REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

MACQUARIE OFFSHORE SERVICES PTY LTD – PHILIPPINE BRANCH,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE
Respondent.

CTA CASE NO. 9722
For: Refund

Members:
CASTAÑEDA, JR., *Chairperson,*
MINDARO-GRULLA, and
BACORRO-VILLENA, *JJ.*

Promulgated:
MAR 12 2020
9:30 a.m.

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DECISION

MINDARO-GRULLA, J.:

Submitted for decision on January 24, 20202 is the instant *Petition for Review* filed on November 24, 2017, which prays for the refund or issuance of a tax credit certificate (TCC) in the amount of ₱85,098,492.89, allegedly representing petitioner's unutilized input value-added tax (VAT) paid for the 1st to 4th quarters of fiscal year (FY) ended March 31, 2016, or the period from April 1, 2015 to March 31 2016.[1]

Petitioner is a foreign corporation registered and licensed with the Securities and Exchange Commission for the establishment of its regional operating headquarters in the Philippines, under Company Registration Number FS200805155.[2]

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[1] Summary of the Case, Pre-Trial Order dated June 22, 2018, Docket – Vol. II, p. 643; Par. 1.3, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. II, p. 623.
[2] Exhibit "P-1", *Compliance (Re: Sworn Statement of Ailyn B. Perocho)* – Folder I.

Respondent is the Commissioner of the Bureau of Internal Revenue (BIR), presently in the person of Honorable Cesar R. Dulay, who holds office at the 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.[3] He is vested with the power to decide tax cases, including claims for refunds and/or tax credits pursuant to Section 4 of the 1997 National Internal Revenue Code (NIRC), as amended.[4]

On June 29, 2017, petitioner filed with the BIR an *Application for Tax Credits / Refunds* (BIR Form No. 1914) with the corresponding *Checklist of Mandatory Requirements for Claims for VAT Credit/Refund*, and the letter dated June 29, 2017, applying for refund of its alleged excess and unutilized input VAT in the total amount of ₱85,098,492.89, for the 1st to 4th quarters of the FY 2016.[5]

On November 24, 2017, petitioner filed the instant *Petition for Review*.[6]

Within the extended periods of time granted by the Court,[7] respondent filed his *Answer* on March 5, 2018,[8] interposing the following special and affirmative defenses, to wit:

> **"SPECIAL AND AFFIRMATIVE DEFENSES**
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> 4. Respondent reiterates and re-pleads the preceding paragraphs of this Answer as part of his Special and Affirmative Defenses.
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> **PETITIONER'S CLAIM FOR VAT REFUND/TAX CREDIT HAS NO FACTUAL AND LEGAL BASIS.**
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> 5. Petitioner alleged that on 29 June 2017, it filed with respondent an application for refund/tax credits of

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[3] Par. 1.1, Stipulation of Facts, JSFI, Docket – Vol. II, p. 622.
[4] Par. 1.2, Stipulation of Facts, JSFI, Docket – Vol. II, p. 622.
[5] Exhibit "P-13", *Compliance (Re: Sworn Statement of Ailyn B. Perocho)* – Folder I.
[6] Docket – Vol. I, pp. 10 to 22.
[7] Respondent's *Motion for Additional Time to File Answer*, Docket – Vol. II, pp. 483 to 485; Order dated January 4, 2018, Docket – Vol. II, p. 487; Respondent's *Motion for Additional Time to File Answer*, Docket – Vol. II, pp. 489 to 491; Order dated January 30, 2018, Docket – Vol. II, p. 493; Respondent's *Urgent Motion for Additional Time to File Answer*, Docket – Vol. II, pp. 494 to 496; Order dated March 1, 2018, Docket – Vol. II, p. 498.
[8] Docket – Vol. II, pp. 499 to 505.

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allegedly excess and unutilized input VAT for the period of Fiscal Year 2016, and that complete set of supporting documents in accordance with Revenue Memorandum Circular No. 54-2014 were submitted therewith.

6. Petitioner's claim for VAT refund/tax credit allegedly representing unutilized input tax covering the FY 2016 should be denied.

7. As a matter of course, a claim for refund is subject to investigation as it involves removal of accrued revenue from the coffers of the Government. It has been held by the Supreme Court that a claim for refund is not ipso facto granted because the **Commissioner of Internal Revenue still has to investigate and ascertain the veracity of the claim**:

8. To claim refund or tax credit under Section 112(A), petitioner must comply with the following criteria:

(1) the taxpayer is VAT registered;
(2) the taxpayer is engaged in zero-rated or effectively zero-rated sales;
(3) the input taxes are due or paid;
(4) the input taxes are not transitional input taxes;
(5) the input taxes have not been applied against output taxes during and in the succeeding quarters;
(6) the input taxes claimed are attributable to zero-rated or effectively zero-rated sales;
(7) for zero-rated sales under Section 106(A)(2)(1) and (2); 106(B); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been dully accounted for in accordance with BSP rules and regulations;
(8) 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; and
(9) the claim is filed within two years after the close of the taxable quarter when such sales were made.
(SAN ROQUE POWER CORPORATION VS. COMMISSIONER OF INTERNAL REVENUE, G.R. No. 180345, November 25, 2009.)

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9. Note that in order to prove compliance with the above requisites, it is essential for petitioner to substantiate its VAT claim for refund/tax credit in accordance with laws and regulations.

10. Clearly, petitioner's allegation that it is entitled to VAT refund/tax credit for FY 2016 was not proved by sufficient evidence.

11. 'The basic rule is that he who alleges must prove his case.' *(FRANCISCO LIM vs. EQUITABLE PCI BANK, G.R. No. 183918, January 15, 2014.)* Thus, petitioner has the burden of proving its allegations.

12. '[W]e reiterate our consistent ruling that actions for tax refund, as in the instant case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the **pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven**.' *(ATLAS CONSOLIDATED MINING AND DEVELOPMENT CORPORATION, G.R. No. 159490, February 18, 2008.)* (Emphasis supplied)

13. Respondent posits that petitioner has the heavy burden of proving its claims for refund/tax credit. Failure to overcome its heavy burden means disallowance of its claim.

ADMINISTRATIVE CLAIM FOR REFUND IS EXCLUSIVELY COGNIZABLE BY THE COMMISSIONER OF INTERNAL REVENUE THAT IS SUBJECT TO THE EXCLUSIVE APPELLATE JURISDICTION OF THE HONORABLE COURT OF TAX APPEALS.

14. The power of the CIR to decide claims for refund of all internal revenue taxes is enshrined in Section 4 of the NIRC of 1997, viz:

> **SEC. 4. Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.**
> – x x x x

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> The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.

15. Clearly, the judicial claim for refund/tax credit is not an original action but an appeal from unsuccessful administrative remedy.

16. In *ATLAS CONSOLIDATED MINING AND DEVELOPMENT CORPORATION vs. COMMISSIONER OF INTERNAL REVENUE, G.R. No. 145526, March 16, 2007*, the nature of a judicial claim before the Honorable CTA is explained as follows:

> `x x x First, a judicial claim for refund or tax credit in the CTA is by no means an original action but rather an *appeal* by way of petition for review of a previous, unsuccessful administrative claim. Therefore, as in every appeal or petition for review, a petitioner has to convince the appellate court that the quasi-judicial agency *a quo* did not have any reason to deny its claims. In this case, it was necessary for petitioner to show the CTA not only that it was entitled under substantive law to the grant of its claims but also that it satisfied all the documentary and evidentiary requirements for an administrative claim for refund or tax credit. Second, cases filed in the CTA are litigated *de novo*. Thus, a petitioner should prove every minute aspect of its case by presenting, formally offering and submitting its evidence to the CTA. Since it is crucial for a petitioner in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first place, part of the evidence to be submitted to the CTA must necessarily include whatever is required for the successful prosecution of an administrative claim.'

17. `A distinction must thus be made between administrative cases appealed due to inaction and those dismissed at the administrative level due to the failure of the

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taxpayer to submit supporting documents. If an administrative claim was dismissed by the CIR due to the taxpayer's failure to submit complete documents despite notice/request, then the judicial claim before the CTA would be dismissible, not for lack of jurisdiction, but for the taxpayer's failure to substantiate the claim at the administrative level. When a judicial claim for refund or tax credit in the CTA is an appeal of an unsuccessful administrative claim, the taxpayer has to convince the CTA that the CIR had no reason to deny its claim. It, thus, becomes imperative for the taxpayer to show the CTA that not only is he entitled under substantive law to his claim for refund or tax credit, but also that he satisfied all the documentary and evidentiary requirements for an administrative claim. It is, thus, crucial for a taxpayer in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first place. Consequently, a taxpayer cannot cure its failure to submit a document requested by the BIR at the administrative level by filing the said document before the CTA.' *(PILIPINAS TOTAL GAS, INC. VS. COMMISSIONER OF INTERNAL REVENUE, G.R. No. 207112, December 8, 2015.)*

18. Thus, only those pieces of evidence presented by petitioner in the administrative claim for refund are the ones that should be presented in the judicial appeal to the Honorable Court.

CLAIMS FOR REFUND ARE CONSTRUED STRICTLY AGAINST THE TAXPAYER AND IN FAVOR OF THE GOVERNMENT.

19. It is said that taxes are essential to government's very existence hence, the dictum that 'taxes are the lifeblood of the government.' And because taxes are the lifeblood of the nation, the court has always applied the doctrine of strict interpretation in construing tax exemptions. A claim for exemption from tax payments must be clearly shown and be based on language in the law too plain to be mistaken. Else wise stated, taxation is the rule, exemption therefrom is the exception.

20. For this reason, the right of taxation cannot be easily surrendered, statutes granting tax exemptions are considered as a derogation of the sovereign authority. Since

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tax refunds are regarded as tax exemptions, therefore, these are to be construed *strictissimi juris* against the person or entity claiming the exemption.

21. To reiterate, claims for refund are construed strictly against the claimant for the same partake of the nature of exemption from taxation and as such, they are looked upon with disfavor. This is so because exemptions from taxation are highly disfavored in law and he who claims exemption must be able to justify his claim by the clearest grant of organic or statutory law. An exemption from the common burden cannot be permitted to exist upon vague implications. The law does not look with favor on tax exemptions and that he who would seek to be thus privileged must justify it by words too plain to be mistaken and too categorical to be misinterpreted.'

The pre-trial conference was initially set to April 26, 2016,[9] but the same was cancelled; and reset to, and held on, May 24, 2018.[10]

Respondent transmitted the *BIR Records* for the instant case on May 17, 2018[11] and on August 7, 2018.[12]

Respondent's Pre-Trial Brief was filed on May 16, 2018;[13] while petitioner submitted its *Pre-Trial* Brief on May 18, 2018.[14]

Subsequently, the parties submitted their *Joint Stipulation of Facts and Issues* (JSFI) on June 13, 2018.[15] On June 22, 2018, the Pre-Trial Order was issued,[16] approving and adopting the said JSFI, and deeming the termination of the pre-trial.

Trial ensued.

[9] Notice of Pre-Trial Conference dated March 8, 2018, Docket – Vol. II, pp. 507 to 508.
[10] Order dated April 10, 2018, Docket – Vol. II, p. 514; Minutes of the hearing held on, and Order dated, May 24, 2018, Docket – Vol. II, pp. 597, and 599 to 600, respectively.
[11] Respondent's *Compliance*, Docket – Vol. II, pp. 520 to 522.
[12] Respondent's *Compliance*, Docket – Vol. II, pp. 675 to 677.
[13] Docket – Vol. II, pp. 515 to 518.
[14] Docket – Vol. II, pp. 524 to 560.
[15] Docket – Vol. II, pp. 622 to 640.
[16] Docket – Vol. II, pp. 643 to 668.

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During trial, petitioner presented documentary and testimonial evidence. As for its testimonial evidence, petitioner offered the testimonies of the following individuals, namely: (1) Ms. Ailyn B. Perocho,[17] petitioner's Head of Finance; and (2) Mr. Edward L. Roguel,[18] the Court-commissioned Independent Certified Public Accountant (ICPA).[19]

The ICPA Report was submitted to this Court on August 1, 2018.[20]

On September 24, 2018, petitioner filed its *Formal Offer of Evidence*,[21] and its *Supplemental Formal Offer of Evidence*[22] on October 25, 2019.

Petitioner's documentary exhibits are as follows:

Exhibit:	**Description:**
P-1 to P-1-c	Certified true copy of petitioner's Certificate of Registration and License with Company Registration No. FS200805155 issued by the SEC on 10 April 2008
P-2	Petitioner's BIR Certificate of Registration numbered OCN9RC0000330527 issued by Revenue District No. 047 on 02 June 2008
P-2-a	Petitioner's BIR Certificate of Registration numbered OCN8RC0000877962E issued by BIR RDO 126 on 22 February 2017
P-3	Petitioner's BIR Registration Payment Form for fiscal year 2016 (BIR Form 0605 – Annual VAT Registration) filed via eFPS on 07 January 2015
P-4	Petitioner's BIR Registration Payment Form for fiscal year 2017 (BIR Form 0605 - Annual VAT Registration) filed via eFPS on 19 January 2016
P-5	Petitioner's BIR Registration Payment Form for fiscal year 2018 (BIR Form 0605 - Annual VAT Registration) filed via eFPS on 20 January 2017

[17] Exhibit "P-181", Docket – Vol. II, pp. 566 to 594; Minutes of the hearing held on, and Order dated, July 2, 2018, Docket – Vol. II, pp. 669 and 671, respectively.
[18] Exhibit "P-183", Docket – Vol. II, pp. 684 to 691; Minutes of the hearing held on, and Order dated, September 5, 2018, Docket – Vol. II, pp. 692 to 693.
[19] *Oath of Commission* dated July 2, 2018, Docket – Vol. II, p. 670; *Qualifying Sworn Statement of Edward L. Roguel for Commissioning as Independent CPA,* Docket – Vol. II, pp. 611 to 615; Minutes of the hearing held on, and Order dated, July 2, 2018, Docket – Vol. II, pp. 669, and 671, respectively.
[20] Docket – Vol. II, p. 674.
[21] Docket – Vol. II, pp. 701 to 728.
[22] Docket – Vol. III, pp. 1423 to 1437.

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P-6	Annual Income Tax Return (BIR Form No. 1702) for Fiscal Year 2016 filed via eFPS on 30 June 2016
P-7	Audited Financial Statement for Fiscal Year 2016, received by BIR Revenue Regional 8, RDO 47 on 30 June 2016
P-8	Quarterly VAT Return for the 1st Quarter FY 2016 (1 April to 30 June 2015) filed via eFPS on 24 July 2015
P-9	Quarterly VAT Return for the 2nd Quarter FY 2016 (1 July to 30 September 2015) filed via eFPS on 23 October 2015
P-10	Quarterly VAT Return for the 3rd Quarter FY 2016 (1 October to 31 December 2015) filed via eFPS on 22 January 2016
P-11	Quarterly VAT Return for the 4th Quarter FY 2016 (1 January to 31 March 2016) filed via eFPS on 22 April 2016
P-11-a	Amended Quarterly VAT Return for the 4th Quarter FY 2016 (1 January to 31 March 2016) filed via eFPS on 18 May 2016
P-12	Monthly VAT Declaration for April 2017, filed via eFPS on 19 May 2017
P-13	Administrative Application for Issuance of Tax Credit Certificate/Refund of input VAT dated 29 June 2017 and filed with BIR-RDO 126 on 20 June 2017
P-13-a	Stamp of BIR RDO 126 including receipt of the application on 28 June 2017
P-13-b	Names and signatures of Atty. Francisco J. Rivera and Atty. Janellee A. Dumanat of Nisce Mamuric Guinto Rivera and Alcantara Law Office on page 14 of the application for refund
P-14	Original copy of the Certification issued by the Department of Finance that, as of 22 February 2017, petitioner has no similar and/or outstanding application for tax credit and duty drawback under the NIRC, the Omnibus Investments Code and the Tariff and Customs Code of the Philippines for the period 1 April 2015 to 31 March 2016
P-15	Summary of Domestic Purchases – 1st Quarter of FY 2016 – Month of April
P-15-a	Name and Signature of Ailyn Perocho
P-16	Summary of Domestic Purchases – 1st Quarter of FY 2016 – Month of May
P-16-a	Name and Signature of Ailyn Perocho
P-17	Summary of Domestic Purchases – 1st Quarter of FY 2016 – Month of June
P-17-a	Name and Signature of Ailyn Perocho
P-18	Summary of Domestic Purchases – 2nd Quarter of FY 2016 – Month of July

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P-18-a	Name and Signature of Ailyn Perocho
P-19	Summary of Domestic Purchases – 2nd Quarter of FY 2016 – Month of August
P-19-a	Name and Signature of Ailyn Perocho
P-20	Summary of Domestic Purchases – 2nd Quarter of FY 2016 – Month of September
P-20-a	Name and Signature of Ailyn Perocho
P-21	Summary of Domestic Purchases – 3rd Quarter of FY 2016 – Month of October
P-21-a	Name and Signature of Ailyn Perocho
P-22	Summary of Domestic Purchases – 3rd Quarter of FY 2016 – Month of November
P-22-a	Name and Signature of Ailyn Perocho
P-23	Summary of Domestic Purchases – 3rd Quarter of FY 2016 – Month of December
P-23-a	Name and Signature of Ailyn Perocho
P-24	Summary of Domestic Purchases – 4th Quarter of FY 2016 – Month of January
P-24-a	Name and Signature of Ailyn Perocho
P-25	Summary of Domestic Purchases – 4th Quarter of FY 2016 – Month of February
P-25-a	Name and Signature of Ailyn Perocho
P-26	Summary of Domestic Purchases – 4th Quarter of FY 2016 – Month of March
P-26-a	Name and Signature of Ailyn Perocho
P-27	Sworn Certification dated 17 May 2017 by MOSL's representative, Ailyn Perocho, certifying: (i) the amount of zero-rated sales, and exempt sales for FY 2016; and (ii) that MOSL did not file any and/or will not file any similar claim with the Bureau of Internal Revenue, Bureau of Customs, and/or the Board of Investments for the period 1 April 2015 to 31 March 2016
P-27-a	Name and Signature of Ailyn Perocho
P-28	Schedule of zero-rated sales – 1st Quarter of Fiscal Year March 2016
P-28-a	Name and Signature of Ailyn Perocho
P-29 and sub-markings	Official receipts issued by petitioner to Macquarie Financial Holdings Limited upon its payment for services rendered in the first quarter of FY 2016
P-30	Service Invoices issued by petitioner to Macquarie Financial Holdings Limited for services rendered in the first quarter of FY 2016 Service Invoice No. 001147 dated 29 December 2014
P-30-1	Service Invoice No. 001148 dated 29 December 2014
P-30-2	Service Invoice No. 001150 dated 29 December 2014

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P-30-3	Service Invoice No. 001151 dated 30 January 2015
P-30-4	Service Invoice No. 001152 dated 30 January 2015
P-30-5	Service Invoice No. 001153 dated 30 January 2015
P-30-6	Service Invoice No. 001154 dated 30 January 2015
P-30-7	Service Invoice No. 001156 dated 27 February 2015
P-30-8	Service Invoice No. 001157 dated 27 February 2015
P-30-9	Service Invoice No. 001159 dated 27 February 2015
P-30-10	Service Invoice No. 001162 dated 31 March 2015
P-30-11	Service Invoice No. 001163 dated 31 March 2015
P-30-12	Service Invoice No. 001164 dated 31 March 2015
P-30-13	Service Invoice No. 001165 dated 31 March 2015
P-30-14	Service Invoice No. 001166 dated 31 March 2015
P-30-15	Service Invoice No. 001167 dated 31 March 2015
P-30-16	Service Invoice No. 001168 dated 31 March 2015
P-31	Schedule of zero-rated sales – 2nd Quarter of Fiscal Year March 2016
P-31-a	Name and signature of Ailyn Perocho
P-32	Official Receipt No. 001031 dated 17 August 2015, issued to Macquarie Financial Holdings Limited
P-33	Service Invoices issued by petitioner to Macquarie Financial Holdings Limited for services rendered in the second quarter of FY 2016 Service Invoice No. 001158 dated 27 February 2015
P-33-1	Service Invoice No. 001169 dated 30 April 2015
P-33-2	Service Invoice No. 001170 dated 30 April 2015
P-33-3	Service Invoice No. 001171 dated 30 April 2015
P-33-4	Service Invoice No. 001174 dated 29 May 2015
P-33-5	Service Invoice No. 001175 dated 29 May 2015
P-33-6	Service Invoice No. 001176 dated 29 May 2015
P-33-7	Service Invoice No. 001182 dated 30 June 2015
P-33-8	Service Invoice No. 001183 dated 30 June 2015
P-33-9	Service Invoice No. 001184 dated 30 June 2015
P-33-10	Credit Note No. 000004 dated 30 June 2015
P-33-11	Credit Note No. 000005 dated 30 June 2015
P-34	Schedule of zero-rated sales – 3rd Quarter of Fiscal Year March 2016
P-34-a	Name and signature of Ailyn Perocho
P-35 and sub-markings	Official receipts issued by petitioner to various clients upon their payment for services rendered in the third quarter of FY 2016
P-36 **P-36**	Service Invoices issued by petitioner to various clients for services rendered in the third quarter of FY 2016 Service Invoice No. 001187 dated 31 July 2015

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P-36-1	Service Invoice No. 001188 dated 31 July 2015
P-36-2	Service Invoice No. 001189 dated 31 July 2015
P-36-3	Service Invoice No. 001192 dated 31 July 2015
P-36-4	Service Invoice No. 001193 dated 31 July 2015
P-36-5	Service Invoice No. 001194 dated 31 July 2015
P-36-6	Service Invoice No. 001195 dated 31 July 2015
P-36-7	Service Invoice No. 001196 dated 31 July 2015
P-36-8	Service Invoice No. 001197 dated 31 July 2015
P-36-9	Service Invoice No. 001198 dated 31 July 2015
P-36-10	Service Invoice No. 001199 dated 31 July 2015
P-36-11	Service Invoice No. 001200 dated 31 July 2015
P-36-12	Service Invoice No. 001201 dated 31 July 2015
P-36-13	Service Invoice No. 001202 dated 31 July 2015
P-36-14	Service Invoice No. 001203 dated 31 July 2015
P-36-15	Service Invoice No. 001204 dated 31 July 2015
P-36-16	Service Invoice No. 001205 dated 31 July 2015
P-36-17	Service Invoice No. 001206 dated 31 July 2015
P-36-18	Service Invoice No. 001207 dated 31 July 2015
P-36-19	Service Invoice No. 001208 dated 31 July 2015
P-36-20	Service Invoice No. 001209 dated 31 July 2015
P-36-21	Service Invoice No. 001210 dated 31 July 2015
P-36-22	Service Invoice No. 001211 dated 31 July 2015
P-36-23	Service Invoice No. 001212 dated 31 July 2015
P-36-24	Service Invoice No. 001213 dated 31 July 2015
P-36-25	Service Invoice No. 001214 dated 31 July 2015
P-36-26	Service Invoice No. 001215 dated 31 July 2015
P-36-27	Service Invoice No. 001216 dated 31 July 2015
P-36-28	Service Invoice No. 001217 dated 31 July 2015
P-36-29	Service Invoice No. 001218 dated 31 July 2015
P-36-30	Service Invoice No. 001219 dated 31 July 2015
P-36-31	Service Invoice No. 001220 dated 31 July 2015
P-36-32	Service Invoice No. 001221 dated 31 July 2015
P-36-33	Service Invoice No. 001222 dated 31 July 2015
P-36-34	Service Invoice No. 001223 dated 31 July 2015
P-36-35	Service Invoice No. 001224 dated 31 July 2015
P-36-36	Service Invoice No. 001225 dated 31 July 2015
P-36-37	Service Invoice No. 001226 dated 31 July 2015
P-36-38	Service Invoice No. 001227 dated 31 July 2015
P-36-39	Service Invoice No. 001228 dated 31 July 2015
P-36-40	Service Invoice No. 001229 dated 31 August 2015
P-36-41	Service Invoice No. 001230 dated 31 August 2015
P-36-42	Service Invoice No. 001231 dated 31 August 2015
P-36-43	Service Invoice No. 001234 dated 31 August 2015
P-36-44	Service Invoice No. 001235 dated 31 August 2015
P-36-45	Service Invoice No. 001237 dated 31 August 2015
P-36-46	Service Invoice No. 001238 dated 31 August 2015
P-36-47	Service Invoice No. 001239 dated 31 August 2015
P-36-48	Service Invoice No. 001240 dated 31 August 2015
P-36-49	Service Invoice No. 001241 dated 31 August 2015

P-36-50	Service Invoice No. 001243 dated 31 August 2015
P-36-51	Service Invoice No. 001244 dated 31 August 2015
P-36-52	Service Invoice No. 001245 dated 31 August 2015
P-36-53	Service Invoice No. 001246 dated 31 August 2015
P-36-54	Service Invoice No. 001247 dated 31 August 2015
P-36-55	Service Invoice No. 001248 dated 31 August 2015
P-36-56	Service Invoice No. 001249 dated 31 August 2015
P-36-57	Service Invoice No. 001250 dated 31 August 2015
P-36-58	Service Invoice No. 001251 dated 31 August 2015
P-36-59	Service Invoice No. 001252 dated 31 August 2015
P-36-60	Service Invoice No. 001253 dated 31 August 2015
P-36-61	Service Invoice No. 001254 dated 31 August 2015
P-36-62	Service Invoice No. 001255 dated 31 August 2015
P-36-63	Service Invoice No. 001256 dated 31 August 2015
P-36-64	Service Invoice No. 001257 dated 31 August 2015
P-36-65	Service Invoice No. 001258 dated 31 August 2015
P-36-66	Service Invoice No. 001259 dated 31 August 2015
P-36-67	Service Invoice No. 001260 dated 31 August 2015
P-36-68	Service Invoice No. 001261 dated 31 August 2015
P-36-69	Service Invoice No. 001263 dated 31 August 2015
P-36-70	Service Invoice No. 001262 dated 31 August 2015
P-36-71	Service Invoice No. 001264 dated 31 August 2015
P-36-72	Service Invoice No. 001265 dated 31 August 2015
P-36-73	Service Invoice No. 001266 dated 31 August 2015
P-36-74	Service Invoice No. 001267 dated 31 August 2015
P-36-75	Service Invoice No. 001268 dated 31 August 2015
P-36-76	Service Invoice No. 001269 dated 31 August 2015
P-36-77	Service Invoice No. 001270 dated 31 August 2015
P-36-78	Service Invoice No. 001271 dated 31 August 2015
P-36-79	Service Invoice No. 001272 dated 31 August 2015
P-36-80	Service Invoice No. 001273 dated 31 August 2015
P-36-81	Service Invoice No. 001274 dated 31 August 2015
P-37	Schedule of zero-rated sales – 4th Quarter of Fiscal Year March 2016
P-37-a	Name and signature of Ailyn Perocho
P-38 and sub-markings	Official receipts issued by petitioner to various clients upon their payment for services rendered in the fourth quarter of FY 2016
P-39	Service Invoices issued by petitioner to various clients for services rendered in the fourth quarter of FY 2016 Service Invoice No. 001275 dated 30 September 2015
P-39-1	Service Invoice No. 001276 dated 30 September 2015
P-39-2	Service Invoice No. 001277 dated 30 September 2015
P-39-3	Service Invoice No. 001278 dated 30 September 2015

P-39-4	Service Invoice No. 001279 dated 30 September 2015
P-39-5	Service Invoice No. 001281 dated 30 September 2015
P-39-6	Service Invoice No. 001282 dated 30 September 2015
P-39-7	Service Invoice No. 001283 dated 30 September 2015
P-39-8	Service Invoice No. 001284 dated 30 September 2015
P-39-9	Service Invoice No. 001285 dated 30 September 2015
P-39-10	Service Invoice No. 001287 dated 30 September 2015
P-39-11	Service Invoice No. 001288 dated 30 September 2015
P-39-12	Service Invoice No. 001289 dated 30 September 2015
P-39-13	Service Invoice No. 001290 dated 30 September 2015
P-39-14	Service Invoice No. 001291 dated 30 September 2015
P-39-15	Service Invoice No. 001292 dated 30 September 2015
P-39-16	Service Invoice No. 001293 dated 30 September 2015
P-39-17	Service Invoice No. 001294 dated 30 September 2015
P-39-18	Service Invoice No. 001295 dated 30 September 2015
P-39-19	Service Invoice No. 001296 dated 30 September 2015
P-39-20	Service Invoice No. 001297 dated 30 September 2015
P-39-21	Service Invoice No. 001298 dated 30 September 2015
P-39-22	Service Invoice No. 001299 dated 30 September 2015
P-39-23	Service Invoice No. 001300 dated 30 September 2015
P-39-24	Service Invoice No. 001301 dated 30 September 2015
P-39-25	Service Invoice No. 001302 dated 30 September 2015
P-39-26	Service Invoice No. 001303 dated 30 September 2015
P-39-27	Service Invoice No. 001304 dated 30 September 2015
P-39-28	Service Invoice No. 001305 dated 30 September 2015

P-39-29	Service Invoice No. 001306 dated 30 September 2015
P-39-30	Service Invoice No. 001307 dated 30 September 2015
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P-48	Certification of Inward Remittance dated 14 January 2016, issued by The Hong Kong and Shanghai Banking Corporation Limited (HSBC) and showing a remittance into petitioner's account on 01 December 2015 from Macquarie Financial Holdings Pty
P-49	Certification of Inward Remittance dated 16 February 2016, issued by The Hong Kong and Shanghai Banking Corporation Limited (HSBC) and showing a remittance into petitioner's account on 02 February 2016 from Macquarie Financial Holdings Pty
P-50	Certification of Inward Remittance dated 21 March 2016, issued by The Hong Kong and Shanghai Banking Corporation Limited (HSBC) and showing a remittance into petitioner's account on 14 March 2016 from Macquarie Financial Holdings Pty
P-51	Certification of Inward Remittance dated 08 February 2017, issued by The Hong Kong and Shanghai Banking Corporation Limited (HSBC) and showing the following remittances into petitioner's account – 1. Remittance on 27 April 2015 from Macquarie Financial Holdings; and 2. Remittance on 06 January 2017 from Macquarie Group Limited – Of Central
P-52	Philippine Consular Certificate of Authentication with attached – 1. Memorandum and Articles of Association of Macquarie Emerging Markets Asian Trading Pte Limited; and 2. Certificate confirming incorporation of company under the new name of Macquarie Emerging Markets Asian Trading Pte. Limited
P-53	Philippine Consular Certificate of Authentication with attached Certificate of Residence for the purpose of claiming benefit under the Singapore/Philippines DTA for recoveries service income
P-54	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie Emerging Markets Asian Trading Pte. Limited effective 01 April 2015
P-55	Philippine Consular Certificate of Authentication with attached – 1. Certificate of Registration of Non-Hong Kong Company issued to Macquarie Bank Limited on 14 September 2011 2. Certificate of Registration of Change of

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P-56	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie Bank Limited (Hong Kong Branch) effective 01 April 2015
P-57	Philippine Consular Certificate of Authentication with attached – 1. Certificate of Registration of an Oversea Company issued to Macquarie Bank Limited on 21 October 1994 2. Constitution of Macquarie Bank Limited
P-58	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie Bank Limited (London Branch), effective 01 April 2015
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P-61	Philippine Consular Certificate of Authentication with attached – 1. Certificate of Residency issued to Macquarie Bank Limited 2. Certificate of Incorporation of Public Company issued to Plena Limited on 26 April 1983 3. Certificate of Incorporation on Change of Name of Company issued to Bond St. Associate Limited 4. Certificate of Incorporation on Change of Name of Company issued to Macquarie Associates Limited 5. Certificate of Incorporation on Change of Name of Company issued to Macquarie Bank Limited 6. Constitution of Macquarie Bank Limited
P-62	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie Bank Limited, effective on 01 April 2015

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P-63	Philippine Consular Certificate of Authentication with attached Management Committee Charter of Macquarie Bank Limited Singapore Branch
P-64	Philippine Consular Certificate of Authentication with attached Certificate confirming registration of foreign company in the name of Macquarie Bank Limited Singapore Branch
P-65	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie Bank Limited Singapore Branch, effective 01 April 2015
P-66	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie Equities New Zealand Limited, effective 01 April 2015
P-67	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie Capital Securities Limited, effective 01 April 2015
P-68	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie Emerging Markets Asian Trading Pte Limited (Hong Kong Branch), effective 01 April 2015
P-69	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie Securities (Thailand) Limited, effective 01 April 2015
P-70	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie Services (Hong Kong) Limited, effective 01 April 2015
P-71	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie Investment Management, Ltd. effective 01 April 2015
P-72	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie International Services Limited, effective 01 April 2015
P-73	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie Bank Limited (US Representative Office), effective 01 April 2015
P-74	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie Securities (NZ) Limited, effective 01 April 2015
P-75	Philippine Consular Certificate of Authentication with attached –

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	1. Certificate of Registration of a Company issued on 21 February 2007 in the name of Macquarie Financial Group Holdings No. 2 Ltd CAN 124 071 398 2. Certificate of Registration on Change of Name issued on 31 October 2007 in the name of Macquarie Financial Holdings Limited under Australian Company Number 174 071 398 3. Certificate of Registration on Conversion to a Proprietary Company issued on 15 June 2015 in the name of Macquarie Financial Holdings Pty Limited CAN 124 071 398 4. Constitution of Macquarie Financial Holdings Pty Limited
P-76	Philippine Consular Certificate of Authentication with attached Constitution of Macquarie Financial Holdings Limited CAN 124 071 398
P-77	Philippine Consular Certificate of Authentication with attached Certificate of Registration on Conversion to a Proprietary Company issued on 15 June 2015 in the name of Macquarie Financial Holdings Pty Limited CAN 124 071 398
P-78	Philippine Consular Certificate of Authentication with attached Services Agreement executed by and between petitioner and Macquarie Financial Holdings Limited (MFHL) dated 1 April 2009
P-79	Philippine Consular Certificate of Authentication with attached – 1. Memorandum and Articles of Association of Macquarie Capital Securities (Singapore) Pte Limited; 2. Certificate Confirming incorporation of company under the new name of Macquarie Capital Securities (Singapore) Pte Limited
P-80	Philippine Consular Certificate of Authentication with attached Certificate of Residence for the Purpose of Claiming Benefit under the Singapore/Philippine DTA for Recoveries Service Income, issued to Macquarie Capital Securities (Singapore) Pte Limited
P-81	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie Capital Securities (Singapore) Pte Limited, effective 01 April 2015
P-82	Philippine Consular Certificate of Authentication with attached – 1. Memorandum and Articles of Association of Macquarie Group Services (Singapore) Pte Limited; 2. Certificate confirming incorporation of

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	company under the new name of Macquarie Group Services (Singapore) Pte Limited
P-83	Philippine Consular Certificate of Authentication with attached Certificate of Residence for the Purpose of Claiming Benefit under the Singapore/Philippine DTA for Recoveries Service Income, issued to Macquarie Group Services (Singapore) Pte. Limited
P-84	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie Group Services (Singapore) Pte Limited, effective 01 April 2015
P-85	Philippine Consular Certificate of Authentication with attached Certificate of Residence for the Year of Assessment 2017 issued to Macquarie Capital Securities (Malaysia) Sdn Bhd
P-86	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie Capital Securities (Malaysia) Sdn Bhd, effective 01 April 2015
P-87	Philippine Consular Certificate of Authentication with attached Approval for Deed of Amendment to Articles of Association of Company issued to Pt. Macquarie Capital Securities Indonesia
P-88	Philippine Consular Certificate of Association with attached Certificate of Limited Liability Company issued to Pt. Macquarie Capital Securities Indonesia
P-89	Philippine Consular Certificate of Authentication with attached Certificate of Limited Liability Company issued to Pt. Macquarie Capital Securities Indonesia
P-90	Philippine Consular Certificate of Authentication with attached Certificate of Company Domicile issued to Pt. Macquarie Sekuritas Indonesia
P-91	Philippine Consular Certificate of Authentication with attached Certificate of Approval for Amendment to Articles of Association of Limited Liability Company issued to Pt. Macquarie Capital Sekuritas Indonesia
P-92	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Pt. Macquarie Capital Securities Indonesia, effective 01 April 2015
P-93	Philippine Consular Certificate of Authentication with attached Certificate of Tax Payment issued to Macquarie Capital Securities (Japan) Limited (Tokyo Branch)
P-94	Philippine Consular Certificate of Authentication with attached Historical Certificate of All Registered

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	Matters of Macquarie Capital Securities (Japan) Limited (Tokyo Branch) with an English translation
P-95	Philippine Consular Certificate of Authentication with attached Memorandum and Articles of Association of Macquarie Capital Securities (Japan) Limited (Tokyo Branch)
P-96	Philippine Consular Certificate of Authentication with attached Minor Services Agreement between petitioner and Macquarie Capital Securities (Japan) Limited (Tokyo Branch), effective 01 April 2015
P-137	SEC Certificate of Non-Registration of Company dated 27 July 2017 and issued to Delaware Management Holdings Inc.
P-138	SEC Certificate of Non-Registration of Company dated 27 July 2017 and issued to Macquarie Africa (Proprietary) Limited
P-139	SEC Certificate of Non-Registration of Company dated 27 July 2017 and issued to Macquarie America Holdings, Inc.
P-140	SEC Certificate of Non-Registration of Company dated 27 July 2017 and issued to Macquarie America Services, Inc.
P-141	SEC Certificate of Non-Registration of Company dated 27 July 2017 and issued to Macquarie Bank Limited
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P-144	SEC Certificate of Non-Registration of Company dated 27 July 2017 and issued to Macquarie Bank Limited Singapore Branch
P-145	SEC Certificate of Non-Registration of Company dated 27 July 2017 and issued to Macquarie Bank Limited (US Representative)
P-146	SEC Certificate of Non-Registration of Company dated 27 July 2017 and issued to Macquarie Capital (Europe) Limited
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P-148	SEC Certificate of Non-Registration of Company dated 27 July 2017 and issued to Macquarie Capital Group Limited
P-149	SEC Certificate of Non-Registration of Company dated 27 July 2017 and issued to Macquarie Capital Markets Canada Ltd.
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	dated 20 September 2017 and issued to Macquarie Capital Securities Limited
P-151	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie Capital Securities Indonesia
P-152	SEC Certificate of Non-Registration of Company dated 27 July 2017 and issued to Macquarie Capital Securities (Japan) Ltd.
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P-155	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie Credit Investment Management
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P-157	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie Energy LLC
P-158	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie Energy North America Trading Inc.
P-159	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie Equipment Finance Inc.
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P-162	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie Financial Ltd.
P-163	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie Financial Holdings Limited
P-164	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie Futures USA LLC
P-165	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie Group Services Australia Pty Ltd.
P-166	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie

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	Group Services Australia Pty. Ltd. (UK Branch)
P-167	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie Group Services (Singapore) Pte.
P-168	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie Holdings (U.S.A.) Inc.
P-169	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie International Services Limited
P-170	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie Investment Management Ltd.
P-171	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie North America Ltd.
P-172	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie Securities (NZ) Limited
P-173	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie Securities South Africa Limited
P-174	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie Securities (Thailand) Limited
P-175	SEC Certificate of Non-Registration of Company dated 20 September 2017 and issued to Macquarie Services (Hong Kong) Limited
P-176	Summary List of Taxable Sales for the 1st Quarter of Fiscal Year March 31, 2016
P-176-a	Name and Signature of Ailyn Perocho
P-177	Summary List of Taxable Sales for the 2nd Quarter of Fiscal Year March 31, 2016
P-177-a	Name and Signature of Ailyn Perocho
P-178	Summary List of Taxable Sales for the 3rd Quarter of Fiscal Year March 31, 2016
P-178-a	Name and signature of Ailyn Perocho
P-179	Summary List of Taxable Sales for the 4th Quarter of Fiscal Year March 31, 2016
P-179-a	Name and signature of Ailyn Perocho
P-180 and submarkings	Official receipts issued by petitioner to its domestic clients for taxable sales of services in FY 2016
P-181	Sworn Witness Statement of Ailyn B. Perocho in lieu of Direct Testimony dated 11 May 2018
P-181-a	Name and signature of Ailyn Perocho
P-182	Re: Independent CPA Report in CTA Case No. 9722 Macquarie Offshore Services Pty. Ltd. – Philippine branch, petitioner versus Commissioner of Internal Revenue, respondent.
P-182-a	Name and signature of Mr. Edward D. Roguel on

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P-183	Sworn Witness Statement of Mr. Edward D. Roguel, the court-commissioned Independent CPA, dated 29 August 2018
P-183-a	Name and signature of Mr. Edward D. Roguel on page 7
P-184A	Schedule of no exceptions noted
P-184B	Schedule of no exceptions noted – input VAT claimed is lower than the amount per document
P-184C	Schedule of no exceptions noted – different month but in the quarter of the claim
P-184E	Schedule of no exceptions noted – with alteration other than the date, VAT, or total amount paid/payable
P-184F	Schedule of no exceptions noted – no VATable sales indicated
P-184G	Schedule of no exceptions noted – out of the quarter of claim but within the taxable year
P-184H	Schedule of no exceptions noted – with alteration countersigned by authorized representative with ID
P-184I	Schedule of no exceptions noted – difference on VATable sales per document and per schedule but input VAT claimed is correct
P-186-1 to P-186-7540	Invoices and official receipts of purchases of goods, services, and capital goods exceeding Php 1 Million
P-188	Schedule of no exceptions noted – purchase of capital goods exceeding Php 1 Million
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P-190	Quarterly VAT Declaration for the 1st Quarter ended 30 June 2016
P-191	Quarterly VAT Declaration for the 2nd Quarter ended 30 September 2016
P-192	Quarterly VAT Declaration for the 3rd Quarter ended 31 December 2016
P-193	Quarterly VAT Declaration for the 4th Quarter ended 31 March 2017
P-194-1 to P-194-6	SLP for the first quarter ended 30 June 2016
P-195-1 to P-195-4	SLP for the second quarter ended 30 September 2016
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P-197-1 to P-197-3	SLP for the fourth quarter ended 31 March 2017
P-198	Input VAT General Ledger
P-199-1 to P-199-12	Monthly remittance return of VAT and other percentage taxes withheld
P-200	SEC Certificate of Non-Registration of Company

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	dated 27 July 2017 issued to Macquarie Bank Limited (Seoul Branch)

In the Resolution dated November 16, 2018,[23] this Court admitted petitioner's Exhibits, but *denied* the following:

1. Exhibits "P-2" and "P-2-a", for failure to present the originals for comparison; and

2. Exhibits "P-30" and sub-markings, "P-33" and sub-markings, "P-36" and sub-markings, "P-39" and sub-markings, "P-180" and sub-markings, "P-186-3339" to "P-186-3351", "P-186-7467", to "P-186-7495", "P-186-7499" to "P-186-7515", "P-186-7518" to "P-186-7522", and "P-186-7524" to "P-186-7539", for not being found in the records of the case.

During the hearing held on December 3, 2018 for the initial presentation of evidence for respondent, counsel for petitioner manifested that she will be filing a motion for reconsideration of the Resolution dated November 16, 2018, which denied several exhibits of petitioner. Thus, the Court noted said manifestation and granted respondent five (5) days from receipt thereof to file his comment. On the other hand, counsel for respondent that respondent has no witness to present in this case. Accordingly, the Court gave the parties thirty (30) days from receipt of the Court's resolution on petitioner's *Motion for Reconsideration* to file their memoranda.[24]

Thus, petitioner filed on December 7, 2018 its *Motion (Re: 1. For reconsideration of Resolution dated 16 November 2018; and 2. To Recall Witness)*,[25] praying that the Court (1) reconsider its Resolution dated November 16, 2018; (2) admit into the records of this case Exhibits "P-186-3339" to "P186-3351"; (3) admit into the records of this case the *Supplemental Sworn Witness Statement* of Ms. Ailyn B. Perocho, and allow petitioner to recall her for the presentation of her testimony; and (4) set four (4) Commissioner's Hearings for the comparison of petitioner's exhibits. Respondent failed to file his comment on petitioner's *Motion*.[26]

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[23] Docket – Vol. II, pp. 733 to 735.
[24] Minutes of the hearing held on, and Order dated, December 3, 2018, Docket – Vol. II, pp. 743 to 744.
[25] Docket - Vol. II, pp. 745 to 749.
[26] Records Verification dated January 23, 2019 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 1066.

In the Resolution dated February 7, 2019,[27] the Court partially granted petitioner's *Motion for Reconsideration of Resolution dated 16 November 2018*. The Court: (1) denied the admission of Exhibits "P-30", "P-33", "P-36" and "P-39", with their respective sub-markings, for failure to comply with Section 5(a), Rule 12 and Section 2(b), Rule 13 of the Revised Rules of the Court of Tax Appeal's; (2) denied for being moot petitioner's *Motion to Recall Witness*; and (3) admitted Exhibits "P-186-3339" to "P-186-3351". In the same resolution, the Court gave the parties thirty (30) days from notice to file their memoranda.

Thus, respondent's *Memorandum* was filed on March 13, 2019.[28]

For its part, petitioner filed a *Memorandum With Motion to Reopen* on March 28, 2019,[29] praying that the Court order: (1) respondent to refund/issue a tax credit certificate in the amount of P85,098,492.89, representing petitioner's excess and unutilized input VAT for FY 2016; and (2) the reopening of the case and allow the reception of the testimony of petitioner's witness, Ms. Perocho, regarding Exhibits "P-30", "P-33", "P-36", and "P-39" and their respective sub-markings, in the remote event that the Service Invoices will be considered indispensable to support the claim. Respondent failed to file his comment on petitioner's *Motion to Reopen*.[30]

In the Resolution dated June 6, 2019,[31] the Court denied petitioner's *Motion to Reopen* for lack of merit, and deemed the case submitted for decision.

On June 26, 2018, petitioner filed a *Motion for Reconsideration (Re: Resolution dated 06 June 2019)*,[32] praying that the Court reconsider its Resolution dated June 6, 2019 and allow petitioner to

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[27] Docket – Vol. II, pp. 1068 to 1071.
[28] Docket – Vol. II, pp. 1076 to 1083.
[29] Docket – Vol. II, pp. 1086 to 1105.
[30] Records Verification dated May 7, 2019 issued by the Judicial Records Division of this Court, Docket – Vol. II, pp. 1109.
[31] Docket – Vol. II, pp. 1110 to 1114.
[32] Docket – Vol. III, pp. 1116 to 1120.

recall the court-commissioned ICPA, Mr. Roguel, for him to identify and testify on the service invoices.

In the Resolution dated July 18, 2019,[33] the Court ordered respondent to comment on petitioner's *Motion*, and recalled and set aside the Resolution of the Court dated June 6, 2019, which submitted the case for decision. Respondent failed to file his comment on petitioner's *Motion*.[34] In the Resolution dated September 17, 2019,[35] the Court granted petitioner's *Motion*, and set the case for hearing on September 30, 2019 for the recall of petitioner's witness, Mr. Roguel, the Court-commissioned ICPA. In the same resolution, the Court recalled the submission of the case for decision as per the Resolution dated June 6, 2019 until further orders from the Court.

At the hearing held on October 21, 2019, Mr. Roguel, the Court-commissioned ICPA testified on direct examination by way of his *Supplemental Sworn Statement*.[36] His testimony was completed after the cross-examination. The Court gave petitioner a period of five (5) days from notice within which to file a *Supplemental Formal Offer of Evidence*, and respondent, the same period of time from receipt thereof, within which to file *Comment* thereto.[37]

Thereafter, petitioner filed its *Supplemental Formal Offer of Evidence* on October 25, 2019.[38] Respondent failed to file his comment on petitioner's *Supplemental Formal Offer of* Evidence.[39] Thereafter, respondent filed his *Comment (to Petitioner's Formal Offer of Evidence)* on November 13, 2019.[40] Subsequently, on December 4, 2019, petitioner filed its *Reply with Motion [Re: BIR's Comment (to Petitioner's Formal Offer of Evidence] dated 12 November 2019]*,[41] wherein petitioner prayed that the Court: (1) consider the original service invoices submitted therein as part of petitioner's *Supplemental Formal Offer of Evidence*; and (2) admit

[33] Docket – Vol. III, pp. 1407 to 1408.
[34] Records Verification dated August 22, 2019 issued by the Judicial Records Division of this Court, Docket – Vol. III, p. 1409.
[35] Docket – Vol. III, pp. 1412 to 1414.
[36] Exhibit "P-183-B", Docket – Vol. III, pp. 1122 to 1132.
[37] Minutes of the hearing held on, and Order dated, October 21, 2019, Docket – Vol. III, pp. 1421 to 1422.
[38] Docket – Vol. III, pp. 1423 to 1437.
[39] Records Verification dated November 11, 2019 issued by the Judicial Records Division of this Court, Docket – Vol. III, p. 1439.
[40] Docket – Vol. III, pp. 1440-1442.
[41] Docket – Vol. III, pp. 1444-1447.

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the exhibits covered by petitioner's *Supplemental Formal Offer of Evidence* for their respective stated purposes, and as part of the testimony of petitioner's Court-commissioned ICPA.

In the Resolution dated December 6, 2019,[42] the Court admitted petitioner's exhibits, and gave the parties fifteen (15) days from notice within which to file their respective memorandum.

On January 2, 2020, petitioner filed its *Compliance (Re: Resolution dated 06 December 2019)*,[43] stating that it is adopting the *Memorandum* it filed on March 28, 2019 as its compliance with the Court's Resolution dated December 6, 2019. Respondent failed to file his supplemental memorandum.[44]

The Court submitted the case anew for decision on January 24, 2020.[45]

THE ISSUE RAISED

The parties stipulated the following sole issue for this Court's resolution, to wit:

> *"...Whether or not Petitioner is entitled to a refund/tax credit of excess or unutilized input VAT payments for the Fiscal Year 2016 in the amount of EIGHTY-FIVE MILLION NINETY-EIGHT THOUSAND FOUR HUNDRED NINETY-TWO PESOS AND EIGHTY-NINE CENTAVOS (Php85,098,492.89)."*[46]

Petitioner's arguments:

Petitioner primarily argues that the Court validly acquired jurisdiction over petitioner's claim for refund of its excess input VAT.

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[42] Docket – Vol. III, pp. 1450-1452.
[43] Docket – Vol. III, pp. 1456-1457.
[44] Records Verification dated January 22, 2020 issued by the Judicial Records Division of this Court, Docket – Vol. III, p. 1460.
[45] Docket – Vol. III, p. 1462.
[46] Par. 2, Stipulation of Issues, JSFI, Docket – Vol. II, p. 623.

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Moreover, petitioner avers that its sales of services to its non-resident foreign clients were properly subjected to VAT zero-rating; that it has proven that, for FY 2016, it incurred input VAT from its domestic purchase of supplies and services, as well as from its purchase of capital goods; that it submitted all documentary evidence necessary to sustain its claims in the application it filed before the BIR, as well as in this judicial claim; and that petitioner is entitled to its claim for refund/issuance of tax credit certificate for its excess and unutilized input VAT for the 1st to 4th quarters of FY 2016, considering that it has met the requirements under Section 112(A) of the NIRC of 1997, as amended.

Respondent's counter-arguments:

Respondent counter-argues that petitioner's claim for VAT refund/tax credit has no factual and legal basis; that administrative claim for refund is exclusively cognizable by respondent that is subject to the exclusive appellate jurisdiction of this Court; and that claims for refund are construed strictly against the taxpayer and in favor of the government.

The Court's Ruling:

The instant *Petition for Review* lacks merit.

Section 112(A) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act (RA) No. 9337,[47] provides:

> "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

[47] AN ACT AMENDING SECTIONS 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

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> such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
>
> xxx xxx xxx
>
> (C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* – In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.
>
> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty-day period, appeal the decision or the unacted claim with the Court of Tax Appeals."

Based on the foregoing 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 claim is filed with the BIR within two (2) years after the close of the taxable quarter when the sales were made;[48]
2. that in case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act on the said claim within a period of one hundred twenty (120) days, the judicial claim has been filed with this Court, within thirty (30) days from receipt of the decision or after the expiration of the said 120-day period;[49]

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

3. the taxpayer is a VAT-registered person;[50]

In relation to the taxpayer's output VAT:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[51]
5. for zero-rated sales under Sections 106(A)(2)(1) and (2); 106(B); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations;[52]

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[53]
7. the input taxes are due or paid;[54]
8. the input taxes have not been applied against output taxes during and in the succeeding quarters;[55] and

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[48] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 155732, 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.*, G.R. No. 182364, August 3, 2010.

[49] *Steag State Power, Inc. (Formerly State Power Development Corporation) vs. Commissioner of Internal Revenue*, G.R. No. 205282, January 14, 2019; *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.

[50] *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.*, supra.

[51] *Id.*

[52] *Id.*

[53] *Id.*

[54] *Id.*

[55] *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.*, supra.

9. 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.[56]

Petitioner's administrative and judicial claims were timely made.

The *first* requisite pertains to the filing of the refund claim for tax credit or refund of input VAT before the BIR, which is within two (2) years from the close of the quarter when the sales were made.

The instant claim covers the four (4) quarters of FY ended March 2016. Counting two (2) years from the respective close of the said quarters, the following table indicates the pertinent last days for the filing of an administrative claim for the said four (4) quarters, to wit:

FY 2016	Period	Close of the Taxable Quarter	Last Day to File Administrative Claim
1st Quarter	April 1, 2015 to June 30, 2015	June 30, 2015	June 30, 2017
2nd Quarter	July 1, 2015 to September 30, 2015	September 30, 2015	September 30, 2017
3rd Quarter	October 1, 2015 to December 31, 2015	December 31, 2015	December 31, 2017
4th Quarter	January 1, 2016 to March 31, 2016	March 31, 2016	March 31, 2018

Considering that petitioner's administrative claim, covering the said four (4) quarters, was filed with the BIR on June 29, 2017,[57] the same was timely made.

The *second* requisite is to the effect that the judicial claim must have been filed within thirty (30) days from receipt of respondent's

[56] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.
[57] Exhibit "P-13", *Compliance (Re: Sworn Statement of Ailyn B. Perocho)* – Folder I.

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decision or after the expiration of the 120-day period under the afore-quoted Section 112(C). Considering that there is no indication that respondent issued a decision relative to petitioner's administrative claim, the determination of the 120+30-day periods, as applied to this case, is shown as follows:

Date of Filing of Administrative Claim	End of 120 days for the CIR to decide the claim	End of 30 days from expiration of the 120 days
June 29, 2017	October 27, 2017	November 26, 2017

Since the instant *Petition for Review* was filed on November 24, 2017, petitioner's judicial claim was likewise seasonably filed.

Such being the case, petitioner fulfilled the above-stated *first* and *second* requisites.

Petitioner is a VAT-registered person.

To prove that it is a VAT-registered entity, petitioner offered, in evidence, the following: (1) its supposed BIR Certificates of Registration, provisionally marked as Exhibits "P-2" and "P-2-a"; and (2) its BIR Registration Payment Forms, marked as Exhibits "P-3", "P-4", and "P-5".[58]

As already stated, in the Resolution dated November 16, 2018,[59] this Court denied, *inter alia*, Exhibits "P-2" and "P-2-a", for failure to present the originals for comparison.

However, We are convinced that the said BIR Registration Payment Forms, standing alone, may be considered as evidence of petitioner's VAT registration. This must be so because the said payment forms are to the effect that what are being paid are petitioner's annual "VAT registration" fees. A taxpayer will not pay such fees, if one is not a VAT-registered person.

Thus, petitioner complied with the *third* requisite.

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[58] Petitioner's *Formal Offer of Evidence*, Docket – Vol. II, at p. 702
[59] Docket – Vol. II, pp. 733 to 735.

Petitioner failed to establish that it was engaged in zero-rated sales or effectively zero-rated sales during the four quarters of FY 2016.

The *fourth* and *fifth* requisites require that the taxpayer is engaged in zero-rated or effectively zero-rated sales, and for zero-rated sales under Section 106(A)(2)(a)(1) and (2), 106(B), and 108(B)(1) and (2) of the NIRC of 1997, as amended, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the BSP rules and regulations.

Section 108(B)(1) and (2) of the NIRC of 1997, as amended, which states:

> "SEC. 108.- *Value-added Tax on Sale of Services and Use or Lease of Properties.* –
>
> xxx xxx xxx
>
> (B) *Transactions Subject to Zero Percent (0%) Rate.* – **The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate**:
>
> (1) Processing, manufacturing or repacking of goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);
>
> (2) **Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and**

regulations of the Bangko Sentral ng Pilipinas (BSP);" *(Emphases supplied)*

Based on the foregoing provision, certain *essential elements* must be present for a sale or supply of services to be subject to the VAT rate of zero percent (0%), under Section 108(B)(2) of the NIRC of 1997, as amended, to wit:

1) The services fall under any of the categories under Section 108(8)(2),[60] or simply, the services rendered should be other than *"processing, manufacturing or repacking goods"*;[61]

2) The service must be performed in the Philippines[62] by a VAT-registered person;

3) The recipient of the services is a foreign corporation, and the said corporation is doing business *outside* the Philippines, or is a non-resident person not engaged in business who is *outside* the Philippines when the services were performed;[63] and

4) The payment for such services should be in acceptable foreign currency accounted for in accordance with BSP rules.[64]

Anent the *first* essential element, petitioner entered into a number of *Minor Services Agreements* with the following foreign affiliates, to wit:

Name of Client/Affiliate	*Minor Services Agreement*

[60] *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, G.R. No. 152609, June 29, 2005.
[61] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007.
[62] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007; *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, , G.R. No. 152609, June 29, 2005.
[63] *Sitel Philippines Corporation (Formerly Clientlogic Phils. Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 201326, February 8, 2017; *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007; *Accenture, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 190102, July 11,2012.
[64] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007; *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, G.R. No. 152609, June 29, 2005.

	(Exhibit)
Macquarie Emerging Markets Asian Trading Pte. Limited	"P-54"
Macquarie Bank Limited (Hong Kong Branch)	"P-56"
Macquarie Bank Limited (London Branch)	"P-58"
Macquarie Group Services Australia Pty Ltd	"P-60"
Macquarie Bank Limited Singapore Branch	"P-65"
Macquarie Equities New Zealand Limited	"P-66"
Macquarie Capital Securities Limited	"P-67"
Macquarie Emerging Markets Asian Trading Pte. Limited (Hong Kong Branch)	"P-68"
Macquarie Securities (Thailand) Limited	"P-69"
Macquarie Services (Hong Kong) Limited	"P-70"
Macquarie Investment Management Ltd	"P-71"
Macquarie International Services Limited	"P-72"
Macquarie Bank Limited (US Representative Office)	"P-73"
Macquarie Securities (NZ) Limited	"P-74"
Macquarie Financial Holdings Limited	"P-78"
Macquarie Capital Securities (Singapore) Pte. Limited	"P-81"
Macquarie Group Services (Singapore) Pte. Limited	"P-84"
Macquarie Capital Securities (Malaysia) Sdn. Bhd.	"P-86"
Pt. Macquarie Capital Securities Indonesia	"P-92"
Macquarie Capital Securities (Japan) Ltd (Tokyo Branch)	"P-96"

The *Minor Services Agreements* provide, in part, the following services to be rendered by petitioner, to wit:

I.[65]
a) Central executive services;
b) Human resources and business services, including (without limitation) remuneration and benefits, employee relations, training, recruitment, relocation services and business continuity management;
c) Information technology services (but excluding the licensing of any intellectual property or any services relating to the provision of intellectual property);
d) Company secretarial services, including (without limitation) company administration, officer administration, and insurance administration;
e) Legal and risk management services, including (without limitation) assessment and management of credit, market, financial, operational and regulatory risk and obligations and internal audit;

[65] Schedule 1, Exhibits "P-54", "P-58", "P-65" to "P-74", "P-81", "P-84", "P-86", "P-92", and "P-96", *Compliance (Re: Sworn Statement of Ailyn B. Perocho)*, Folders I to III.

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f) Operational functions including (without limitation) client on-boarding, anti-money laundering and anti-terrorism financing monitoring, settlement, client data management;
g) Treasury functions including (without limitation) funding, liquidity, cash management, central bank relationships;
h) Quantitative application services;
i) Financial operations including (without limitation) accounting, accounts payable, business process re-engineering, corporate reporting, financial planning, budgeting, regulatory reporting, non-functional currency exposure mitigation and accounts payable services;
j) Economic research services;
k) Corporate communications and media services;
l) Taxation services;
m) Investor relations services;
n) Accommodation related services; and
o) Such other services as the Service Recipient may require from time to time and Service Provider is willing and able to provide.

II.[66] Provision of Technology Billable services that include staff costs and overheads relate to (i) software quality assurance (ii) application development/support and (iii) infrastructure support/management for back and middle office functions (iv) business application development and support.

III.[67] a) Application Testing
b) Application monitoring
c) Technology infrastructure support
d) Application development
e) Price and Rates Updates;
f) Fixed Income, Discount Security and Equities Securities instrument set-up;
g) Custody Fee reconciliation;
h) Broker Fee reconciliation;
i) Stock Borrow and Lending Billings;
j) Special Payment Order (SPO) charge reconciliation;
k) Customer static data verification and maintenance;
l) AML/CTF customer on-boarding and AML related services;
m) Preparation of responses to Customer Audit Requests;
n) Cash, stock, trade and inter-system control reconciliations;
o) Administrative tasks relating to compliance, including:
i. general compliance administration and planning tasks;
ii. planning and coordination;

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[66] Schedule 1, Exhibit "P-56", *Compliance (Re: Sworn Statement of Ailyn B. Perocho)* – Folder I.
[67] Schedule 1, Exhibits "P-60" and "P-78", *Compliance (Re: Sworn Statement of Ailyn B. Perocho)* – Folders II and III.

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iii. compliance training and personnel management, including development of content, follow-up of training tasks allocated to personnel; and

iv. data processing and communications to staff on compliance matters including, by way of example but without limitation:

1) E-learning Development;
2) Administration of External Directorships;
3) MyCompliance Level 1 Support
4) Compliance Training Administration; and
5) Australian Continuing Professional Development (CPD) Training Tracking;

p) General tasks including:
  i. Answer queries relating to payment compliance
  ii. Provide guidance on message formatting
  ii. Provide training and user support for Romulus

q) Real time payment screening;
  i. Screen outgoing and incoming SWIFT message types 103, 202 & 202 cover messages against sanctions lists
  ii. Investigate alerts
  iii. Request more information from originating MGL division where applicable
  iv. Review and approve alerts for release
  v. Escalate potential matches to regional RMG AML Compliance

r) International Funds Transfer Instruction (IFTI) reporting
  i. Send IFTI report files to regulator
  ii. Reconciliation of IFTI report files
  iii. Confirm IFTI's (FICC & MSG) for reporting
  iv. Escalation of discrepancies back to regional AML and On boarding teams

s) Transaction Monitoring
  i. Triage and investigate transaction monitoring alerts that arise from detection scenarios or rules developed by RMG AML Compliance
  ii. Perform primary investigation
  iii. Escalate potentially suspicious transactions or transaction behaviour to RMG AML Compliance

t) Bank requests for complete payer or sanctions clearance
  i. Request incomplete payer or sanctions clearance information from originating MGL division
  ii. Provide complete or sanctions clearance information to remitting bank
  iii. Report incomplete payer and sanctions requests to RGM AML Compliance

u) Third party payment processing
  i. Review third party payment requests

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ii. Request more information from originating FICC/MSG division where applicable
iii. Approve third party payment requests
iv. Escalate potentially suspicious third party payment requests to regional RMG AML Compliance

v) Human resources services, including:
i. general administration and planning;
ii. data processing and communications; and
iii. training and personnel management;

w) Such other services as the Second Party may require from time to time and that the First Party is willing and able to provide. Such other services will exclude:
i. application operation such as operating a trading/booking system on behalf of a front/back office user;
ii. Client interaction and client management; and
iii. Servicing companies that are not a Related Body Corporate (as defined in the *Corporations Act 2001* (Cth)) of the First Party; and

x) Market operations.

Evidently, petitioner complied with the *first* requisite, as the said services are not in the same category as "*processing, manufacturing or repacking of goods*".

As for the *second* essential element, the contracts or *Minor Services Agreements* entered into by petitioner with its foreign affiliates establish that the parties to the contracts have agreed that petitioner's services shall be performed in the Philippines, to wit:

"2.1 Services to be performed
The Service Provider[68]/First Party[69] *(Petitioner herein)* **will perform or provide the Services** set out in Schedule 1 **to the Service Recipient/Second Party in or from the Philippines**." *(Emphases ours)*

Thus, there being no indication that the services were not performed in the Philippines, petitioner complied with the said *second* essential element.

[68] Page 3, Exhibits "P-54", "P-56", "P-58", "P-65" to "P-74", "P-81", "P-84", "P-86", "P-92", and "P-96", *Compliance (Re: Sworn Statement of Ailyn B. Perocho)*, Folders I, II and III.
[69] Page 3, Exhibits "P-60" and "P-78", *Compliance (Re: Sworn Statement of Ailyn B. Perocho)* Folders II and III.

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As regards the *third* essential element, petitioner presented the following documents[70] to prove that its clients/affiliates whom it had contracts or agreements with, are non-resident foreign corporations doing business outside the Philippines, *viz*:

1. Certification of Non-Registration of Company issued by the Philippine Securities and Exchange Commission (SEC);
2. Certificate/Articles of Foreign Incorporation/Registration; and
3. Minor Services Agreements.

However, each of the aforesaid documents, standing alone, is inadequate proof that petitioner's client is a non-resident foreign corporation doing business outside the Philippines.

While the SEC Certificates of Non-Registration show that the named entities therein are not registered corporations/partnerships in the Philippines, the same do not prove that such entities are non-resident foreign corporations doing business outside the Philippines.

On the other hand, the Certificates/Articles of Foreign Incorporation/Registration only prove that the entities named therein were incorporated/organized/domiciled abroad but do not necessarily establish that such entities are not doing business in the Philippines.

As for the *Minor Services Agreements*, these documents only show the names and addresses/incorporation of petitioner's clients to whom it renders services, but it does not in any way establish that such clients are non-resident foreign corporations doing business outside the Philippines.

In fact, in *Sitel Philippines Corporation (formerly Clientlogic Phils., Inc.) vs. Commissioner of Internal Revenue*,[71] the Supreme Court held that while Sitel's documentary evidence, which included Certifications issued by the Securities and Exchange Commission and Agreements between Sitel and its foreign clients, may have established that Sitel rendered services to foreign corporations and

[70] Exhibits "P-137" to "P-175, *Compliance (Re: Sworn Statement of Ailyn B. Perocho)* Folder III; "P-200"; P-52" to "P-96", *Compliance (Re: Sworn Statement of Ailyn B. Perocho),* Folders I to III.
[71] G.R. No. 201326, February 8, 2017.

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received payment therefor through inward remittances, said documents failed to specifically prove that such foreign clients were doing business outside the Philippines or have a continuity of commercial dealings outside the Philippines.

Therefore, to be considered as non-resident foreign corporation doing business outside the Philippines, each entity must be supported at the very least by **both** SEC certificate of Non-Registration of Corporation/Partnership **and** proof of incorporation/registration in a foreign country (*e.g.*, Articles/Certificate of Incorporation/Registration and/or Tax Residence Certificate) and that there is no other indication which would disqualify said entity in being classified as a non-resident foreign corporation.

In this regard, only the following clients of petitioner for the four quarters of FY 2016 shall be considered non-resident foreign corporations doing business outside the Philippines:

Name of Client/Affiliate	**Service Agreement**	**SEC Certificate of Non-Registration**	**Proof of Incorporation/ Registration / Residence outside the Philippines**
Macquarie Bank Limited (Hong Kong Branch)	"P-56"	"P-142"	"P-55"
Macquarie Bank Limited (London Branch)	"P-58"	"P-143"	"P-57"
Macquarie Group Services Australia Pty Ltd	"P-60"	"P-165"	"P-59"
Macquarie Bank Limited Singapore Branch	"P-65"	"P-144"	"P-64"
Macquarie Financial Holdings Limited	"P-78"	"P-163"	"P-75"
Pt Macquarie Capital Securities Indonesia	"P-92"	"P-151"	"P-87"; "P-88"; "P-89"; "P-90"; "P-91"

Relative to the *fourth* essential element, petitioner presented the schedule of inward remittances[72] and certifications of inward remittances from Hongkong and Shanghai Banking Corporation (HSBC)[73] purportedly showing the remittances of its foreign clients.

However, equally important to consider is that the said foreign currency remittances referred to under Section 108(B)(2) must be duly supported by VAT zero-rated official receipts in accordance with Section 113(A)(2), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended, which provide that a VAT taxpayer, like herein petitioner,

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[72] Exhibits "P-42" to "P-45", *Compliance (Re: Sworn Statement of Ailyn B. Perocho)*, Folder I.
[73] Exhibits "P-46" to "P-51", *Compliance (Re: Sworn Statement of Ailyn B. Perocho)*, Folder I.

shall for every lease of goods or properties, and for every sale, barter or exchange of services, issue a VAT official receipt 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:
>
> xxx xxx xxx
>
> (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:
>
> xxx xxx xxx
>
> (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;
>
> xxx xxx xxx
>
> (3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and xxx" (*Underscoring supplied*)

Relative thereto, Section 4.113-1(A)(2), B(1) and (2)(c) of Revenue Regulations (RR) No. 16-05, as amended, states:

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

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

xxx xxx xxx

(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:

xxx xxx 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;" (*Underscoring supplied*)

In the instant case, aside from the certifications of inward remittances from HSBC, petitioner submitted its schedule of zero-rated sales[74] and the corresponding ORs[75] to support its reported

[74] Exhibits "P-28", "P-31", "P-34" and "P-37".
[75] Exhibits "P-29", "P-32, "P-35" and "P-38".

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zero-rated sales of ₱5,259,593,325.50 for the four (4) quarters of FY 2016, detailed as follows:

Exhibit No.	Period (FY 2016)	Zero-Rated Sales
"P-8"/"P-190"	1st Quarter	₱ 1,656,588,572.44
"P-9"/"P-191"	2nd Quarter	1,233,762,011.70
"P-10"/"P-192"	3rd Quarter	747,363,896.15
"P-11a"/"P-193"	4th Quarter	1,621,878,845.21
Total		**₱ 5,259,593,325.50**

Upon verification, however, the Court finds that only the sales of US$11,548,329.10 which is equivalent to ₱537,611,641.02, was earned from the following clients, which as determined earlier qualify as non-resident foreign entities doing business outside the Philippines, and are duly supported by official receipts:

Name of Clients	OR Exhibit No.	OR No.	Zero-Rated Sales (in US$)	Zero-Rated Sales (in Peso)
Third Quarter				
Macquarie Bank Limited (Hong Kong Branch)	"P-35-8"	001043	171,468.00	7,830,305.82
			151,141.10	7,063,429.56
Macquarie Bank Limited Singapore Branch	"P-35-10"	001045	67,802.90	3,096,306.26
			63,379.80	2,961,992.15
Macquarie Bank Limited (London Branch)	"P-35-11"	001046	167,472.80	7,647,859.83
			144,768.80	6,765,626.45
PT Macquarie Capital Securities Indonesia	"P-35-37"	001072	344.30	16,090.51
Macquarie Group Services Australia Pty. Ltd	"P-35-38"	001073	2,490,198.70	113,718,112.48
			2,483,005.80	116,040,816.07
Sub-total			***US$5,739,582.20***	***₱265,140,539.13***
Fourth Quarter				
Macquarie Bank Limited (Hong Kong Branch)	"P-38-8"	001086	194,540.50	9,106,954.36
			194,439.30	9,137,135.88
Macquarie Bank Limited Singapore Branch	"P-38-9"	001087	46,736.80	2,187,872.95
			67,984.40	3,194,738.42
Macquarie Bank Limited (London Branch)	"P-38-10"	001088	150,153.30	7,029,072.32
			245,733.40	11,547,559.95
PT Macquarie Capital Securities Indonesia	"P-38-36"	001114	2,592.70	121,371.12
			1,030.70	48,434.89
Macquarie Group Services Australia Pty. Ltd	"P-38-37"	001115	2,361,363.40	110,541,654.01
			2,543,910.60	119,544,026.27
PT Macquarie Capital Securities Indonesia	"P-38-75"	001153	261.80	12,281.72
Sub-total			**US$5,808,746.90**	**₱272,471,101.89**
TOTAL			**US$11,548,329.10**	**₱537,611,641.02**

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Nevertheless, while petitioner was able to present the schedule of inward remittances[76] and the certifications of inward remittances from HSBC[77] purportedly showing the remittances of its foreign clients, the Court cannot ascertain whether the amounts reflected therein correspond to the zero-rated sales as determined above. It bears stressing that the amounts reflected in the certifications are in lump sum. As these amounts were not itemized, there is no way for the Court to determine whether the payment for the zero-rated sales of ₱537,611,641.02 were indeed "*accounted for in accordance with the rules and regulations of the BSP*".

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.[78]

In sum, petitioner also failed to fulfill the *fourth* requisite for the successful prosecution of the instant refund claim. Correspondingly, it becomes unnecessary to determine whether petitioner fulfilled the remaining requisites for granting a credit/refund of input VAT for the periods from April 1, 2015 to March 31, 2016 or for the four (4) quarters of FY ending March 31, 2016.

It bears stressing that actions for tax refund or credit, as in the instant case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven. The burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit. Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented as they are not intended to be liberally construed.[79]

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[76] Exhibits "P-42" to "P-45", *Compliance (Re: Sworn Statement of Ailyn B. Perocho)* – Folder I.

[77] Exhibits "P-46" to "P-51", *Compliance (Re: Sworn Statement of Ailyn B. Perocho)* – Folder I.

[78] *Edison (Bataan) Cogeneration Corporation vs. Commissioner of Internal Revenue, etseq.*, 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.

[79] *Coca-Cola Bottlers Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 222428, February 19, 2018.

Simply stated, statutes that grant tax exemptions are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority. Tax refunds in relation to the VAT are in the nature of such exemptions.[80]

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for lack of merit.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ATTESTATION

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

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
2nd Division Chairperson

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[80] *Panasonic Communications Imaging Corp. of the Philippines vs. Commissioner of Internal Revenue*, G.R. No. 178090, February 8, 2010.

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

Pursuant to Section 13, 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice