22-000199-0047

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10854

BOEHRINGER INGELHEIM (PHILIPPINES), INC.,
Petitioner,

- versus -

NOTICE OF DECISION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. BRYAN ANTHONY C. DIEGO
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

CASTILLO LAMAN TAN PANTALEON & SAN JOSE
2nd to 5th and 9th Floors, The Valero Tower
122 Valero Street, Salcedo Village, Makati City

GREETINGS:

You are hereby notified by these presents that on **December 17, 2024,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **December 18, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

BOEHRINGER INGELHEIM (PHILIPPINES), INC., *Petitioner,*	**CTA CASE NO. 10854**
	Members:
-versus-	**DEL ROSARIO,** *P.J., Chairperson,* **BACORRO-VILLENA,** *and* **CUI-DAVID,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: DEC 17 2024 3:30PM

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DECISION

CUI-DAVID, J.:

Before the Court is a *Petition for Review*[1] seeking a refund of ₱104,126,921.78, allegedly representing petitioner's erroneously paid value-added tax (VAT) for the importation of prescription drugs and medicines for diabetes, high cholesterol, and hypertension for the period covering July 1, 2020, to November 30, 2020.

THE PARTIES

Petitioner Boehringer Ingelheim (Philippines), Inc. is a domestic corporation with principal office located at the 23rd Floor, BDO Towers (formerly Citibank Tower), Valero Building, 8741 Paseo De Roxas, Bel-Air, Makati City, Philippines.[2]

Respondent is the Commissioner of the Bureau of Internal Revenue (BIR), vested by law with the authority to enforce and implement the provisions of the Tax Code, as amended, as well as related statutes and their implementing regulations. He

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[1] Docket – Vol. I, pp. 7–46.
[2] Docket – Vol. III, p. 1133, *Joint Stipulation of Facts and Issues* (JSFI), Stipulated Facts, par. 2.

holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.[3]

THE FACTS

On January 22, 2020, the President of the Philippines approved Republic Act (RA) No. 11467, amending specific provisions of the National Internal Revenue Code (NIRC), as amended.[4]

Section 15 of RA No. 11467 states that the said law shall *"take effect on January 1, 2020 after its complete publication either in the Official Gazette or in a newspaper of general circulation."*[5]

On June 8, 2020, respondent issued Revenue Memorandum Circular (RMC) No. 62-2020, publishing the full text of the letter from the Food and Drug Administration (FDA) of the Department of Health (DOH), which enumerated prescription drugs and medicines exempt from VAT under RA No. 11467. The RMC stated that the listed medicines are exempt from VAT beginning January 27, 2020.[6]

On June 26, 2020, the Secretary of Finance issued Revenue Regulations (RR) No. 18-2020, implementing RA No. 11467.[7] Subsequently, on October 14, 2020, respondent issued RMC No. 113-2020, amending RMC No. 65-2020, and published the full text of a letter from the Department of Finance clarifying that the effectivity date of RA No. 11467 was January 23, 2020, rather than January 27, 2020, based on its publication in the Official Gazette website on the earlier date.[8]

While the list of VAT-exempt prescription drugs and medicines pursuant to RA No. 11467 was published by the BIR in June 2020, petitioner was constrained to pay VAT to facilitate the release of its imported products from the Bureau of Customs (BOC) to address the high demand in the Philippine market during the pandemic, given the issues encountered in obtaining the Authority to Release Imported Goods (ATRIG).[9]

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3 *Id.* at 1133, JSFI, Stipulated Facts, par. 1.
4 *Id.* at 1134, JSFI, Stipulated Facts, par. 3.
5 *Id.* at 1134, JSFI, Stipulated Facts, par. 4.
6 *Id.* at 1134, JSFI, Stipulated Facts, par. 5.
7 *Id.* at 1134, JSFI, Stipulated Facts, par. 6.
8 *Id.* at 1134, JSFI, Stipulated Facts, par. 7.
9 *Id.* at 1134, JSFI, Stipulated Facts, par. 8.

On July 15, 2020, the BIR issued Revenue Memorandum Order (RMO) No. 23-2020, outlining the guidelines for issuing ATRIGs for VAT-exempt prescription drugs and medicines under RA No. 11467 as implemented by RR No. 18-2020. This issuance was later amended by RMO No. 25-2020 on July 29, 2020, which provides that the ATRIG shall be issued by the Revenue District Office (RDO) having jurisdiction over the port of entry, instead of being processed by RDO No. 33 (Intramuros-Ermita-Malate) only.[10]

On October 15, 2020, respondent issued RMO No. 36-2020, laying down the guidelines and procedures for claiming refunds for erroneously paid VAT on imported prescription drugs pursuant to RR No. 18-2020 and Section 204(c) of the Tax Code.[11]

On September 3, 2021, petitioner filed an administrative claim for a refund amounting to ₱104,126,921.78 with the LTAD 1 of the BIR via an *Application for Tax Credits/Refunds* (BIR Form No. 1914),[12] and a letter dated September 2, 2020.[13] The claim covered VAT erroneously paid on the importation of prescription drugs and medicines for diabetes, high cholesterol, and hypertension which were exempt from VAT under RA No. 11467.[14]

On September 28, 2021, petitioner received a *Tax Verification Notice* dated September 20, 2021 issued by the BIR's Large Taxpayers Service, authorizing Revenue Officer (RO) Ron Ace A. Valenzuela to examine the supporting documents for the refund claim.[15]

On April 4, 2022, petitioner received a letter dated March 10, 2022,[16] denying the claim for refund in full.

On May 4, 2022, petitioner filed the present *Petition for Review*,[17] initially raffled to this Court's Second Division.

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[10] *Id.* at 1134–1135, JSFI, Stipulated Facts, par. 9.
[11] *Id.* at 1135, JSFI, Stipulated Facts, par. 10.
[12] Exhibit "P-6", BIR Records (Exhibit "R-4"), p. 40.
[13] Exhibit "P-4", BIR Records (Exhibit "R-4"), pp. 41–53.
[14] Docket – Vol. III, p. 1135, JSFI, Stipulated Facts, par. 11.
[15] *Id.* at 1135, JSFI, Stipulated Facts, par. 12.
[16] Docket – Vol. I, pp. 63–65, Exhibit "P-1"; Exhibit "R-3", BIR Records (Exhibit "R-4"), pp. 79–82; Docket – Vol. I, p. 56, Exhibit "P-24", A37.
[17] *Supra* note 1.

On July 7, 2022, respondent filed an *Answer (Re: Petition for Review dated 02 May 2022)*,[18] interposing special and affirmative defenses.

On July 26, 2022, respondent transmitted the *BIR Records* for this case, consisting of 88 pages, in one folder.[19] The Pre-Trial Conference, initially set for September 19, 2022,[20] was rescheduled to September 22, 2022.[21] Respondent's *Pre-Trial Brief* was filed on July 29, 2022,[22] while petitioner's *Pre-Trial Brief* was submitted on September 19, 2022.[23]

On October 24, 2022, the parties submitted their *Joint Stipulation of Facts and Issues*,[24] which was admitted and approved by the Court in a Resolution dated October 27, 2022.[25] The Pre-Trial Order dated November 22, 2022, was then issued.[26]

Trial ensued, with the parties presenting and offering their respective testimonial and documentary evidence.

Petitioner presented the following witnesses: (1) Mr. Ermel N. Teodoro,[27] Head of Finance and Administration; (2) Mr. Marlon L. Sesante,[28] Commercial Supply Chain Lead; (3) Ms. Mylene P. Salindong-Vicmudo,[29] Central Accounting Manager; and (4) Mr. Caezar M. Nicolas,[30] the Court-commissioned Independent Certified Public Accountant (ICPA).[31]

On March 3, 2023, the ICPA *Report* was submitted.[32]

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18 Docket – Vol. III, pp. 1052–1061.
19 *Id.* at 1081–1083, Respondent's *Compliance* dated July 26, 2022.
20 *Id.* at 1063–1064, Notice of Pre-Trial Conference dated July 11, 2022.
21 *Id.* at 1091, Notice of Hearing dated August 31, 2022; 1110–1112, Minutes of the hearing held on, and Order dated, September 22, 2022.
22 *Id.* at 1085–1087.
23 *Id.* at 1092–1108.
24 *Id.* at 1133–1141.
25 *Id.* at 1143.
26 *Id.* at 1146 –1152.
27 Docket – Vol. I, pp. 48–62, Exhibit "P-24"; Docket – Vol. III, pp. 1159, and 1161–1162, Minutes of the hearing held on, and Order dated, February 2, 2023, respectively.
28 Docket – Vol. I, pp. 165–171, Exhibit "P-25"; Docket – Vol. III, pp. 1163–1164, Minutes of the hearing held on, and Order dated, February 16, 2023.
29 Docket – Vol. II, pp. 1027–1034, Exhibit "P-26"; Docket – Vol. III, pp. 1163–1164, Minutes of the hearing held on, and Order dated, February 16, 2023.
30 Docket – Vol. III, pp. 1204 1214, Exhibits "P-28"; Docket Vol. III, pp. 1216 1218, Minutes of the hearing held on, and Order dated, March 23, 2023.
31 Docket – Vol. III, p. 1160, *Oath of Commission* dated February 2, 2023; Docket – Vol. III, pp. 1159, and 1161–1162; Minutes of the hearing held on, and Order dated, February 2, 2023, respectively.
32 Docket – Vol. III, pp. 1165–1199, Exhibit 'P-27".

On April 11, 2023, petitioner filed its *Offer of Documentary Evidence*,[33] to which respondent submitted his *Comment (Re: Offer of Documentary Evidence dated 11 April 2023)* on April 14, 2023.[34] The Court admitted petitioner's offered exhibits in the Resolution dated May 5, 2023,[35] Thereafter, the present case was transferred to the First Division on May 29, 2023.[36]

Respondent presented RO Ron Ace A. Valenzuela[37] as a witness. On November 14, 2023, respondent filed his *Formal Offer of Evidence*,[38] to which petitioner filed its *Comment/Opposition (to respondent's Formal Offer of Evidence dated November 14, 2023)* on November 24, 2023.[39] The Court admitted respondent's offered evidence in the Resolution dated January 25, 2024.[40]

On February 29, 2024, petitioner filed its *Memorandum*.[41] On March 1, 2024, respondent submitted a *Manifestation*[42] that he is adopting the arguments raised in his *Answer* dated July 7, 2022, as his *Memorandum*.

The case was submitted for decision on March 12, 2024.[43]

THE ISSUE

As stipulated by the parties, the issue for this Court's resolution is as follows:

> WHETHER THE PETITIONER IS ENTITLED TO A REFUND IN THE AMOUNT OF ONE HUNDRED FOUR MILLION ONE HUNDRED TWENTY-SIX THOUSAND NINE HUNDRED TWENTY-ONE PESOS AND SEVENTY-EIGHT CENTAVOS (PHP104,126,921.78[)] REPRESENTING ALLEGED ERRONEOUSLY PAID VALUE-ADDED TAX (VAT) FOR THE PERIOD 01 JULY 2020 TO 30 NOVEMBER 2020.[44]

Mr

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33 *Id.* at 1219–1227.
34 *Id.* at 1229–1231.
35 *Id.* at 1234–1235.
36 *Id.* at 1236, Notice of Resolution dated May 29, 2023.
37 *Id.* at 1075–1080, Exhibit "R-5"; 1242–1243, Order dated November 7, 2023.
38 *Id.* at 1245–1248.
39 *Id.* at 1252–1257.
40 *Id.* at 1264–1265.
41 *Id.* at 1266–1300.
42 *Id.* at 1302–1304.
43 *Id.* at 1306, Notice of Resolution dated March 12, 2024.
44 *Id.* at 1135, JSFI, Stipulated Issue, par. 14.

Petitioner's arguments:

Petitioner asserts that its importation of prescription drugs and medicines for diabetes, high cholesterol, and hypertension is exempt from VAT. It claims to have adequately substantiated its refund claim, further arguing that the BIR's rigid formatting requirements created unnecessary hurdles for filing a valid refundable claim. Petitioner emphasizes that the input tax subject of the refund has not been reported as an input tax credit. Finally, it invokes the principle of *solutio indebiti*, maintaining that taxes erroneously collected by the BIR must be refunded.

Respondent's arguments:

Respondent contends that the instant claim should be denied due to petitioner's failure to substantiate its refund claim at the administrative level. He emphasizes that the burden lies with petitioner to prove its entitlement to the refund, as a claim for refund is not *ipso facto* granted upon filing of the claim. Respondent further notes that tax refunds are subject to routine administrative investigation and are strictly construed against the taxpayer and in favor of the government.

THE COURT'S RULING

The instant *Petition of Review* has partial merit.

Petitioner timely filed both its administrative and judicial claims.

Before addressing the substantive issues, the Court must first determine whether the petitioner's administrative and judicial claims for a refund were filed within the prescribed period. Sections 204(C) and 229 of the NIRC of 1997, as amended, govern the refund of erroneously or illegally collected taxes. These provisions state:

> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* — The Commissioner may ....

> (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty**: *Provided, however*, that a return filed showing an overpayment shall be considered as a written claim for credit or refund.
>
> SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* — No suit or proceeding shall be maintained in any court for the recovery of any **national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected**, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> **In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment**: *Provided, however*, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid. (*Emphasis supplied*)

Both sections require that claims for a refund or credit be filed within two (2) years from the date the tax or penalty was paid. Additionally, Section 229 of the NIRC of 1997, as amended, mandates that an administrative claim must first be filed with the CIR before any judicial action can be taken regarding a claim for refund or credit.[45] This two (2)-year prescriptive period is mandatory, regardless of any supervening cause that may arise after payment.[46]

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45 *CBK Power Company Limited v. Commissioner of Internal Revenue*, G.R. Nos. 193383-84 & 193407-08, January 14, 2015 [Per J. Perlas-Bernabe, First Division].

46 *Commissioner of Internal Revenue v. Manila Electric Company (MERALCO)*, G.R. No. 181459, June 9, 2014 [Per J. Peralta, Third Division].

In this case, the VAT payments on the importation of medicines for diabetes, high cholesterol, and hypertension, made between July 24, 2020, and November 9, 2020, are summarized below:[47]

No.	IEIRD/SAD No.	SSDT/ BOC OR No.	Date of payment	Amount of VAT paid
1	C-1029287	1157565	July 29, 2020	₱1,540,026.94
2	C-1029902	1160733	July 30, 2020	2,186,860.32
3	C-1029913	1158578	July 29, 2020	2,305,315.82
4	C-1030104	1160873	July 30, 2020	2,158,332.16
5	C-1085717	1127110	August 5, 2020	2,528,664.37
6	C-1030182	1045974	August 3, 2020	5,868,060.54
7	C-1031511	1170180	August 5, 2020	512,522.79
8	C-1032577	1177649	August 10, 2020	2,600,125.08
9	C-1033622	1180149	August 11, 2020	1,057,991.27
10	C-1033628	1180151	August 11, 2020	1,124,248.42
11	C-1033910	1182431	August 12, 2020	1,058,149.69
12	C-1033904	1179937	August 11, 2020	1,135,520.62
13	C-1093012	1138789	August 13, 2020	4,891,384.00
14	C-1108305	1157652	August 27, 2020	5,895,320.23
15	C-1035655	1187381	August 14, 2020	1,121,489.17
16	C-1037986	1197403	August 20, 2020	1,098,198.91
17	C-1037985	1197402	August 20, 2020	1,099,571.67
18	C-1037911	1202368	August 24, 2020	1,392,821.28
19	C-1037908	1202355	August 24, 2020	1,072,155.52
20	C-1101178	1148749	August 20, 2020	2,610,625.50
21	C-1100785	1148715	August 20, 2020	2,624,239.58
22	C-1101180	1151601	August 24, 2020	2,588,035.82
23	C-1037894	1197436	August 20, 2020	3,575,876.73
24	C-1037983	1202363	August 24, 2020	1,203,989.03
25	C-1040043	1207524	August 26, 2020	1,509,437.92
26	C-1108014	1157695	August 27, 2020	2,569,610.37
27	C-1108020	1157642	August 27, 2020	2,603,081.62
28	C-1121636	1174613	September 8, 2020	1,627,303.23
29	C-1043007	1224876	September 4, 2020	1,436,334.43
30	C-1121705	1174122	September 8, 2020	2,588,990.68
31	C-1048266	1250381	September 17, 2020	950,888.07
32	C-1049272	1250383	September 17, 2020	1,480,553.21
33	C-1049282	1250387	September 17, 2020	1,370,915.43
34	C-1049286	1250382	September 17, 2020	1,058,460.39
35	C-1048640	1250385	September 17, 2020	1,027,969.82
36	C-1048620	1250384	September 17, 2020	1,740,499.71
37	C-1048619	1250388	September 17, 2020	1,498,336.88

[47] Exhibits "P-17-series" and "P-18-series".

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38	C-1048621	1253019	September 18, 2020	1,498,336.88
39	C-1048624	1250386	September 17, 2020	1,569,502.05
40	C-1048629	1250389	September 17, 2020	1,555,770.14
41	C-1057413	1288507	October 7, 2020	2,704,767.60
42	C-1054479	1283613	October 5, 2020	745,739.80
43	C-1054484	1283614	October 5, 2020	745,739.80
44	C-1054488	1283611	October 5, 2020	688,895.57
45	C-1058942	1297168	October 12, 2020	447,458.71
46	C-1058935	1299221	October 13, 2020	1,051,654.51
47	C-1060803	1306116	October 16, 2020	508,016.74
48	C-1057250	1292801	October 9, 2020	1,467,717.33
49	C-1059896	1302328	October 14, 2020	1,568,061.66
50	C-1062601	1315703	October 21, 2020	1,116,563.46
51	C-1062609	1315174	October 21, 2020	592,656.03
52	C-1062593	1316143	October 21, 2020	658,152.12
53	C-1059973	1301836	October 14, 2020	1,168,552.78
54	C-1060017	1301732	October 14, 2020	963,966.10
55	C-1060024	1302329	October 14, 2020	1,226,618.70
56	C-1060019	1303469	October 15, 2020	1,213,851.79
57	C-1061653	1310099	October 19, 2020	1,205,266.30
58	C-1061663	1310963	October 19, 2020	1,168,479.85
59	C-1067184	1335456	October 30, 2020	1,395,339.21
60	C-1067188	1341263	November 3, 2020	781,086.75
61	C-1067186	1341265	November 3, 2020	1,866,167.19
62	C-1072492	1367843	November 16, 2020	52,707.99
63	C-1069418	1347348	November 5, 2020	1,453,945.50
TOTAL				**₱104,126,921.78**

The earliest date of VAT payment is *July 29, 2020*, setting the earliest deadline for the 2-year prescriptive period under the NIRC on *July 29, 2022*. Petitioner filed its administrative claim for refund on September 3, 2021,[48] and the instant *Petition for Review* on May 4, 2022,[49] both well within the prescribed period.

Given the foregoing, the Court finds that both the administrative and judicial claims were timely filed. Accordingly, this Court has jurisdiction to entertain the present case.

The aforequoted Sections 204(C) and 229 of the NIRC of 1997, as amended, allow taxpayers to recover taxes that were erroneously or illegally collected. An "erroneous or illegal tax"

[48] Exhibits "P-4" and "P-6", BIR Records (Exhibit "R-4"), pp. 41–53, and 40, respectively.
[49] Docket – Vol. I, pp. 7–46.

is defined as one that is levied without statutory authority, or upon property not subject to taxation, or by some officer having no authority to levy the tax or one which in some other similar aspect is illegal.[50]

Thus, for the present claims for a refund to prosper, it is not enough to prove the *timely* filing of administrative and judicial claims. Petitioner must also demonstrate that the VAT paid falls within the definition of "erroneous or illegal taxes" under the law.

Petitioner's importation of prescription drugs and medicines for diabetes, high cholesterol, and hypertension are VAT-exempt. Thus, the VAT paid thereon was erroneously or illegally collected.

Respondent contends that petitioner failed to substantiate its claim for refund, arguing that petitioner did not prove that the input tax on its imported items was not reported and claimed as input tax credit in its monthly and/or quarterly VAT returns, as required under Section 3 of RR No. 18-2020. Respondent further claims that petitioner failed to observe the procedures set forth in RR No. 18-2020 and RMC No. 99-2021, which govern the refund of erroneously paid VAT on specific imported drugs.

On the other hand, petitioner argues that the evidence on record sufficiently supports its entitlement to a refund of the erroneously paid VAT. It asserts that any alleged insufficiency in the documents submitted to the BIR - more so if such deficiencies pertain to mere formatting - should not defeat the merits of its judicial claim for refund. It also contends that the input tax subject of the refund claim has not been reported as input tax credit.

The Court agrees with petitioner's contention.

Section 1 of RA No. 11467 provides:[51]

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[50] *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation*, G.R. No. 188497, April 25, 2012 [Per J. Villarama, Jr., First Division], citing Black's Law Dictionary 486 (5th ed., 1979).

[51] AN ACT AMENDING SECTIONS 109, 141, 142, 143, 144, 147, 152, 263, 263-A, 265, AND 288-A, AND ADDING A NEW SECTION 290-A TO REPUBLIC ACT NO. 8424, AS AMENDED, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AND FOR OTHER PURPOSES.

SEC. 1. Section 109 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

> 'SEC. 109. *Exempt Transactions.* — (1) Subject to the provisions of Subsection 2 hereof, the following transactions shall be exempt from the value-added tax:
>
> ....
>
> '(AA) Sale or **importation of prescription drugs and medicines for**:
>
> '(i) **Diabetes, high cholesterol, and hypertension beginning January 1, 2020**; and
>
> '(ii) Cancer, mental illness, tuberculosis, and kidney diseases beginning January 1, 2023.
>
> '*Provided*, That the DOH shall issue a list of approved drugs and medicines for this purpose within sixty (60) days from the effectivity of this Act; ....' (*Emphasis supplied*)

RA No. 11467 explicitly states that the VAT exemption for the importation of medicines for diabetes, high cholesterol, and hypertension took effect on January 1, 2020. The law's language is plain and unambiguous, leaving no room for alternative interpretation. When the language of the law is clear and unequivocal, the law must be taken to mean exactly what it says.[52]

In support of RA No. 11467, RR No. 18-2020[53] states:

SEC. 2. AMENDMENT. — Section 4.109-1 of RR No. 16-2005, as amended by RR No. 13-2018, is hereby further amended to read as follows:

....

'**SEC. 4.109-1. VAT-Exempt Transactions.** —

....

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[52] *Davao Oriental Electric Cooperative, Inc. v. The Province of Davao Oriental*, G.R. No. 170901, January 20, 2009 [Per C.J. Puno, First Division].

[53] SUBJECT: Regulations to Implement Section 1 of Republic Act (R.A.) No. 11467, Further Amending Section 109 (AA) of the National Internal Revenue Code (Tax Code) of 1997, as Amended by Republic Act (R.A.) No. 10963 or the "TRAIN Law," Providing for Value-Added Tax (VAT) Exemption on the Sales and Importation of Drugs and Medicines Prescribed for Diabetes, High Cholesterol, Hypertension, Cancer, Mental Illness, Tuberculosis, and Kidney Diseases.

(B) Exempt transactions. –

(1) Subject to the provisions of Section 4.109-2 hereof, the following transactions shall be exempt from VAT:

(a) ....

(aa) Sale or **importation of prescription drugs and medicines for**:

(i) **Diabetes, high cholesterol, and hypertension beginning January 1, 2020**; and

(ii) Cancer, mental illness, tuberculosis, and kidney diseases beginning January 1, 2023.

The exemption from VAT under this subsection shall only apply to the sale or importation by the manufacturers, distributors, wholesalers and retailer of drugs and medicines included in the 'list of approved drugs and medicines' issued by the Department of Health (DOH) for this purpose. ....

SEC. 3. TRANSITORY PROVISIONS. — VAT on importation of prescription drugs and medicines for diabetes, high cholesterol and hypertension included in the Department of Health-Food and Drug Administration (DOH-FDA) approved list from the effectivity of R.A. No. 11467 on January 27, 2020 until the effectivity of these Regulations, shall be refunded pursuant to Section 204 (C) of the Tax Code of 1997, as amended, in accordance with the existing procedures for refund of VAT on importation, **provided that the input tax on the imported items have not been reported and claimed as input tax credit in the monthly and/or quarterly VAT returns. The same shall not be allowed as input tax credit pursuant to Section 110 of the Tax Code of 1997, as amended, for purposes of computing the VAT payable of the concerned taxpayer/s for the said period**. (*Emphasis supplied*)

In addition, RMC No. 99-2021[54] clarifies the procedural aspect, stating that taxpayers may reflect the importation of VAT-exempt drugs in the "Purchases not Qualified for Input Tax" row of their monthly and quarterly VAT returns to properly show the amount of purchases for the relevant period:

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[54] SUBJECT: Clarifying Issues Relative to the Value-Added Tax (VAT) Exemption of Certain Medicines and other Medicinal Devices for COVID-19 Under Sections 109(1)(AA) and 109(1)(BB)(*ii*) of the National Internal Revenue Code of 1997 (Tax Code), as Amended by Republic Act (RA) Nos. 10963 (TRAIN Law), 11467 and 11534 (CREATE Act).

Q6: In relation to RR No. 18-2020, please further clarify the meaning of the phrase, *'provided that the input tax on the imported items have not been reported as input tax credit in the monthly and/or quarterly VAT returns,'* found in Section 3 (Transitory Provisions) thereof, in order to refund the erroneously paid VAT on importation of VAT-exempt drugs?

A6: The above-mentioned phrase was included therein to ensure that the imported items have not been reported and claimed as input tax credit in the monthly and quarterly VAT returns pursuant to Section 110 of the Tax Code of 1997, as amended, for purposes of computing the VAT payable. **However, the taxpayer may be allowed to reflect the said importation as part of the 'Purchases not Qualified for Input Tax' row of the monthly and quarterly VAT returns to properly show the amount of purchases for a certain period.** (*Emphasis supplied*)

Thus, as long as the input tax on the importations is not reported and claimed as input tax credit, the refund of erroneously paid VAT on the importation of VAT-exempt medicines is allowed. The option to report these transactions in the specified row of the VAT return is discretionary, not mandatory.

Administrative issuances cannot override or amend laws enacted by Congress. In *Department of Finance (DOF) v. Asia United Bank*,[55] the Supreme Court emphasized that administrative issuances must remain consistent with the law and cannot extend or modify its provisions:

> Indeed, administrative issuances, such as revenue regulations, cannot simply amend the law it seeks to implement. In *Commissioner of Internal Revenue v. Seagate Technology (Philippines),* We held that **a mere administrative issuance, like a BIR regulation, cannot amend the law; the former cannot purport to do any more than implement the latter.** To reiterate, the courts will not countenance an administrative regulation that overrides the statute it seeks to implement.
>
> Ultimately, this Court once again clarifies that the function of promulgating rules and regulations may be legitimately exercised only for the purpose of carrying out the provisions of the law into effect. Hence, **administrative regulations cannot extend the law or amend a legislative enactment, for settled is the rule that administrative**

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[55] G.R. Nos. 240163 & 240168-69, December 1, 2021 [Per J. Zalameda, Third Division].

> **regulations must be in harmony with the provisions of the law.** It cannot be stressed enough that **administrative issuances must not override, but must remain consistent with the law they seek to apply and implement. They are intended to carry out, not to supplant nor to modify, the law.** To underscore, **it is only the Congress which has the power to repeal or amend the law**. (*Emphasis supplied*)

In this case, the BIR conditioned the refund of erroneously paid VAT on the importation of VAT-exempt drugs upon the non-reporting of the input tax on such items as input tax credit in the monthly and/or quarterly VAT returns. Additionally, the BIR stated that taxpayers "*may*" reflect the said importation in the "Purchases not Qualified for Input Tax" row of their monthly and quarterly VAT returns to properly disclose the purchases for the relevant period.

Notably, the use of the term *"may"* in a statute commonly denotes that it is directory in nature. The term *"may"* is generally permissive only and operates to confer discretion.[56] Under RMC No. 99-2021, taxpayers are given the option, but not the requirement, to reflect importations of VAT-exempt drugs in the "Purchases not Qualified for Input Tax" row of their VAT returns.

Petitioner's decision to report the amounts related to the refund claim under items 23D[57] and 20D[58] of its Quarterly VAT Return (BIR Form No. 2550Q) and Monthly VAT Declaration, respectively, should not result in an automatic forfeiture of its entitlement to a tax refund or credit. It is important to emphasize that administrative issuances should not override but rather align with the law they aim to implement. These issuances are intended to carry out, not to supplant nor to modify, the law.[59]

Moreover, technicalities and legalisms, however exalted, should not be misused by the government to keep money not belonging to it and thereby enrich itself at the expense of its law-abiding citizens.[60]

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56 *De Ocampo v. The Honorable Secretary of Justice, et al.*, G.R. No. 147932, January 25, 2006 [Per J. Carpio, Third Division].
57 Docket - Vol. I, p. 128, Line 23D, Exhibit "P-9".
58 *Id.* at 131 and 135, Line 20D, Exhibits "P-10" and "P-11", respectively.
59 *Supra* note 55.
60 *Commissioner of Internal Revenue v. Bank of the Philippines Islands*, G.R. No. 178490, July 7, 2009 [Per J. Chico-Nazario, Third Division].

Thus, respondent erred in denying petitioner's claim for a refund based on alleged non-compliance with the procedures under RR No. 18-2020 and RMC No. 99-2021 in cases of refund of erroneously paid VAT on specific imported drugs.

To substantiate its payment of input VAT on the importation of prescription medicines for diabetes, high cholesterol, and hypertension, petitioner submitted a set of documents, including:

1. Schedule of Importations,[61]
2. BOC Single Administrative Documents (SAD),
3. Statement of Settlement of Duties and Taxes (SSDTs),
4. Bills of Ladings,
5. Various Invoices issued to petitioner,[62] and
6. VAT Payment Certification issued by BOC Revenue Accounting Division.[63]

Upon examination and verification of the supporting documents, the Court finds that petitioner indeed paid VAT on the importation of prescription medicines for diabetes, high cholesterol, and hypertension in the amount of **₱104,126,887.43**, which differs slightly from the claimed refund amount of **₱104,126,921.78**, as detailed below:

Exhibit	Item Description	Generic Name	VAT Payment
"ICPA-P-17-1"	14,580 PCS OF TWYNSTA,LTAB/ 30/80+5MG PH	Telmisartan + Amlodipine 80mg+5mg	₱1,540,026.94
"ICPA-P-17-2"	29,210 PCS OF TWYNSTA,LTAB/ 30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	2,186,860.32
"ICPA-P-17-3"	34,240 PCS OF TRAJENTA DUO,FICTA/ 30/2.5+500MG RP	Linagliptin + Metformin Hydrochloride 2.5mg/500mg	2,305,315.82
"ICPA-P-17-4"	28,680 PCS OF TWYNSTA,LTAB/ 30/40/10MG RP	Telmisartan + Amlodipine 40mg+10mg	2,158,332.16
"ICPA-P-17-5"	58410PCS MICARDIS PLUS TABS 30/40+12.5MG BLI RP	Telmisartan + Hydrochlorothiazide 40mg/12.5mg	2,528,664.37
"ICPA-P-17-6"	40032PCS GLYXAMBI FICTA 30/25/5MG RP	Empagliflozin + Linagliptin 25mg/5mg	5,868,060.54
"ICPA-P-17-7"	7,480 PCS OF TRAJENTA DUO,FICTA/ 30/2.5+850 MG RP	Linagliptin + Metformin	512,522.79

61 Exhibits "P-17" and "P-18".
62 Exhibits "ICPA-P-17-1" to "ICPA-P-17-63".
63 Exhibit "P-16"; Annex A.1-ICPA of Exhibit "P-27" (ICPA Report).

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Exhibit	Item Description	Generic Name	VAT Payment
		Hydrochloride 2.5mg/850mg	
"ICPA-P-17-8"	25,000 PCS OF TWYNSTA,LTAB/ 30/80/10MG RP	Telmisartan + Amlodipine 80mg+10mg	2,600,125.08
"ICPA-P-17-9"	14,400 PCS OF TWYNSTA,LTAB/30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	1,057,991.27
"ICPA-P-17-10"	15,300 PCS OF TWYNSTA,LTAB/30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	1,124,248.42
"ICPA-P-17-11"	14,400 PCS OF TWYNSTA,LTAB/30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	1,058,149.69
"ICPA-P-17-12"	15,112 PCS OF TWYNSTA,LTAB/30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	1,135,520.62
"ICPA-P-17-13"	20160PCS MICARDIS TABS 30/40MG BLI RP	Telmisartan 40mg	871,372.56
"ICPA-P-17-13"	45150PCS JARDIANCE DUO FICTA 30/12.5/1000MG RP	Empagliflozin + Metformin 12.5mg/1g	4,020,011.44
"ICPA-P-17-14"	60357PCS JARDIANCE DUO FICTA 30/12.5/500MG RP	Empagliflozin + Metformin 12.5mg/ 500mg	5,367,311.83
"ICPA-P-17-14"	7020PCS MICARDIS PLUS TABS 30/80+25MG RP	Telmisartan + Hydrochlorothiazide 80mg/25mg	528,008.40
"ICPA-P-17-15"	15,000 PCS OF TWYNSTA,LTAB/30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	1,121,489.17
"ICPA-P-17-16"	14,741 PCS OF TWYNSTA,LTAB 30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	1,098,198.91
"ICPA-P-17-17"	14,760 PCS OF TWYNSTA,LTAB 30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	1,099,571.67
"ICPA-P-17-18"	18,720 PCS OF TWYNSTA,LTAB 30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	1,392,821.28
"ICPA-P-17-19"	14,400 PCS OF TWYNSTA,LTAB 30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	1,072,155.52
"ICPA-P-17-20"	60166PCS MICARDIS TABS 30/40MG BLI RP	Telmisartan 40mg	2,610,625.50
"ICPA-P-17-21"	60,480PCS MICARDIS TABS 30/40MG BLI RP	Telmisartan 40mg	2,624,239.58
"ICPA-P-17-22"	25109PCS MICARDIS PLUS TABS 30/80+12.5MG BLI RP	Telmisartan + Hydrochlorothiazide 80mg/12.5mg	1,875,133.24
"ICPA-P-17-22"	9530PCS MICARDIS PLUS TABS 30/80+12.5MG BLI RP	Telmisartan + Hydrochlorothiazide 80mg/12.5mg	712,902.58
"ICPA-P-17-23"	34,040 PCS OF TWYNSTA,LTAB 30/80/10MG RP	Telmisartan + Amlodipine 80mg+10mg	3,575,876.73

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Exhibit	Item Description	Generic Name	VAT Payment
"ICPA-P-17-24"	25,920 PCS OF MICARDIS,TABS/30/40MG BLI RP	Telmisartan 40mg	1,203,989.03
"ICPA-P-17-25"	14,520 PCS OF TWYNSTA,LTAB /30/80+5MG PH	Telmisartan + Amlodipine 80mg+5mg	1,509,437.92
"ICPA-P-17-26"	59220PCS MICARDIS TABS/30/40MG BLI RP	Telmisartan 40mg	2,569,610.37
"ICPA-P-17-27"	59992PCS MICARDIS TABS 30/40MG BLI RP	Telmisartan 40mg	2,603,081.62
"ICPA-P-17-28"	25344PCS JARDIANCE FICTA 10/10MG PH|	Empagliflozin 10mg	569,019.58
"ICPA-P-17-28"	24480PCS MICARDIS PLUS TABS 30/40+12.5MG BLI RP|	Telmisartan + Hydrochlorothiazide 40mg/12.5mg	1,058,283.65
"ICPA-P-17-29"	13,620 PCS OF TWYNSTA,LTAB / 30/80+5MG PH	Telmisartan + Amlodipine 80mg+5mg	1,436,334.43
"ICPA-P-17-30"	59667PCS MICARDIS PLUS TABS 30/40+12.5MG BLI RP	Telmisartan + Hydrochlorothiazide 40mg/12.5mg	2,588,990.68
"ICPA-P-17-31"	12,274 PCS OF MICARDIS PLUS,TABS /30/80+12.5MG BLI RP	Telmisartan + Hydrochlorothiazide 80mg/12.5mg	950,888.07
"ICPA-P-17-32"	20,160 PCS OF TWYNSTA,LTAB/30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	1,480,553.21
"ICPA-P-17-33"	18,660 PCS OF TWYNSTA,LTAB/30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	1,370,915.43
"ICPA-P-17-34"	14,400 PCS OF TWYNSTA,LTAB/30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	1,058,460.39
"ICPA-P-17-35"	13,969 PCS OF TWYNSTA,LTAB/30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	1,027,969.82
"ICPA-P-17-36"	16,730 PCS OF TWYNSTA,LTAB/30/80/10MG RP	Telmisartan + Amlodipine 80mg+10mg	1,740,499.71
"ICPA-P-17-37"	14,400 PCS OF TWYNSTA,LTAB/30/80/10MG RP	Telmisartan + Amlodipine 80mg+10mg	1,498,336.88
"ICPA-P-17-38"	14,400 PCS OF TWYNSTA,LTAB/30/80/10MG RP	Telmisartan + Amlodipine 80mg+10mg	1,498,336.88
"ICPA-P-17-39"	15,000 PCS OF TWYNSTA,LTAB/30/80+5MG PH	Telmisartan + Amlodipine 80mg+5mg	1,569,502.05
"ICPA-P-17-40"	14,880 PCS OF TWYNSTA,LTAB/30/80+5MG PH	Telmisartan + Amlodipine 80mg+5mg	1,555,770.14
"ICPA-P-17-41"	40,365PCS TRAJENTA DUO, FICTA/ 30/2.5+500MG RP	Linagliptin + Metformin Hydrochloride 2.5mg/500mg	2,704,767.60

Exhibit	Item Description	Generic Name	VAT Payment
"ICPA-P-17-42"	10,080 PCS TWYNSTA,LTAB/ 30/40/10MG	Telmisartan + Amlodipine 40mg+10mg	745,739.80
"ICPA-P-17-43"	10,080 PCS TWYNSTA,LTAB/ 30/40/10MG	Telmisartan + Amlodipine 40mg+10mg	745,739.80
"ICPA-P-17-44"	9,295PCS TWYNSTA,LTAB/ 30/40/10MG	Telmisartan + Amlodipine 40mg+10mg	688,895.57
"ICPA-P-17-45"	5,760 PCS MICARDIS PLUS,TABS/ 30/80+12.5MG BLI RP	Telmisartan + Hydrochlorothiazide 80mg/12.5mg	447,458.71
"ICPA-P-17-46"	13,560PCS MICARDIS PLUS,TABS/ 30/80+12.5MG BLI RP	Telmisartan + Hydrochlorothiazide 80mg/12.5mg	1,051,654.51
"ICPA-P-17-47"	7,520PCS TRAJENTA DUO, FICTA/ 30/2.5+850MG	Linagliptin + Metformin Hydrochloride 2.5mg/850mg	508,016.74
"ICPA-P-17-48"	18,918PCS MICARDIS,TABS/ 30/80MG BLI RP	Telmisartan 80mg	1,467,717.33
"ICPA-P-17-49"	15,000PCS TWYNSTA, LTAB/ 30/80+5MG PH	Telmisartan + Amlodipine 80mg+5mg	1,568,027.58
"ICPA-P-17-50"	14,400PCS MICARDIS,TABS/ 30/80MG BLI RP	Telmisartan 80mg	1,116,563.46
"ICPA-P-17-51"	12,960PCS MICARDIS,TABS/ 30/40MG BLI RP	Telmisartan 40mg	592,656.03
"ICPA-P-17-52"	14,400PCS MICARDIS,TABS/ 30/40MG BLI RP	Telmisartan 40mg	658,152.11
"ICPA-P-17-53"	15,840PCS TWYNSTA,LTAB/ 30/40/5MG BLI RP	Telmisartan + Amlodipine 40mg+5mg	1,168,552.78
"ICPA-P-17-54"	13,057PCS TWYNSTA, LTAB/ 30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	963,966.10
"ICPA-P-17-55"	16,620PCS TWYNSTA, LTAB/ 30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	1,226,618.70
"ICPA-P-17-56"	16,440PCS TWYNSTA, LTAB/ 30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	1,213,851.79
"ICPA-P-17-57"	16,320PCS TWYNSTA, LTAB/ 30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	1,205,266.30
"ICPA-P-17-58"	15,840PCS TWYNSTA, LTAB/ 30/40/5MG RP	Telmisartan + Amlodipine 40mg+5mg	1,168,479.85
"ICPA-P-17-59"	4,462PCS CATAPRES, TABS/ 100/0.15MG BLI	Clonidine Hydrochloride 150mcg	1,395,339.21
"ICPA-P-17-60"	12264 PCS OF TRAJENTA DUO, FICTA/ 30/2.5+1000MG RP	Linagliptin + Metformin Hydrochloride 2.5mg/1g	781,086.74
"ICPA-P-17-61"	27,811 PCS OF TRAJENTA DUO, FICTA/ 30/2.5+500MG RP	Linagliptin + Metformin Hydrochloride 2.5mg/500mg	1,866,167.19
"ICPA-P-17-62"	3 PCS MICARDIS PLUS, TABS/28/80 + 25MG BLI AU	Telmisartan + Hydrochlorothiazide 80mg/25mg	52,707.74

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Exhibit	Item Description	Generic Name	VAT Payment
"ICPA-P-17-63"	13,980 PCS OF TWYNSTA,LTAB/30/80+5MG PH	Telmisartan + Amlodipine 80mg+5mg	1,453,945.50
		TOTAL	**₱104,126,887.43**

Further, the generic names of the listed imported prescription medicines are included in the list of VAT-exempt drugs and medicines for diabetes, high cholesterol and hypertension under RMC No. 62-2020,[64] dated June 8, 2020. This circular published the full text of the FDA-DOH letter enumerating the prescription drugs and medicines exempt from VAT starting January 27, 2020.

However, RMC No. 62-2020 specifies an effectivity date of January 27, 2020, which conflicts with the explicit provision in RA No. 11467 that sets the VAT exemption's effectivity at January 1, 2020. This inconsistency highlights a fundamental principle: administrative issuances must not override, supplant, or modify the law, but must remain consistent with the law intended to carry out.[65] Administrative issuances, such as revenue memorandum circulars, cannot amend or modify the law.[66]

In *Manila Peninsula Manila Hotel, Inc. v. Commissioner of Internal Revenue*,[67] the Supreme Court cited *Philippine Bank of Communications v. Commissioner of Internal Revenue*,[68] which upheld the nullification of RMC No. 7-85 for being inconsistent with Section 230 of the 1977 NIRC. The Supreme Court underscored that the BIR did not simply interpret the law; instead, it legislated guidelines contrary to the statute passed by Congress. It held:

> "It bears repeating that Revenue [Memorandum Circulars] are considered administrative rulings (in the sense of more specific and less general interpretations of tax laws) which are issued from time to time by the Commissioner of Internal Revenue. It is widely accepted that the interpretation placed upon a statute by the executive officers, whose duty is

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64 SUBJECT: Publishing the full text of the letter from the Food and Drug Administration (FDA) of the Department of Health (DOH) containing the "List of Prescription Drugs and Medicines for Diabetes, High-Cholesterol and Hypertension Exempt from VAT Beginning January 27, 2020" Pursuant to Section 1 of Republic Act No. 11467.

65 *In the matter of declaratory relief on the validity of Revenue Memorandum Circular No. 65-2012 "Clarifying the Taxability of Association Dues, Membership Fees and Other Assessments/Charges Collected by Condominium Corporations", Bureau of Internal Revenue (BIR), as herein represented by its Commissioner Kim S. Jacinto-Henares and Revenue District Officer (RDO) Ricardo B. Espiritu v. First E-Bank Tower Condominium Corp.*, G.R. No. 215801 & 218924, January 15, 2020 [Per J. Lazaro-Javier, First Division].

66 *ING Bank N.V., engaged in banking operations in the Philippines as ING Bank N.V. Manila Branch v. Commissioner of Internal Revenue*, G.R. No. 167679, April 20, 2016 [Per J. Leonen, Second Division].

67 G.R. No. 229338, April 17, 2024 [Per J. Caguioa, Third Division].

68 G.R. No. 112024, January 28, 1999 [Per J. Quisumbing, Second Division].

> to enforce it, is entitled to great respect by the courts. Nevertheless, such interpretation is not conclusive and will be ignored if judicially found to be erroneous. Thus, **courts will not countenance administrative issuances that override, instead of remaining consistent and in harmony with, the law they seek to apply and implement**." (*Emphasis added*)

Applying the foregoing, it is clear that the importation of prescription drugs and medicines for diabetes, high cholesterol, and hypertension is exempt from VAT beginning January 1, 2020.

Consequently, the VAT payments made by petitioner on the subject importations from July 29, 2020 to November 16, 2020, are illegal and erroneous.

The input tax subject of the refund claim has not been reported as an input tax credit.

In its amended Quarterly VAT Return (BIR Form No. 2550Q) for the 3rd quarter of calendar year 2020[69] and its Monthly VAT Declarations (BIR Form No. 2550M) for October[70] and November 2020,[71] petitioner reported input tax from the importation of goods other than capital goods in the total amount of ₱135,898,004.25, as follows:

Particulars	**3rd Quarter 2020**	**October 2020**	**November 2020**	**Total**
Importation of Goods Other than Capital Goods	₱95,358,120.32	₱26,605,295.59	₱13,934,588.34	₱135,898,004.25

Out of the total input VAT on importations of ₱135,898,004.25, petitioner claimed a refund for ₱104,126,921.78. While this amount was included in the reported input VAT on the importation of goods other than capital goods in petitioner's amended *Return* and *Declarations* for 2020, it is important to note that the same amount remains unutilized because it was also deducted as a *"VAT Refund/TCC claimed"* in that same VAT Returns, as follows:

[69] Docket – Vol. I, p. 127, Line 21H, Exhibit "P-9".
[70] *Id.* at 130, Line 18H, Exhibit "P-10".
[71] *Id.* at 134, Line 18H, Exhibit "P-11".

Particulars	**3rd Quarter 2020**[72]	**October 2020**[73]	**November 2020**[74]	**Total**
VAT Refund/ TCC Claimed	₱79,335,516.29	₱20,637,498.06	₱4,153,907.43	₱104,126,921.78

Accordingly, the subject claim no longer formed part of the excess input VAT as of the end of the 3rd quarter and the months of October and November 2020. Such being the case, the claimed input VAT was neither carried over nor utilized in the succeeding months or quarters.

WHEREFORE, the present *Petition for Review* is **PARTIALLY GRANTED**.

Accordingly, respondent is ordered to refund in favor of petitioner the amount of **₱104,126,887.43,** representing VAT erroneously paid on the importation of prescription drugs and medicines for diabetes, high cholesterol and hypertension for the period from July 1, 2020 to November 30, 2020.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

72 *Id.* at 128, Line 23D, Exhibit "P-9".
73 *Id.* at 131, Line 20D, Exhibit "P-10".
74 *Id.* at 135, Line 20D, Exhibit "P-10".

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice