REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Second Division

PHIL. BEST CANNING CORPORATION, *Petitioner,*	**CTA CASE NO. 10505**
	Members:
-versus-	**RINGPIS-LIBAN,** ***P.J.,*** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JAN 2 1 2026

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2:00 pm.

DECISION

MODESTO-SAN PEDRO, J.:

The Case

The instant case involves a claim for refund of petitioner's alleged excess and/or unutilized input value-added tax ("VAT") arising from its domestic purchases of goods and services attributable to zero-rated transactions and purchases/importations of capital goods for the 1st, 2nd, 3rd and 4th quarters of taxable year ("TY") 2018 in the total amount of Php65,400,720.72.[1]

The Parties

Petitioner is a domestic corporation duly organized and existing under the laws of the Philippines. It is engaged in the business of processing, packing, and selling fish and other products for local and export markets. Petitioner is registered with the Bureau of Internal Revenue ("BIR") as a VAT taxpayer with Taxpayer Identification Number ("TIN") 005-735-785-000 and with BIR Certificate of Registration No. 2RC001862621 issued by BIR

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[1] See Summary of the Case, Pre-Trial Order, Records, p. 333.

Revenue District Office No. 110. It is also registered with the Board of Investments ("BOI") as an Expanding Export Producer of Processed/Canned Fish and Fish Meal (by product) under Certificate of Registration No. 2013-063, dated March 8, 2013.[2]

Meanwhile, respondent is the duly appointed Commissioner of Internal Revenue ("CIR") empowered to perform the duties of the said office, including, among others, the power and authority to decide, approve, and grant applications/claims for refund and/or issuance of tax credit certificate ("TCC") of erroneously paid or overpaid taxes, as provided by law, particularly the *National Internal Revenue Code, as amended ("NIRC").* He holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.[3]

The Facts

As reflected in petitioner's 1st to 4th quarter VAT return for TY 2018,[4] it is claiming that it has unutilized input VAT in the amount of Php65,400,720.72.

Petitioner filed on July 15, 2020 its administrative claim for the refund of its accumulated (excess) input tax arising from zero rated sales with the BIR's VAT Credit Audit Division ("VCAD").[5]

On February 26, 2021, petitioner received a VAT Refund Notice, dated October 2, 2020, from respondent, effectively denying its administrative claim for VAT refund.[6] The same provided, as follows:

VAT Refund Claimed	Php65,400,720.72
Deductions from Claim:	
Disallowed input on local purchases in violation of invoicing requirements pursuant to *Section 113 of the National Internal Revenue Code, as amended, ("NIRC")* (Annex A.1)	Php (15,510,076.33)
Failure to support importations with Bureau of Customs ("BOC") – Revenue Accounting Division ("RAD") (Annex A.2)	(22,762,202.01)

[2] See Stipulation of Facts, Pre-Trial Order, Records, pp. 333-334; Exhibits "P-3", "P-4" and "P-5".
[3] Records, p. 12.
[4] Exhibits "P-6" to "P-9".
[5] Exhibits "P-10", "P-11" and "P-12"; Records, p. 13.
[6] Exhibit "P-1"; Records, pp. 13-14.

Discrepancy between the amount of claim and its supporting schedule	(7,706,133.72)
Additional output tax per audit	(267,501.34)
Deferred input tax on current purchases of capital goods exceeding Php1 million (Annex A.3)	(6,720,757.06)
Disallowed input tax on purchases of capital goods exceeding Php1 million from prior period (Annex A.4)	(1,846,786.83)
Discrepancy in 2018 available input tax net of output tax v. amount of 2018 claim	(453,684.12)
Unaccounted input tax on services rendered to non-residents	(355,681.50)
Output VAT on exempt sales subjected to 12% VAT rate in violation of invoicing requirements pursuant to RR No. 16-2018 in relation to *Section 113 of NIRC of 1997, as amended,* including other VATable transactions classified as exempt (Annex A.5)	(14,558,004.78)
Compromise penalty	(25,000.00)
Input tax attributable to exempt sales and unremitted export sales (Annex A.6)	(90,321.17)
Total Deductions from Claim	Php (70,296,110.86)
Excess Deductions from Claim	Php (4,895,390.14)

Following such denial of its administrative claim, petitioner filed the instant Petition for Review ("Petition") before this Court on May 17, 2021.[7]

As such, on February 20, 2023, Summons were issued to respondent to file an Answer to the Petition.[8] Respondent then filed an Answer on April 20, 2023.[9]

Accordingly, on April 26, 2023, a Notice of Pre-Trial Conference was issued setting a Pre-Trial Conference.[10]

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[7] Records, pp. 11-203.
[8] *Id.*, pp. 215-216.
[9] *Id.*, pp. 222-230.
[10] *Id.*, pp. 231-232.

On May 2, 2023, respondent filed his Pre-Trial Brief.[11] He also submitted on May 8, 2023 the Judicial Affidavit of Revenue Officer ("RO") Orlando B. Torre.[12] On same date, respondent elevated the BIR Records.[13]

Then, on October 20, 2023, petitioner filed its Pre-Trial Brief.[14]

Subsequently, on October 24, 2023, Pre-Trial ensued.[15]

Petitioner, on November 28, 2023, filed a Motion to Commission Ms. Jennifer Porsuelo as Independent Certified Public Accountant ("ICPA").[16] On February 27, 2024, Ms. Porsuelo was placed on the witness stand to testify on her qualification as ICPA for the instant case. She was subsequently commissioned as such by this Court. In the same hearing, petitioner's main witnesses, Romel B. Eyoy and Jixseylo C. Portacion, were also placed in the witness stand.[17]

The parties filed Manifestations that they were not able to come up with a Joint Stipulation of Facts and Issues due to distance constraints.[18]

This Court then issued a Pre-Trial Order on February 27, 2024.[19]

On May 17, 2024, the Ms. Porsuelo submitted her ICPA Report.[20] On July 4, 2024, Ms. Porsuelo testified in relation to the ICPA Report.[21]

After this, on June 24, 2024, petitioner filed its Formal Offer of Documentary Evidence,[22] to which respondent interposed no objections.[23] In a Resolution, dated August 1, 2024, this Court admitted all of petitioner's Exhibits.[24]

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[11] *Id.*, pp. 233-237.
[12] Exhibit "R-6"; Records, pp. 238-276.
[13] Records, pp. 277-280.
[14] *Id.*, pp. 287-292.
[15] *Id.*, pp. 293-295.
[16] *Id.*, pp. 296-304.
[17] *Id.*, pp. 328-331.
[18] *Id.*, pp. 311-314.
[19] *Id.*, pp. 332-337.
[20] Exhibit "P-16" to "P-18"; *Id.*, pp. 343-347.
[21] *Id.*, pp. 349-351.
[22] *Id.*, pp. 358-380.
[23] *Id.*, pp. 381-384.
[24] *Id.*, pp. 398-399.

Respondent presented his witness, RO Torre, on October 1, 2024.[25] He then filed his Formal Offer of Evidence on October 4, 2024.[26] In a Resolution, dated November 29, 2024, this Court admitted all of respondent's Exhibits.[27]

On January 10, 2025, respondent filed his Memorandum.[28] Meanwhile, petitioner filed its Memorandum on January 16, 2025.[29] Thus, in a Resolution, dated January 21, 2025, the instant case was submitted for Decision.[30]

Hence, this Decision.

The Issue[31]

> Whether or not petitioner is entitled to a refund of its unutilized input VAT arising from purchases of goods and services attributable to zero-rated sales and purchases/importations of capital goods amounting to Php65,400,720.72 for TY 2018.

Arguments of the Parties

Petitioner's Arguments[32]

Petitioner avers that it is entitled to a refund of excess and unutilized input VAT. Petitioner posits the following arguments:

The invoicing requirements pursuant to *Section 113 of the NIRC* was duly complied with in relation to its invoices and official receipts; and

The deduction of 12% Output VAT against the unutilized input VAT is not proper.

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[25] *Id.*, pp. 396-397.
[26] *Id.*, pp. 390-395.
[27] *Id.*, p. 403.
[28] *Id.*, pp. 405-415.
[29] *Id.*, pp. 418-427.
[30] Records.
[31] See Issue, Pre-Trial Order, Records, p. 334.
[32] Records, pp. 420-424.

Respondent's Arguments[33]

In refutation, respondent alleges that the instant Petition must be dismissed for failure of petitioner to substantiate its administrative claim for refund. Decisions rendered by administrative bodies like the BIR are given great weight by the Court. Petitioner failed to prove before this Court that it is indeed entitled to a VAT refund amounting to Php65,400,720.72 covering the 1st to 4th quarters of TY 2018.

The Ruling of the Court

The instant Petition is **DENIED** for lack of merit.

Requisites for claiming unutilized input VAT attributable to zero-rated sales.

The provision that governs the present claim for refund of excess and/or unutilized input VAT attributable to zero-rated sales is *Section 112 (A) and (C) of the NIRC*, which reads:

> *SEC. 112. Refunds or Tax Credits of Input Tax. –*
>
> (A) Zero-rated or Effectively Zero-rated Sales. - Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, *within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales,* except transitional input tax, *to the extent that such input tax has not been applied against output tax*: Provided, however, That *in the case of zero-rated sales under* Section 106(A)(2)(a)(1), (2) and (b) and *Section 108 (B)*(1) and *(2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)*: Provided, further, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales. Provided, finally, That for a person making sales that are zero-rated under Section 108(B) (6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
>
> (B)...
>
> (C) Period within which Refund or Tax Credit of Input Taxes shall be Made. - In proper cases, *the Commissioner shall grant a refund for creditable input taxes within ninety (90) days from the date of submission*

[33] *Id.*, pp. 406-412.

> *of the official receipts or invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof:* Provided, That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.
>
> *In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals:* Provided, however, That failure on the part of any official, agent, or employee of the BIR to act on the application within ninety (90) days period shall be punishable under Section 269 of this Code.
> (Italics, Ours.)

Based on the foregoing provisions, jurisprudence has laid down the following requisites that must be complied with by the taxpayer-applicant to successfully obtain a tax refund/credit:

As to the timeliness of the filing of the administrative and judicial claims:

1. the refund claim is filed with the BIR within 2 years after the close of the taxable quarter when the sales were made;[34]

2. the judicial claim is filed with this Court within 30 days from receipt of an adverse decision (*i.e.,* partial or full denial of the administrative claim);[35]

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

3. the taxpayer is a VAT-registered person;[36]

In relation to the taxpayer's output VAT:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[37]

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[34] Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 155732, 27 April 2007; San Roque Power Corporation v. Commissioner of Internal Revenue, G.R. No. 180345, 25 November 2009; AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 182364, 3 August 2010.

[35] Steag State Power, Inc. vs. Commissioner of Internal Revenue, G.R. No. 205282, 14 January 2019; Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue, G.R. No. 168950, 14 January 2015.

[36] Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 155732, 27 April 2007; San Roque Power Corporation v. Commissioner of Internal Revenue, G.R. No. 180345, 25 November 2009; AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 182364, 3 August 2010.

[37] *Ibid.*

5. for zero-rated sales under *Section 106(A)(2)(1) and (2), 106(B), and 108(B)(1) and (2) of the NIRC,* the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with Bangko Sentral ng Pilipinas ("BSP") rules and regulations;[38]

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[39]

7. the input taxes are due or paid;[40]

8. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume;[41] and

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[42]

At this juncture, it must be emphasized that cases filed before the Court of Tax Appeals ("CTA") are litigated *de novo*.[43] Parties are thus expected to litigate and prove every minute aspect of their case anew by presenting, formally offering, and submitting to the Court of Tax Appeals all evidence required for the successful prosecution of its claim.[44] Consequently, petitioner must competently establish its claim for refund or tax credit following the foregoing requisites.

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[38] *Ibid.*
[39] *Ibid.*
[40] *Ibid.*
[41] Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 155732, 27 April 2007; San Roque Power Corporation v. Commissioner of Internal Revenue, G.R. No. 180345, 25 November 2009.
[42] Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 155732, 27 April 2007; San Roque Power Corporation v. Commissioner of Internal Revenue, G.R. No. 180345, 25 November 2009; AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 182364, 3 August 2010.
[43] Commissioner of Internal Revenue v. Univation Motor Philippines, Inc., G.R. No. 231581, 10 April 2019.
[44] *Id.;* Philippine Airlines, Inc. v. Commissioner of Internal Revenue, G.R. No. 206079-80 and 206309, 17 January 2018.

Petitioner's administrative and judicial claims for refund were timely filed.

Pursuant to *Sections 112 (A) and (C) of the NIRC*, the refund of unutilized input VAT attributable to zero-rated or effectively zero-rated sales must be administratively filed with the BIR within two years counted from the close of the taxable quarter when the relevant sales were made. Meanwhile, the judicial claim for refund must be filed in Court within 30 days from receipt of respondent's decision.

Applying the foregoing, the table below summarizes the relevant dates pertaining to the filing of the administrative and judicial claims for refund:

Period of claim	Close of the taxable quarter	Last day for filing of the administrative claim	Date of filing of the administrative claim	Date of receipt of the CIR's denial of the administrative claim	Last day for filing of the judicial claim (30 days)	Date of filing of judicial claim
1st Quarter of TY 2018	March 31, 2018	July 15, 2020[45]	July 15, 2020[46]	February 26, 2021[47]	May 24, 2021[48]	May 17, 2021[49]
2nd Quarter of TY 2018	June 30, 2018	August 31, 2020[50]	July 15, 2020[51]	February 26, 2021[52]	May 24, 2021[53]	May 17, 2021[54]
3rd Quarter of CY 2018	September 30, 2018	September 30, 2020	July 15, 2020[55]	February 26, 2021[56]	May 24, 2021[57]	May 17, 2021[58]

45 Revenue Regulation No. 16-2020, Section 2.
46 Exhibits "P-10", "P-11" and "P-12"; Records, p. 13.
47 Exhibit "P-1"; Records, pp. 13-14.
48 See Supreme Court Administrative Circular Nos. 14-2021, 15-2021, 21-2021, 22-2021, 29-2021 and 33-2021, dated March 28, 2021, April 3, 2021, April 10, 2021, April 14, 2021, April 30, 2021 and May 14, 2021, respectively.
49 Records, pp. 11-203.
50 Revenue Regulation No. 16-2020, Section 2.
51 Exhibits "P-10", "P-11" and "P-12"; Records, p. 13.
52 Exhibit "P-1"; Records, pp. 13-14.
53 See Supreme Court Administrative Circular Nos. 14-2021, 15-2021, 21-2021, 22-2021, 29-2021 and 33-2021, dated March 28, 2021, April 3, 2021, April 10, 2021, April 14, 2021, April 30, 2021 and May 14, 2021, respectively.
54 Records, pp. 11-203.
55 Exhibits "P-10", "P-11" and "P-12"; Records, p. 13.
56 Exhibit "P-1"; Records, pp. 13-14.
57 See Supreme Court Administrative Circular Nos. 14-2021, 15-2021, 21-2021, 22-2021, 29-2021 and 33-2021, dated March 28, 2021, April 3, 2021, April 10, 2021, April 14, 2021, April 30, 2021 and May 14, 2021, respectively.
58 Records, pp. 11-203.

4th Quarter of CY 2018	December 31, 2018	December 31, 2020	July 15, 2020[59]	February 26, 2021[60]	May 24, 2021[61]	May 17, 2021[62]

The present case covers the 1st to 4th quarters of TY 2018. Counting two years from close of the each quarter of TY 2018 on March 31, 2018, June 30, 2018, September 30, 2018 and December 31, 2018, respectively, petitioner had until March 31, 2018, June 30, 2018, September 30, 2018 and December 31, 2018 to file its administrative claim for VAT refund for the 1st to 4th quarters of TY 2018. However, following the effects of COVID-19, the BIR issued *Revenue Regulation No. ("RR") 16-2020* effectively extending the periods to file administrative VAT refund claims. Under *Section 2 of RR 16-2020,* administrative VAT refund claims for calendar quarter ending March 31, 2018 and June 30, 2018 are moved to July 15, 2020 and August 31, 2020, respectively.

Applying this in the present case, petitioner timely filed its administrative VAT refund claims with the BIR's VCAD on July 15, 2020.

With respect to the judicial claim for VAT refund, petitioner likewise timely filed the same. The pre-Ease of Payment of Taxes Act version of *Section 112 of the NIRC* requires that a judicial claim for VAT refund be made within 30 days from receipt of the denial of a taxpayer's administrative claim for refund. In the case at bar, petitioner received the actual denial of the administrative claim on February 26, 2021. This means that petitioner had until March 28, 2021 within which to file a judicial claim before this Court. However, considering that the said date is a Sunday and following Supreme Court Administrative Circular Nos. 14-2021, 15-2021, 21-2021, 22-2021, 29-2021 and 33-2021, dated March 28, 2021, April 3, 2021, April 10, 2021, April 14, 2021, April 30, 2021 and May 14, 2021, respectively, which moved the filing dates of pleadings due to the quarantine being effected across Metro Manila, the deadline to file the judicial claim was further moved to May 24, 2021. As petitioner filed the Petition on May 17, 2021, it timely filed its judicial claim for VAT refund.

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[59] Exhibits "P-10", "P-11" and "P-12"; Records, p. 13.
[60] Exhibit "P-1"; Records, pp. 13-14.
[61] See Supreme Court Administrative Circular Nos. 14-2021, 15-2021, 21-2021, 22-2021, 29-2021 and 33-2021, dated March 28, 2021, April 3, 2021, April 10, 2021, April 14, 2021, April 30, 2021 and May 14, 2021, respectively.
[62] Records, pp. 11-203.

Petitioner is a VAT-registered taxpayer.

Petitioner is registered with the BIR as a VAT taxpayer with Taxpayer Identification Number ("TIN") 005-735-785-000 and with BIR Certificate of Registration No. 2RC001862621 issued by BIR Revenue District Office No. 110.[63]

Petitioner failed to prove that its sales in which the present claim for input VAT refund are indeed VAT zero-rated sales.

As duly noted above, issues before this Court are tried *de novo*.[64] Parties are thus expected to litigate and prove every minute aspect of their case anew by presenting, formally offering, and submitting to the CTA all evidence required for the successful prosecution of its claim.[65]

The present case for VAT refund is hinged upon petitioner's claim that it is engaged in zero rated sales under *Section 106(A)(2)(a)(1) of the NIRC,* which provides that "[t]he sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)" shall be subject to 0% VAT.

The critical requisites for proving VAT zero-rating under said provision are: a) that there was an actual export sale to a foreign country (regardless of the shipping arrangement), and b) that the sale was paid for in foreign currency or its equivalent in goods or services, as accounted for in accordance with the BSP rules.

Unfortunately, petitioner failed to offer any evidence showing that the subject unutilized VAT relates to export sales made to a foreign country such as contracts or delivery receipts. While petitioner offered in evidence its BOI Certifications that it is engaged in export sales,[66] the same does not conclusively show that the subject sales are indeed export sales subject to 0% VAT. Said BOI Certifications pertain to the taxpayer itself but *not* to the sales

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[63] See Stipulation of Facts, Pre-Trial Order, Records, pp. 333-334; Exhibits "P-3", "P-4" and "P-5".
[64] Commissioner of Internal Revenue v. Univation Motor Philippines, Inc., G.R. No. 231581, 10 April 2019.
[65] *Id.;* Philippine Airlines, Inc. v. Commissioner of Internal Revenue, G.R. No. 206079-80 and 206309, 17 January 2018.
[66] Exhibits "P-3" and "P-4".

under consideration here. They consequently fail to prove that said sales are export sales.

Accordingly, petitioner failed to prove a critical requisite, that the sales in which the alleged unutilized input VAT have been incurred are zero-rated sales. Petitioner's claim must therefore fail.

This Court deems it unnecessary to discuss the remaining requisites, considering the above.

ACCORDINGLY, the Petition for Review filed by petitioner **PHIL. BEST CANNING CORPORATION** is hereby **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

CORAZON G. FERRER-FLORES
Associate Justice

C E R T I F I C A T I O N

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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice