113-1 of RR No. 16-05.

In summation therefore, petitioner's valid input VAT for the 3rd and 4th quarters of TY 2014 amounts to ₱5,755,674.95, computed as follows:

[44] Annex H to H.1, ICPA Report (Exhibit P-27).

	3rd Quarter	4th Quarter	Total
Input VAT per Returns	₱ 2,913,777.20	₱ 2,884,666.09	₱ 5,798,443.29
Less: Disallowances			
Per ICPA findings	₱ 1,397.17	₱ 4,787.47	₱ 6,184.64
Unsupported difference	6,007.43	-	6,007.42
Additional disallowances by this Court	16,405.59	14,170.68	30,576.27
Total Disallowances	*₱ 23,810.19*	*₱ 18,958.15*	*₱ 42,768.34*
Total Valid Input VAT	**₱2,889,967.01**	**₱2,865,707.94**	**₱5,755,674.95**

Proceeding therefrom, a portion of petitioner's valid input VAT shall be applied against the output VAT liability for the 3rd and 4th quarters of TY 2014 in the aggregate amount of ₱2,221,105.14. Consequently, only the remaining input VAT of ₱3,534,569.81 can be attributed to the declared zero-rated sales of ₱59,710,419.46 and only the input VAT of ₱3,329,613.97 is attributable to the valid zero-rated sales of ₱56,248,046.48, computed as follows:

	3rd Quarter	4th Quarter	Total
Valid Input VAT	₱ 2,889,967.01	₱ 2,865,707.94	₱ 5,755,674.95
Less: Output VAT per returns	1,089,108.77	1,131,996.37	2,221,105.14
Excess Input VAT	**₱ 1,800,858.24**	**₱ 1,733,711.57**	**₱ 3,534,569.81**
Divide by Declared Zero-Rated Sales per VAT Returns	27,832,672.40	31,877,747.06	59,710,419.46
Multiply by Total Valid Zero-Rated Sales	26,653,308.03	29,594,738.45	56,248,046.48
Excess Input VAT attributable to Valid Zero-Rated Sales	**₱ 1,724,549.79**	**₱ 1,609,547.26**	**₱ 3,334,097.05**

On a final note, petitioner was able to prove that the claimed input VAT of ₱1,824,668.43 and ₱1,752,669.72 for the 3rd and 4th quarters of TY 2014, respectively, were not applied against any output VAT in the succeeding quarters. Thus, the same remained unutilized as the amounts were deducted as "VAT Refund/TCC claimed" in its Amended Quarterly VAT Returns for the 3rd[45] and 4th[46] quarters of TY 2014. Clearly, the subject claim no longer formed part of the excess input VAT of ₱6,510,915.49[47] as of the end of the fourth quarter of TY 2014 that was to be carried over/applied to the succeeding quarters. As such, it eliminates the possibility that the present claim would be applied to future output VAT liability. gr

[45] Line 23D of Exhibit P-17-C.
[46] Line 23D of Exhibit P-17-D.
[47] Line 29 of Exhibit P-17-D.

WHEREFORE, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED** to refund or issue a tax credit certificate in favor of petitioner in the reduced amount of **THREE MILLION THREE HUNDRED THIRTY FOUR THOUSAND NINETY SEVEN PESOS AND 05/100 (₱3,334,097.05)** or **One Million Seven Hundred Twenty Four Thousand Five Hundred Forty Nine and 79/100 Pesos Only (₱1,724,549.79) and One Million Six Hundred Nine Thousand Five Hundred Forty Seven and 26/100 Pesos Only (₱1,609,547.26)**, respectively, representing unutilized input VAT attributable to its zero-rated sales for the 3rd and 4th quarters of TY 2014.

SO ORDERED.

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

I CONCUR:

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

ATTESTATION

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

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

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice