REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SPECIAL SECOND DIVISION

AIR DRILLING ASSOCIATES PTE LTD., Petitioner,	**CTA CASE NO. 10608** *Present:*
vs.	**RINGPIS-LIBAN**, *P.J. & Chairperson,* **MODESTO-SAN PEDRO**, and **FERRER-FLORES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated:

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DECISION

FERRER-FLORES, J.:

The **Petition for Review** filed through registered mail on October 8, 2021, and received by this Court on October 20, 2021, prays for the refund and/or issuance of tax credit certificate in the amount of **₱2,600,948.34,** allegedly representing petitioner's creditable input value-added tax (VAT) paid attributable to its zero-rated sales for the period from April 1, 2019 to June 30, 2019, for taxable year (TY) 2019.[1]

THE PARTIES

Petitioner **Air Drilling Associates Pte. Ltd.** is a foreign company organized and existing under the laws of the Republic of Singapore, and was duly licensed by the Philippine Securities and Exchange Commission to establish a branch office in the Philippines to pursue geothermal aerated drilling services and related opportunities therein.[2] It is registered with Bureau of Internal Revenue (BIR) as a VAT taxpayer under Tax Identification Number (TIN) 251-156-024-00000, with its office located at Unit D 3/F Glass

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1 Summary of the Case, Pre-Trial Order dated June 21, 2022, Docket – Vol. I, p. 158.
2 Exhibits "P-2" to "P-2-1", Docket – Vol. I, pp. 223 to 274.

Tower Building, 115 C. Palanca St., Legaspi Village, San Lorenzo, Makati City.[3]

On the other hand, respondent is the duly appointed **Commissioner of the BIR** vested under the appropriate laws with the authority to carry out the functions, duties, and responsibilities of said office, including, *inter alia*, the power to decide disputed assessments, grant tax refunds and issue tax credit certificates, pursuant to the provisions of the National Internal Revenue Code (NIRC) of 1997, as amended, and other tax laws, rules and regulations.[4]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On June 30, 2021, petitioner filed an administrative claim for refund of its unutilized/unclaimed excess input VAT for the second quarter (April 1, 2019 to June 30, 2019) of TY 2019, pursuant to Rev enue Regulations (RR) No. 27-2020 dated October 6, 2020.[5]

Subsequently, petitioner received the letter dated August 26, 2021, issued by the BIR Revenue Region No. 8A Makati City, signed by Maridur V. Rosario, Regional Director, denying the application for VAT refund.

PROCEEDINGS BEFORE THIS COURT

Petitioner filed the present *Petition for Review* on October 8, 2021.[6]

On February 18, 2022, respondent filed his *Answer (with Special and Affirmative Defenses)*,[7] interposing his special and affirmative defenses.

Respondent then transmitted the *BIR Records* of the present case on March 9, 2022, consisting of six folders.[8]

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3 Exhibit "P-1", Docket – Vol. I, p. 222; Par. 7, *Petition for Review*, Docket – Vol. I, p. 11 vis-à-vis par. 7, *Answer (with Special and Affirmative Defenses)*, Docket – Vol. I, p. 63.
4 Par. 1, Facts Admitted, *Joint Stipulation of Fac[t]s and Issues* (JSFI), Docket – Vol. I, p. 139.
5 Par. 2, Facts Admitted, JSFI, Docket – Vol. I, p. 139; Exhibits "P-12" and "R-1", BIR Records - Folder 1 of 6, pp. 5 to 12.
6 Docket – Vol. I, pp. 9 to 22.
7 Docket – Vol. I, pp. 62 to 69.
8 Respondent's *Compliance* dated March 9, 2021, Docket – Vol. I, pp. 74 to 75.

The Pre-Trial Conference was set and held on May 16, 2022.[9] Prior thereto, the *Pre-Trial Briefs* of petitioner and respondent were filed on May 6, 2022[10] and May 11, 2022,[11] respectively.

On May 24, 2022, the parties submitted their *Joint Stipulation of Fac[t]s and Issues*,[12] which was approved and adopted by the Court in its Pre-Trial Order dated June 21, 2022.[13]

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

Petitioner offered the testimonies of the following individuals: (1) Ms. Rosebelle Liu,[14] petitioner's Office Manager; and, (2) Mr. Adan Delamide,[15] the Court-commissioned Independent Certified Public Accountant (ICPA).[16]

The *Report* of the ICPA was filed via registered mail on September 8, 2022.[17]

On November 14, 2022, petitioner filed its *Formal Offer of Evidence*,[18] to which respondent filed his *Comment (To Petitioner's Formal Offer of Evidence)* via accredited courier and received by the Court on December 5, 2022.[19]

Subsequently, petitioner filed a *Motion to Admit Supplemental Formal Offer of Evidence*[20] on February 15, 2023, attaching thereto its *Supplemental Formal Offer of Evidence*,[21] and certified true copies of exhibits.[22] Respondent, however, failed to file his comment thereon.[23] In the Resolution

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9 Notice of Pre-Trial Conference dated March 11, 2022, Docket – Vol. I, pp. 72 to 73; Minutes of the hearing held on, and Order dated, May 16, 2022, Docket – Vol. I, pp. 134 to 135.
10 Docket – Vol. I, pp. 77 to 82.
11 Docket – Vol. I, pp. 83 to 88.
12 Docket – Vol. I, pp. 139 to 142.
13 Docket – Vol. I, pp. 158 to 163.
14 Exhibit "P-14" (unmarked), Docket – Vol. I, pp. 44 to 51; Minutes of the hearing held on, and Order dated, August 9, 2022, Docket – Vol. I, pp. 168, and 170 to 171, respectively; Minutes of the hearing held on, and Order dated, October 19, 2022, Docket – Vol. I, pp. 204, and 206 to 207, respectively.
15 Exhibit "P-150", Docket – Vol. I, pp. 194 to 202; Minutes of the hearing held on, and Order dated, October 19, 2022, Docket – Vol. I, pp. 204, and 206 to 207, respectively.
16 *Oath of Commission* dated August 9, 2022, Docket – Vol. I, p. 169; Minutes of the hearing held on, and Order dated, August 9, 2022, Docket – Vol. I, pp. 168, and 170 to 171, respectively.
17 Exhibit "P-148", Docket – Vol. I, pp. 172 to 188.
18 Docket – Vol. I, pp. 211 to 221.
19 Docket – Vol. 2, pp. 568 to 570.
20 Docket – Vol. 2, pp. 594 to 596.
21 Docket – Vol. 2, pp. 597 to 600.
22 Exhibits "P-6" to "P-7-1", Docket – Vol. 2, pp. 601 to 620.
23 Records Verification Reports dated March 20, 2023, and May 3, 2023, issued by the Judicial Records Division of this Court, Docket – Vol. 2, pp. 622 and 626, respectively.

dated March 28, 2023,[24] the Court granted petitioner's *Motion to Admit Supplemental Formal Offer of Evidence* and admitted its *Supplemental Formal Offer of Evidence.*

In the Resolution dated July 28, 2023,[25] the Court admitted petitioner's offered exhibits, *except* the following:

1. Exhibits "P-14" and "P-14-1", for failure to comply with Section 3(b) and (c) of the Judicial Affidavit Rule in relation with Section 10(c) of the same Rule. Hence, the admission of Exhibit "P-2-1" is also denied, for failure to identify; and,

2. Exhibits "P-142-3 to P-142-142-2", for not being found in the records.

Thereafter, on August 11, 2023, petitioner filed a *Motion for Reconsideration*,[26] praying for the Resolution dated July 28, 2023 to be reconsidered, and for the attached *Amended Judicial Affidavit* of Ms. Rosebelle Liu dated August 10, 2023,[27] which now indicates the place where she was examined, to be admitted and, to re-open the presentation of evidence and recall Ms. Liu for the purpose of identifying her *Amended Judicial Affidavit*, if necessary. Respondent posted his *Comment/Opposition (to Petitioner's Motion for Reconsideration)* on August 14, 2023.[28] In the Resolution dated October 20, 2023,[29] the Court ordered petitioner's counsel to pay ₱1,000.00, as corresponding fine, for the compliant replacement affidavit of its witness and to submit to the Court the proof of payment. After which, petitioner's *Motion* shall be deemed submitted anew for resolution.

On November 13, 2023, petitioner submitted its *Compliance* dated November 9, 2023,[30] attaching thereto the above-stated proof of payment. In the Resolution dated April 11, 2024,[31] the Court granted and noted petitioner's *Motion for Reconsideration* and *Compliance*, and admitted Exhibits "P-14", "P-14-1" and "P-2-1".

For his part, respondent presented the testimony of Revenue Officer Dianne Kristine C. Bautista.[32]

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24 Docket – Vol. 2, pp. 624 to 625.
25 Docket – Vol. 2, pp. 629 to 631.
26 Docket – Vol. 2, pp. 632 to 636.
27 Docket – Vol. 2, pp. 637 to 644.
28 Docket – Vol. 2, pp. 645 to 648.
29 Docket – Vol. 2, pp. 652 to 655.
30 Docket – Vol. 2, pp. 657 to 659.
31 Docket – Vol. 2, pp. 662 to 663.
32 *Judicial Affidavit of Revenue Officer Dianne Kristine C. Bautista* dated May 10, 2022, Docket – Vol. I, pp. 93 to 101; Minutes of the hearing held on, and Order dated, October 1, 2024, Docket – Vol. 2, pp. 667 to 669.

On October 10, 2024, respondent filed his *Formal Offer of Evidence*,[33] to which petitioner filed its *Comment to Respondent's Formal Offer of Evidence* on October 11, 2024.[34] In the Resolution dated January 7, 2025,[35] the Court admitted all of respondent's offered exhibits.

Subsequently, the *Memorandum for Petitioner* was filed on February 10, 2025,[36] while respondent filed via registered mail his *Memorandum* on February 14, 2025.[37]

The present case was considered submitted for decision on March 18, 2025.[38]

THE STIPULATED ISSUE

As stipulated by the parties, the issue for this Court's resolution is:[39]

> Whether petitioner is entitled to its claim for refund of its alleged unutilized input VAT allegedly acquired during the second quarter of TY 2019 amounting to ₱2,600,948.34.

Petitioner's arguments:

Petitioner argues that its administrative and judicial claims for refund were timely filed in accordance with Sections 112 of the NIRC of 1997, as amended; that it is a VAT-registered entity; that it was able to establish that its sales of services are subject to VAT at zero-rate and substantiated the present claim with relevant supporting documents; that it substantiated its input VAT paid/incurred during the second quarter of TY 2019, which are all attributable to its VAT zero-rated sales; and, that its input VAT acquired during the second quarter of TY 2019 were not applied against any output VAT in the succeeding periods.

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33 Docket – Vol. 2, pp. 671 to 675.
34 Docket – Vol. 2, pp. 679 to 680.
35 Docket – Vol. 2, pp. 682 to 683.
36 Docket – Vol. 2, pp. 685 to 699.
37 Docket – Vol. 2, pp. 701 to 712.
38 Docket – Vol. 2, p. 716
39 Issue, JSFI, Docket – Vol. I, p. 140.

Respondent's counter-arguments:

Respondent contends that this Court has no jurisdiction to entertain the instant *Petition for Review* for being filed out of time; that, assuming that this Court has jurisdiction to entertain the instant *Petition*, the same must be denied as petitioner failed to fully substantiate its claim for VAT refund; that petitioner's sales to Energy Development Corporation (EDC) for the second quarter of TY 2019 are not zero-rated; and, that tax refunds are construed *strictissimi juris* against the taxpayer, hence, entitlement must be duly proven.

THE COURT'S RULING

The present *Petition for Review* is partly meritorious.

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

Section 112 of the NIRC of 1997, as amended by Republic Act (R.A.) No. 10963 or the Tax Reform for Acceleration and Inclusion (TRAIN) Law,[40] provides, in part, as follows:

> 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

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[40] An Act Amending Sections 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, and 288; Creating New Sections 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, and 265-A; and Repealing Sections 35, 62, and 89; All Under Republic Act No. 8424, otherwise Known as the National Internal Revenue Code of 1997, As Amended, and For Other Purposes, Effective January 1, 2018.

> zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
>
> xxx xxx xxx
>
> (C) *Period within which Refund 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 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 the ninety (90)-day period shall be punishable under Section 269 of this Code.

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

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

1. the refund claim is filed with the BIR within two years after the close of the taxable quarter when the sales were made;[41]

2. in case of full or partial denial of the refund claim rendered within a period of 90 days from the date of submission of the official receipts or invoices and other documents in support of the application, the judicial claim shall be filed with this Court within 30 days from receipt of the decision,[42] or after the expiration of the 90-day period;[43]

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

42 Refer to *Energy Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 203367, March 17, 2021; *Commissioner of Internal Revenue vs. CE Casecnan Water And Energy Company, Inc.*, G.R. No. 212727, February 1, 2023; and *Commissioner of Internal Revenue vs. Vestas Services Philippines, Inc.*, G.R. No. 255085, March 29, 2023.

43 *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 182737, March 2, 2016.

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

3. the taxpayer is a VAT-registered person;[44]

In relation to the taxpayer's output VAT:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[45]

5. for zero-rated sales under Sections 106(A)(2)(a)(1), (2) and (b); and 108(B)(1) and (2),[46] the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);[47]

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[48]

7. the input taxes are due or paid;[49]

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;[50] and,

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[51]

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

[45] *Ibid.*

[46] Under R.A. No. 10963, Section 106(A)(2)(a)**(2)** was renumbered to Section 106(A)(2)(a)**(3)** while Section 106(A)(2)**(b)** was deleted. However, there was no corresponding amendment to the subsections cited in Section 112(A) of the NIRC of 1997, as amended.

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

[48] *Ibid.*

[49] *Ibid.*

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

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

In addition, in claims for VAT refund/credit, applicants must satisfy the substantiation and invoicing requirements under the NIRC of 1997, as amended, and other implementing rules and regulations.[52] Thus, petitioner's compliance with all the VAT invoicing requirements is required to be able to file a claim for input taxes attributable to zero-rated sales.[53] The invoicing and substantiation requirements should be followed because it is the only way to determine the veracity of the taxpayer's claims.[54] Moreover, it must be pointed out that compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.[55]

Strict compliance with substantiation and invoicing requirements is necessary considering VAT's nature and the VAT system's tax credit method, where tax payments are based on output and input taxes and where the seller's output tax becomes the buyer's input tax that is available as tax credit or refund in the same transaction. It ensures the proper collection of taxes at all stages of distribution, facilitates computation of tax credits, and provides accurate audit trail or evidence for BIR monitoring purposes.[56]

Furthermore, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove <u>every minute aspect</u> of their case.[57] Thus, it behooves petitioner to show compliance with each of the foregoing requisites and invoicing requirements. As a corollary, the absence of *any* of the said requisites is already a valid ground to deny the refund claim.

<u>First and second requisites:</u>
Petitioner timely filed its administrative and judicial claims

The *first* requisite pertains to the filing of an administrative claim for tax credit or refund of input VAT before the BIR, within two years from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

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

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

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

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

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

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

The present claim covers the second quarter of TY 2019. Counting two years from the close of the subject taxable quarter on June 30, 2019, petitioner had until June 30, 2021 to file its administrative claim. Thus, petitioner's administrative claim was seasonably filed on June 30, 2021.[58]

The *second* requisite, necessitates that the judicial claim must be filed within 30 days from receipt of respondent's decision, or after the expiration of the 90-day period under Section 112(C) of the NIRC of 1997, as amended, whichever is earlier. Thus, from the filing of petitioner's administrative claim on June 30, 2021, respondent had 90 days therefrom, or until September 28, 2021, to act on the said claim.

Undisputedly, petitioner received on September 9, 2021 the BIR's letter dated August 26, 2021, denying, in effect, its administrative claim for refund.[59] As such, petitioner originally had 30 days from such receipt, or until October 11, 2021,[60] to file an appeal before this Court.

Note that, due to the physical closure of the Courts in view of the COVID-19 pandemic, the Office of the Court Administrator (OCA) and the Supreme Court issued various circulars[61] suspending the filing periods for pleadings and motions for courts in the National Capital Region (NCR), among others, beginning September 8, 2021 until the physical reopening of the relevant court. On October 20, 2021, all appellate collegiate courts within the NCR reopened and the filing of pleadings and motions resumed on October 27, 2021.[62] In fine, petitioner had until **October 27, 2021** to file its judicial claim.

Considering that petitioner timely filed on October 8, 2021 its judicial claim for refund through the present *Petition for Review*,[63] this Court has jurisdiction to take cognizance of the present case, contrary to the claim of respondent that it was filed out of time.

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

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58 Par. 2, Facts Admitted, JSFI, Docket – Vol. I, p. 139; Exhibits "P-12" and "R-1", BIR Records - Folder 1 of 6, pp. 5 to 12.

59 Refer to par. 3, Facts Admitted, JSFI, Docket – Vol. I, p. 140; Exhibits "P-13" and "R-6", BIR Records - Folder 1 of 6, pp. 49 to 50.

60 October 9, 2021, fell on a Saturday.

61 OCA Circular No. 119-2021, Supreme Court Administrative Circular (AC) Nos. 72-2021, 75-2021, 83-2021.

62 Supreme Court AC No. 83-2021.

63 Docket – Vol. I, pp. 9 to 22.

***Third requisite*: Petitioner is a VAT-registered entity**

Anent the *third* requisite, petitioner has fulfilled the same as it is undisputed that petitioner is a VAT-registered person/entity, with TIN No. 251-156-024-00000.[64]

***Fourth requisite*: Petitioner was able to establish that it was engaged in zero-rated sales during the second quarter of TY 2019**

The *fourth* requisite requires that the taxpayer is engaged in zero-rated or effectively zero-rated sales.

In its Application for Value-Added Tax Refund for the 2nd Quarter of Taxable Year 2019,[65] petitioner claims that, from April 1, 2019 to June 30, 2019, it has accumulated excess or unutilized input VAT amounting to ₱2,600,948.34. This amount arose from its local purchases of goods and services, purchases of services rendered by non-residents and importation of non-capital goods directly attributable to its sale of services to EDC, a Renewable Energy (RE) Developer. Thus, its sale of services to EDC is accordingly subject to a VAT at zero percent rate. As such, petitioner invokes Section 108(B)(3) of the NIRC of 1997, as amended, and Section 15(g) of R.A. No. 9513 or the Renewable Energy Act of 2008, which grants certain tax incentives to RE developers, such as EDC.

Section 15(g) of R.A. No. 9513 provides for the following incentives to RE Developers:

> CHAPTER VII
> GENERAL INCENTIVES
>
> Section 15. *Incentives for Renewable Energy Projects and Activities.* - **RE Developers of renewable energy facilities**, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications, **as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives**:
>
> xxx xxx xxx
>
> (g) *Zero Percent Value-Added Tax Rate*. - The sale of fuel or power generated from renewable sources of energy such as, but not limited to,

[64] Exhibit "P-1", Docket – Vol. I, p. 222.
[65] Exhibit "P-12", Docket – Vol. I, p. 505.

> biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337.
>
> **All RE Developers shall be entitled to zero-rated value added tax on its purchases** of local supply of goods, properties and **services needed for the development, construction and installation of its plant facilities.**
>
> This provision shall also apply to the whole process of exploring and developing renewable energy sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors. *(Emphasis supplied)*

Relative to the foregoing provisions, Part III, Rule 5, Section 13.G of the Department Circular (DC) No. DC2009-05-0008 dated May 25, 2009, issued by the Department of Energy (DOE), or the Implementing Rules and Regulations (IRR) of R.A. No. 9513, provides:

> **SEC. 13. Fiscal Incentives for Renewable Energy Projects and Activities**
>
> DOE-certified existing and new RE Developers of RE facilities, including Hybrid Systems, in proportion to and to the extent of the RE component, for both Power and Non-Power Applications, shall be entitled to the following incentives:
>
> xxx xxx xxx
>
> ***G. Zero Percent Value-Added Tax Rate***
>
> The following transactions/activities shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337:
>
> xxx xxx xxx
>
> (b) **Purchase of** local goods, properties and **services needed for the development, construction, and installation of the plant facilities of RE Developers**; and
>
> (c) **Whole process of exploration and development of RE sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors.** *(Emphasis supplied)*

Based on the foregoing provisions, all RE Developers are entitled to zero-rated VAT on their purchases of local supply of goods, properties and services needed for the development, construction and installation of plant facilities. Furthermore, the law declares that the VAT zero-rating applies to the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors.

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

> **SEC. 18. Conditions for Availment of Incentives and Other Privileges**
>
> ***A. Registration/Accreditation with the DOE***
>
> **For purposes of entitlement to the incentives and privileges under the Act, existing and new RE Developers,** and manufacturers, fabricators, and suppliers of locally-produced RE equipment **shall register with the DOE, through the Renewable Energy Management Bureau (REMB)**. The following certifications shall be issued:
>
> > *(1)* ***DOE Certificate of Registration*** **– issued to an RE Developer holding a valid RE Service/Operating Contract.**
> >
> > For existing RE projects, the new RE Service/Operating Contract shall pre-terminate and replace the existing Service Contract that the RE Developer has executed with the DOE subject to the Transitory Provision in Rule 13, Section 39.
> >
> > The DOE Certificate of Registration shall be issued immediately upon award of an RE Service/Operating Contract covering an existing or new RE project or upon approval of additional investment.
> >
> > Any investment added to existing RE projects shall be subject to prior approval by the DOE.
>
> xxx xxx xxx
>
> ***B. Registration with the Board of Investments (BOI)***
>
> The RE sector is hereby declared a priority investment sector that will regularly form part of the country's Investment Priority Plan (IPP), unless declared otherwise by law.
>
> **To qualify for the availment of the incentives under Sections 13 and 15 of this IRR, RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment, shall register with the BOI.**

The registration with the BOI shall be carried out through an agreement and an administrative arrangement between the BOI and the DOE, with the end-view of facilitating the registration of qualified RE facilities. The applications for registration shall be favorably acted upon immediately by the BOI, on the basis of the certification issued by the DOE.

C. Certificate of Endorsement by the DOE

RE Developers, and manufacturers, fabricators, and suppliers of locally-produced RE equipment **shall be qualified to avail of the incentives provided for in the Act only after securing a Certificate of Endorsement from the DOE, through the REMB, on a per transaction basis.**

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

xxx xxx xxx. *(Emphasis and underscoring supplied)*

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

SEC. 18. Conditions for Availment of Incentives and Other Privileges –

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C. DOE ENDORSEMENT FOR AVAILMENT OF INCENTIVES AND DUTY-FREE IMPORTATIONS OF MACHINERY, EQUIPMENT, AND MATERIALS

RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall be AUTOMATICALLY qualified to avail of the incentives provided for in the Act, OTHER THAN THE INCENTIVE OF DUTY-FREE IMPORTATION OF QUALIFIED MACHINERY, EQUIPMENT, MATERIALS, PARTS AND COMPONENTS, after securing a Certificate of Registration from the DOE.

RE DEVELOPERS THAT IMPORT RE EQUIPMENT, EQUIPMENT, MATERIALS, PARTS AND COMPONENTS

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> SHALL SECURE A CERTIFICATE OF ENDORSEMENT FROM THE DOE, THROUGH THE REMB, ON A PER IMPORTATION BASIS. *(Emphasis and underscoring supplied)*

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

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

Notably, nowhere in the said law and IRR does it require the seller/supplier/contractor of services to RE Developers to obtain prior registration or accreditation with the DOE to be entitled to the benefit of VAT zero-rating on its sales of renewable energy.

In the present case, records reveal that only EDC's projects in Tongonan, Leyte, and Palinpinon, Negros Oriental, were duly supported with the aforementioned documents, viz.:

Location of EDC's Projects	**DOE Certificate of Registration**	**Registration with the BOI**
Tongonan, Leyte	GRESC-2009-10-001 dated October 23, 2009[66]	Certificate of Registration No. 2012-024 dated February 6, 2012[67]
Palinpinon, Negros Oriental	GRESC-2009-10-002 dated October 23, 2009[68]	Certificate of Registration No. 2014-027 dated February 12, 2014[69]
Bacon-Manito Sorsogon/Albay	GRESC-2009-10-003 dated October 23, 2009[70]	None
Kidapawan City, North Cotabato	GRESC-2009-10-004 dated October 23, 2009[71]	None
Northern Negros, Negros Occidental	GRESC-2009-10-005 dated October 23, 2009[72]	None

Hence, petitioner failed to establish that EDC's projects in (1) Bacon-Manito Sorsogon/Albay; (2) Kidapawan City, North Cotabato; and, (3) Northern Negros, Negros Occidental, have been registered with the BOI. Correspondingly, only the sale of services made to EDC's projects in

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66 Exhibit "P-6", Docket – Vol. 2, p. 601.
67 Exhibit "P-7", Docket – Vol. 2, pp. 606 to 612.
68 Exhibit P-6-1", Docket – Vol. 2, p. 602.
69 Exhibit P-7-1", Docket – Vol. 2, pp. 613 to 620.
70 Exhibit "P-6-2", Docket – Vol. 2, p. 603.
71 Exhibit "P-6-3", Docket – Vol. 2, p. 604.
72 Exhibit "P-6-4", Docket – Vol. 2, p. 605.

Tongonan, Leyte, and Palinpinon, Negros Oriental, shall be subject to VAT zero-rating under the law.

Nonetheless, petitioner must still show compliance with the pertinent invoicing requirements under Section 113(A) and (B) of the NIRC of 1997, as amended, which provide that a VAT taxpayer, like herein petitioner, shall, for every lease of goods or properties, and for every sale, barter or exchange of services, issue a VAT official receipt (OR) which must contain the information stated in the said provisions, to wit:

> SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* —
>
> (A) *Invoicing Requirements.* — A VAT-registered person shall issue:
>
> (1) A VAT invoice for every sale, barter or exchange of goods or properties; and
>
> (2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.
>
> (B) *Information Contained in the VAT Invoice or VAT Official Receipt.* — The following information shall be indicated in the VAT invoice or VAT official receipt:
>
> (1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
>
> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided*, That:
>
> (a) The amount of the tax shall be shown as a separate item in the invoice or receipt;
>
> (b) If the sale is exempt from value-added tax, the term **'VAT-exempt sale'** shall be written or printed prominently on the invoice or receipt;
>
> (c) If the sale is subject to zero percent (0%) value-added tax, the term **'zero-rated sale'** shall be written or printed prominently on the invoice or receipt;
>
> (d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the

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invoice or receipt: *Provided*, That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

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

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

The foregoing provisions are further implemented by Section 4.113-1(A) and (B) of RR No. 16-2005,[73] as amended, to wit:

SEC. 4.113-1. *Invoicing Requirements.* —

(A) *A VAT-registered person shall issue*: —

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

(2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.

Only VAT-registered persons are required to print their TIN followed by the word 'VAT' in their invoice or official receipts. Said documents shall be considered as a 'VAT Invoice' or 'VAT official receipt'. All purchases covered by invoices/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

VAT invoice/official receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records.

(B) *Information contained in VAT invoice or VAT official receipt.* — The following information shall be indicated in VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his TIN;

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

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

[73] SUBJECT: Consolidated Value-Added Tax Regulations of 2005, September 1, 2005.

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

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

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

(3) In the case of sales in the amount of one thousand peso (P1,000.00) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and TIN of the purchaser, customer or client, shall be indicated in addition to the information required in (1) and (2) of this Section.

In addition to the above requirements, the pertinent sales invoices and ORs must be duly registered with the BIR as mandated under Section 237, in relation to Section 238, of the NIRC of 1997, as amended, to wit:

SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* —

(A) *Issuance.* — All persons subject to an internal revenue tax shall, at the point of each sale and transfer of merchandise or for services rendered valued at One hundred pesos (P100) or more, issue duly registered receipts or sale or commercial invoices, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: *Provided, however*, That where the receipt is issued to cover payment made as rentals, commissions, compensation or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client: *Provided, further*, That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser.

xxx xxx xxx

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

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

Simply put, petitioner is required to issue BIR-registered VAT ORs for the gross receipts derived from its sale of services, containing the above-stated information.

In its amended Quarterly Value-Added Tax Return (BIR Form No. 2550-Q) for the second quarter of TY 2019, petitioner declared zero-rated sales/receipts in the total amount of ₱53,388,121.19.[74] In support thereof, petitioner presented ORs and related billing invoices, summarized as follows:[75]

OR		Billing Invoice		Amount Billed	
Exhibit Ref.[76]	**Number**	**Exhibit Ref.**	**Number**	**In US Dollar**	**In Philippine Peso**
"P-144"	1009	"P-144-1"	520	$ 177,369.08	₱ 9,264,873.89
"P-144"	1009	"P-144-2"	521	75,377.07	3,955,939.39
"P-144"	1009	"P-144-3"	523	240,515.56	12,514,265.10
"P-145"	1010	"P-145-1"	522	11,551.00	606,219.59
"P-146"	1011	"P-146-1"	524	287,585.54	15,179,339.97
"P-146"	1011	"P-146-2"	525	12,671.04	666,864.16
"P-146"	1011	"P-146-3"	526	117,027.06	6,102,376.04
"P-146"	1011	"P-146-4"	527	97,581.50	5,098,243.05
			TOTAL	**$ 1,019,677.85**	**₱ 53,388,121.19**

A careful examination of the foregoing supporting documents establishes that the reported zero-rated sales in the amount of ₱53,388,121.19 were duly substantiated by zero-rated ORs that fully comply with the invoicing requirements under the VAT law and its implementing rules and regulations. Moreover, all projects covered by said transactions were located at the Leyte Geothermal Business Unit (LGBU) site, which, as earlier ascertained, was duly supported by the DOE Certificate of Registration and BOI Registration.

Considering the foregoing, petitioner has sufficiently proven that its sales of services to EDC during the second quarter of TY 2019 in the amount of ₱53,388,121.19 are entirely subject to VAT zero-rating, thereby satisfying the *fourth* requisite.

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[74] Line 17, Exhibit "P-3-1", Docket – Vol. I, p. 277.
[75] Annex D, Exhibit "P-148", Docket – Vol. I, p. 188.
[76] USB (Exhibit "P-149").

<u>Fifth requisite</u>: There is no need to comply with the fifth requisite

The *fifth* requisite prescribes that the refund claimant must prove that the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations, but only for zero-rated sales under Sections 106(A)(2)(a)(1), (2) and (b), and 108(B)(1) and (2), all of the NIRC of 1997, as amended. Since the legal basis for petitioner's zero-rated sales is Section 108(B)(3) of the NIRC of 1997, as amended, in relation to Section 15(g) of R.A. No. 9513, the present case need not comply with the said *fifth* requisite.

To be sure, Section 108(B)(3) of the NIRC of 1997, as amended, only requires that the services be rendered to persons or entities enjoying tax exemption under special laws or international agreements to which the Philippines is signatory. Petitioner is, thus, not required to present proof that the transaction was paid in acceptable foreign currency.

<u>Sixth requisite</u>: The input VAT being claimed do not appear to be transitional input taxes

In its amended Second Quarterly VAT Return for TY 2019,[77] petitioner declared a total input VAT of ₱2,600,948.34 from its domestic purchases of goods and services and importation of goods, as shown below:

Current Purchases	Amount of Purchase	Input VAT
Domestic Purchases of Goods	₱ 746,479.58	₱ 89,577.56
Importation of Goods Other than Capital Goods	17,323,274.99	2,078,793.00
Domestic Purchases of Services	3,604,814.82	432,577.78
Purchases not Qualified for Input Tax	416,396.36	-
	TOTAL	**₱ 2,600,948.34**

The above claimed input taxes do not appear to be transitional input taxes, as understood under Section 111(A) of the NIRC of 1997, as amended. Transitional input tax credit operates to benefit newly VAT-registered persons, whether or not they previously paid taxes in the acquisitions of their beginning inventory of goods, materials and supplies. During the period of transition from non-VAT to VAT status, the transitional input tax credit serves to alleviate the impact of the VAT on the taxpayer.[78]

[77] Exhibit "P-3-1", Docket – Vol. I, p. 277.
[78] *Fort Bonifacio Development Corporation vs. Commissioner of Internal Revenue*, G.R. Nos. 158885 and 170680, April 2, 2008.

Since there is no showing that the above-stated input VAT are transitional input VAT, the *sixth* requisite is likewise fulfilled.

<u>Seventh requisite</u>: Not all input taxes due or paid by petitioner during the second quarter of TY 2019 are valid and duly substantiated

It is of fatal importance for petitioner to provide supporting documents to prove that the input taxes claimed were actually due or paid in accordance with Section 110(A) of the NIRC of 1997, as amended, and as implemented by Sections 4.110-1, 4.110-2 and 4.110-8 of RR No. 16-2005, as amended.

In order to prove entitlement to credits for input taxes due or paid, the same must, thus, be evidenced by VAT invoices (for domestic purchases of goods) or ORs (for domestic purchases of services) issued in accordance with Section 113 of the NIRC of 1997, as amended, as the case may be, as well as, the Bureau of Customs Statements of Settlement of Duties and Taxes (SSDTs) and Single Administrative Documents (SADs) or other equivalent documents showing actual payment of VAT (for importation of goods).

As mentioned earlier, in its amended Second Quarterly VAT Return for TY 2019,[79] petitioner reported current input VAT in the amount of ₱2,600,948.34 from its domestic purchases of goods and services, and importation of goods, which is the subject of petitioner's claim for refund.

Petitioner declared input VAT on local purchases of goods and services in the amounts of ₱89,577.56 and ₱432,577.78, respectively, for a total of ₱522,155.34. The Schedule of Input Taxes for Local Purchases, however, only reflects a total of ₱520,444.79.[80] Thus, the difference of **₱1,710.55** is denied outright for lack of supporting documentation.

On the other hand, the Schedule of Input Taxes on Importations reflects a total of ₱2,190,480.00,[81] whereas the petitioner declared only ₱2,078,793.00 in its Second Quarterly Value-Added Tax Return (BIR Form No. 2550-Q) for TY 2019, which is also the same amount prayed for in the present *Petition*. Notably, the Court may adjudicate the present judicial claim only to the extent of the input VAT on importation specifically prayed for, and limited to the declared amount of **₱2,078,793.00**.

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79 Exhibit "P-3-1", Docket – Vol. I, p. 277.
80 USB (Exhibit "P-149"), Annex B.
81 USB (Exhibit "P-149"), Annex C.

In support of its input VAT, petitioner presented, among others, the suppliers' ORs and invoices,[82] SSDTs, SADs, and Invoices,[83] which were all examined by the Court-commissioned ICPA.

Based on the findings of the ICPA, input VAT in the amount of ₱190,768.60 shall be disallowed for petitioner's failure to meet the substantiation and invoicing requirements prescribed under the VAT law and regulations, broken down as follows:[84]

Exhibit Reference	Supplier	Input VAT
No TIN		
"P-53"	Prodril Supply Company Inc.	12,444.00
"P-124"	Mardra V. Chua	32.14
"P-132"	LBC Express, Inc.	290.36
"P-134"	LBC Express, Inc.	168.21
	Sub-total	**12,934.71**
No address and TIN		
"P-54"	Philhealth Care, Inc.	**51,984.00**
No TIN; No Address; VAT not shown		
"P-61"	Globe Telecom, Inc.	**2,723.30**
No Address		
"P-62"	International SOS (Phils), Inc.	**40,004.11**
Out of period		
"P-80"	Prodril Supply Company Inc.	**12,325.44**
VAT not shown		
"P-94"	Ace Tubular Services Limited	5,634.69
"P-100"	1st Serv Global Logistics Inc.	840.00
"P-115"	Rustan Supercenters, Inc.	129.00
	Sub-total	**6,603.69**
Not in the name of the corporation		
"P-113"	Health Metrics, Inc.	**222.86**
Incomplete Address; No TIN		
"P-116"	LBC Express, Inc.	17.14
"P-133"	LBC Express, Inc.	17.14
	Sub-total	**34.28**
No Transaction Date		
"P-119"	Anyone Can Cook, Inc.	**105.00**
Wrong Address		
"P-120"	The Landmark Corporation	130.23
"P-121"	The Landmark Corporation	97.61
	Sub-total	**227.84**
Incomplete Address		
"P-122"	Mardra V. Chua	**32.14**

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82 Exhibits "P-20" to "P-135", USB (Exhibit "P-149").
83 Exhibit "P-136" and "P-143-2", USB (Exhibit "P-149").
84 USB (Exhibit "P-149"), Annex B.

Exhibit Reference	Supplier	Input VAT
No Name and TIN of Supplier		
"P-123"	n/a	**59.57**
No Supporting Documents		
(none)	Business Process Outsourcing International, Inc.	3,000.00
(none)	Business Process Outsourcing International, Inc.	6,000.00
(none)	Business Process Outsourcing International, Inc.	1,200.00
(none)	MARICEL B GOYO	850.91
(none)	NEW EAGLE ARRASTRE SERVICES INC	5.45
(none)	ROBINSONS SUPERMARKET CORPORATION	70.27
(none)	WENZHUAN MARKETING CORPORATION	10.91
(none)	JEMAR T CABUDOL	216.22
(none)	WENZHUAN MARKETING CORPORATION	81.82
(none)	JEMAR T CABUDOL	216.22
(none)	JEMAR T CABUDOL	216.22
(none)	JEMAR T CABUDOL	216.22
(none)	JEMAR T CABUDOL	216.22
(none)	ROBINSONS SUPERMARKET CORPORATION	78.38
(none)	ROBINSONS HANDYMAN INC	163.78
(none)	ROBINSONS HANDYMAN INC	47.03
(none)	ROBINSONS SUPERMARKET CORPORATION	44.32
(none)	HERBERT LIM	1,163.24
(none)	DAVAO CITIHARDWARE INC	136.61
(none)	DAVAO CITIHARDWARE INC	463.85
(none)	REJOICE HARDWARE AND ELECTRICAL SUPPLY	374.59
(none)	LBC EXPRESS INC	38.73
(none)	JOVITO C GANDIONCO	922.91
(none)	DYNAMIC DEVELOPMENT CORPORATION	376.57
(none)	DYNAMIC DEVELOPMENT CORPORATION	28.11
(none)	UYMATIAO TRADING CORPORATION	864.76
(none)	UYMATIAO TRADING CORPORATION	8.43
(none)	UYMATIAO TRADING CORPORATION	47.41
(none)	UYMATIAO TRADING CORPORATION	374.92
(none)	DAVAO CITIHARDWARE INC	54.55
(none)	JPIE CORP INC	64.86
(none)	MAAYO SHIPPING INC	7.64
(none)	THE SUPERCAT FAST FERRY CORPORATION	105.27
(none)	ROBINSONS HANDYMAN INC	49.51
(none)	ROBERT AUTO PARTS DC CORP	12.97
(none)	JRS BUSINESS CORPORATION	575.78
(none)	TOTAL OIL AND GAS RESOURCES INC	75.68
(none)	ROGELIO T UY	49.30
(none)	ROBINSONS SUPERMARKET CORPORATION	129.65
(none)	CARLOS ARBIOL	107.03
(none)	LBC EXPRESS INC	18.00
(none)	UNIREAL TRADING CORPORATION	80.00
(none)	EDDIE UY	298.38
(none)	ROBINSONS HANDYMAN INC	302.27
(none)	JIMMY S CO	8.65
(none)	ROBINSONS HANDYMAN INC	296.54
(none)	JAMES ALONZO	35.13
(none)	Globe Telecom, Inc.	218.07
(none)	DHL EXPRESS PH CORP	772.25
(none)	JANVION LEONARD CHUA	3,027.03
(none)	KIM HERIC MARTINEZ	1,243.24
(none)	ELIZABETH CODILLA	216.22
(none)	ELIZABETH CODILLA	86.49
(none)	WENZHUAN MARKETING CORPORATION	77.84
(none)	ROBINSONS SUPERMARKET CORPORATION	152.70
(none)	ELIZABETH CODILLA	216.22
(none)	JERRY SIA UY	52.97

Exhibit Reference	Supplier	Input VAT
(none)	ORMOC MACMERCURY HARDWARE AND ALLIED SERVICES	49.51
(none)	ACE HARDWARE PHILIPPINES INC	29.59
(none)	ROBINSONS SUPERMARKET CORPORATION	65.51
(none)	JEMAR T CABUDOL	216.22
(none)	SAVERS HOME DEPOT	4.86
(none)	SAMANTHA CAMAY	25.16
(none)	LBC EXPRESS INC	21.82
(none)	ROSE PHARMACY INC	27.68
(none)	UNIREAL TRADING CORPORATION	37.84
(none)	HOMEOPTIONS INC	48.65
(none)	ROBINSONS SUPERMARKET CORPORATION	67.35
(none)	ULYSES ABUCAY	8.65
(none)	CELLWORKS DIGITAL INC	10.81
(none)	GENE TSE	59.46
(none)	FRANCISCO L BONSILAO JR	24.32
(none)	HANDYMAN EXPRESS MART INC	669.95
(none)	ROBERTO B BERTILLO	259.46
(none)	TCL MERCHANDISE BROKERAGE INC	339.24
(none)	CITIHARDWARE GENSAN INCORPORATED	72.55
(none)	JAMES QUA JR	218.18
(none)	FLORA VILLAROSA	327.05
(none)	UYMATIAO TRADING CORPORATION	1,189.85
(none)	UYMATIAO TRADING CORPORATION	978.38
(none)	UYMATIAO TRADING CORPORATION	751.42
(none)	NELLA P HO	479.30
(none)	UYMATIAO TRADING CORPORATION	446.18
(none)	TOTAL OIL AND GAS RESOURCES INC	232.32
(none)	KINGLUEN HUI AND FAMILY INC	480.00
(none)	UYMATIAO TRADING CORPORATION	126.55
(none)	THE SUPERCAT FAST FERRY CORPORATION	105.27
(none)	VERTEXT TOLLWAYS DEVT CORP	4.91
(none)	FOSSIL MARKETING INC	82.19
(none)	CEBU PORT AUTHORITY	1.09
(none)	ROBINSONS SUPERMARKET CORPORATION	144.19
(none)	LBC EXPRESS INC	21.82
(none)	JEMAR T CABUDOL	216.22
(none)	ROBINSONS SUPERMARKET CORPORATION	165.73
(none)	ROBINSONS SUPERMARKET CORPORATION	190.70
(none)	BBBROTHERS VISAYAS INC	5.41
(none)	JEMAR T CABUDOL	216.22
(none)	LBC EXPRESS INC	21.82
(none)	JEMAR T CABUDOL	216.22
(none)	JEMAR T CABUDOL	216.22
(none)	JEMAR T CABUDOL	216.22
(none)	ROBINSONS SUPERMARKET CORPORATION	47.41
(none)	JEMAR T CABUDOL	216.22
(none)	LITE SHIPPING CORPORATION	46.91
(none)	THE SUPERCAT FAST FERRY CORPORATION	102.55
(none)	PHILIPPINE PORTS AUTHORITY	2.73
(none)	VERTEXT TOLLWAYS DEVT CORP	4.91
(none)	THE SUPERCAT FAST FERRY CORPORATION	105.27
(none)	VERTEXT TOLLWAYS DEVT CORP	4.91
(none)	HOMEOPTIONS INC	198.92
(none)	HOMEOPTIONS INC	646.49
(none)	PHILIPPINE PORTS AUTHORITY	7.55
(none)	JANETTE B TAN	190.27
(none)	HOMEOPTIONS INC	83.19
(none)	ROBINSONS SUPERMARKET CORPORATION	26.84
(none)	UNIREAL TRADING CORPORATION	30.27
(none)	JEMAR T CABUDOL	216.22
(none)	LBC EXPRESS INC	21.82

Exhibit Reference	Supplier	Input VAT
(none)	ROBINSONS SUPERMARKET CORPORATION	44.32
(none)	JEMAR T CABUDOL	216.22
(none)	FRANCISCO L BONSILAO JR	21.08
(none)	ROBINSONS SUPERMARKET CORPORATION	86.79
(none)	CHONA S JOSE	40.00
(none)	HOMEOPTIONS INC	182.50
(none)	HOMEOPTIONS INC	79.76
(none)	UNIREAL TRADING CORPORATION	30.27
(none)	SIMEON GO JR	108.11
(none)	CARLOS ARBIOL	109.73
(none)	NELLA P HO	116.76
(none)	LBC EXPRESS INC	18.00
(none)	TABACO SANTIAGO TRADING INC	220.54
(none)	DENART ENTERPRISES	77.84
(none)	LBC EXPRESS INC	16.91
(none)	DYNAMIC DEVELOPMENT CORPORATION	201.95
(none)	JE FROILAN CIFRIGO	4.86
(none)	CITIHARDWARE GENSAN INCORPORATED	970.91
(none)	CITIHARDWARE GENSAN INCORPORATED	97.31
(none)	JE FROILAN CIFRIGO	25.41
(none)	JE FROILAN CIFRIGO	3.68
(none)	JE FROILAN CIFRIGO	12.65
(none)	AIKEN VILLANUEVA	14.59
(none)	JE FROILAN CIFRIGO	2.70
(none)	TCL MERCHANDISE BROKERAGE INC	35.65
(none)	JE FROILAN CIFRIGO	13.73
(none)	JE FROILAN CIFRIGO	8.86
(none)	TCL MERCHANDISE BROKERAGE INC	572.43
(none)	TABACO SANTIAGO TRADING INC	2,562.16
(none)	THE SUPERCAT FAST FERRY CORPORATION	63.82
(none)	THE SUPERCAT FAST FERRY CORPORATION	105.27
(none)	PHILIPPINE PORTS AUTHORITY	2.73
(none)	THE SUPERCAT FAST FERRY CORPORATION	102.55
(none)	PHILIPPINE PORTS AUTHORITY	2.73
(none)	MAAYO SHIPPING INC	7.64
(none)	CUADRO ALAS NAVIGATION LINES INC	7.64
(none)	THE SUPERCAT FAST FERRY CORPORATION	102.55
(none)	PHILIPPINE PORTS AUTHORITY	2.73
(none)	CUADRO ALAS NAVIGATION LINES INC	7.64
(none)	LITE SHIPPING CORPORATION	59.45
(none)	CUADRO ALAS NAVIGATION LINES INC	7.64
(none)	CUADRO ALAS NAVIGATION LINES INC	7.64
(none)	SHEILA SANCHEZ	198.92
(none)	UYMATIAO TRADING CORPORATION	108.87
(none)	VCY SALES CORPORATION	837.68
(none)	JRS BUSINESS CORPORATION	233.78
(none)	JRS BUSINESS CORPORATION	253.64
(none)	JEMAR T CABUDOL	216.22
(none)	WORLD SAFETY ORGANIZATION	261.82
(none)	LITE SHIPPING CORPORATION	507.82
(none)	LITE SHIPPING CORPORATION	46.91
(none)	PHILIPPINE PORTS AUTHORITY	14.07
(none)	PHILIPPINE PORTS AUTHORITY	2.73
(none)	PHILHARBOR FERRIES PORT SERVICES INC	3.27
(none)	FREDERICK UY	230.15
(none)	PHILIPPINE SEVEN CORPORATION	21.38
(none)	NANCY RAMAS UYPITCHING	207.33
(none)	LITE SHIPPING CORPORATION	52.36
(none)	BALICUATRO WHARFAGE AND TERMINAL CORPORATION	14.07
(none)	BALICUATRO WHARFAGE AND TERMINAL CORPORATION	2.18
(none)	EON PETROLEUM CORPORATION	235.68

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Exhibit Reference	Supplier	Input VAT
(none)	CEBU PORT AUTHORITY	18.33
(none)	LITE SHIPPING CORPORATION	507.82
(none)	MAAYO SHIPPING INC	139.20
(none)	FREDERICK UY	32.43
(none)	LBC EXPRESS INC	18.00
(none)	SEADWELLER CORP	31.20
(none)	UPSON INTL CORP	1,249.09
(none)	LEGAZPI POWER UP CONST AND SUPPLY CORP	142.70
(none)	LUCKY KITCHEN FOOD INDUSTRIES CORP	136.91
(none)	HANDYMAN EXPRESS MART INC	62.49
(none)	PRISMATECH INC	341.62
(none)	ACE HARDWARE PHILIPPINES INC	224.86
(none)	UPSON INTL CORP	170.18
(none)	BELEN BENITEZ	517.84
(none)	CITIHARDWARE GENSAN INCORPORATED	174.55
(none)	JE FROILAN CIFRIGO	113.08
(none)	LION COMMERCIAL CORPORATION	86.32
(none)	CITIHARDWARE GENSAN INCORPORATED	512.13
(none)	WENZHUAN MARKETING CORPORATION	321.84
(none)	JEMAR T CABUDOL	324.32
(none)	OCEAN FAST FERRIES INC	70.91
(none)	PHILIPPINE PORTS AUTHORITY	2.73
(none)	EXPRESS INN CORPORATION	216.00
(none)	CEBU PACIFIC	733.25
(none)	ELIZABETH CODILLA	324.32
(none)	PHILIPPINE PORTS AUTHORITY	1.31
(none)	THE SUPERCAT FAST FERRY CORPORATION	73.64
(none)	ELIZABETH CODILLA	216.22
(none)	JEMAR T CABUDOL	216.22
(none)	ORMOC MACMERCURY HARDWARE AND ALLIED SERVICES	162.16
(none)	LITE SHIPPING CORPORATION	218.18
(none)	PHILIPPINE PORTS AUTHORITY	2.73
(none)	LION COMMERCIAL CORPORATION	240.58
(none)	TCL MERCHANDISE BROKERAGE INC	342.97
(none)	JE FROILAN CIFRIGO	214.05
(none)	ROBERTO B BERTILLO	265.95
(none)	TABACO SANTIAGO TRADING INC	832.43
(none)	LBC EXPRESS INC	21.82
(none)	DIOMEDES GILLESANIA	1.53
(none)	GENE TSE	7.78
(none)	CARLOS ARBIOL	21.62
(none)	CARLOS ARBIOL	77.84
(none)	SHOPKO MARKETING CORP	75.68
(none)	JERRY SIA UY	44.32
(none)	ORMOC MACMERCURY HARDWARE AND ALLIED SERVICES	24.55
(none)	CARLOS ARBIOL	527.03
(none)	CARLOS ARBIOL	171.89
(none)	JERRY SIA UY	6.49
(none)	ROBINSONS SUPERMARKET CORPORATION	126.00
(none)	ROBINSONS HANDYMAN INC	137.41
(none)	LBC EXPRESS INC	21.82
(none)	TOP ONE 888 INC	11.35
(none)	ROBINSONS SUPERMARKET CORPORATION	70.49
(none)	JEMAR T CABUDOL	270.27
(none)	JERRY SIA UY	27.03
(none)	ACE HARDWARE PHILIPPINES INC	204.51
(none)	ELIZABETH CODILLA	43.24
(none)	MARIAVI CRUZ	42.55
(none)	SAVERS HOME DEPOT	259.25
(none)	JEMAR T CABUDOL	216.22
(none)	JEMAR T CABUDOL	216.22

Exhibit Reference	Supplier	Input VAT
(none)	JANETTE B TAN	167.03
(none)	CHONA S JOSE	70.27
(none)	JEMAR T CABUDOL	216.22
(none)	LBC EXPRESS INC	21.82
(none)	CELLWORKS DIGITAL INC	10.81
(none)	ROBINSONS HANDYMAN INC	6.49
(none)	ROBINSONS SUPERMARKET CORPORATION	65.49
(none)	CITIHARDWARE BACOLOD INC	604.48
(none)	SAVERS HOME DEPOT	384.27
(none)	CITIHARDWARE BACOLOD INC	36.22
(none)	WENZHUAN MARKETING CORPORATION	171.89
(none)	ROBINSONS SUPERMARKET CORPORATION	73.30
(none)	ROBINSONS HANDYMAN INC	38.92
(none)	ELIZABETH CODILLA	216.22
(none)	CARLOS ARBIOL	10.81
(none)	JANICE CHIU	162.16
(none)	THE SUPERCAT FAST PERRY CORPORATION	102.55
(none)	IÑAKA LARRAZABAL	316.36
(none)	KEVIN LESTER UY	216.22
(none)	WENZHUAN MARKETING CORPORATION	40.54
(none)	KIM HERIC MARTINEZ	817.30
(none)	GILBERT ANG SY	467.03
(none)	DHL EXPRESS PH CORP	772.25
	Sub-total	**63,511.66**
	GRAND TOTAL	**₱ 190,768.60**

Upon further verification, the Court finds that input VAT of ₱163,286.40 related to petitioner's domestic purchases of goods and services must also be disallowed for failure to indicate the nature of the payment in the supporting ORs, which violates Section 113(B)(3) of the NIRC of 1997, as amended. While some invoice references were indicated in certain ORs, petitioner did not submit the related invoices as evidence, which could have been cross-referenced with the ORs and would have provided essential data to confirm the nature of the payments made. Below is the breakdown of the disallowed amount of ₱163,286.40:

Exhibit No.	Supplier	Input VAT
"P-23"	Jobstreet.com Philippines, Inc.	₱ 720.00
"P-58"	Ace Tubular Services Limited	5,791.73
"P-59"	Business Process Outsourcing International, Inc.	10,080.00
"P-95"	Desco, Inc.	428.57
"P-97"	Sunshine Carrier Corporation	130,917.86
"P-98"	Prodril Supply Company Inc.	12,612.24
"P-99"	Mac-Nels Line, Inc.	2,736.00
	TOTAL	**₱ 163,286.40**

Hence, for purposes of compliance with the *seventh* requisite, out of the total reported input VAT of ₱2,600,948.34, only the amount of **₱2,245,182.79** represents petitioner's valid input VAT due or paid for the second quarter of TY 2019, as computed below:

Input VAT Per Claim		₱ 2,600,948.34
Less: Disallowances		
Over-claimed Input VAT	1,710.55	
Per ICPA Findings	190,768.60	
Per Court's Further Verification	163,286.40	355,765.55
Substantiated Valid Input VAT		**₱ 2,245,182.79**

Eighth requisite*: *Petitioner's input taxes claimed are attributable to zero-rated sales

The *eighth* requisite is to the effect that 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.

Here, considering that petitioner had no other type of sales except zero-rated sales, the entire substantiated input VAT of **₱2,245,182.79** is attributable thereto. To be sure, the input taxes of taxpayers engaged purely in either zero-rated or effectively zero-rated transactions are presumably attributable to the zero-rated or effectively zero-rated activity as they are not engaged in any other category for VAT purposes.[85]

Petitioner has thus, complied with the said *eighth* requisite.

Ninth requisite*: *The subject valid input taxes have not been applied against output taxes during and in the succeeding quarters

Having determined that petitioner had valid input VAT attributable to its zero-rated sales, this Court shall now determine whether the same was applied against its output VAT liability during and in the succeeding quarters, relative to the *ninth* requisite.

Since petitioner had no sales subject to 12% VAT for the second quarter of TY 2019, it had no output VAT against which the claimed input VAT of ₱2,600,948.34 may have been applied or credited.

[85] *Commissioner of Internal Revenue vs. Toledo Power Company*, G.R. Nos. 255324 & 255353, April 12, 2023.

Further, although the claimed input VAT of ₱2,600,948.34, which necessarily includes the substantiated input VAT of **₱2,245,182.79**, was carried over by petitioner in the succeeding quarters,[86] the same remained unutilized until it was deducted as "VAT Refund/TCC claimed"[87] in its amended Quarterly Value-Added Tax Return (BIR Form No. 2550-Q) for the first quarter of TY 2021, filed on March 29, 2022. The subject claim thus, no longer formed part of the excess input VAT of ₱94,147,660.95[88] as of the end of the first quarter of TY 2021. Such being the case, the claimed input VAT could not have been carried over or utilized in the succeeding quarters.

Verily, petitioner complied with the *ninth* requisite for the grant of the input VAT claimed for refund or issuance of tax credit certificate.

In fine, petitioner has sufficiently proven its entitlement to the refund in the amount of **₱2,245,182.79**, representing unutilized input VAT attributable to its zero-rated sales for the second quarter of TY 2019.

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

In view thereof, respondent is **ORDERED TO REFUND** in favor of petitioner, the reduced amount of **₱2,245,182.79**, representing unutilized input VAT attributable to its zero-rated sales for the second quarter of taxable year 2019.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

86 Exhibits "P-4" to "P-5-16", Docket – Vol. I, pp. 279 to 326.
87 Line 23D, Exhibit "P-5-19", Docket – Vol. I, p. 331.
88 Line 29, Exhibit "P-5-19", Docket – Vol. I, p. 332.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

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

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice