19-000355-0073

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10130

LANTRO PHILS. INC.,
Petitioner,

- versus -

NOTICE OF DECISION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

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

ATTY. LIEZL G. BOHOL
Bureau of Internal Revenue
Revenue Region No. 7B - East NCR
25th Floor, The Podium West Tower
ABD Avenue, Ortigas Center
Mandaluyong City

ESCALANTE PIOQUINTO-ENRIQUEZ
ENRIQUEZ QUIAMBAO GUILLERMO & SANCHEZ
7th Floor, The Athenaeum Building
160 L.P. Leviste Street, Salcedo Village
Makati City

GREETINGS:

You are hereby notified by these presents that on **April 29, 2024,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **April 30, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

LANTRO PHILS. INC.,
Petitioner,

CTA Case No. 10130

Members:

-versus-

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, *and*
REYES-FAJARDO, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
APR 29 2024 2:40 pm

x - x

DECISION

MANAHAN, J.:

THE CASE

This is a *Petition for Review* posted on July 18, 2019 by petitioner Lantro Phils. Inc. against respondent Commissioner of Internal Revenue (CIR), praying for the refund or issuance of a tax credit certificate in the aggregate amount of ₱3,949,107.91,[1] representing petitioner's unutilized input value-added tax (VAT) for the period covering January 1, 2017 to March 31, 2017.

THE PARTIES

Petitioner Lantro Phils. Inc. is a corporation duly organized and existing under and by virtue of the laws of the Philippines.[2] It is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer with principal office address at 420 D Francisco Legaspi St., Maybunga, Pasig City, under Tax Identification Number (TIN) 202-950-644-000.[3]

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[1] Statement of the Case, Pre-Trial Order dated February 3, 2020, Docket – Vol. I, p. 252.
[2] Exhibit "P-3", Docket – Vol. II, pp. 496 to 504.
[3] Exhibit "P-55", USB (which is marked as Exhibit "P-50-2").

Respondent CIR is duly appointed to perform the duties of his office, including, *inter alia*, the power to decide disputed assessments subject to the exclusive appellate jurisdiction of this Honorable Court, pursuant to Section 4 of the Tax Code and Section 7 of Republic Act (RA) No. 1125, as amended by RA No. 9282. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.[4]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On April 1, 2019, petitioner filed an *Application for Tax Credits / Refunds* (BIR Form No. 1914) for VAT refund with the BIR,[5] covering the period from January 1, 2017 to March 31, 2017, in the amount of ₱3,949,107.91.

Thereafter, on June 18, 2019, petitioner received the *Notice of Denial for VAT Refund/Credit* dated May 31, 2019, issued by Regional Director (RD) Romulo L. Aguila, Jr.,[6] on the ground that the BIR Form No. 1914 – *Application for Tax Credits/Refunds* was filed beyond the prescriptive period of two (2) years from the taxable quarter when the zero-rated sales were made pursuant to Section 112(A) of the 1997 National Internal Revenue Code (NIRC), as amended.

PROCEEDINGS BEFORE THIS COURT

On July 18, 2019,[7] petitioner filed the present *Petition for Review*.

Within the extended time granted by the Court,[8] on October 23, 2019, respondent filed his *Answer*,[9] interposing the following special and affirmative defenses, to wit:

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[4] Par. 1, Stipulated Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. I, p. 160.
[5] Exhibit "P-1", Docket – Vol. I, p. 495.
[6] Exhibit "P-2", Docket – Vol. I, p. 34.
[7] Docket – Vol. I, pp. 13 to 28.
[8] *Motion for Extension of Time to File Answer to the Petition for Review* filed on August 23, 2019, and Order dated August 30, 2019; *Motion for Extension of Time to File Answer to the Petition for Review* filed on September 23, 2019, and Resolution dated October 2, 2019, Docket – Vol. I, pp. 89 to 92 and 97 to 102.
[9] Docket – Vol. I, pp. 103 to 109.

"SPECIAL AND AFFIRMATIVE DEFENSES

The Honorable Court has no jurisdiction over Petitioner's judicial claim for refund or tax credit certificate.

10. The Petitioner failed to file its Petition for Review within the prescribed period. Perusal of the records show that the period to elevate Petitioner's case to the Honorable Court of Tax Appeals had already prescribed.

11. Perusal of the records show that Petitioner received the Letter of Denial issued by the Revenue District Office No. 43 Pasig City dated May 14, 2019 on May 15, 2019. Thus, on the said date Petitioner was notified of the denial of their claim for refund or tax credit certificate.

12. Section 112 of the National Internal Revenue Code of 1997, as amended provides for the procedure of refund or tax credit of input tax, which provides to wit:

xxx xxx xxx

13. The foregoing provision provides that the Bureau of Internal Revenue has a period of one hundred twenty (120) days to act on Petitioner's administrative claim for refund as well a thirty (30) day period for the taxpayer to seek judicial recourse with the Honorable Court of Tax Appeals on two instances, first, upon full or partial denial of its claim for refund; or second upon the inaction of the CIR for a period of 120 days from the submission of complete documents in support of its refund claim.

14. In this case, a decision denying Petitioner's claim for refund was issued on May 14, 2019 which was received by Petitioner on May 15, 2019. This fact of receipt was written on the receiving copy of the said Letter of Denial.

15. Thus, upon receipt of such decision denying Petitioner's claim of refund on May 15,

2019, Petitioner has only thirty (30) days therefrom to appeal the said decision to the Honorable Court of Tax Appeals.

16. Hence, this Honorable Court clearly has no jurisdiction over Petitioner's case.

17. The Supreme Court has held in numerous cases that the right to appeal is a mere statutory privilege. In this case, the NIRC has provided for the prescriptive period within which the Petitioner may appeal the decision of the CIR denying the claim for refund, which is thirty (30) days from receipt thereof. Being a statutory privilege, there must be strict compliance with the prescriptive period laid down by the law.

18. The Supreme Court also held in the case of *Fenequito et al. v. Vergara* the nature of an appeal, to wit:

> 'It is a settled rule that the right to appeal is neither a natural right nor a part of due process; it is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law. An appeal being a purely statutory right, an appealing party must strictly comply with the requisites laid down in the Rules of Court. Deviations from the Rules cannot be tolerated. The rationale for this strict attitude is not difficult to appreciate as the Rules are designed to facilitate the orderly disposition of appealed cases. In an age where courts are bedeviled by clogged dockets, the Rules need to be followed by appellants with greater fidelity. Their observance cannot be left to the whims and caprices of appellants.'

19. There must be strict compliance with procedural rules. Procedural rules are tools designed to facilitate the adjudication of cases. Courts and litigants alike are thus enjoined to abide strictly by the rules.

Petitioner is still not entitled to its claim of refund or tax credit certificate.

20. Even assuming arguendo, and without admitting that their application for refund should be given due course, Petitioner is still not entitled to refund or issuance of tax credit certificate under Section 112 of the NIRC.

21. Upon evaluation of Petitioner's submitted documents in support of their claim of refund or tax credit certificate by the concerned revenue officers, it revealed that Petitioner is not entitled thereto.

22. Based on such evaluation, there were disallowed input taxes due to the following: first, due to non-submission of supporting documents; second, due to non-compliance with invoicing requirements; third, due to incorrect information; fourth, for claiming out of period input taxes on local purchases; and lastly due to non-submission of secondary supporting documents on Petitioner's big ticket purchases.

23. Hence, even if the evaluation is based on the merits of Petitioner's claim for refund or tax credit certificate, Petitioner is still not entitled thereto.

24. Furthermore, the Supreme Court held that tax refund are in the nature of tax exemptions which must be construed strictissimi juris against the taxpayer and liberally in favor of the government, as pronounced in the case of *Commissioner of Internal Revenue v. Rosemarie Acosta*, to wit:

> 'Tax refunds are in the nature of tax exemptions which are construed strictissimi juris against the taxpayer and liberally in favor of the government. As tax refunds involve a return of revenue from the government, the claimant must show indubitably the specific provision of law from which her right arises; it cannot

> be allowed to exist upon a mere vague implication or inference nor can it be extended beyond the ordinary and reasonable intendment of the language actually used by the legislature in granting the refund. To repeat, strict compliance with the conditions imposed for the return of revenue collected is a doctrine consistently applied in this jurisdiction.'"

On November 22, 2019, respondent filed his *Respondent's Pre-Trial Brief*.[10] On November 26, 2019, petitioner filed its *Pre-Trial Brief (For the Petitioner)*.[11] On November 28, 2019,[12] the Court set the case for Pre-Trial Conference.

On December 17, 2019, the parties submitted their *Joint Stipulation of Facts and Issues*,[13] which was approved in the Resolution dated January 16, 2020.[14] On February 3, 2020,[15] the Court issued the Pre-Trial Order.

In the meantime, on January 2, 2020, respondent transmitted the *BIR Records* for the case, consisting of one (1) folder, with 2146 pages.[16]

During the hearing, petitioner presented the following witnesses: (1) Ms. Claire Gladiola Eclarinal,[17] petitioner's Assistant Finance Manager; and (2) Ms. Thea May F. Vicera,[18] the Court-commissioned Independent Certified Public Accountant (ICPA).[19]

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[10] Docket – Vol. I, pp. 114 to 116.
[11] Docket – Vol. I, pp. 137 to 143.
[12] Notice of Pre-Trial Conference dated October 30, 2019, Docket – Vol. I, pp. 110 to 111; Minutes of the hearing held on, and Order dated, November 28, 2019, Docket – Vol. I, pp. 144 to 151.
[13] Docket – Vol. I, pp. 160 to 166.
[14] Docket – Vol. I, pp. 201 to 202.
[15] Docket – Vol. I, pp. 252 to 261.
[16] Docket – Vol. I, p. 172.
[17] Exhibit "P-49", Docket – Vol. I, pp. 218 to 228; Minutes of the hearing held on, and Order dated, September 15, 2020, Docket – Vol. I, pp. 331 to 335; Exhibit "P-79", Docket – Vol. I, pp. 445 to 449; Order dated July 13, 2021, Docket – Vol. I, pp. 475 to 476.
[18] Exhibit "P-51", Docket – Vol. I, pp. 366 to 394; Minutes of the hearing held on, and Order dated, November 26, 2020, Docket – Vol. I, pp. 407 to 409.
[19] *Oath of Commission* dated January 23, 2020, Docket – Vol. I, pp. 206; Minutes of the hearing held on, and Order, dated January 23, 2020, Docket – Vol. I, pp. 204 to 205, and 207 to 208, respectively.

The ICPA *Report* was submitted on June 30, 2020.[20] An *Amended Report* was later submitted on September 25, 2020.[21]

On July 29, 2021, petitioner filed its *Formal Offer of Evidence*,[22] to which respondent filed his *Comment [Re: Petitioner's Formal Offer of Evidence]* on November 25, 2021.[23] In the Resolution dated March 30, 2022,[24] the Court resolved to admit petitioner's offered exhibits, except for several exhibits on such grounds as specified therein.

On the other hand, respondent offered the testimony of Revenue Officer Mariz A. Pernia.[25]

Noting respondent's failure to file his *Formal Offer of Evidence*, the Court issued the Resolution dated August 5, 2022,[26] directing the parties to file their respective memorandum within thirty (30) days from notice.

However, on August 16, 2022, respondent filed a *Motion to Admit Respondent's Formal Offer of Evidence* with the attached *Respondent's Formal Offer of Evidence*.[27] In the Resolution dated September 9, 2022,[28] the Court admitted *Respondent's Formal Offer of Evidence*.

In the meantime, in compliance with the Court's Resolution dated August 5, 2022, petitioner filed its *Memorandum* on September 12, 2022.[29]

On September 30, 2022, petitioner filed a *Manifestation*,[30] expressing no objection to *Respondent's Formal Offer of Evidence*. Thus, in the Resolution dated November 18, 2022,[31] the Court admitted all of respondent's offered exhibits.

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[20] Docket – Vol. I, pp. 296 to 313.
[21] Exhibit "P-50", Docket – Vol. I, pp. 341 to 358 and 376 to 394.
[22] Docket – Vol. I, pp. 481 to 493.
[23] Docket – Vol. II, pp. 599 to 600.
[24] Docket – Vol. II, pp. 604 to 610.
[25] Exhibit "R-9" Docket – Vol. I, pp. 119 to 124; Minutes of the hearing held on, and Order dated, February 23, 2021, Docket – Vol. I, pp. 421 to 427.
[26] Docket – Vol. II, p. 639.
[27] Docket – Vol. II, pp. 640 to 649.
[28] Docket – Vol. II, p. 651.
[29] Docket – Vol. II, pp. 652 to 665.
[30] Docket – Vol. II, pp. 667 to 669.
[31] Docket – Vol. II, pp. 677 to 678.

The case was submitted for decision on May 9, 2023, taking into consideration petitioner's *Memorandum* sans respondent's *Memorandum*.[32]

THE STIPULATED ISSUE

The parties submitted the following issue for this Court's resolution:

> "Whether or not the Petitioner is entitled to its claim for VAT refund for the first quarter of taxable year (TY) 2017 in the amount of Three Million Nine Hundred Forty[-]Nine Thousand One Hundred Seven Pesos and 91/100 (Php3,949,107.91)."[33]

Petitioner's arguments:

Petitioner argues that the claim for refund was filed on time; that the requirements of Revenue Memorandum Circular (RMC) No. 17-18 were fulfilled; and that the refund is justified by law and regulations.

Respondent's counter-arguments:

Respondent contends that this Court has no jurisdiction over petitioner's judicial claim for refund or tax credit certificate; and that petitioner is not entitled to its claim for refund or tax credit certificate.

THE COURT'S RULING

The present *Petition for Review* must be denied.

Section 112 (A) and (C) of the 1997 NIRC, as amended, provides:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* —

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[32] Minute Resolution dated May 9, 2023, Docket – Vol. II, p. 680.
[33] Stipulated Issue, JSFI, Docket – Vol. I, p. 160.

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

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 for creditable input taxes within ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof: *Provided,* That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.

In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals: *Provided, however,* That failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code."

Based on the above-quoted provisions, jurisprudence has laid down the following requisites which the taxpayer-applicant must satisfy to successfully obtain a credit/refund of input VAT:

<u>As to the timeliness of the filing of the administrative and judicial claims</u>:

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

2. in case of full or partial denial of the refund claim rendered within a period of ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application, the judicial claim shall be filed with this Court within thirty (30) days from receipt of the decision;[35]

<u>With reference to the taxpayer's registration with the BIR</u>:

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

<u>In relation to the taxpayer's output VAT</u>:

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

5. for zero-rated sales under Section 106(A)(2)(1)

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

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

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

[37] *Ibid.*

and (2); 106(B);[38] and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the *Bangko Sentral ng Pilipinas* (BSP) rules and regulations;[39]

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[40]

7. the input taxes are due or paid;[41]

8. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume;[42] and

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[38] Section 106(B) cited in Section 112(A) of RA No. 8424 was later amended by RA No. 9337 to pertain to Section 106(A)(2)(b). Accordingly, Section 112(A), as amended by RA No. 9337, reads as follows:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* —
>
> (A) *Zero-Rated or Effectively Zero-Rated Sales.* — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under **Section 106(A)(2)**(a)(1), (2) and **(b)** and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods 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." (*Emphasis supplied*)

However, in view of the amendments introduced by RA No. 10963, Section 106(A)(2)(b) is now deleted.

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

[40] *Ibid.*

[41] *Ibid.*

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

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[43]

The Court shall now proceed to determine whether petitioner satisfied the above requisites.

The refund claim was timely filed

The Court shall first determine whether the present claim was timely filed.

Respondent denied petitioner's claim for refund on the ground that it was filed out of time, thus:

> "Verification disclosed that you filed an Application for Tax Credit/Tax Refund – BIR Form No. 1914 to claim for tax refund on your unutilized input taxes for the taxable period January 1, 2017 to March 31, 2017 on April 1, 2019 together with the required documents, which is beyond the prescriptive period of two (2) years from the taxable quarter when the zero-rated sales was made pursuant to Section 112(A) of the NIRC of 1997, as amended, x x x"

Petitioner, on the other hand, asserts that it timely filed its administrative claim for refund. Accordingly, the last day of the two (2)-year period to file the administrative claim for refund from the close of the taxable quarter March 31, 2017 is on March 31, 2019, which fell on a Sunday. As such, it had until the next working day or until April 1, 2019 within which to file its claim.

The Court agrees with petitioner.

Section 112(A) of the 1997 NIRC, as amended, provides that any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, **within two (2) years after the**

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

close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax.

Petitioner's administrative claim for refund covers the taxable quarter January to March 2017. Considering that the close of said taxable quarter is on March 31, 2017, the two (2)-year prescriptive period within which to file the administrative claim for refund falls on March 31, 2019. However, petitioner filed its claim on April 1, 2019.[44]

On its face, petitioner appears to have filed its claim one (1) day beyond the due date of March 31, 2019. However, Section 28, Chapter VII, Book I of the Administrative Code of 1987,[45] provides that where the day, or the last day, for doing any act required or permitted by law falls on a regular holiday or special day, the act may be done on the next succeeding business day.

The reason for this provision is that, as a rule, public and private offices are closed for the transaction of business on Sundays and holidays, and to include these days in the computation of the requisite period would, in effect, result in the corresponding shortening of the period without any fault on the part of the party required or permitted to make full use thereof. On the other hand, the resulting extension of the period is more apparent than real because, generally, no one is supposed to transact any business on Sundays or holidays. Besides, such a result cannot be attributed to the will or desire of the obligor concerned.[46]

In this case, the close of the taxable quarter on March 31, 2019 fell on a Sunday, a non-working day. As such, the last day for the filing of the administrative claim for refund is on the next working day, or on April 1, 2019, a Monday.

Considering the foregoing, petitioner timely filed its administrative claim for refund.

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[44] Exhibit "P-1" (BIR Form No. 1914 – Application for Tax Credits/Refunds), Docket – Vol. I, p. 495.
[45] Executive Order No. 292.
[46] *Galang v. The Workmen's Compensation Commission*, G.R. No. L-33928, March 29, 1972.

With respect to petitioner's judicial claim, the same must be filed within thirty (30) days from receipt of respondent's decision or after the expiration of the ninety (90)-day period under Section 112(C) of the 1997 NIRC, as amended. Thus, from the filing of petitioner's administrative claims, respondent had ninety (90) days to act on the said claim.

Counting ninety (90) days from petitioner's submission of its administrative claim with its supporting documents on April 1, 2019, respondent had until July 1, 2019[47] to act on the administrative claim.

On June 18, 2019,[48] petitioner, through a certain Mary Grace Dela Cruz, received the *Notice of Denial for VAT Refund/Credit* issued by respondent through RD Romulo L. Aguila, Jr.. As such, the decision denying petitioner's administrative claim was issued well-within the ninety (90)-day period.

Counting thirty (30) days from petitioner's receipt of respondent's denial of its administrative claim on June 18, 2019, petitioner had until July 18, 2019 to file its judicial claim. Considering the present *Petition for Review* was filed on July 18, 2019,[49] petitioner thus timely filed its judicial claim.

Petitioner is a VAT-registered person.

In this regard, petitioner proved that it is a VAT-registered taxpayer with TIN No. 202-950-644-000, as evidenced by BIR Certificate of Registration No. OCN 3RC0000799775.[50]

Petitioner is engaged in zero-rated or effectively zero-rated sales in 1st quarter of 2017.

With respect to output VAT, the taxpayer must prove that it is engaged in zero-rated or effectively zero-rated sales.

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[47] The last day July 30, 2019 fell on a Sunday. The next working day is July 1, 2019.
[48] Exhibit "P-2", Docket – Vol. I, p. 34.
[49] Docket – Vol. I, pp. 13 to 28.
[50] Exhibit "P-55", USB (which is marked as Exhibit "P-50-2").

Petitioner reported a total sales amounting to ₱104,969,217.22 in its Amended 1st Quarterly VAT Return for TY 2017,[51] which is comprised of VATable and zero-rated sales, broken down as follows:

VATable sales	₱ 77,935,734.89
Zero-rated sales	27,033,482.33
Total sales	**₱104,969,217.22**

Petitioner claims that its zero-rated sales arose from its sale of services to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects its sales to zero-rating, pursuant to Section 108(B)(3) of the 1997 NIRC, as amended. It provides:

> "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:
>
> xxx xxx xxx
>
> (3) **Services rendered to persons or entities whose exemption under special laws** or international agreements to which the Philippines is a signatory **effectively subjects the supply of such services to zero percent (0%) rate**;" *(Emphasis supplied)*

In relation thereto, Section 24 of RA No. 7916, as amended, otherwise known as The Special Economic Zone Act of 1995, provides:

[51] Exhibit "P-6-1", Docket – Vol. II, p. 506.

> "SECTION 24. *Exemption from Taxes Under the National Internal Revenue Code.* — Any provision of existing laws, rules and regulations to the contrary notwithstanding, **no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE**. **In lieu of paying taxes, five percent (5%) of the gross income earned by all businesses and enterprises within the ECOZONE shall be remitted to the national government**. This five percent (5%) shall be shared and distributed as follows:" *(Emphasis and underscoring supplied)*

Implementing the foregoing provisions, Section 4.108-5(b)(3) of Revenue Regulations (RR) No. 16-2005 provides:

> "SECTION 4.108-5. *Zero-Rated Sale of Services.*—
>
> xxx xxx xxx
>
> (b) *Transactions Subject to Zero Percent (0%) VAT Rate.* — The following services performed in the Philippines by a VAT-registered person shall be subject to zero percent (0%) VAT rate:
>
> xxx xxx xxx
>
> (3) **Services rendered to persons or entities whose exemption under special laws** or international agreements to which the Philippines is a signatory **effectively subjects the supply of such services to zero percent (0%) rate**;" *(Emphasis supplied)*

Petitioner asserts that the zero-rated sales for the 1st quarter of TY 2017 amounting to ₱27,033,482.33 arose from its sale of services to the following Philippine Economic Zone Authority (PEZA)-registered entities, supported with their respective PEZA Certification qualifying them for the purpose of VAT zero-rating of transactions with local suppliers of goods, properties and services in connection with their PEZA-registered activities: *an*

Customer	Amount	Exhibit No.[52]	PEZA Certification No.	Year of Validity
Accenture Inc.	₱ 4,643,118.10	"P-66"	2017-1173	2017
Acquire Asia Pacific Inc.	300,700.00	"P-66-42"	2017-1299	2017
Acquire Asia Pacific Manila 2 Inc.	677,900.00	P-66-46	2017-1087	2017
Acquire Asia Pacific Manila Inc.	562,550.00	*(none)*		
Acquire Asia Pacific Philippines Inc.	724,000.00	"P-66-48"	2017-1090	2017
Axiem Corporation	4,320.00	*(none)*		
CAC Philippines Inc.	581,000.00	"P-66-33"	2017-0131	2017
Citigroup Business Process Solutions	247,431.06	"P-66-32"	2017-1261	2017
Convergys Philippines Inc.	9,967,055.70	*(none)*		
Diversified Technology Solutions International Inc.	1,807,450.00	"P-66-49"	2017-1920	2017
Diversify Intelligent Staffing Solution	29,475.00	*(none)*		
International Digital Systems	26,643.46	*(none)*		
IBM Business Services Inc.	253,930.00	"P-66-22" or "P-19"[53]	2017-0172	2017
IBM Solutions Delivery Inc.	41,235.00	"P-66-21" or "P-20"[54]	2017-0293	2017
Integreon Managed Solutions Phils. Inc.	32,500.00	"P-66-17" or "P-22"[55]	2017-0701	2017
JPMorgan Chase Bank NA Phil. Global Services Center	3,818,718.96	"P-66-50" or "P-77"[56]	2017-1141	2017
Navitaire Philippines Inc.	66,761.00	"P-66-15"	2017-2309	2017
Standard and Poors Philippines Inc.	654,750.00	"P-66-9" or "P-26"[57]	2017-1189	2017
Sykes Asia Inc. Phils.	1,969,462.25	*(none)*		
Telephilippines Inc.	191,540.70	"P-66-4" or "P-28"[58]	2017-0839	2017
Tyco Fire Security and Services Pte Ltd	209,144.42	*(none)*		
Lufthansa German Airlines	19,652.00	*(none)*		
NCR Cebu Development Center Inc.	135,655.00	"P-66-14" or "P-23"[59]	2017-1952	2017
Vishay Philippines Inc.	40,000.00	*(none)*		
Rakuten Inc.	28,489.68	*(none)*		
Total	**₱27,033,482.33**			

[52] As found in USB marked as Exhibit "P-50-2".
[53] Docket – Vol. II, p. 519.
[54] *Id.* at 520.
[55] *Id.* at 522.
[56] *Id.* at 590.
[57] *Id.* at 525.
[58] *Id.* at 527.
[59] *Id.* at 523.

Based on the foregoing table, petitioner's sales to the following entities amounting to ₱12,856,792.51 must be disallowed outright for its failure to prove that said entities are entitled to VAT zero-rating under Section 108(B)(3) of the 1997 NIRC, as amended, and its implementing regulations:

Customer	Amount
Acquire Asia Pacific Manila Inc.	₱ 562,550.00
Axiem Corporation	4,320.00
Convergys Philippines Inc.	9,967,055.70
Diversify Intelligent Staffing Solution	29,475.00
International Digital Systems	26,643.46
Sykes Asia Inc. Phils.	1,969,462.25
Tyco Fire Security and Services Pte Ltd	209,144.42
Lufthansa German Airlines	19,652.00
Vishay Philippines Inc.	40,000.00
Rakuten Inc.	28,489.68
Total	**₱12,856,792.51**

With respect to petitioner's sales to entities duly registered with PEZA, it is mandatory for petitioner to comply with the invoicing requirements containing all the required information under Section 113(A) and (B) of the 1997 NIRC, as amended, thus:

> "SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* —
>
> (A) *Invoicing Requirements.* — A VAT-registered person shall issue:
>
> (1) A VAT invoice for every sale, barter or exchange of goods or properties; and
>
> (2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.
>
> (B) *Information Contained in the VAT Invoice or VAT Official Receipt.* — The following information shall be indicated in the VAT invoice or VAT official receipt:

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

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

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

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

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

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

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

(4) In the case of sales in the amount of one thousand pesos (₱1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client."

In relation thereto, Section 4.113-1(A) and (B) of RR No. 16-2005, as amended, provides:

"SEC. 4.113-1. Invoicing Requirements. —

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

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

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

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

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

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

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

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

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

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

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

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

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

In addition to the above requirements, the sales invoices and official receipts (ORs) must be duly registered with the BIR as prescribed under Section 237 in relation to Section 238 of the NIRC of 1997, as amended, thus:

"SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* — All persons subject to an internal revenue tax shall, for each sale and transfer of merchandise or for services rendered valued at Twenty-five pesos (₱25.00) or more, **issue duly registered receipts or sales or commercial invoices**, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service xxx.

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

commercial invoices before a printer can print the same.

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

Petitioner submitted VAT sales invoices[60] supporting its sales to entities proven to be duly registered with PEZA. However, a scrutiny of these invoices shows that petitioner did not only sell goods but also services.

Since petitioner's reported sales comprise of both sales of goods and services to PEZA-registered entities, its zero-rated sales apparently arose not only from Section 108(B)(3) of the 1997 NIRC, as amended, but also from Section 106(A)(2)(c) of the same law, as follows:

"SEC. 106. *Value-added Tax on Sale of Goods or Properties.* —

(A) *Rate and Base of Tax.* — There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, a value-added tax equivalent to ten percent (10%) of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor: x x x

xxx xxx xxx

[60] Exhibits "P-68", "P-68-17" to "P-68- 26", "P-68-29", "P-68-35" to "P-68-41", "P-68-43", "P-68-46" to "P-68-48", "P-68-52", "P-68-59", "P-68-61" to "P-68-65", "P-68-67" to "P-68-87", "P-68-104" to "P-68-119", "P-68-121", "P-68-125", "P-68-142" to "P-68-147", "P-68-152" to "P-68-156", "P-68-162", "P-68-164" to "P-68-167", "P-68-169", "P-68-171" to "P-68-180", "P-68-182" to "P-68-214", "P-68-218" to "P-68-221", "P-68-264" to "P-68-267", and "P-68-279", USB marked as Exhibit "P-50-2".

> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> xxx xxx xxx
>
> (c) **Sales to persons or entities whose exemption under special laws** or international agreements to which the Philippines is a signatory **effectively subjects such sales to zero rate**." *(Emphasis supplied)*

The same is accordingly implemented by Section 4.106-5(c) of RR No. 16-2005, which provides that the **sales of goods or property to persons or entities who are tax-exempt under special laws**, *e.g.*, sales to enterprises duly registered and accredited with the Subic Bay Metropolitan Authority (SBMA) pursuant to RA No. 7227, **sales to enterprises duly registered and accredited with the PEZA** or international agreements to which the Philippines is a signatory, such as, Asian Development Bank (ADB), International Rice Research Institute (IRRI), etc., **shall be effectively subject to VAT at zero-rate**.

Nevertheless, both Sections 106(A)(2)(c) and 108(B)(3) of the 1997 NIRC, as amended, and their implementing regulations, provide for the same basis for effectively subjecting a taxpayer's sales to zero-rating. The only difference between the two (2) provisions is that Section 106(A)(2)(c) deals with the sale of goods, while Section 108(B)(3) deals with the sale of services. At any rate, whether it be sale of goods or services, the same set of evidence is required from petitioner to prove that its sales transactions to the PEZA-registered entities qualify for zero-rating.

In this case, an examination of the invoices presented by petitioner shows that the zero-rated sales amounting to ₱7,576,538.22 must be disallowed for failure to comply with the invoicing requirements under Sections 113(A) and (B), and Section 237, in relation to Section 238 of the 1997 NIRC, as amended, with its implementing regulations, on the following grounds:

Exhibit No.	Customer	Document Reference No.	Document Date[61]	Amount *(in Php)*
Sale of services supported by VAT sales invoices and not by ORs				
"P-68"	Accenture Inc.	15811	10 January 2017	57,661.00
"P-68-17"	Accenture Inc.	15804	10 January 2017	133,000.00
"P-68-18"	Accenture Inc.	15805	10 January 2017	380,598.40
"P-68-19"	Accenture Inc.	15806	10 January 2017	101,799.70
"P-68-20"	Accenture Inc.	15807	10 January 2017	110,754.60
"P-68-21"	Accenture Inc.	15808	10 January 2017	106,454.20
"P-68-22"	Accenture Inc.	15809	10 January 2017	894,000.00
"P-68-23"	Accenture Inc.	15810	10 January 2017	39,889.20
"P-68-24"	Accenture Inc.	15834	18 January 2017	21,120.00
"P-68-25"	Accenture Inc.	15915	31 January 2017	7,500.00
"P-68-26"	Accenture Inc.	15916	31 January 2017	18,500.00
"P-68-29"	Accenture Inc.	15917	31 January 2017	10,320.80
"P-68-35"	Accenture Inc.	15963	15 February 2017	12,560.20
"P-68-36"	Accenture Inc.	15964	15 February 2017	40,307.50
"P-68-37"	Accenture Inc.	15965	15 February 2017	50,000.00
"P-68-38"	Accenture Inc.	15966	15 February 2017	31,051.00
"P-68-39"	Accenture Inc.	15967	15 February 2017	16,443.80
"P-68-40"	Accenture Inc.	15968	15 February 2017	150,022.80
"P-68-41"	Accenture Inc.	15969	15 February 2017	41,310.00
"P-68-46"	Accenture Inc.	16064	14 March 2017	36,354.50
"P-68-47"	Accenture Inc.	16063	14 March 2017	6,881.00
"P-68-48"	Accenture Inc.	16079	20 March 2017	960,000.00
"P-68-52"	Accenture Inc.	16152	31 March 2017	4,370.00
"P-68-59"	Accenture Inc.	16153	31 March 2017	11,953.60
"P-68-61"	Accenture Inc.	16150	31 March 2017	22,755.60
"P-68-62"	Accenture Inc.	16154	31 March 2017	36,513.40
"P-68-63"	Accenture Inc.	16155	31 March 2017	9,690.00
"P-68-64"	Accenture Inc.	16156	31 March 2017	32,652.70
"P-68-65"	Accenture Inc.	16157	31 March 2017	12,335.10

[61] Expressed in day-month-year.

"P-68-121"	CAC Philippines Inc.	16205	31 March 2017	458,500.00
"P-68-166"	JPMorgan Chase Bank NA Phil. Global Services Center	15803	10 January 2017	351,806.25
"P-68-169"	JPMorgan Chase Bank NA Phil. Global Services Center	15850	23 January 2017	546,470.80
"P-68-171"	JPMorgan Chase Bank NA Phil. Global Services Center	15851	23 January 2017	259,657.05
"P-68-180"	JPMorgan Chase Bank NA Phil. Global Services Center	15901	31 January 2017	83,544.86
"P-68-212"	Navitaire Philippines Inc.	15828	17 January 2017	1,408.00
"P-68-213"	Navitaire Philippines Inc.	15829	17 January 2017	10,503.00
"P-68-214"	Navitaire Philippines Inc.	15852	23 January 2017	33,350.00
"P-68-279"	NCR Cebu Development Center Inc.	16133	26-Mar-2017	72,655.00
	Subtotal			***5,174,694.06***
Sale of services supported by billing statement and not by OR				
"P-68-167"	JPMorgan Chase Bank NA Phil. Global Services Center	3925	10 January 2017	***381,600.00***
Sale of goods supported with VAT sales invoice but the sales amount is labelled as VAT Exempt				
"P-68-173"	JPMorgan Chase Bank NA Phil. Global Services Center	15868	26 January 2017	***68,940.00***
Sales without supporting documents				
	Accenture Inc.			1,293,200.00
	CAC Philippines Inc.			122,500.00
	Citigroup Business Process Solutions			74,104.16
	IBM Solutions Delivery Inc.			34,650.00
	Integreon Managed Solutions Phils. Inc.			9,000.00
	JPMorgan Chase Bank NA Phil. Global Services Center			332,500.00
	Navitaire Philippines Inc.			21,500.00
	Telephilippines Inc.			850.00
	NCR Cebu Development Center Inc.			63,000.00
	Subtotal			***1,951,304.16***
TOTAL				**7,576,538.22**

Hence, petitioner has shown that it is engaged in zero-rated or effectively zero-rated sales, but only to the extent of ₱6,600,151.60, as computed below:

Total zero-rated sales per Amended 1st Quarterly VAT Return		₱27,033,482.33
Less:		
Disallowed zero-rated sales to clients without PEZA Certification	₱12,856,792.51	
Disallowed zero-rated sales for failure to comply with invoicing requirements	7,576,538.22	20,433,330.73
Valid zero-rated sales for the 1st Quarter of 2017		**₱6,600,151.60**

cm

Accordingly, only said amount qualifies as valid zero-rated sales under Sections 106(A)(2)(c) and 108(B)(3) of the 1997 NIRC, as amended.

The input VAT being claimed do not appear to be transitional input taxes.

On this score, petitioner must show that the claimed input taxes do not appear to be transitional input taxes, pursuant to Section 111(A) of the 1997 NIRC, as amended, to wit:

> "SEC. 111. *Transitional/Presumptive Input Tax Credits.* –
>
> (A) *Transitional Input Tax Credits.* – A person who becomes liable to value-added tax or any person who elects to be a VAT-registered person shall, subject to the filing of an inventory according to the rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, be allowed input tax on his beginning inventory of goods, materials and supplies equivalent to two percent (2%) of the value of such inventory or the actual value-added tax paid on such goods, materials and supplies, whichever is higher, which shall be creditable against the output tax."

Transitional input tax credit operates to benefit newly VAT-registered persons, whether they previously paid taxes in the acquisition of their beginning inventory of goods, materials and supplies. During the period of transition from non-VAT to VAT status, the transitional input tax credit serves to alleviate the impact of the VAT on the taxpayer.[62]

In this case, records show that petitioner is not a newly VAT-registered entity. Thus, in the absence of any indication that the claimed input taxes are transitional input taxes, the Court holds that petitioner has complied with the foregoing requisite.

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[62] *Fort Bonifacio Development Corporation v. Commissioner of Internal Revenue, et al.*, G.R. Nos. 158885 and 170680, October 2, 2009.

The input taxes being claimed were due or paid

To continue, it is also incumbent upon petitioner to provide supporting documents to prove that the input taxes claimed during the 1st quarter of TY 2017 were actually due or paid in accordance with Section 110(A) of the 1997 NIRC, as amended, which provides:

> "SEC. 110. *Tax Credits.* —
>
> (A) *Creditable input Tax.* —
>
> (1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax:
>
> (a) Purchase or importation of goods:
>
> (1) For sale; or
>
> (ii) For conversion into or intended to form part of a finished product for sale including packaging materials; or
>
> (iii) For use as supplies in the course of business; or
>
> (iv) For use as materials supplied in the sale of service; or
>
> (v) For use in trade or business for which deduction for depreciation or amortization is allowed under this Code.
>
> (b) Purchase of services on which a value-added tax has actually been paid.
>
> (2) The input tax on domestic purchase or importation of goods or properties by a VAT-registered person shall be creditable:
>
> (a) To the purchaser upon consummation of sale and on importation of goods or properties; and

(b) To the importer upon payment of the value-added tax prior to the release of the goods from the custody of the Bureau of Customs.

Provided, That the input tax on goods purchased or imported in a calendar month for use in trade or business for which deduction for depreciation is allowed under this Code, shall be spread evenly over the month of acquisition and the fifty-nine (59) succeeding months if the aggregate acquisition cost for such goods, excluding the VAT component thereof, exceeds One million pesos (₱1,000,000): *Provided, however*, That if the estimated useful life of the capital good is less than five (5) years, as used for depreciation purposes, then the input VAT shall be spread over such a shorter period: *Provided, finally*, That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or fee."

The above provisions are implemented by Sections 4.110-1 to 4.110-3 of RR No. 16-2005, which provide as follows:

"SECTION 4.110-1. *Credits For Input Tax.* — *'Input tax'* means the VAT due on or paid by a VAT-registered person on importation of goods or local purchases of goods, properties, or services, including lease or use of properties, in the course of his trade or business. It shall also include the transitional input tax and the presumptive input tax determined in accordance with Sec. 111 of the Tax Code.

It includes input taxes which can be directly attributed to transactions subject to the VAT plus a ratable portion of any input tax which cannot be directly attributed to either the taxable or exempt activity.

Any input tax on the following transactions evidenced by a VAT invoice or official receipt issued by a VAT-registered person in accordance with Secs. 113 and 237 of the Tax Code shall be creditable against the output tax:

(a) Purchase or importation of goods

(1) For sale; or

(2) For conversion into or intended to form part of a finished product for sale, including packaging materials; or

(3) For use as supplies in the course of business; or

(4) For use as raw materials supplied in the sale of services; or

(5) For use in trade or business for which deduction for depreciation or amortization is allowed under the Tax Code,

(b) Purchase of real properties for which a VAT has actually been paid;

(c) Purchase of services in which a VAT has actually been paid;

(d) Transactions 'deemed sale' under Sec. 106 (B) of the Tax Code;

(e) Transitional input tax allowed under Sec. 4.111 (a) of these Regulations;

(f) Presumptive input tax allowed under Sec. 4.111 (b) of these Regulations;

(g) Transitional input tax credits allowed under the transitory and other provisions of these Regulations.

SECTION 4.110-2. *Persons Who Can Avail of the Input Tax Credit.* — The input tax credit on importation of goods or local purchases of goods, properties or services by a VAT-registered person shall be creditable:

(a) To the importer upon payment of VAT prior to the release of goods from customs custody;

(b) To the purchaser of the domestic goods or properties upon consummation of the sale; or

(c) To the purchaser of services or the lessee or licensee upon payment of the compensation, rental, royalty or fee.

SECTION 4.110-3. *Claim for Input Tax on Depreciable Goods.* — Where a VAT-registered person purchases or imports capital goods, which are depreciable assets for income tax purposes, the aggregate acquisition cost of which (exclusive of VAT) in a calendar month exceeds One Million pesos (₱1,000,000.00), regardless of the acquisition cost of each capital good, shall be claimed as credit against output tax in the following manner:

(a) If the estimated useful life of a capital good is five (5) years or more — The input tax shall be spread evenly over a period of sixty (60) months and the claim for input tax credit will commence in the calendar month when the capital good is acquired. The total input taxes on purchases or importations of this type of capital goods shall be divided by 60 and the quotient will be the amount to be claimed monthly.

(b) If the estimated useful life of a capital good is less than five (5) years — The input tax shall be spread evenly on a monthly basis by dividing the input tax by the actual number of months comprising the estimated useful life of the capital good. The claim for input tax credit shall commence in the calendar month that the capital goods were acquired.

Where the aggregate acquisition cost (exclusive of VAT) of the existing or finished depreciable capital goods purchased or imported during any calendar month does not exceed One million pesos (₱1,000,000.00), the total input taxes will be allowable as credit against output tax in the month of acquisition; *Provided,* however, that the total amount of input taxes (input tax on depreciable capital goods plus other allowable input taxes) allowed to be claimed against the output tax in the quarterly VAT Returns shall be subject to the *am* limitation prescribed under Sec. 4.110-7 of these Regulations.

The aggregate acquisition cost of a depreciable asset in any calendar month refers to the total price agreed upon for one or more assets acquired and not on the payments actually made during the calendar month. Thus, an asset acquired in installment for an acquisition cost of more than ₱1,000,000.00 will be subject to the amortization of input tax despite the fact that the monthly payments/installments may not exceed ₱1,000,000.00.

xxx xxx xxx

If the depreciable capital good is sold/transferred within a period of five (5) years or prior to the exhaustion of the amortizable input tax thereon, the entire unamortized input tax on the capital goods sold/transferred can be claimed as input tax credit during the month/quarter when the sale or transfer was made but subject to the limitation prescribed under Sec. 4.110-7 of these Regulations."

In addition, Section 4.110-8 of RR No. 16-2005 provides for the substantiation requirements of input tax credits, as follows:

"SECTION 4.110-8. *Substantiation of Input Tax Credits.* —

(a) Input taxes for the importation of goods or the domestic purchase of goods, properties or services is made in the course of trade or business, whether such input taxes shall be credited against zero-rated sale, non-zero-rated sales, or subjected to the 5% Final Withholding VAT, must be substantiated and supported by the following documents, and must be reported in the information returns required to be submitted to the Bureau: *am*

(1) For the importation of goods — import entry or other equivalent document showing actual payment of VAT on the imported goods.

(2) For the domestic purchase of goods and properties — invoice showing the information required under Secs. 113 and 237 of the Tax Code.

(3) For the purchase of real property — public instrument i.e., deed of absolute sale, deed of conditional sale, contract/agreement to sell, etc., together with VAT invoice issued by the seller.

(4) For the purchase of services — official receipt showing the information required under Secs. 113 and 237 of the Tax Code.

A cash register machine tape issued to a registered buyer shall constitute valid proof of substantiation of tax credit only if it shows the information required under Secs. 113 and 237 of the Tax Code.

(b) Transitional input tax shall be supported by an inventory of goods as shown in a detailed list to be submitted to the BIR.

(c) Input tax on 'deemed sale' transactions shall be substantiated with the invoice required under Sec. 4.113-2 of these Regulations.

(d) Input tax from payments made to non-residents (such as for services, rentals and royalties) shall be supported by a copy of the Monthly Remittance Return of Value Added Tax Withheld (BIR Form 1600) filed by the resident payor in behalf of the non-resident evidencing remittance of VAT due which was withheld by the payor.

(e) Advance VAT on sugar shall be supported by the Payment Order showing payment of the advance VAT."

Thus, in order to be entitled to input tax credits, the same must be evidenced by a VAT sales invoice or an OR issued in accordance with Sections 113 and 237 of the 1997 NIRC, as amended.

To prove entitlement to credits for input taxes due and paid, petitioner must not only present the supporting documents prescribed under Section 4.110-8 of RR No. 16-2005, but it must also comply with the invoicing requirements under Sections 113(A) and (B), 237 and 238 of the 1997 NIRC, as amended, as implemented by Sections 4.113-1(A) and (B) of RR No. 16-2005.

In its Amended 1st Quarterly VAT Return for TY 2017,[63] petitioner declared total input VAT from current purchases amounting to ₱12,200,143.55, broken down as follows:

Domestic purchases of goods other than capital goods exceeding P1million	₱ 10,192,322.55
Importation of goods other than capital goods	2,007,821.00
Total current input VAT	**₱12,200,143.55**

Accordingly, petitioner submitted the following pieces of evidence: (1) VAT sales invoices and ORs[64] to support its input taxes from domestic purchases of goods; (2) Certification of petitioner's remittances of duties, taxes and other charges for the period January to March 2017, issued by the Bureau of Customs (BOC);[65] and, (3) Import Entry and Internal Revenue Declaration (IEIRD)[66] to support its importation of goods.

Upon examination of the foregoing documents, it is found that out of the input VAT from domestic purchases of goods amounting to ₱10,192,322.55, the amount of ₱4,132,978.11 must be disallowed for failure to comply with the invoicing and

[63] Exhibit "P-6-1", Docket – Vol. II, p. 506.

[64] Exhibits "P-70-1" to "P-70-5", "P-70-7" to "P-70-68", "P-70-70" to "P-70-78", "P-70-80" to "P-70-90", "P-70-92" to "P-70-103", "P-70-105 to "P-70-118", "P-70-121" to "P-70-142", "P-70-145" to "P-70-147", "P-70-149" to "P-70-152", "P-70-154", "P-70-156" to "P-70-159", "P-70-161" to "P-70-183", "P-70-186", "P-70-189", "P-70-201" to "P-70-205", "P-70-207" to "P-70-222", "P-70-224" to "P-70-227", "P-70-229" to "P-70-235", "P-70-246" to "P-70-259", "P-70-261" to "P-70-262", "P-70-264" to "P-70-268", "P-70-272", "P-70-274" to "P-70-326", "P-70-330" to "P-70-350", "P-70-352" to "P-70-354", "P-70-357" to "P-70-360", "P-70-364" to "P-70-393", "P-70-395" to "P-70-403", "P-70-408" to "P-70-409", "P-70-418" to "P-70-421", "P-70-423" to "P-70-434", and "P-70-441" to "P-70-451", USB marked as Exhibit "P-50-2".

[65] Exhibit "P-75", USB marked Exhibit "P-50-2".

[66] Exhibits "P-76" to "P-76-6", USB marked Exhibit "P-50-2". *an*

substantiation requirements under the 1997 NIRC, as amended, and its implementing rules, thus:

Exhibit No.	Supplier	SI/OR No.	Sales invoice /OR Date[67]	Input VAT Amount (in Pesos)
Domestic purchase of goods supported with billing statement				
"P-70-161"	Top Logistics International Corporation	0007485	18 February 2017	***1,806.00***
Domestic purchase of services supported with billing statement				
"P-70-360"	RML Courier Express int'l Corp	0015646	20 March 2017	258.13
"P-70-424"	Top Logistics International Corporation	0007737	28 March 2017	1,975.26
	Subtotal			***2,233.39***
Domestic purchase of services supported with VAT sales invoice				
"P-70-145"	Federal Express Pacific, LLC	740294207	3 February 2017	***313.10***
Domestic purchase of goods supported with NON-VAT sales invoice				
"P-70-324"	GEDS Enterprises	0051	14 March 2017	***23,040.00***
Domestic purchase of goods supported with VAT sales invoice BUT the date and description of goods purchased are unreadable				
"P-70-164"	MEC Networks Corporation	020613		2,442.85
"P-70-176"	MEC Networks Corporation	020663		13,928.57
"P-70-225"	MEC Networks Corporation	020914		1,206.13
"P-70-421"	MEC Networks Corporation	021044		5,151.64
	Subtotal			***22,729.19***
Domestic purchase of goods supported with VAT sales invoice BUT the description of goods purchased is unreadable				
"P-70-192"	MEC Networks Corporation	020728	14 February 2017	5,880.21
"P-70-219"	MEC Networks Corporation	020956	21 February 2017	1,493.57
"P-70-246"	MEC Networks Corporation	020972	24 February 2017	3,428.57
	Subtotal			***10,802.35***
Domestic purchase of goods supported with VAT sales invoice BUT date, description of goods purchased and petitioner's name and TIN are unreadable				
"P-70-33"	Greenlee Facilities Solutions Inc.	12262		14,899.29
"P-70-34"	Greenlee Facilities Solutions Inc.	12263		2,447.14
"P-70-35"	Greenlee Facilities Solutions Inc.	12264		7,376.79
"P-70-36"	Greenlee Facilities Solutions Inc.	12266		2,003.46
"P-70-37"	Greenlee Facilities Solutions Inc.	12268		2,555.36
"P-70-38"	Greenlee Facilities Solutions Inc.	12269		6,381.43

[67] Expressed in day-month-year.

"P-70-39"	Greenlee Facilities Solutions Inc.	12270		11,167.50
"P-70-40"	Greenlee Facilities Solutions Inc.	12271		3,001.50
"P-70-41"	Greenlee Facilities Solutions Inc.	12272		1,928.57
"P-70-190"	Greenlee Facilities Solutions Inc.	12402		1,923.57
	Subtotal			***53,684.61***
Domestic purchase of goods and services supported with VAT sales invoice/OR BUT with wrong address of petitioner				
"P-70-11"	Banbros Commercial Inc.	202694	27 January 2017	1,200.00
"P-70-13"	Banbros Commercial Inc.	202499	25 January 2017	160.71
"P-70-102"	Top Logistics International Corporation	0005442	3 March 2017	5,504.98
"P-70-374"	Gentec Electrik Corp.	0732	17 March 2017	14,212.80
"P-70-379"	Ardent Networks Inc.	0257	21 March 2017	6,716.79
"P-70-380"	Greenlee Facilities Solutions Inc.	12645	21 March 2017	2,892.86
"P-70-381"	Ardent Networks Inc.	0259	21 March 2017	3,921.43
"P-70-382"	Ardent Networks Inc.	0258	21 March 2017	1,062.86
"P-70-383"	Greenlee Facilities Solutions Inc.	12644	21 March 2017	2,442.86
"P-70-384"	Ardent Networks Inc.	094225	22 March 2017	8,400.00
"P-70-389"	Alpha Office Equipments Center	14803	23 March 2017	1,103.57
	Subtotal			***47,618.86***
Domestic purchase of goods and services supported with VAT sales invoice/OR BUT with incomplete address of petitioner				
"P-70-14"	Capital Worldwide Express Cargo Corporation	13629	20 January 2017	1,039.41
"P-70-15"	Capital Worldwide Express Cargo Corporation	13615	6 January 2017	1,145.14
"P-70-32"	Gentec Electrik Corp.	0642	31 January 2017	1,196.25
"P-70-43"	Hitech Hardward & Electrical Supply Inc.	32408	3 January 2017	500.14
"P-70-44"	Industech Automation Systems Inc.	0004201	20 January 2017	10,120.43
"P-70-45"	Industech Automation Systems Inc.	0004200	20 January 2017	1,970.52
"P-70-55"	Lucky Triumph Electrical Enterprises Inc.	0037	30 January 2017	5,137.50
"P-70-56"	Lucky Triumph Electrical Enterprises Inc.	0036	28 January 2017	34,739.46
"P-70-57"	Lucky Triumph Electrical Enterprises Inc.	0033	26 January 2017	3,685.71
"P-70-58"	Lucky Triumph Electrical Enterprises Inc.	0034	26 January 2017	8,258.04

"P-70-80"	RML Courier Express int'l Corp	0020088 / 0015011	27 January 2017	3,205.14
"P-70-81"	St. Michael Medical Clinic & Diagnostic Center Inc.	098845	13 January 2017	407.14
"P-70-105"	Lucky Triumph Electrical Enterprises Inc.	0031	25 January 2017	14,142.86
"P-70-106"	Lucky Triumph Electrical Enterprises Inc.	0035	26 January 2017	66,696.43
"P-70-109"	Hitech Hardward & Electrical Supply Inc.	32683	28 January 2017	9,545.21
"P-70-118"	Capital Worldwide Express Cargo Corporation	13693	24 March 2017	2,883.28
"P-70-136"	Puregold Price Club Inc.	0036756	2 February 2017	1,066.38
"P-70-146"	Freshwind Sales & Marketing	15811	3 February 2017	302.14
"P-70-162"	Hitech Hardward & Electrical Supply Inc.	32870	8 February 2017	956.25
"P-70-163"	Hitech Hardward & Electrical Supply Inc.	32869	8 February 2017	130.71
"P-70-179"	Lucky Triumph Electrical Enterprises Inc.	0042	11 February 2017	25,639.29
"P-70-197"	Lucky Triumph Electrical Enterprises Inc.	0043	15 February 2017	8,486.25
"P-70-201"	Hitech Hardward & Electrical Supply Inc.	33031	17 February 2017	12,009.64
"P-70-235"	RML Courier Express int'l Corp	0020762	24 March 2017	113.32
"P-70-248"	Hitech Hardward & Electrical Supply Inc.	33206	27 February 2017	10,263.75
"P-70-252"	Hitech Hardward & Electrical Supply Inc.	33208	27 February 2017	3,187.50
"P-70-253"	Hitech Hardward & Electrical Supply Inc.	33150	27 February 2017	13,272.10
"P-70-272"	St. Michael Medical Clinic & Diagnostic Center Inc.	120762	10 March 2017	407.14
"P-70-294"	Lucky Triumph Electrical Enterprises Inc.	0059	7 March 2017	4,121.79
"P-70-296"	Lucky Triumph Electrical Enterprises Inc.	0075	10 March 2017	152.04
"P-70-338"	Lucky Triumph Electrical Enterprises Inc.	0076	14 March 2017	1,162.50
"P-70-339"	Lucky Triumph Electrical Enterprises Inc.	0077	15 March 2017	1,692.86
"P-70-357"	Lucky Triumph Electrical Enterprises Inc.	0078	16 March 2017	3,300.96
"P-70-375"	Gentec Electrik Corp.	0731	17 March 2017	24,176.78
"P-70-377"	Genius Hardware Inc.	54158	17 March 2017	4,135.72

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"P-70-387"	Lucky Triumph Electrical Enterprises Inc.	0081	24 March 2017	3,053.68
"P-70-393"	Hitech Hardward & Electrical Supply Inc.	33665	23 March 2017	310.71
	Subtotal			***282,614.17***
Domestic purchase of goods and services supported with VAT sales invoice/OR BUT with incomplete address and without business style of petitioner				
"P-70-276"	Cathay Hardware Inc.	6041	2 March 2017	3,153.73
"P-70-280"	Cathay Hardware Inc.	33014	2 March 2017	1,007.92
"P-70-285"	Cathay Hardware Inc.	6043	6 March 2017	401.79
"P-70-305"	Puregold Price Club Inc.	0037682	6 March 2017	1,080.04
"P-70-399"	Globe Telecom Inc.	PNC3337817	27 March 2017	192.75
"P-70-402"	Innove Communications Inc.	ABS0842123	27 March 2017	825.00
	Subtotal			***6,661.23***
Domestic purchase of services supported with VAT OR BUT with incomplete address and without description of service rendered				
"P-70-76"	R Square Consolidated Services Corporation	0005283	6 January 2017	32,357.05
"P-70-112"	RML Courier Express int'l Corp	0020078	6 January 2017	2,669.93
	Subtotal			***35,026.98***
Domestic purchase of goods supported with VAT sales invoice BUT with incomplete address and without TIN of petitioner				
"P-70-227"	Nikoy Gen. Merchandise Hardware & Electrical	102897	23 February 2017	***1,089.64***
Domestic purchase of goods supported with VAT sales invoice BUT issued to Lantrovision, Inc.				
"P-70-258"	Electromark Multi Sales Inc.	0016689	28 February 2017	1,285.71
"P-70-259"	Electromark Multi Sales Inc.	0016712	28 February 2017	2,518.92
	Subtotal			***3,804.63***
Domestic purchase of goods and services supported with VAT sales invoice/OR BUT without address, TIN and business style of petitioner				
"P-70-172"	Axn Tyre Medic Center	40554	1 February 2017	750.00
"P-70-182"	Richmar Screw Center	3372	13 February 2017	1,285.72
"P-70-295"	Lucky Triumph Electrical Enterprises Inc.	0058	5 March 2017	3,617.11
	Subtotal			***5,652.83***
Domestic purchase of goods and services supported with VAT sales invoice/OR BUT without business style of petitioner				
"P-70-22"	Electrotrade Industries Inc.	0581	3 January 2017	267,379.29
"P-70-25"	Electrotrade Industries Inc.	0630	27 January 2017	212,190.00
"P-70-27"	Electrotrade Industries Inc.	0632	25 January 2017	67,928.57
"P-70-54"	Jobstreet.com Philippines Inc.	21067589	15 February 2017	3,132.00
"P-70-94"	Yu Eng Kao Electrical Supply and Hardware Inc.	69605	4 January 2017	420.00

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"P-70-95"	Yu Eng Kao Electrical Supply and Hardware Inc.	70184	18 January 2017	1,162.55
"P-70-96"	Yu Eng Kao Electrical Supply and Hardware Inc.	70185	18 January 2017	463.39
"P-70-97"	Yu Eng Kao Electrical Supply and Hardware Inc.	70632	27 January 2017	2,992.50
"P-70-98"	Yu Eng Kao Electrical Supply and Hardware Inc.	70384	21 January 2017	5,108.57
"P-70-99"	Yu Eng Kao Electrical Supply and Hardware Inc.	70483	24 January 2017	1,291.07
"P-70-100"	Yu Eng Kao Electrical Supply and Hardware Inc.	70277	19 January 2017	234.64
"P-70-154"	Diamond Motor Corporation	152702	6 February 2017	152,678.50
"P-70-161"	Prudential Guarantee and Assurance, Inc.	HOM-1000908827	8 February 2017	17,500.00
"P-70-171"	Prudential Guarantee and Assurance, Inc.	HOM-1000909787	10 February 2017	3,737.40
"P-70-194"	Yu Eng Kao Electrical Supply and Hardware Inc.	71340	14 February 2017	2,316.43
"P-70-195"	Acura Realty Corp.	3918	15 February 2017	8,301.50
"P-70-196"	Electrotrade Industries Inc.	0700	15 February 2017	30,728.57
"P-70-205"	Yu Eng Kao Electrical Supply and Hardware Inc.	71501	17 February 2017	10,364.79
"P-70-215"	Washington Electrical & Ind'l Supply Inc.	75917	20 February 2017	1,015.04
"P-70-226"	Yu Eng Kao Electrical Supply and Hardware Inc.	71728	22 February 2017	9,979.07
"P-70-233"	Canon Marketing (Philippines) Inc.	RX00034702	24 February 2017	1,074.65
"P-70-254"	Yu Eng Kao Electrical Supply and Hardware Inc.	71921	27 February 2017	16,788.21
"P-70-255"	Yu Eng Kao Electrical Supply and Hardware Inc.	71922	27 February 2017	18,346.07
"P-70-256"	Yu Eng Kao Electrical Supply and Hardware Inc.	71923	27 February 2017	17,284.29
"P-70-284"	Prudential Guarantee and Assurance, Inc.	HOM-1000928210	8 March 2017	1,061.40
"P-70-288"	Prudential Guarantee and Assurance, Inc.	HOM-1000928212	8 March 2017	1,533.60
"P-70-297"	MEC Networks Corporation	007695	7 March 2017	13,358.55
"P-70-298"	MEC Networks Corporation	017038	9 March 2017	2,562.43
"P-70-313"	Yu Eng Kao Electrical Supply and Hardware Inc.	72106	3 March 2017	10,689.64
"P-70-314"	Yu Eng Kao Electrical Supply and Hardware Inc.	72247	7 March 2017	21,758.04

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"P-70-334"	Yu Eng Kao Electrical Supply and Hardware Inc.	72541	14 March 2017	185.36
"P-70-335"	Yu Eng Kao Electrical Supply and Hardware Inc.	72623	15 March 2017	9,932.14
"P-70-364"	Yu Eng Kao Electrical Supply and Hardware Inc.	72760	17 March 2017	4,516.07
"P-70-371"	Electrotrade Industries Inc.	0889	18 March 2017	92,678.57
"P-70-385"	Malackku Industrial Sales	139125	22 March 2017	19,208.57
"P-70-386"	Anixter Philippines, Inc.	006222A	24 March 2017	5,826.01
"P-70-408"	Yu Eng Kao Electrical Supply and Hardware Inc.	72947	22 March 2017	14,603.57
"P-70-409"	Yu Eng Kao Electrical Supply and Hardware Inc.	73072	23 March 2017	1,108.93
"P-70-418"	Yu Eng Kao Electrical Supply and Hardware Inc.	73246	28 March 2017	22,181.79
"P-70-419"	Yu Eng Kao Electrical Supply and Hardware Inc.	73247	28 March 2017	21,850.71
"P-70-420"	Yu Eng Kao Electrical Supply and Hardware Inc.	73248	28 March 2017	18,685.71
"P-70-427"	Prudential Guarantee and Assurance, Inc.	HOM-1000943406	29 March 2017	1,341.60
	Subtotal			***1,115,499.79***
Domestic purchase of goods supported with VAT sales invoice BUT without TIN and business style of petitioner				
"P-70-322"	Electromark Multi Sales Inc.	0016877	13 March 2017	***26,700.00***
Domestic purchase of services supported with VAT OR BUT without description of service rendered				
"P-70-19"	Eastwood Richmonde Hotel	060763	20 January 2017	5,552.23
"P-70-80"	RML Courier Express int'l Corp	0020088 / 0015137	27 January 2017	113.02
"P-70-90"	Top Logistics International Corporation	0005373	27 January 2017	1,884.36
"P-70-92"	Top Logistics International Corporation	0005336	13 January 2017	7,046.65
"P-70-193"	Richmonde Hotel Ortigas	163423	14 February 2017	7,453.30
"P-70-403"	Federal Express Pacific, LLC	A00707729	24 March 2017	313.10
	Subtotal			***22,362.66***
Domestic purchase of services supported with VAT OR BUT without TIN of petitioner				
"P-70-430"	Smart Communications Inc.	unreadable	28 March 2017	***138.93***
Domestic purchase of goods supported with VAT sales invoice BUT without separate VAT amount				
"P-70-20"	EINK Enterprises	4898	11 January 2017	***10,339.29***

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Domestic purchase of goods supported with VAT sales invoice BUT with incomplete address of petitioner and without separate VAT amount				
"P-70-378"	Ad-Ryan Enterprises	2638	21 March 2017	***1,714.29***
Domestic purchase of goods and services supported with VAT sales invoice/OR BUT dated outside the period of claim				
"P-70-10"	Axn Tyre Medic Center	39393	26 October 2016	1,422.33
"P-70-293"	JDB Geotechnical and Materials Testing Co.	0045	21 April 2017	900.00
"P-70-323"	CSS Image Design	0971	21 April 2017	6,759.64
"P-70-443"	Smart Communications Inc.	SBEOR008546127	26 May 2017	535.72
"P-70-444"	Smart Communications Inc.	SBEOR008546128	26 May 2017	535.72
"P-70-445"	Smart Communications Inc.	SBEOR008793313	28 June 2017	535.72
"P-70-446"	Smart Communications Inc.	SBEOR008793312	28 June 2017	535.72
"P-70-447"	Smart Communications Inc.	SBEOR008268232 SBEOR008268233 SBEOR008268234	24 April 2017	164.67
"P-70-448"	Smart Communications Inc.	SBEOR008793305 SBEOR008793311 SBEOR008793306 SBEOR008793307 SBEOR008793308 SBEOR008793309 SBEOR008793310	28 June 2017	652.28
"P-70-449"	Smart Communications Inc.	SBEOR008546134 SBEOR008546133 SBEOR008546132 SBEOR008546130 SBEOR008546135 SBEOR008546129	26 May 2017	406.79
"P-70-450"	Smart Communications Inc.	SBEOR008268193 SBEOR008268194 SBEOR008268195 SBEOR008268196 SBEOR008268198 SBEOR008268203 SBEOR008268210 SBEOR008268211 SBEOR008268212 SBEOR008268213 SBEOR008268214 SBEOR008268215 SBEOR008268216 SBEOR008268217 SBEOR008268219 SBEOR008268221 SBEOR008268222 SBEOR008268218 SBEOR008268204 SBEOR008268205 SBEOR008268206 SBEOR008268209 SBEOR008268225	24 April 2017	5,006.35

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"P-70-451"	Hansmar Real Estate & Development Corporation	19480	1 April 2017	1,768.42
	Subtotal			***19,223.36***
Domestic purchase of goods supported with VAT sales invoice BUT dated outside the period of claim and without separate VAT amount and address, TIN and business style of petitioner				
"P-70-268"	Kalrej Corporation	002394	9 June 2017	***5,456.19***
Unsupported input VAT				***2,434,466.63***
TOTAL				**4,132,978.11**

On the other hand, out of the input VAT from importation of goods amounting to ₱2,007,821.00, only the amount of ₱1,971,260.00 is certified by the BOC as remitted by petitioner to the Bureau of Treasury in compliance with the substantiation requirements under the 1997 NIRC, as amended, and its implementing regulations. As for the remaining amount of ₱36,561.00, petitioner did not present any proof of payment of VAT and as such, must be disallowed. While IEIRDs were presented, the same pertain merely to import declarations, but are not sufficient to prove payment of VAT on importations.

In sum, the Court finds that out of the total current input VAT of ₱12,200,143.55 for the 1st quarter of TY 2017, only the amount of ₱8,030,604.44 pertains to validly substantiated input VAT, as computed below:

Total current input VAT declared per Amended 1st Quarterly VAT Return		₱ 12,200,143.55
Less:		
Disallowed input VAT from domestic purchases	₱4,132,978.11	
Disallowed input VAT from importations	36,561.00	4,169,539.11
Valid input VAT for the 1st Quarter of 2017		**₱8,030,604.44**

The input taxes are attributable to zero-rated sales, but only to the extent amounting to ₱504,940.48.

The law requires that the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume.

As mentioned earlier, petitioner reported a total sales in the aggregate amount of ₱104,969,217.22 comprised of VATable and zero-rated sales for TY 2017. Therefore, the valid input VAT of ₱8,030,604.44 shall be allocated on the basis of volume of sales, thus:

Total Taxable Sales per VAT Returns	₱ 77,935,734.89
Divided by the Reported Total Sales per Quarterly VAT Returns	104,969,217.22
Multiplied by Total Valid Input VAT	8,030,604.44
Valid input VAT allocated to total sales subject to 12% VAT	**₱ 5,962,424.75**

Total Zero-Rated Sales per VAT Returns	₱ 27,033,482.33
Divided by the Reported Total Sales per Quarterly VAT Returns	104,969,217.22
Multiplied by Total Valid Input VAT	8,030,604.44
Valid input VAT allocated to total zero-rated sales	**₱ 2,068,179.69**

Based on the foregoing computation, it is notable that the valid input VAT allocated to total sales subject to 12% VAT amounting to ₱5,962,424.75 is insufficient to cover the output VAT liability of petitioner for the 1st quarter of TY 2017 amounting to ₱9,352,288.19.[68] However, the remaining output VAT liability of ₱3,389,863.44,[69] which cannot be covered by the valid input VAT allocated to total sales subject to 12% VAT, can well be sufficiently covered by petitioner's input VAT carried over from previous quarter amounting to ₱49,212,611.18.

On the other hand, the whole amount of ₱2,068,179.69 representing valid input VAT allocated to total zero-rated sales cannot be immediately available for refund, considering that out of the total reported zero-rated sales amounting to ₱27,033,482.33, only the amount of ₱6,600,151.60 qualifies as valid zero-rated sales for purposes of refund. As such, out of the valid input VAT allocated to total zero-rated sales amounting to ₱2,068,179.69, only the amount of ₱504,940.48

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[68] Exhibit "P-6-1", Docket – Vol. II, p. 506.

[69] ₱9,352,288.19 output VAT liability for the 1st quarter of taxable 2017 less ₱5,962,424.75 valid input VAT allocated to total sales subject to 12% VAT.

is attributable to valid zero-rated sales of ₱6,600,151.60, computed as follows:

Valid input VAT allocable to zero-rated sales	₱ 2,068,179.69
Multiply by: Valid zero-rated sales for the 1st Quarter of 2017	6,600,151.60
Divided by: Total zero-rated sales for the 1st Quarter of 2017	27,033,482.33
Input VAT allowed for refund	**₱ 504,940.48**

Thus, only the amount of ₱504,940.48 represents valid input VAT attributable to valid zero-rated sales.

Petitioner failed to show that the subject input taxes have not been applied against output taxes during and in the succeeding quarters.

Finally, after determining that petitioner had valid input VAT attributable to its valid zero-rated sales, the Court shall proceed to determine whether the same was not applied against its output VAT liability during and in the succeeding quarters.

Petitioner asserts that the input VAT subject of the present claim amounting to ₱3,949,107.91 was not applied against any output VAT liability which can be proved by the Amended 1st Quarterly VAT Return for TY 2017, under Line 23D (*"VAT Refund/TCC Claimed"*),[70] where it reported the amount of ₱5,209,804.13 as being claimed for refund. Accordingly, this effectively deducted the amount being claimed from the input VAT to be carried over to the next quarter.

However, the Court is not persuaded.

Considering that it is a requisite for the successful prosecution of an input VAT refund claim, petitioner must clearly establish that the specific amount of ₱3,949,107.91 subject of the claim for refund in this case was not applied

[70] Exhibit "P-6-1", Docket – Vol. II, p. 506.

against its output VAT liability during and in the succeeding quarters.

Notably, the amount of ₱5,209,804.13 declared under Line 23D (*"VAT Refund/TCC Claimed"*) of the Amended 1st Quarterly VAT Return for TY 2017 is evidently higher than the amount of claim in this case. However, the Court cannot simply assume that the specific amount claimed for refund herein is already included in the said amount declared under Line 23D (*"VAT Refund/TCC Claimed"*) of the Amended 1st Quarterly VAT Return for TY 2017, especially considering that petitioner has other sources of input VAT (*i.e.* those carried over from previous quarters) which are also available and may be subject for refund.

On the other hand, petitioner did not present any proof that the specific amount of ₱3,949,107.91 claimed for refund in this case is already included in the said amount declared under Line 23D (*"VAT Refund/TCC Claimed"*). Consequently, due to petitioner's failure to present evidence, the Court cannot verify whether the amount claimed for refund is not yet applied against petitioner's output VAT liability during and in the succeeding quarters.

The Court notes petitioner's submission of its 1st and 3rd Quarterly VAT Returns for TY 2019, which reflects *"VAT Refund/TCC Claimed"* amounting to ₱6,539,496.09 and ₱12,798,980.10, respectively.[71] However, the Court is faced with the same predicament as earlier noted wherein it cannot be verified if the amount of ₱3,949,107.91 claimed for refund herein is already included in the said amounts declared as *"VAT Refund/TCC Claimed"* in the subsequent returns.

To be sure, claims for tax refunds, when based on statutes granting tax exemption or tax refund, partake of the nature of an exemption; thus, the rule of strict interpretation against the taxpayer-claimant similarly applies. As such, the taxpayer is charged with the heavy burden of proving that he has complied with and satisfied all the statutory and administrative requirements to be entitled to the tax refund.[72]

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[71] Exhibits "P-43" and "P-45", Docket – Vol. II, pp. 576 and 578.

[72] *Commissioner of Internal Revenue v. Eastern Telecommunications Philippines, Inc.*, G.R. No. 163835, July 7, 2010.

Considering the foregoing, the present input VAT refund claim amounting to ₱3,949,107.91, must be denied in its entirety.

WHEREFORE, premises considered, the present *Petition for Review* is **DENIED**, for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(With Separate Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

LANTRO PHILS. INC., Petitioner,	**CTA CASE NO. 10130**
	Members:
- versus -	**DEL ROSARIO,** *P.J., Chairperson,* **MANAHAN,** *and* **REYES-FAJARDO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: APR 29 2024 2:40pm

x- x

SEPARATE OPINION

DEL ROSARIO, P.J.:

I concur with the *ponencia* in denying the present Petition for Review for lack of merit. However, I wish to stress a point anent the requirement for zero-rating of sales to Philippine Economic Zone Authority (PEZA)-registered enterprise for refund purposes.

The *ponencia* disallowed petitioner's sales to some PEZA-registered entities amounting to ₱12,856,792.51 for its failure to present their respective PEZA Certification qualifying them for the purpose of VAT zero-rating of transactions with local suppliers of goods, properties and services in connection with their PEZA-registered activities.

I submit that a PEZA Certificate of Registration is sufficient to entitle a supplier to value-added tax (VAT) zero-rating with respect to its sales to a PEZA-registered enterprise.

In *Commissioner of Internal Revenue vs. Kurimoto (Philippines) Corporation*,[1] the Court *En Banc* held that anent sales made to PEZA-registered entities, a PEZA Certificate of Registration is sufficient to entitle a supplier to VAT zero-rating on its sales to a PEZA-registered enterprise, *viz.*:

> "To underscore, all sales of goods, property or services by a VAT-registered supplier to a PEZA-registered enterprise, regardless of the type of tax exemption availed of by the latter, shall be subject to VAT at zero percent, not at the regular rate of 12%. To enjoy the benefit of VAT zero-rating of its sales, the supplier is not even required to secure a separate certification therefor. RMC No. 74-99's provisions shall be sufficient basis for its entitlement to VAT zero-rating under Section 108(B)(3) of the Tax Code.
>
> **In the present case, that THPAL is a PEZA-registered enterprise is established by its PEZA Certificate of Registration. This certification, by itself, entitles KPC a VAT zero-rating with respect to its sales of services to THPAL."** *(Boldfacing supplied)*

Moreover, a perusal of the records reveals that with respect to petitioner's sales to PEZA-registered entities that were disallowed for failure to present their respective PEZA Certification qualifying them for the purpose of VAT zero-rating of transactions with local suppliers, the PEZA Certificate of Registration of two (2) of the said PEZA-registered entities were presented as evidence, to wit:

Customer	**PEZA Certificate of Registration**	
	No.	**Exhibit No.**
Acquire Asia Pacific (Manila) Inc.	2017-0685	P-66-43[2]
	2017-0927	P-66-44[3]
Convergys Philippines, Inc.	00-020-IT	P-66-30[4]

Considering the presentation of their PEZA Certificates of Registration, petitioner's alleged zero-rated sales to the above-mentioned PEZA-registered entities amounting to ₱562,550.00 and ₱9,967,055.70 should not be disallowed.

In fine, I submit that presentation of the client's PEZA Certificate of Registration is sufficient to entitle a taxpayer-claimant to VAT zero-rating with respect to its sales to a PEZA-registered enterprise.

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[1] CTA EB No. 2666, October 11, 2023.
[2] Exhibit Nos. "P-66" to "P-66-51", USB.
[3] *Id.*
[4] *Id.*

The foregoing notwithstanding, considering that the Court cannot verify whether the amount claimed for refund was not applied against output taxes during and in the succeeding quarters, the present input VAT refund claim amounting to ₱3,949,107.91 must be denied in its entirety.

All told, I CONCUR in the result.

ROMAN G. DEL ROSARIO
Presiding Justice