REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

DOLE PHILIPPINES, INC., *Petitioner,*	**CTA CASE NO. 8665**
- *versus* -	Members: ***Bautista,*** *Chairperson* ***Fabon-Victorino,*** *and* ***Ringpis-Liban, JJ.***
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: MAR 18 2016 3:10 p.m.

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DECISION

BAUTISTA, J:

The Case

Before the Court is a Petition for Review[1] filed by petitioner DOLE Philippines, Inc. ("DOLE") on June 28, 2013, pursuant to *Section 7(a)(2)*[2] *of Republic Act ("RA") No. 1125*[3], as amended by *RA No. 9282*[4]

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[1] *Records, CTA Case No. 8665, Vol. 1, Petition for Review,* pp. 6-1911, with Annexes.
[2] Sec. 7. *Jurisdiction.* - The Court of Tax Appeals shall exercise:
(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue; (2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action: Provided, that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal revenue Code shall be deemed a denial; xxx.
[3] *An Act Creating the Court of Tax Appeals, as amended.*
[4] *An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes.*

and *RA No. 9503*[5], in relation to *Rule 4*[6] *of the Revised Rules of the Court of Tax Appeals ("RRCTA")*[7], which seeks for the Court to render judgment ordering respondent Commissioner of Internal Revenue ("CIR") to issue a cash / tax refund in the amount of Seven Hundred Seventy Eight Million Seven Hundred Eighty Six Thousand Eight Hundred Thirty One Pesos and Thirty Four Centavos (Php778,786,831.34) representing the unutilized input taxes for the period of January 1, 2011 to December 31, 2011, which are all attributable to the its zero-rated sales for the said period, pursuant to *Sections 108(B)(1) and 112(A) of the 1997 National Internal Revenue Code ("1997 NIRC")*, as amended.

The Parties[8]

Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at Polomok, South Cotabato.

Respondent is the duly appointed Commissioner of Internal Revenue ("CIR") vested with authority to act as such, including *inter alia,* the power to decide, approve and grant refunds or tax credit of creditable input VAT due or paid that are attributable to zero-rated sales or erroneously or illegally collected internal revenue taxes as provided by law, and with office address at the BIR National Building, Diliman, Quezon City.

The Facts

Petitioner is a Value-Added Tax ("VAT") registered entity with TIN 000-428-573 and Certificate of Registration OCN 2004-111-000390[9] dated May 28, 2004, issued by respondent.[10] It is also registered as a large taxpayer under the Large Taxpayers Service ("LTS") and was issued Certificate of Registration OCN 8Rc0000019984, dated

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[5] *An Act Enlarging the Organizational Structure of the Court of Tax Appeals, Amending for the Purpose Certain Sections of the Law Creating the Court of Tax Appeals, and for Other Purposes.*
[6] *Rule 4. Jurisdiction of the Court, Sec. 3. Cases within the jurisdiction of the Court in Division.* - The Court in Division shall exercise: (a) Exclusive original over or appellate jurisdiction to review by appeal the following: (1) xxxxx; (2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other applicable law provides a specific period for action: xxx.
[7] A.M. No. 05-11-07-CTA, November 22, 2005.
[8] *Records, Vol. 3, Joint Stipulation of Facts and Issues ("JSFI"),* pp. 2139-2140.
[9] *Records (box), Exhibit* "P-5" (also found in soft copy of FOE, Disk 1).
[10] *Records, JSFI,* p. 2140.

November 14, 1997, issued by respondent through Large Taxpayer District Office ("LTDO") 122-Makati City.[11]

Petitioner filed its Monthly Value-Added Tax Declaration (BIR Form No. 2550-M) and Quarterly Value-Added Tax Return (BIR Form No. 2550-Q) for taxable year 2011, as follows:

Month	Date Filed	BIR Form	Exhibit No.
January	February 18, 2011[12]	2550-M	*P-7*
February	March 17, 2011[13]	2550-M	*P-8*
1st Quarter	April 20, 2011[14]	2550-Q	*P-9*
April	May 20, 2011[15]	2550-M	*P-10-a*
	May 20, 2011 (amended)[16]	2550-M	*P-10*
May	June 17, 2011[17]	2550-M	*P-11*
2nd Quarter	July 25, 2011[18]	2550-Q	*P-12*
July	August 19, 2011[19]	2550-M	*P-13*
August	September 20, 2011[20]	2550-M	*P-14*
3rd Quarter	October 20, 2011[21]	2550-Q	*P-15*
October	November 23, 2011[22]	2550-M	*P-16*
November	December 22, 2011[23]	2550-M	*P-17*
4th Quarter	January 19, 2012[24]	2550-Q	*P-18*

Petitioner likewise filed its Quarterly Income Tax Return (BIR Form No. 1702Q) for the 1st,[25] 2nd,[26] and 3rd[27] Quarters on May 25, 2011, August 8, 2011 and November 29, 2011, respectively. Petitioner filed its Amended Annual Income Tax Return[28] on May 18, 2012.

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[11] *Records,* the Court notes that *JSFI* provide OCN 8Rc0000017970, p. 2140; *Exhibit* "P-6" (also found in soft copy of FOE, Disk 1).
[12] *Id., JSFI,* par. g, p. 2140.
[13] *Id.*
[14] *Id., JSFI,* par. h, p. 2141.
[15] *Id., JSFI,* par. g, p. 2140.
[16] *Id.*
[17] *Id.*
[18] *Id., JSFI,* par. h, p. 2141.
[19] *Id., JSFI,* par. g, p. 2140.
[20] *Id.*
[21] *Id, JSFI,* par. h, p. 2141.
[22] *Id., JSFI,* par. g, p. 2140.
[23] *Id.*
[24] *Id., JSFI,* par. h, p. 2141.
[25] *Records (box), Exhibit* "P-19" (also found in soft copy of FOE, Disk 1).
[26] *Id., Exhibit* "P-20" (also found in soft copy of FOE, Disk 1).
[27] *Id., Exhibit* "P-21" (also found in soft copy of FOE, Disk 1).
[28] *Id., Exhibit* "P-22" (also found in soft copy of FOE, Disk 1).

On January 30, 2013, respondent received a letter[29] from petitioner dated January 17, 2013, applying for a cash refund of its excess input VAT on its purchase of goods and services attributable to zero-rated sales for the period January to December 2011 in the amount of Seven Hundred Seventy Eight Million Seven Hundred Eighty Six Thousand Eight Hundred Thirty One Pesos and Thirty Four Centavos (Php778,786,831.34). Petitioner also filed its Application for Tax Credits/Refunds (BIR Form No. 1914).[30]

On June 28, 2013, petitioner filed the instant Petition for Review.[31]

On July 12, 2013, the Court issued the Summons[32] addressed to respondent, ordering her to file her Answer to the Petition for Review within fifteen (15) days from receipt thereof.

On July 25, 2013, respondent filed a Motion for Extension of Time to File Answer[33] praying for an extension of fifteen (15) days within which to file her answer, which was granted by the Court in its Resolution[34] dated July 29, 2013.

On August 16, 2013 and by registered mail, respondent filed her Answer[35], raising the following Special and Affirmative Defenses:[36]

> 3. She reiterates, restates, and repleads the preceding paragraphs of this Answer as part of her Special and Affirmative Defenses;
>
> 4. Petitioner's alleged claim for issuance of tax credit certificate/refund is still subject to administrative routinary investigation/examination by the respondent's [*sic*] Bureau;
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> 5. Taxes paid and collected are presumed to have been made in accordance with law, hence, not refundable.

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[29] *Records (box), Exhibit* "P-3" (also found in soft copy of FOE, Disk 1).
[30] *Id., Exhibit* "P-4" (also found in soft copy of FOE, Disk 1).
[31] *Records, Vol. 1, Petition for Review*, pp. 6-1911, with Annexes.
[32] *Id., Vol. 3*, p. 1912.
[33] *Id., Vol. 3*, pp. 1914-1915.
[34] *Id., Vol. 3*, p. 1916.
[35] *Id., Vol. 3, Answer*, pp. 1917-1918.
[36] *Id.*

6. Petitioner's claim for cash refund in the amount of [Php]778,786,831.34, as alleged unutilized input VAT paid on local purchases of taxable goods and services attributable to its zero-rated sales for the period covering January to December 31, 2011 were not fully substantiated by proper documents, such [as] sales invoices, official receipts, import documents and others *[sic]* pertinent records.

7. In an action for refund/credit, the burden of proof is upon petitioner to establish its right to the claimed refund and failure to adduce sufficient proof is fatal to its claim.

8. Petitioner's sales of goods and services to various alleged clients/affiliates do not qualify as zero-rate [*sic*] VAT.

9. The amount subject of the claim for cash refund of petitioner does not pertain in full to its input VAT attributable to its zero-rated sales for the period covering January to December 31, 2011.

10. Petitioner failed to comply with the substantiation requirements under Section 113 and 237 of the 1997 Tax Code in relation to Revenue Regulations No. 16-2005.

11. Petitioner failed to comply with the conditions/requirements under Section 112(A)(B)(C)(D) of the 1997 Tax Code.

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

On August 27, 2013, petitioner filed an Urgent Motion for Extension of Time to File Reply (To: Respondent's Answer dated August 12, 2013)[37], praying for an additional period of ten (10) days or until September 6, 2013 within which to file its reply, which was granted by the Court in its Order[38] dated August 28, 2013. Petitioner filed its Reply (To: Respondent's Answer dated August 12, 2013)[39] on September 6, 2013.

[37] *Records., Vol. 3,* pp. 1921-1923.
[38] *Id., Vol. 3,* p. 1924.
[39] *Id.,* pp. 1925-1929.

On January 30, 2014, the Court ordered[40] the parties to submit their JSFI, and ordered petitioner to file a Motion for the Commissioning of an Independent Certified Public Accountant ("ICPA") within five (5) days from January 30, 2014 or until February 4, 2014.

On February 4, 2014, petitioner filed a Motion to Appoint Independent Certified Public Accountant.[41]

On February 10, 2014, the parties, through their respective counsels, filed their JSFI.[42]

On February 20, 2014, a Pre-trial Order[43] was issued by the Court terminating pre-trial and setting the date/s for the presentation of evidence by the parties.

During the hearing on March 24, 2014, counsel for petitioner presented and qualified Mr. Michael L. Aguirre ("Mr. Aguirre") as an ICPA without any objection from the counsel for respondent.[44] This was later confirmed in the Resolution[45] dated March 27, 2014, hence, on May 9, 2014, Mr. Aguirre filed his Partial ICPA Report.[46]

During the hearing held on May 15, 2014, petitioner's counsel presented the following witnesses: 1) Mr. Teodoro Santos, Jr., petitioner's Finance Director[47]; 2) Ms. Bernadith C. Milo, petitioner's Accounting Facilitator[48]; and 3) Ms. Dorothy Jane D. Milo, petitioner's Tax Supervisor/Facilitator[49].[50]

On May 26, 2014, ICPA Aguirre filed his ICPA Report.[51]

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[40] *Records, Vol. 3, Minutes of Hearing January 30, 2014,* p. 2119.
[41] *Id., Vo. 3,* p. 2123.
[42] *Id, Vol. 3,* pp. 2139-2150.
[43] *Id., Vol. 3, Pre-Trial Order,* pp. 2169-2175.
[44] *Id., Vol. 4,* p. 2176.
[45] *Id., Vol. 4,* pp. 2179-2180.
[46] *Id., Vol. 4,* pp. 2185-2204.
[47] *Id., Vol. 3, Judicial Affidavit,* pp. 1970-1986.
[48] *Id., Vol. 3, Judicial Affidavit,* pp. 1987-1991.
[49] *Id., Vol. 3, Judicial Affidavit,* pp. 2022-2024.
[50] *Id., Vol. 4, Minutes of Hearing May 15, 2014,* p. 2205.
[51] *Id., Vol. 4,* pp. 2206-2223.

On July 18, 2014, ICPA Aguirre transmitted four (4) original copies of his Supplemental Independent CPA Report.[52]

On July 22, 2014, petitioner its Compliance with Notice of Submission[53] with attached Judicial Affidavit[54] of ICPA Aguirre.

On July 24, 2014, petitioner presented its last witness, ICPA Aguirre, who identified his Judicial Affidavit[55] dated July 21, 2014, and his Supplemental Judicial Affidavit[56] dated July 23, 2014 which was executed to correct the markings provided in the original Judicial Affidavit and in the ICPA Report submitted to the Court.

On August 8, 2014, petitioner filed its Formal Offer of Evidence[57] ("FOE"). In response thereto and on September 9, 2015, respondent filed, by registered mail, her Comment (Petitioner's Formal Offer of Evidence).[58] Thus, on September 16, 2014, the Court issued a Resolution[59] denying petitioner's FOE for failure to submit the duly-marked exhibits.

On September 26, 2014, petitioner filed a Motion for Reconsideration with Manifestation[60], stating that it already submitted to the Court the duly marked original documents/exhibits on August 8, 2014 when it filed its FOE; that counsel for petitioner immediately requested for examination of the records of the case on September 23, 2014; that upon checking the records, which was conducted in the presence of the Court personnel of the Judicial Records Division, all the duly-marked documents/exhibits were located and found in the Records Division; and praying that the Court's Resolution dated September 16, 2014, be set aside and that the Exhibits submitted and offered be duly admitted as evidence for petitioner.

On October 29, 2014, the Court issued a Resolution[61], granting petitioner's Motion for Reconsideration, thus, the Resolution dated

[52] *Records, Vol. 4,* pp. 2237-2366.
[53] *Id., Vol. 4,* pp. 2367-2370.
[54] *Id., Vol. 4, Judicial Affidavit,* pp. 2371-2544, with Annexes.
[55] *Id.*
[56] *Id., Vol. 5, Supplemental Judicial Affidavit,* pp. 2731-2735.
[57] *Id., Vol. 5, Petitioner's FOE,* pp. 2743-2770.
[58] *Id., Vol. 5,* pp. 2780.
[59] *Id., Vol. 5,* pp. 2778-2779.
[60] *Id., Vol. 5,* pp. 2789-2792.
[61] *Id., Vol. 5,* pp. 2820-2821.

September 16, 2014 was set aside and petitioner's Exhibits were admitted.

On November 24, 2014, respondent filed her Formal Offer of Evidence,[62] with petitioner's Comment (To Respondent's Formal Offer of Evidence)[63] filed on December 5, 2014.

On January 12, 2015, the parties filed a Manifestation with Supplemental To Joint Stipulation of Facts and Issues[64] wherein they stipulated that the ultimate issue to be resolved is the amount of cash refund/tax refund petitioner is entitled to.

On January 30, 2015, the Court issued a Resolution[65] admitting respondent's Evidence, noting the parties' Manifestation; and granting the parties a period of thirty (30) days from notice within which to file their respective Memoranda.

On March 5, 2015, petitioner filed its Memorandum (For the Petitioner)[66], while respondent filed by registered mail, her Manifestation and Motion[67], which states that she is adopting all her arguments (factual and legal) found in the special and affirmative defenses of her Answer dated August 12, 2013, as well as the arguments/purposes for which all of her documentary evidence were formally offered and admitted by the Court.

On April 1, 2015, the Court resolved to submit the case for decision, at the same time noting the Memorandum filed by petitioner on March 5, 2015, and respondent's Manifestation and Motion.[68]

On July 22, 2015, petitioner filed a Manifestation *Cum* Urgent Motion for Early Resolution[69] alleging that since the parties have already manifested, in their Supplemental to Joint Stipulations of Facts and Issues dated January 12, 2015, that the sole issue to be resolved by the Court is the amount of refund that it is entitled to, hence, it prayed for the early resolution of the case.

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[62] *Records, Vol. 5, Respondent's FOE,* pp. 2828-2832.
[63] *Id., Vol. 5,* pp. 2835-2837.
[64] *Id., Vol. 5,* pp. 2838-2841.
[65] *Id., Vol. 5,* pp. 2843-2844.
[66] *Id., Vol. 5, Petitioner's Memorandum,* pp. 2849-2871.
[67] *Id., Vol. 5,* pp. 2872-2873.
[68] *Id., Vol. 5,* pp. 2876-2877.
[69] *Id., Vol. 5,* pp. 2878-2882.

On July 31, 2015, the Court issued a Resolution[70] ordering respondent to file her Comment on petitioner's Manifestation *Cum* Urgent Motion for Early Resolution.

On October 14, 2015, the Judicial Records Division issued a Records Verification Report[71], stating that respondent failed to file her Comment on petitioner's Manifestation *Cum* Urgent Motion for Early Resolution.

On November 16, 2015, the Court noted and granted petitioner's Manifestation *Cum* Urgent Motion for Early Resolution, hence, this decision.[72]

The Issue[73]

For resolution of the Court is the sole issue:

THE AMOUNT OF TAX REFUND/TAX CREDIT FOR THE UNUTILIZED INPUT TAXES FOR THE PERIOD OF JANUARY 1, 2011 TO DECEMBER 31, 2011, THAT THE PETITIONER IS ENTITLED TO.

Petitioner's Arguments

Petitioner alleges that considering the joint manifestation and limitation by the parties of the ultimate issue that is left to be resolved by the Court, it has fully complied with all the requirements of the law, the implementing rules and regulations and existing jurisprudence for tax refund cases; that it timely filed its administrative and judicial claims for refund; that it complied with the requirements for cash refund under *Section 112(A) of the 1997 NIRC* and *RR No. 16-2005*; and that respondent's witness also made the admission during cross-examination that all the requirements for its VAT refund claim were complied with and submitted.

Respondent's Counter-Arguments

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[70] *Records, Vol. 5,* pp. 2884-2885.
[71] *Id., Vol. 5,* p. 2886.
[72] *Id., Vol. 5,* pp. 2889-2891.
[73] *Id., Vol. 5, Manifestation with Supplemental to JSFI,* pp. 2838-2841.

Respondent counter-argues that petitioner's alleged claim for issuance of tax credit certificate/tax refund is still subject to her administrative routinary investigation/examination; that taxes paid and collected are presumed to have been made in accordance with law, hence, not refundable; that petitioner failed to substantiate its claim for cash refund amounting to Php778,786,831.34; that the burden of proof is upon petitioner to establish its right to the claimed refund; and that claims for refund are construed strictly against the petitioner for the same partakes the nature of exemption from taxation.

The Ruling of the Court

The Court must first determine whether it has jurisdiction over the case at bar.

Section 112 of the 1997 NIRC, as amended, provides as follows:

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

(A) *Zero-Rated or Effectively Zero-Rated Sales.*- <u>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</u>, 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. (Underscoring ours)

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As to the timeliness of the judicial claim for refund, *Section 112(C) of the 1997 NIRC*, as amended, in relation to *RR No. 16-2005*[74] provides as follows:

> *(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 Subsections (A) and (B) 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. (Underscoring ours)
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> xxx xxx xxx

Corollary, *RR No. 16-2005* states the following:

Sec. 4.112-1. Claims for Refund/Tax Credit Certificate of Input Tax.

> xxx xxx xxx
>
> *(d) Period within which refund or tax credit certificate/refund of input taxes shall be made*
>
> In proper cases, the Commissioner of Internal Revenue shall grant a tax credit certificate/refund 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 subparagraph (a) above.
>
> In case of full or partial denial of the claim for tax credit certificate/refund as decided by the Commissioner of Internal Revenue, the taxpayer may appeal to the Court of Tax Appeals (CTA) within thirty (30) days from the receipt of said denial, otherwise the decision shall become final. However, if no action on the claim for tax credit certificate/refund has been taken by the Commissioner of Internal Revenue after the one hundred

[74] Consolidated Value-Added Tax Regulations of 2005, effective November 1, 2005.

<u>twenty (120) day period from the date of submission of the application with complete documents, the taxpayer may appeal to the CTA within 30 days from the lapse of the 120-day period.</u> (Underscoring ours)

Records disclose the following pertinent dates relative to the filing of the administrative and judicial claims:

Quarter	Return Filed	Admin Due Date (2 yrs from close of Qtr)	Admin Claim Filed	120 days	+ 30 days	Judicial Claim Filed
1st Close of Qtr: **March 31, 2011**	Apr. 20, 2011[75]	March 31, 2013	Jan. 30, 2013	May 30, 2013	July 1, 2013	June 28, 2013
2nd Close of Qtr: **June 30, 2011**	July 25, 2011[76]	June 30, 2013				
3rd Close of Qtr: **Sept. 30, 2011**	Oct. 20, 2011[77]	Sept. 30, 2013				
4th Close of Qtr.: **Dec. 31, 2011**	Jan. 19, 2012[78]	Dec. 31, 2013				

Based on *Section 112 (A)*, petitioner had two (2) years from the close of the taxable quarter when the sales were made to file its administrative claim. Thus, it had until March 31, June 30, September 30, and December 31, 2013, within which to file its administrative claims for the 1st, 2nd, 3rd and 4th quarters of 2011. Petitioner filed its claim for all the taxable quarters of 2011 on January 30, 2013, thus complying with the two (2)-year prescriptive period.

In accordance with *Section 112(C) of the 1997 NIRC*, as amended, in relation to *RR No. 16-2005*, respondent had one hundred twenty (120) days from January 30, 2013 or until May 30, 2013, within which to issue its decision on the administrative claim. However, as borne by the records, no decision was taken by the respondent, hence, petitioner had thirty (30) days from May 30, 2013 or until June 29, 2013, within which to file its judicial claim for tax credit or refund before the CTA. However, since June 29, 2013 falls on a Saturday, the last day for filing the judicial claim falls on July 1, 2013, a Monday.

As enunciated by the *Supreme Court in Commissioner of Internal Revenue v. San Roque Power Corporation, et al.*,[79] strict compliance with the mandatory 120 + 30-day period is necessary for a claim for tax refund or credit. In the instant case, petitioner filed its judicial claim for refund on June 28, 2013, thus complying with the mandatory

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[75] *Records, Vol. 3, JSFI*, par. h, p. 2141.
[76] *Id.*
[77] *Id.*
[78] *Id.*
[79] G.R. No. 187485, February 12, 2013, 690 SCRA 336.

periods. Hence, both the administrative and judicial claims for refund were filed on time.

Having settled the issue of jurisdiction, the Court now proceeds to discuss petitioner's compliance with the requirements for VAT refund.

Based on the aforecited *Section 112(A) of the 1997 NIRC*, a taxpayer engaged in zero-rated or effectively zero-rated sales is entitled to a refund or tax credit of unutilized input VAT attributable to such zero-rated or effectively zero-rated sales upon compliance with the following requisites:[80]

1. that there must be zero-rated or effectively zero-rated sales;

2. that input taxes were incurred or paid;

3. that such input taxes were attributable to zero-rated or effectively zero-rated sales;

4. that the input taxes were not applied against any output VAT liability; and

5. that the claim for refund was filed within the two-year prescriptive period.

The fifth requisite was already discussed above, in relation to the Court's jurisdiction.

Anent the first and second requisites, petitioner duly filed its Quarterly VAT Return for the four quarters of CY2011 with the BIR, declaring, among others, the following:

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[80] *Commissioner of Internal Revenue v. Team Sual Corporation*, G.R. No. 205055, July 18, 2014.

	1st Quarter[81]	2nd Quarter[82]	3rd Quarter[83]	4th Quarter[84]	Total
Vatable Sales/Receipts - Private	376,132,636.92	358,665,757.67	735,841,301.08	510,408,403.67	1,981,048,099.34
Zero-Rated Sales/Receipts	5,736,106,135.87	5,981,754,781.95	8,895,357,050.87	5,846,348,179.16	26,459,566,147.85
Exempt Sales	159,350,622.36	157,299,073.96	213,447,084.81	177,090,128.38	707,186,909.51
Total Sales/Receipts	**6,271,589,395.15**	**6,497,719,613.58**	**9,844,645,436.76**	**6,533,846,711.21**	**29,147,801,156.70**

Based on the ICPA Report[85] total zero-rated sales *per* schedule is only Php25,694,237,545.94[86], however, a scrutiny of the records show that the amount should be Php25,694,903,197.59, broken down as follows:

DOLE PHILIPPINES, INC.		
Zero-Rated Sales		
For the Year 2011		
STANFILCO - Division of Dole Phils. Inc.		
Coconut Sales (*Exhibit "P-25", page 1 of 31*)	Php5,629,429.95	
DHL-Banana Sales (*Exhibit "P-25", page 15 of 31*)	60,092,330.77	
Pines Sales (*Exhibit "P-25", page 29 of 31*)	3,453,575.92	
Tropifresh Sales (*Exhibit "P-25", page 1 of 177*)	246,541,750.66	
Banana Sales (*Exhibit "P-25", page 78 of 177*)	15,509,583,210.93	Php15,825,300,298.23
DOLEFIL - A Division of Dole Phils. Inc.		
Canned Pines (*Exhibit "P-25", page 1 of 113*)	Php7,606,121,598.46	
Fresh Pines (*Exhibit "P-25", page 74 of 113*)	2,263,481,300.90	9,869,602,899.36
Total Zero-Rated Sales		**Php25,694,903,197.59**

In claiming tax refunds, it is axiomatic that the applicant must prove not only entitlement to the claim but also compliance with all the documentary and evidentiary requirements therefor.[87] Petitioner claims that majority of its sales were attributed to sales of goods from the Philippines to foreign countries. Under *Section 106(A)(2)(a)(1)*[88] *of*

[81] *Records (box), Exhibit* "P-9."
[82] *Id., Exhibit* "P-12."
[83] *Id., Exhibit* "P-15."
[84] *Id., Exhibit* "P-18."
[85] *Records (box), Exhibit* "P-36."
[86] *Id., Exhibit* "P-36," p. 9.
[87] *J.R.A. Philippines, Inc. v. Commissioner of Internal Revenue,* GR. No. 171307, August 28, 2013, 704 SCRA 94.
[88] SEC. 106. *Value-Added Tax on Sale of Goods or Properties.-*
(A) Rate and Base of Tax. - xxxxx
(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
(a) *Export Sales.* - The term 'export sales' means:
(1) The 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); xxx xxx xxx

the 1997 NIRC, in order to be subjected to zero-percent (0%) rate, the following conditions[89] must be complied with, to wit:

1. there was sale and actual shipment of goods from the Philippines to a foreign country;

2. the sale was made by a VAT registered person;

3. the sale was paid for in acceptable foreign currency or its equivalent in goods or services; and

4. the payment was accounted for in accordance with the rules and regulations of the BSP.

In addition to the abovementioned requirements, the VAT invoices and VAT official receipts must also comply with the invoicing requirements provided in *Section 113*[90] *of the 1997 NIRC,* in relation to *Sections 4.113-1(A)(1), B(1)* and *(B)(2)(c)* of *RR No. 16-05*[91], and that such invoices and receipts must have been duly registered with the BIR as prescribed under *Section 237*[92] in relation to *Section 238*[93] of the *1997 NIRC.*

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[89] *Philex Mining Corporation v. Commissioner of Internal Revenue,* CTA Case No. 8553, March 15, 2015.

[90] *SEC. 113. Invoicing and Accounting Requirements for VAT-Registered Persons. -*
(A) *Invoicing Requirements.* - A VAT-registered person shall, for every sale, issue an invoice or receipt. In addition to the information required under Section 237, the following information shall be indicated in the invoice or receipt: (1) A statement that the seller is a VAT-registered person, followed by his taxpayer's identification number (TIN); and xxxx
(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 VAT: *Provided,* that: xxx (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; xxx

[91] Consolidated Value-Added Tax Regulations of 2005, effective November 1, 2005.

[92] SEC 237. *Issuance of Receipts or Sales or Commercial Invoices.* – All persons subject to an internal revenue tax shall, for each sale and transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue <u>duly registered receipts or sale or commercial invoices,</u> prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: xxx.

[93] SEC. 238. *Printing of Receipts or Sales or Commercial Invoices.* – All persons who are engaged in business shall secure from the BIR 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.

Moreover, any VAT-registered person claiming VAT zero-rated on its direct export sales must present at least three (3) types of documents, to wit:

1. the sales invoice as proof of sale of goods;

2. the export declaration and bill of lading or airway bill as proof of actual shipment of goods from the Philippines to a foreign country; and

3. bank credit advice, certificate of bank remittance or any other document proving payment for the goods in acceptable foreign currency or its equivalent in goods and services.

Hence, only export sales duly supported shall qualify for VAT zero-rating under *Section 106(A)(2)(a)(1) of the 1997 NIRC.*

To support its claim, petitioner submitted Sales Invoices pre-printed/stamped with the words "Zero-rated", Airway Bills/Seaway Bills/Bills of Lading and Bank Inward Remittances and Credit Advises.[94] Careful scrutiny of the documents submitted show that zero-rated sales amounting to Php259,959,852.27 should be deducted from Php25,694,903,197.59 broken down as follows:

Invoice Number	Buyer	Amount of Zero-Rated Sales	*Exhibit Number*	Reason for Disallowance
45584	ASIA	568,460.16	*P.9.2-AO-ICPA*	With alteration, counter signature different from authorized signatory
45585	ASIA	1,265,513.22	*P.9.2-AQ-ICPA*	With alteration, counter signature different from authorized signatory
45586	ASIA	562,803.84	*P.9.2-AR-ICPA*	With alteration, counter signature different from authorized signatory
45587	ASIA	528,954.30	*P.9.2-AT-ICPA*	With alteration, counter signature different from authorized signatory
45588	USA	825,440.92	*P.9.2-AV-ICPA*	With alteration, counter signature different from authorized signatory
45589	USA	8,549,980.19	*P.9.2-AX-ICPA*	With alteration, counter signature different from authorized signatory

All persons who print receipt or sales or commercial invoices shall maintain a logbook/register of taxpayers who availed of their printing services. The logbook/register shall contain the following information:

(1) Names, Taxpayer Identification Numbers of the persons or entities for whom the receipts or sales or commercial invoices were printed; and

(2) Number of booklets, number of sets per booklet, number of copies per set and the serial numbers of the receipts or invoices in each booklet.

[94] *Records (box), Exhibits* "P-9.6-A-ICPA" to "P-9.6-KYR" and "P-9.8-A-ICPA" to "P-9.8-LW-ICPA."

45590	USA	11,482,812.15	*P.9.2-AZ-ICPA*	With alteration, counter signature different from authorized signatory
45591	USA	4,284,690.68	*P.9.2-BB-ICPA*	With alteration, counter signature different from authorized signatory
45597	EUROPE	546,548.99	*P.9.2-BN-ICPA*	With alteration, counter signature different from authorized signatory
45598	EUROPE	615,368.73	*P.9.2-BP-ICPA*	With alteration, counter signature different from authorized signatory
45599	EUROPE	612,473.40	*P.9.2-BR-ICPA*	With alteration, counter signature different from authorized signatory
45600	EUROPE	612,473.40	*P.9.2-BT-ICPA*	With alteration, counter signature different from authorized signatory
45601	EUROPE	650,335.39	*P.9.2-BV-ICPA*	With alteration, counter signature different from authorized signatory
45602	EUROPE	612,473.40	*P.9.2-BX-ICPA*	With alteration, counter signature different from authorized signatory
45603	EUROPE	612,473.40	*P.9.2-BZ-ICPA*	With alteration, counter signature different from authorized signatory
45604	EUROPE	612,473.40	*P.9.2-CB-ICPA*	With alteration, counter signature different from authorized signatory
45605	EUROPE	753,342.28	*P.9.2-CD-ICPA*	With alteration, counter signature different from authorized signatory
45606	EUROPE	753,342.28	*P.9.2-CF-ICPA*	With alteration, counter signature different from authorized signatory
45607	EUROPE	803,565.10	*P.9.2-CH-ICPA*	With alteration, counter signature different from authorized signatory
45608	EUROPE	2,401,213.90	*P.9.2-CJ-ICPA*	With alteration, counter signature different from authorized signatory
45609	EUROPE	1,200,606.95	*P.9.2-CL-ICPA*	With alteration, counter signature different from authorized signatory
45610	EUROPE	1,200,606.95	*P.9.2-CN-ICPA*	With alteration, counter signature different from authorized signatory
45611	EUROPE	1,200,606.95	*P.9.2-CP-ICPA*	With alteration, counter signature different from authorized signatory
45612	EUROPE	1,200,606.95	*P.9.2-CR-ICPA*	With alteration, counter signature different from authorized signatory
45613	EUROPE	2,401,213.90	*P.9.2-CT-ICPA*	With alteration, counter signature different from authorized signatory
45614	EUROPE	1,200,606.95	*P.9.2-CV-ICPA*	With alteration, counter signature different from authorized signatory
45615	EUROPE	1,200,606.95	*P.9.2-CX-ICPA*	With alteration, counter signature different from authorized signatory
46005	USA	320,333.31	*P-9.2-MV-ICPA*	Entries in the Invoice are not readable
46075	ASIA	2,377,986.82	*P-2-PN-ICPA*	Entries in the Invoice are not readable
46076	ASIA	569,139.65	*P-2-PO-ICPA*	Entries in the Invoice are not readable
46249	USA	2,598,414.34	*P.9.2-UH-ICPA*	Entries in the Invoice are not readable
46328	ASIA	632,479.68	*P-9.2-VK-ICPA*	Entries in the Invoice are not readable
46331	ASIA	1,766,155.78	*P-9.2-VN-ICPA*	Entries in the Invoice are not readable
46334	ASIA	625,824.77	*P-9.2-VQ-ICPA*	Entries in the Invoice are not readable
46539	ASIA	1,069,558.88	*P-2-ABP-ICPA*	Entries in the Invoice are not readable
46543	ASIA	552,048.29	*P-2-ABT-ICPA*	Entries in the Invoice are not readable
46548	ASIA	596,763.51	*P-2-ABY-ICPA*	Entries in the Invoice are not readable
46552	OTHER EXPORT	556,348.16	*P-2-ACC-ICPA*	Entries in the Invoice are not readable
46553	OTHER EXPORT	410,915.34	*P-2-ACD-ICPA*	Entries in the Invoice are not readable
46554	EUROPE	574,865.36	*P-2-ACE-ICPA*	Entries in the Invoice are not readable
46558	USA	1,141,824.50	*P-2-ACI-ICPA*	Entries in the Invoice are not readable
46562	USA	877,694.36	*P-2-ACM-ICPA*	Entries in the Invoice are not readable
46595	ASIA	1,230,441.34	*P-9.2-ADT-ICPA*	Entries in the Invoice are not readable
46596	ASIA	1,250,691.06	*P-9.2-ADV-ICPA*	Entries in the Invoice are not readable
46598	ASIA	557,856.59	*P-9.2-ADW-ICPA*	Entries in the Invoice are not readable
46602	ASIA	555,862.69	*P-9.2-AEA-ICPA*	Entries in the Invoice are not readable
46603	ASIA	360,149.09	*P-9.2-AEB-ICPA*	Entries in the Invoice are not readable
46606	ASIA	1,604,338.32	*P-9.2-AEE-ICPA*	Entries in the Invoice are not readable
46607	ASIA	1,224,770.45	*P-9.2-AEF-ICPA*	Entries in the Invoice are not readable
46608	ASIA	1,224,770.45	*P-9.2-AEG-ICPA*	Entries in the Invoice are not readable
46609	ASIA	490,736.95	*P-9.2-AEH-ICPA*	Entries in the Invoice are not readable
46610	ASIA	608,224.06	*P-9.2-AEI-ICPA*	Entries in the Invoice are not readable

46611	ASIA	535,958.44	*P-9.2-AEJ-ICPA*	Entries in the Invoice are not readable
46612	ASIA	884,768.35	*P-9.2-AEK-ICPA*	Entries in the Invoice are not readable
46613	ASIA	2,206,251.27	*P-9.2-AEL-ICPA*	Entries in the Invoice are not readable
46616	ASIA	1,876,036.59	*P-9.2-AEO-ICPA*	Entries in the Invoice are not readable
46618	ASIA	1,184,684.53	*P-9.2-AEQ-ICPA*	Entries in the Invoice are not readable
46621	ASIA	1,051,257.11	*P-9.2-AET-ICPA*	Entries in the Invoice are not readable
46623	ASIA	884,768.35	*P-9.2-AEV-ICPA*	Entries in the Invoice are not readable
46650	ASIA	489,732.63	*P-9.2-AFW-ICPA*	Entries in the Invoice are not readable
46815	ASIA	611,691.70	*P-9.2-AGL-ICPA*	Entries in the Invoice are not readable
46834	ASIA	260,905.23	*P-9.2-AHE-ICPA*	Entries in the Invoice are not readable
46850	OTHER EXPORT	325,236.89	*P-9.2-AHU-ICPA*	Entries in the Invoice are not readable
46869	ASIA	3,826,228.65	*P-2-AIN-ICPA*	Entries in the Invoice are not readable
46870	ASIA	2,475,062.73	*P-2-AIO-ICPA*	Entries in the Invoice are not readable
46871	ASIA	551,562.82	*P-2-AIP-ICPA*	Entries in the Invoice are not readable
46872	ASIA	1,071,916.88	*P-2-AIQ-ICPA*	Entries in the Invoice are not readable
46873	ASIA	884,768.35	*P-2-AIR-ICPA*	Entries in the Invoice are not readable
46874	ASIA	840,202.24	*P-2-AIS-ICPA*	Entries in the Invoice are not readable
46875	ASIA	613,389.11	*P-2-AIT-ICPA*	Entries in the Invoice are not readable
46892	USA	4,629,902.77	*P-2-AJK-ICPA*	Entries in the Invoice are not readable
46893	USA	1,789,265.83	*P-2-AJL-ICPA*	Entries in the Invoice are not readable
46894	USA	1,493,980.68	*P-2-AJM-ICPA*	Entries in the Invoice are not readable
46895	USA	880,173.72	*P-2-AJN-ICPA*	Entries in the Invoice are not readable
46896	USA	314,211.53	*P-2-AJO-ICPA*	Entries in the Invoice are not readable
46897	USA	314,211.53	*P-2-AJP-ICPA*	Entries in the Invoice are not readable
46898	USA	314,211.53	*P-2-AJQ-ICPA*	Entries in the Invoice are not readable
46899	USA	314,211.53	*P-2-AJR-ICPA*	Entries in the Invoice are not readable
46900	USA	553,712.76	*P-2-AJS-ICPA*	Entries in the Invoice are not readable
46901	CANADA	327,830.69	*P-2-AJT-ICPA*	Entries in the Invoice are not readable
46902	CANADA	1,247,583.18	*P-2-AJU-ICPA*	Entries in the Invoice are not readable
46903	CANADA	371,037.48	*P-2-AJV-ICPA*	Entries in the Invoice are not readable
46904	EUROPE	623,207.73	*P-2-AJW-ICPA*	Entries in the Invoice are not readable
46905	EUROPE	1,112,771.74	*P-2-AJX-ICPA*	Entries in the Invoice are not readable
46906	EUROPE	2,225,543.49	*P-2-AJY-ICPA*	Entries in the Invoice are not readable
46907	EUROPE	536,104.08	*P-2-AJZ-ICPA*	Entries in the Invoice are not readable
46908	ASIA	514,597.78	*P-2-AKA-ICPA*	Entries in the Invoice are not readable
46909	ASIA	601,836.66	*P-2-AKB-ICPA*	Entries in the Invoice are not readable
46910	ASIA	461,196.12	*P-2-AKC-ICPA*	Entries in the Invoice are not readable
46911	ASIA	491,420.94	*P-2-AKD-ICPA*	Entries in the Invoice are not readable
46912	ASIA	40,016.57	*P-2-AKE-ICPA*	Entries in the Invoice are not readable
46913	ASIA	1,100,282.17	*P-2-AKF-ICPA*	Entries in the Invoice are not readable
46914	ASIA	611,691.70	*P-2-AKG-ICPA*	Entries in the Invoice are not readable
46921	ASIA	797,418.49	*P-2-AKN-ICPA*	Entries in the Invoice are not readable
46946	ASIA	486,856.66	*P-2-ALM-ICPA*	Entries in the Invoice are not readable
46949	ASIA	529,439.28	*P-2-ALP-ICPA*	Entries in the Invoice are not readable
46950	ASIA	538,574.77	*P-2-ALQ-ICPA*	Entries in the Invoice are not readable
46951	ASIA	191,444.94	*P-2-ALR-ICPA*	Entries in the Invoice are not readable
46952	ASIA	421,873.08	*P-2-ALS-ICPA*	Entries in the Invoice are not readable
46953	ASIA	627,296.08	*P-2-ALT-ICPA*	Entries in the Invoice are not readable
46954	ASIA	534,841.86	*P-2-ALU-ICPA*	Entries in the Invoice are not readable
46955	ASIA	566,992.08	*P-2-ALV-ICPA*	Entries in the Invoice are not readable
46956	ASIA	489,019.60	*P-2-ALW-ICPA*	Entries in the Invoice are not readable
46957	ASIA	884,768.35	*P-2-ALX-ICPA*	Entries in the Invoice are not readable
47039	ASIA	1,223,383.39	*P-2-APB-ICPA*	Entries in the Invoice are not readable
47672	ASIA	511,032.07	*P.2-BFS-ICPA*	Entries in the Invoice are not readable
47673	ASIA	593,759.37	*P.2-BFT-ICPA*	Entries in the Invoice are not readable
47674	USA	1,108,512.05	*P.2-BFV-ICPA*	Entries in the Invoice are not readable
47675	USA	1,112,864.84	*P.2-BFV-ICPA*	Entries in the Invoice are not readable
47688	EUROPE	635,508.22	*P-9.2-BGI-ICPA*	Entries in the Invoice are not readable
47689	EUROPE	635,508.22	*P-9.2-BGJ-ICPA*	Entries in the Invoice are not readable
47690	EUROPE	583,709.94	*P-9.2-BGK-ICPA*	Entries in the Invoice are not readable
47691	EUROPE	598,509.45	*P-9.2-BGL-ICPA*	Entries in the Invoice are not readable
47692	EUROPE	1,135,229.92	*P-9.2-BGM-ICPA*	Entries in the Invoice are not readable
47693	EUROPE	598,509.45	*P-9.2-BGN-ICPA*	Entries in the Invoice are not readable
47694	EUROPE	577,553.85	*P-9.2-BGO-ICPA*	Entries in the Invoice are not readable
47695	EUROPE	1,197,018.90	*P-9.2-BGP-ICPA*	Entries in the Invoice are not readable
47696	THAILAND	3,164,042.23	*P-9.2-BGQ-ICPA*	Entries in the Invoice are not readable

47697	THAILAND	1,265,616.89	*P-9.2-BGR-ICPA*	Entries in the Invoice are not readable
47698	ASIA	123,448.40	*P-9.2-BGS-ICPA*	Entries in the Invoice are not readable
47699	ASIA	709,839.98	*P-9.2-BGT-ICPA*	Entries in the Invoice are not readable
47700	USA	1,831,912.20	*P-9.2-BGU-ICPA*	Entries in the Invoice are not readable
47751	USA	4,167,441.16	*P-9.2-BGV-ICPA*	Entries in the Invoice are not readable
47752	USA	1,191,766.18	*P-9.2-BGW-ICPA*	Entries in the Invoice are not readable
47753	USA	448,821.63	*P-9.2-BGX-ICPA*	Entries in the Invoice are not readable
47754	USA	637,857.34	*P-9.2-BGY-ICPA*	Entries in the Invoice are not readable
47755	CANADA	335,206.75	*P-9.2-BGZ-ICPA*	Entries in the Invoice are not readable
47756	CANADA	672,040.61	*P-9.2-BHA-ICPA*	Entries in the Invoice are not readable
47757	EUROPE	523,485.90	*P-9.2-BHB-ICPA*	Entries in the Invoice are not readable
47758	THAILAND	199,451.33	*P-9.2-BHC-ICPA*	Entries in the Invoice are not readable
47759	ASIA	459,461.80	*P-9.2-BHD-ICPA*	Entries in the Invoice are not readable
47760	ASIA	1,111,517.55	*P-9.2-BHE-ICPA*	Entries in the Invoice are not readable
47761	ASIA	594,053.02	*P-9.2-BHF-ICPA*	Entries in the Invoice are not readable
47762	ASIA	881,441.19	*P-9.2-BHG-ICPA*	Entries in the Invoice are not readable
47763	ASIA	881,441.19	*P-9.2-BHH-ICPA*	Entries in the Invoice are not readable
47764	ASIA	837,042.67	*P-9.2-BHI-ICPA*	Entries in the Invoice are not readable
47765	ASIA	837,042.67	*P-9.2-BHJ-ICPA*	Entries in the Invoice are not readable
47766	ASIA	570,009.00	*P-9.2-BHK-ICPA*	Entries in the Invoice are not readable
47767	USA	874,393.81	*P-9.2-BHL-ICPA*	Entries in the Invoice are not readable
47768	USA	938,035.31	*P-9.2-BHM-ICPA*	Entries in the Invoice are not readable
47769	USA	938,035.31	*P-9.2-BHN-ICPA*	Entries in the Invoice are not readable
47770	USA	938,035.31	*P-9.2-BHO-ICPA*	Entries in the Invoice are not readable
47771	USA	3,486,914.33	*P-9.2-BHP-ICPA*	Entries in the Invoice are not readable
47772	USA	785,023.30	*P-9.2-BHQ-ICPA*	Entries in the Invoice are not readable
47773	OTHER EXPORT	402,175.03	*P-9.2-BHR-ICPA*	Entries in the Invoice are not readable
47774	OTHER EXPORT	260,684.12	*P-9.2-BHS-ICPA*	Entries in the Invoice are not readable
47775	OTHER EXPORT	260,684.12	*P-9.2-BHT-ICPA*	Entries in the Invoice are not readable
47776	OTHER EXPORT	260,684.12	*P-9.2-BHU-ICPA*	Entries in the Invoice are not readable
47777	ASIA	513,785.38	*P-9.2-BHV-ICPA*	Entries in the Invoice are not readable
47778	ASIA	624,937.14	*P-9.2-BHW-ICPA*	Entries in the Invoice are not readable
47779	ASIA	590,218.41	*P-9.2-BHX-ICPA*	Entries in the Invoice are not readable
47780	ASIA	123,923.41	*P-9.2-BHY-ICPA*	Entries in the Invoice are not readable
47781	ASIA	594,519.39	*P-9.2-BHZ-ICPA*	Entries in the Invoice are not readable
47782	ASIA	594,519.39	*P-9.2-BIA-ICPA*	Entries in the Invoice are not readable
47783	ASIA	624,937.14	*P-9.2-BIB-ICPA*	Entries in the Invoice are not readable
47784	ASIA	489,572.96	*P-9.2-BIC-ICPA*	Entries in the Invoice are not readable
47785	ASIA	489,447.73	*P-9.2-BID-ICPA*	Entries in the Invoice are not readable
47786	ASIA	604,422.00	*P-9.2-BIE-ICPA*	Entries in the Invoice are not readable
47787	ASIA	609,391.44	*P-9.2-BIG-ICPA*	Entries in the Invoice are not readable
47788	ASIA	1,061,253.12	*P-9.2-BIH-ICPA*	Entries in the Invoice are not readable
47789	ASIA	1,591,879.68	*P-9.2-BII-ICPA*	Entries in the Invoice are not readable
47790	ASIA	530,626.56	*P-9.2-BIJ-ICPA*	Entries in the Invoice are not readable
47791	ASIA	610,082.36	*P-9.2-BIK-ICPA*	Entries in the Invoice are not readable
47792	ASIA	532,768.41	*P-9.2-BIK-ICPA*	Entries in the Invoice are not readable
47793	ASIA	2,440,329.44	*P-9.2-BIL-ICPA*	Entries in the Invoice are not readable
47794	ASIA	371,024.04	*P-9.2-BIM-ICPA*	Entries in the Invoice are not readable
47795	ASIA	555,758.77	*P-9.2-BIN-ICPA*	Entries in the Invoice are not readable
47796	ASIA	470,516.52	*P-9.2-BIO-ICPA*	Entries in the Invoice are not readable
47797	ASIA	1,049,386.57	*P-9.2-BIP-ICPA*	Entries in the Invoice are not readable
47798	ASIA	506,167.99	*P-9.2-BIQ-ICPA*	Entries in the Invoice are not readable
47799	ASIA	837,042.67	*P-9.2-BIR-ICPA*	Entries in the Invoice are not readable
47800	ASIA	676,548.86	*P-9.2-BIS-ICPA*	Entries in the Invoice are not readable
47801	ASIA	563,700.90	*P-9.2-BIT-ICPA*	Entries in the Invoice are not readable
47802	ASIA	82,532.55	*P-9.2-BIU-ICPA*	Entries in the Invoice are not readable
47803	USA	2,348,336.90	*P-9.2-BIV-ICPA*	Entries in the Invoice are not readable
47804	USA	2,413,107.19	*P-9.2-BIW-ICPA*	Entries in the Invoice are not readable
47805	USA	1,042,280.46	*P-9.2-BIX-ICPA*	Entries in the Invoice are not readable
47806	USA	11,901,062.45	*P-9.2-BIY-ICPA*	Entries in the Invoice are not readable
47807	CANADA	283,553.57	*P-9.2-BIZ-ICPA*	Entries in the Invoice are not readable
47808	CANADA	283,553.57	*P-9.2-BJA-ICPA*	Entries in the Invoice are not readable
47809	EUROPE	785,244.40	*P-9.2-BJB-ICPA*	Entries in the Invoice are not readable
47810	EUROPE	785,244.40	*P-9.2-BJC-ICPA*	Entries in the Invoice are not readable
47811	EUROPE	785,244.40	*P-9.2-BJD-ICPA*	Entries in the Invoice are not readable
47812	EUROPE	1,173,233.98	*P-9.2-BJE-ICPA*	Entries in the Invoice are not readable

47813	EUROPE	961,086.99	*P-9.2-BJF-ICPA*	Entries in the Invoice are not readable
47814	EUROPE	798,012.60	*P-9.2-BJG-ICPA*	Entries in the Invoice are not readable
47815	EUROPE	562,163.60	*P-9.2-BJH-ICPA*	Entries in the Invoice are not readable
47816	EUROPE	598,509.45	*P-9.2-BJI-ICPA*	Entries in the Invoice are not readable
47817	EUROPE	812,822.47	*P-9.2-BJJ-ICPA*	Entries in the Invoice are not readable
47818	EUROPE	598,509.45	*P-9.2-BJK-ICPA*	Entries in the Invoice are not readable
47819	USA	2,181,296.62	*P-9.2-BJL-ICPA*	Entries in the Invoice are not readable
47820	USA	2,275,061.38	*P-9.2-BJM-ICPA*	Entries in the Invoice are not readable
47821	USA	1,914,961.64	*P-9.2-BJN-ICPA*	Entries in the Invoice are not readable
47822	USA	2,711,493.95	*P-9.2-BJO-ICPA*	Entries in the Invoice are not readable
47823	USA	551,630.53	*P-9.2-BJP-ICPA*	Entries in the Invoice are not readable
47824	EUROPE	598,509.45	*P-9.2-BJQ-ICPA*	Entries in the Invoice are not readable
47825	EUROPE	635,508.22	*P-9.2-BJR-ICPA*	Entries in the Invoice are not readable
47826	EUROPE	534,088.07	*P-9.2-BJS-ICPA*	Entries in the Invoice are not readable
47827	EUROPE	598,509.45	*P-9.2-BJU-ICPA*	Entries in the Invoice are not readable
47828	EUROPE	736,166.62	*P-9.2-BJV-ICPA*	Entries in the Invoice are not readable
47829	ASIA	613,441.96	*P-9.2-BJW-ICPA*	Entries in the Invoice are not readable
47830	ASIA	719,843.64	*P-9.2-BJX-ICPA*	Entries in the Invoice are not readable
47831	ASIA	459,461.80	*P-9.2-BJY-ICPA*	Entries in the Invoice are not readable
47832	ASIA	467,200.10	*P-9.2-BJZ-ICPA*	Entries in the Invoice are not readable
47833	ASIA	487,891.00	*P-9.2-BKA-ICPA*	Entries in the Invoice are not readable
47834	USA	939,098.46	*P-9.2-BKB-ICPA*	Entries in the Invoice are not readable
47835	USA	284,382.67	*P-9.2-BKC-ICPA*	Entries in the Invoice are not readable
47836	USA	1,706,296.03	*P-9.2-BKD-ICPA*	Entries in the Invoice are not readable
47837	USA	4,836,624.82	*P-9.2-BKE-ICPA*	Entries in the Invoice are not readable
47838	USA	884,281.73	*P-9.2-BKF-ICPA*	Entries in the Invoice are not readable
47839	ASIA	1,211,116.26	*P-9.2-BKG-ICPA*	Entries in the Invoice are not readable
47840	ASIA	522,508.25	*P-9.2-BKH-ICPA*	Entries in the Invoice are not readable
47841	ASIA	1,028,296.24	*P-9.2-BKI-ICPA*	Entries in the Invoice are not readable
47842	ASIA	1,481,492.26	*P-9.2-BKJ-ICPA*	Entries in the Invoice are not readable
47843	ASIA	522,508.25	*P-9.2-BKK-ICPA*	Entries in the Invoice are not readable
47844	ASIA	1,220,164.72	*P-9.2-BHL-ICPA*	Entries in the Invoice are not readable
47845	ASIA	1,830,247.08	*P-9.2-BKM-ICPA*	Entries in the Invoice are not readable
47846	ASIA	1,153,836.40	*P-9.2-BKN-ICPA*	Entries in the Invoice are not readable
47847	ASIA	425,131.71	*P-9.2-BKO-ICPA*	Entries in the Invoice are not readable
47848	ASIA	513,008.10	*P-9.2-BKP-ICPA*	Entries in the Invoice are not readable
47849	ASIA	512,072.77	*P-9.2-BKQ-ICPA*	Entries in the Invoice are not readable
47850	ASIA	3,082,712.31	*P-9.2-BKR-ICPA*	Entries in the Invoice are not readable
48778	DOLE FRESH FRUIT Int'L LTD.	5,870,149.20	*P-9.2-HZL-ICPA*	With alteration, counter signature different from authorized signatory
48780	DOLE FRESH FRUIT Int'L LTD.	355,873.31	*P-9.2-HZN-ICPA*	With alteration, counter signature different from authorized signatory
48863	DOLE FRESH FRUIT Int'L LTD.	6,288,003.77	*P-9.2-ICT-ICPA*	With alteration, counter signature different from authorized signatory
48865	DOLE FRESH FRUIT Int'L LTD.	150,561.79	*P-9.2-ICV-ICPA*	With alteration, counter signature different from authorized signatory
48877	DOLE FRESH FRUIT Int'L LTD.	4,909,712.84	*P-9.2-IDH-ICPA*	With alteration, counter signature different from authorized signatory
48821	DOLE FRESH FRUIT Int'L LTD.	528,314.51	*P-9.2-IBC-ICPA*	With alteration, counter signature different from authorized signatory
49465	DOLE FRESH FRUIT Int'L LTD.	698,693.86	*P-9.2-ITH-ICPA*	With alteration, counter signature different from authorized signatory
TOTAL		**259,959,852.27**		

In sum, petitioner's substantiated zero-rated sales for the taxable year 2011 is only Php25,434,943,345.32.[95]

Inasmuch as only a portion of the declared zero-rated sales were properly substantiated, only a portion of substantiated input tax

95 Difference between Php25,694,903,197.59 and Php259,959,852.27.

attributable thereto shall be granted based on the percentage allocation, computed in the following manner:

	Amount	Allocation
Zero-Rated Sales Per 2011 ITR	26,459,566,147.85	100%
Less: Difference in Zero-Rated Sales per ITR and Schedule	764,662,950.26	2.8899%
Zero-Rated Sales Per Schedule	25,694,903,197.59	
Less: Per This Court's Disallowance	259,959,852.27	0.9825%
Substantiated Zero-Rated Sales	**25,434,943,345.32**	**96.1276%**

Therefore, since only 96.1276% out of the declared zero-rated sales for taxable year 2011 was found to be valid, only the proportionate share of input taxes allocated to zero-rated or effectively zero-rated sales can be claimed for refund or issuance of a tax credit certificate pursuant to *Section 4.112-1*[96] *of RR No. 16-2005.*

Anent the third requisite, *Section 4.110-8 of RR 16-2005* provides for the supporting documents that must be presented in order to substantiate the alleged input tax credits for the period of claim, to wit:

> *SEC. 4.110-8. Substantiation of Input Tax Credits. –*
>
> (a) Input taxes for the importation of goods or the domestic purchase of goods, properties or services is made in the course of trade or business, whether such input taxes shall be credited against zero-rated sale, non-zero-rated sales, or subjected to the 5% Final Withholding VAT, must be substantiated and supported by the following documents, and must be reported in the information returns required to be submitted to the Bureau:
>
> > (1) For the importation of goods – import entry or other equivalent document showing actual payment of VAT on the imported goods.

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[96] SEC 4.112-1. Claims for Refund/Tax Credit Certificate of Input Tax. - (a) Zero-rated and Effectively Zero-rated Sales of Goods, Properties or Services. - A VAT-registered person whose sales of goods, properties or services are zero-rated or effectively zero-rated may apply for the issuance of a tax credit certificate/refund of input tax attributable to such sales. The input tax that may be subject of the claim shall exclude the portion of input tax that has been applied against the output tax. The application should be filed within two (2) years after the close of the taxable quarter when such sales were made.

In case of zero-rated sales under Secs. 106(A)(2)(a)(1) and (2), and Sec. 106(A)(2)(b) and Sec. 108(B)(1) and (2) of the Tax Code, the payments for the sales must have been made in acceptable foreign currency duly accounted for in accordance with the BSP rules and regulations.

xxx xxx xxx

h

> (2) For the domestic purchase of goods and properties – invoice showing the information required under Secs. 113 and 237 of the Tax Code.
>
> (3) For the purchase of real property – public instrument i.e., deed of absolute sale, deed of conditional sale, contract/agreement to sell, etc., together with VAT invoice issued by the seller.
>
> (4) For the purchase of services – official receipt showing the information required under Secs. 113 and 237 of the Tax Code.

The aggregate amount being claimed by petitioner for tax refund/tax credit allegedly representing input VAT on its domestic purchases of goods and services as well as importation of goods for the taxable year 2011 is Php778,786,831.34, broken down as follows:

	1st Qrtr[97]	**2nd Qrtr**[98]	**3rd Qrtr**[99]	**4th Qrtr**[100]	**Total**
Output Tax	45,135,916.43	43,039,890.92	88,300,956.13	61,249,008.44	237,725,771.92
Input Tax Deferred On Capital Goods					
Exceeding P1Million from Previous Quarter	51,593,193.21	51,188,089.74	48,731,636.80	47,026,299.24	198,539,218.99
Less: Input Tax on Purchases of Capital Goods					
Exceeding P1Million Deferred for the Succeeding Period	51,188,089.74	48,731,636.80	47,026,299.24	44,884,026.16	191,830,051.94
Amortization of Input Tax on Capital Goods Exceeding 1Million	405,103.47	2,456,452.94	1,705,337.56	2,142,273.08	**6,709,167.05**
Current Input Taxes:					
Input Tax of Goods Exceeding P1Million	3,922,389.62	2,315,977.48	3,203,621.49	2,696,937.70	12,138,926.29
Input Tax on Domestic Purchases of Goods Other Than Capital Goods	146,272,147.70	161,307,494.01	233,514,796.40	190,274,015.61	731,368,453.72
Input Tax on Importation of Goods Other Than Capital Goods	65,470,688.31	57,746,932.95	86,462,691.61	56,615,743.32	**266,296,056.19**
Total Current Input Taxes	215,665,225.63	221,370,404.44	323,181,109.50	249,586,696.63	1,009,803,436.20
Total Available Input Tax	216,070,329.10	223,826,857.38	324,886,447.06	251,728,969.71	1,016,512,603.25
Total Allowable Input Tax	170,934,412.67	180,786,966.46	236,585,490.93	190,479,961.27	**778,786,831.33**[101]

As can be seen from the table above, petitioner is claiming amortization of input tax on capital goods exceeding one million, amounting to Php6,709,167.05 (7th row, 6th column), however, a review of the records and the evidence submitted reveal that it failed to

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[97] *Records (box),* Exhibit "P-9."
[98] *Id., Exhibit* "P-12."
[99] *Id., Exhibit* "P-15."
[100] *Id., Exhibit* "P-18."
[101] .01 rounding off difference.

provide evidence (*i.e.* schedule of amortization, *etc.*) to support its claim, thus, this amount is denied.

Petitioner also claims input tax on importation of goods other than capital goods amounting to Php266,296,056.19 (11th row, 6th column), however, records disclose that only input VAT on importation amounting to Php265,836,081.64[102] was properly supported with documentary evidence such as, Import Entry Internal Revenue Declaration ("IEIRD"), Bureau of Customs Official Receipts ("BOC OR") and Statement of Settlement of Duties and Taxes (SSDT).[103] Thus, input VAT on importation amounting to Php459,974.55[104] is also denied.

To determine the accuracy of petitioner's declaration, ICPA Aguirre, examined the voluminous documents of petitioner in support of its claim for refund, with the following findings:[105]

> Upon examination of the "Schedule of Purchases" and available supporting documents such as Supplier's Sales Invoices, Official Receipts, Import Declarations, BOC Receipts (Statement of Settlement of Duties and Taxes) and other applicable documents issued to DOLE, the following observations were noted:

NO.	PARTICULARS	NET AMOUNT	INPUT VAT	ANNEX REFERENCE
3.1	No Authority to Print	11,903,171.33	1,428,380.56	Annex C.1 - ICPA
3.2	Non-VAT Documents	21,963,900.42	2,635,668.05	Annex C.2 - ICPA
3.3	Incorrect Supporting Documents (OR for goods/SI for services)	25,727,620.25	3,087,314.43	Annex C.3 - ICPA
3.4	Out of Period	77,719,784.24	9,326,374.11	Annex C.4 - ICPA
3.5	Not a Valid Source of Input VAT	19,836,595.46	2,380,391.46	Annex C.5 - ICPA
3.6	RE: Annex C.6 - ICPA	410,579,182.32	49,269,501.88	Annex C.6 - ICPA
TOTAL		567,730,254.02	68,127,630.48	

ICPA Aguirre, through his Judicial Affidavit[106], stated that the input tax amounting to Php49,269,501.88 was subjected to further

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[102] *Records (box), Exhibit* "P-31"

Importation - Dolefil	Php	59,713,519.02
Importation - Phil Maktg		4,324,758.00
Importation - Stanfilco		201,797,804.62
Total	Php	265,836,081.64

[103] *Id., Exhibits* "P-7.3.1-A-ICPA" to "P-7.3.2-RM-ICPA" and "P-7.4.1-A-ICPA" to "P-7.4.2-JQ-ICPA."

[104] Difference between Php266,296,056.19 and Php265,836,081.64.

[105] *Records (box), Exhibit* "P-36," pp. 11-12.

[106] *Id., Exhibit* "P-46," question no. 43.

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investigation since the related documents were not available during the course of the audit, thus, he submitted a supplemental ICPA report[107] dated July 17, 2014. Based on the additional supporting documents provided to him, ICPA Aguirre was able to come up with the following findings:

Properly Supported by OR/Invoices	19,664,684.02	Annex D-ICPA
Supported by Notarized Sworn Statement of DOLE Suppliers	4,405,570.73	Exh. P-17-A to X
Subtotal	24,070,254.75	
Without Documentary Evidence	24,955,637.09	Annex E-ICPA
Non-VAT Documents	91,658.80	Annex F-ICPA
Out of Period	151,951.24	Annex G-ICPA
Subtotal	25,199,247.13	
GRAND TOTAL	**49,269,501.88**	

Input taxes supported by documents without authority to print and input taxes supported with documents which are out of period will also be denied. The Court has ruled in a number of cases[108] that out of period invoices and official receipts, as well as those without authority to print will be denied in violation of *Section 113* and *Section 237* in relation to *Section 238* of the *1997 NIRC,* thus, input taxes amounting to Php10,906,705.91[109] will be included as part of the exceptions noted.

In sum, total disallowances noted by the ICPA, and which the Court hereby adapts, amount to Php68,557,328.88, broken down as follows:

Apportionment related to Exempt Sales		24,499,953.44	
Non-VAT Documents	2,635,668.05		Annex C.2-ICPA
Non-VAT Documents (Supplemental)	91,658.80	2,727,326.85	Annex F-ICPA
Incorrect Supporting Documents		3,087,314.13	Annex C.3-ICPA
Not a Valid Source of Input VAT		2,380,391.46	Annex C.5-ICPA
Re: Annex C.6-ICPA- Without Documentary Evidence		24,955,637.09	Annex E-ICPA
No Authority to Print		1,428,380.56	Annex C.1-ICPA
Out of Period	9,326,374.11		Annex C.4-ICPA

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[107] *Id., Exhibit* "P-36-b."

[108] *Chevron Holdings, Inc. v. Commissioner or Internal Revenue,* CTA Case No. 8436, October 22, 2014; *Air Liquide Philippines, Inc., v. Commissioner or Internal Revenue,* CTA Case No. 8114, December 10, 2014; *Deutsche Knowledge Services, PTE. LTD. v. Commissioner or Internal Revenue,* CTA Case No. 8402, September 16, 2014.

[109]

Input taxes		
Without authority to print	Php 1,428,380.56	Annex C.1-ICPA
Out of period	9,326,374.11	Annex C.4-ICPA
	151,951.24	Annex G-ICPA
TOTAL	**Php10,906,705.91**	

Out of Period (Supplemental)	151,951.24	9,478,325.35	Annex G-ICPA
Total Disallowances		**68,557,328.88**	

Upon further scrutiny and study of the evidence presented, the Court finds that input VAT amounting to Php52,592,467.00 did not meet the substantiation requirements under *Section 4.110-8 of RR No. 16-2005*, for the reasons stated below:

	Input VAT
Invoice indicates "Not a Valid Source of Input Tax"	Php1,239.43
Out of Period Claim	10,957,679.06
Supported by "TIN V" Invoice	490,302.56
Supported by "TIN V" Official Receipt	4,181,150.10
Supported by NON-VAT Invoice	1,709,952.60
Supported by NON-VAT OR	812,354.04
Supported by NV Invoice	33,401.38
Supported by NV OR	336,403.42
Supported by Official Receipt without Supplier's TIN	53,016.56
Supported by OR not in the petitioner's name	3,387.09
Supported by OR without petitioner's TIN and Address	366,895.08
Supported by pre-printed NV Invoice, stamped	194,009.65
VAT but without authorized countersignature	
Supported by pre-printed NV OR, stamped VAT	71,970.21
but without authorized countersignature	
Supported by pre-printed NV OR, stamped VAT registered	126,779.54
but without authorized countersignature	
Supported by Statement of Account	4,964.55
VAT not Separately Indicated	9,954,145.01
With noted alterations or additions in the supporting Invoice without	721,286.80
countersignature of the authorized representative of the supplier	
With noted alterations or additions in the supporting Official Receipt without	6,288,947.54
countersignature of the authorized representative of the supplier	
With noted handwritten alterations or additions in the computerized Invoice	8,926,911.17
without countersignature of the authorized representative of the supplier	
With noted handwritten alterations or additions in the computerized supporting	2,489,324.86
OR without countersignature of the authorized representative of the supplier	
With noted supplier's TIN alteration in the supporting Invoice without	2,867,559.60
countersignature of the authorized representative of the supplier	
With noted supplier's TIN alteration in the supporting Official Receipt	289,018.30
without countersignature of the authorized representative of the supplier	
Without Supporting Documents	1,711,768.45
Grand Total	**Php52,592,467.00**

From the foregoing, the total input tax credits for the taxable year 2011 amount to Php650,467,893.86.

However, as previously discussed, this input tax cannot be claimed in full by the petitioner since only 96.1276% out of the actual zero-rated sales declared *per* VAT return were found to be valid. Thus, such input tax credits shall be allocated accordingly:

Claim Amount		Php778,786,831.34
Less:		
Amortization of Input Tax on Goods		
Exceeding 1Million	6,709,167.05	

Disallowed Input Tax On Amortization	459,974.55	
ICPA Exception	68,557,328.88	
Additional Exception (This Court)	52,592,467.00	128,318,937.48
Total		650,467,893.86
Zero-Rated Sales Percentage Allocation		96.1276%
Substantiated Input VAT		**Php625,279,175.14**

Anent the fourth requisite, petitioner substantially proved that although the claimed input VAT was carried-over by petitioner in its succeeding Quarterly VAT Returns from the first quarter of 2012 to the first quarter of 2013, the same remained unutilized since it was deducted in its Quarterly VAT Return for the first quarter of 2013, as "*VAT Refund/TCC claimed*" from the total available input tax. Records reveal that the 1st Quarterly VAT Return for 2013 showed a deduction in the amount of Php778,786,861.34 as "*VAT Refund/TCC Claimed.*"[110]

In fine, petitioner has sufficiently proven its entitlement to a refund or issuance of tax credit certificate in the reduced amount of Php625,279,175.14, representing unutilized excess input taxes attributable to its zero-rated sales for the taxable year 2011.

WHEREFORE, premises considered, the Petition for Review is hereby **PARTIALLY GRANTED.** Accordingly, respondent is hereby **ORDERED TO ISSUE A TAX REFUND/TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of **SIX HUNDRED TWENTY FIVE MILLION TWO HUNDRED SEVENTY NINE THOUSAND ONE HUNDRED SEVENTY FIVE PESOS AND FOURTEEN CENTAVOS (Php625,279,175.14),** representing the unutilized input taxes, for taxable year 2011.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

(ON LEAVE)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

[110] *Records (box), Exhibit* "P-23," line 23D.

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.

LOVELL R. BAUTISTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to *Section 13 of Article VIII 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