REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

CARGILL PHILIPPINES, INC.,
Respondent.

CTA EB No. 1986
(CTA Case Nos. 6714 & 7262)

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CARGILL PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 2001
(CTA Case Nos. 6714 & 7262)

Present:

DEL ROSARIO, *PJ*
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, and
MODESTO-SAN PEDRO, *JJ.*

Promulgated:

JUN 3 0 2020 3:47 p.m.

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DECISION

Fabon-Victorino, J.:

In these consolidated *Petitions for Review*, both the Commissioner of Internal Revenue (CIR) and Cargill

Philippines, Inc. (CPI) assail the Amended Decision[1] dated July 13, 2018 and the Resolution[2] dated December 12, 2018, rendered by the Court in Division in CTA Case Nos. 6714 and 7262, entitled *Cargill Philippines, Inc. vs. Commissioner of Internal Revenue*. The dispositive portion of the assailed Amended Decision and Resolution read as follows:

Assailed Amended Decision of July 13, 2018:

> **WHEREFORE,** in light of the foregoing considerations, the Petition for Review in CTA Case No. 7262 is **PARTIALLY GRANTED.** Accordingly, respondent is **ORDERED TO REFUND or TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **ONE MILLION SEVEN HUNDRED SEVENTY-NINE THOUSAND THREE HUNDRED SEVENTY-SEVEN PESOS AND SIXTEEN CENTAVOS** (P1,779,377.16), representing its unutilized excess input VAT for the period of March 1, 2003 to August 31, 2004.
>
> **SO ORDERED.**

Assailed Resolution of December 12, 2018:

> **WHEREFORE,** in light of the foregoing considerations, the parties' respective Motions for Reconsideration are hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**

In his *Petition for Review*[3] filed on January 15, 2019, docketed as CTA EB No. 1986, the CIR prays that the assailed Amended Decision and Resolution be partially reconsidered and set aside; and in lieu thereof, the Court issue a decision denying CPI's entire claim for refund.

On the other hand, partial grant of the relief sought is still unacceptable to CPI. In its *Petition for Review*[4] filed on February 4, 2019 and docketed as CTA EB No. 2001, CPI prays for a total refund of its alleged unutilized input Value-

[1] *En Banc* docket (CTA EB No. 1986), pp. 25-37.
[2] *En Banc* docket (CTA EB No. 1986), pp. 39-44.
[3] *En Banc* docket (CTA EB No. 1986), pp. 7-19.
[4] *En Banc* docket (CTA EB No. 2001), pp. 7-17.

Added Tax (VAT) attributable or allocable to zero-rated sales for the 4th quarter of fiscal year (FY) ending May 31, 2003 to the 1st quarter of FY ending May 31, 2005 in the amount of ₱3,053,469.99.

The following are the facts that triggered the filing of the present case.

CPI is a domestic corporation whose primary purpose is "*to own, operate, run and manage plants and facilities for the production, crushing, extracting or otherwise manufacture and refining of coconut oil, coconut meal, vegetable oil, lard, margarine, edible oil, and other articles of similar nature and their by-products; to engage in research, breeding, developments, production, culture, processing, importation and exportation, and sale by wholesale of agricultural seeds/products of all kinds whatsoever and the rendition of technical assistance and services related thereto; to engage in the import and export business and to deal in all the goods produced and manufactured by it and the by-products thereof at wholesale; to engage in the buy and/or sell, export and/or import, acquisition, exchange, or otherwise dealing in sugar and other related products by way of wholesale in the domestic as well as export markets and to engage in all activities, including the purchase or lease of machineries and equipment, necessary for the operation thereof.*" It is a VAT registered entity with Tax Identification No. (TIN)/VAT Registration No. 000-110-659-000.

The CIR, on the other hand, is the head of the Bureau of Internal Revenue (BIR) empowered to perform the duties of his office, including among others, the duty to act upon and approve claims for refund or tax credit as provided by law, with office address at the 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.

As a VAT registered enterprise, CPI filed its Quarterly VAT Returns for the period April 1, 2001 to August 31, 2004, including the amendments thereto.

In the said Quarterly VAT Returns, CPI reflected an overpayment of ₱44,920,350.92 for the second quarter of CY 2001 to the third quarter of FY 2003, or from April 1, 2001 to February 28, 2003, and another overpayment of ₱31,915,642.26 for the fourth quarter of FY 2003 to the first quarter of FY 2005 or from March 1, 2003 to August 31, 2004. The said overpayments were allegedly due to CPI's export sales of coconut oil, the proceeds of which were paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP), thus, were zero-rated for VAT purposes.

On June 27, 2003, CPI filed with the BIR an administrative claim for refund of the amount of ₱26,122,965.81 allegedly representing unutilized input VAT for the period April 1, 2001 to February 28, 2003.

Complaining inaction on its administrative claim for refund on the part of the CIR, CPI sought judicial intervention *via* a Petition for Review[5] filed on June 30, 2003 with the Court in Division and docketed as CTA Case No. 6714.

In his *Answer,*[6] the CIR sought the dismissal of the case for lack of merit.

On September 29, 2003, CPI filed with the BIR a supplemental application for refund increasing the amount of its alleged unutilized input VAT for refund from the original ₱26,122,965.81 to ₱27,847,897.72, covering the period April 1, 2001 to February 28, 2003.

Two (2) days thereafter, or on October 1, 2003, CPI filed a corresponding *Motion for Leave of Court to Amend Petition for Review,*[7] which the Court in Division granted in the Resolution dated October 22, 2003.

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5 Division docket, pp. 1-5.
6 Division docket, pp. 44-50.
7 Division docket, pp. 53-56.

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In his *Amended Answer,*[8] the CIR reiterated its motion to deny the petition on the ground that CPI's claim for refund was not properly documented.

On May 31, 2005, CPI filed its second administrative claim for refund of unutilized input taxes covering the period March 1, 2003 to August 31, 2004, in the total amount of ₱22,194,446.67.

On even date, CPI filed a corresponding *Petition for Review*[9] before the Court in Division, docketed as CTA Case No. 7262.

In his *Answer,*[10] the CIR invoked the same argument that the amount subject of the claim for refund was not properly documented.

On July 10, 2007, CTA Case No. 6714 was consolidated with CTA Case No. 7262 at the instance of CPI on the ground that they have common questions of law and facts.[11]

During the trial, only CPI presented evidence in support of its case. CIR opted not present any.

On the August 24, 2010, the Court in Division rendered a Decision[12] granting CPI's claims for refund/tax credit certificate *albeit* in the reduced amount ₱3,053,469.99, representing its unutilized input VAT attributable or allocable to its zero-rated export sales for the period April 1, 2001 to August 31, 2004.

Both the CIR and CPI assailed the Decision of August 24, 2010 through their respective *Motions for Reconsideration*. In addition, the CIR prayed for the dismissal of the consolidated *Petitions for Review* for having been prematurely filed since CPI failed to exhaust administrative remedies.

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8 Division docket, pp. 105-110.
9 Division docket (CTA Case No. 7262), pp. 1-6.
10 Division docket (CTA Case No. 7262), pp. 30-33.
11 Resolution, Division docket (CTA Case No. 7262), pp. 470-471.
12 Division docket, pp. 866-907.

In the Amended Decision[13] of April 20, 2011, the Court in Division **denied** the CIR's motion for reconsideration for lack of notice and hearing as well as his motion to dismiss on the ground of estoppel. The CPI's motion for reconsideration was as well denied for lack of merit.

The Court in Division, following the principle enunciated by the Supreme Court in *CIR vs. Aichi Forging Company of Asia, Inc.*[14] (*Aichi* case), dismissed the consolidated cases for having been prematurely filed. The Supreme ruled that the 120-day period provided under Section 112(C) of the National Internal Revenue Code (NIRC) of 1997, as amended, must be observed prior to the filing of a judicial claim for refund which CPI did not observe.

CPI appealed the Amended Decision of April 20, 2011, but to no avail. The Court *En Banc* sustained the dismissal of the consolidated case in its Decision[15] dated June 18, 2012. The ruling was affirmed when CPI's motion for reconsideration was denied in the Resolution[16] dated September 27, 2012.

CPI elevated its case to the Supreme Court by way of a *Petition for Review* entitled *Cargill Philippines, Inc. vs. Commissioner of Internal Revenue*, docketed as G.R. No. 203774.

On March 11, 2015, the First Division of Supreme Court rendered a Decision[17] partially granting CPI's *Petition for Review* in the following manner, to wit:

> **WHEREFORE**, the petition is **PARTLY GRANTED**. Accordingly, the Decision dated June 18, 2012 and the Resolution dated September 27, 2012 of the Court of Tax Appeals (CTA) En Banc in CTA EB Case No. 779 are hereby **AFFIRMED** only insofar as it dismissed CTA Case No. 6714. On the other hand, CTA Case No. 7262 is **REINSTATED** and **REMANDED** to

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13 Division docket, pp. 1067-1075.
14 G.R. No. 184823, October 6, 2010.
15 Division docket, pp. 1304-1328.
16 Division docket, pp. 1402-1407.
17 Division docket, pp. 1667-1671.

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the CTA Special First Division for its resolution on the merits.

SO ORDERED.

CPI moved for reconsideration but the same was denied by the Supreme Court in its Resolution dated July 8, 2015.

On June 13, 2016, the Court of Tax Appeals received the *Entry of Judgment* issued by the Supreme Court indicating that the Decision of March 11, 2015 had become final and executory on October 12, 2015.

In the Resolution[18] dated February 9, 2017, the CTA *En Banc* remanded CTA Case No. 7262 to the Court in Division for resolution on the merits.

The Court in Division in its Resolution dated March 14, 2017 directed the parties to inform it of any supervening event which might have transpired that would affect the disposition of CTA Case No. 7262 and whether there was a need to conduct further proceedings.[19]

In its *Manifestation (With Motion for Leave to File Memorandum)*[20] filed on March 29, 2019, CPI manifested that since CTA Case Nos. 6714 and 7262 were consolidated, the dismissal of former might affect the disposition of the latter. On account thereof, CPI moved for leave to file Memorandum in CTA Case No. 7262.

CPI's request was granted in the Resolution[21] dated June 6, 2017, which also noted CIR's failure to file a manifestation despite directive.

On October 6, 2017, CTA Case No. 7262 was submitted anew for decision.

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[18] Division docket, pp. 1700-1701.
[19] Resolution dated March 14, 2017, Docket, pp. 1704-1705.
[20] Division docket, pp. 1706-1708.
[21] Division docket, pp. 1711-1712.

On July 13, 2018, the Court in Division rendered the assailed Amended Decision partially granting CPI's *Petition for Review* in CTA Case No. 7262, and ordered the CIR to refund/issue a tax credit certificate in favor of CPI in the reduced amount of ₱1,779,377.16, representing its unutilized excess input VAT for the period covering March 1, 2003 to August 31, 2004.

Unrelenting, both CPI and CIR filed their respective *Motions for Reconsideration* which were denied in the equally assailed Resolution of December 12, 2018.

Subsequently, the CIR and CPI filed separate *Petition for Review* respectively docketed as CTA EB No. 1986 and CTA EB No. 2001 which were consolidated in the *Minute Resolution*[22] dated February 7, 2019 pursuant to Section 1, Rule 31 of the Revised Rules of Court.

On April 5, 2019, the instant consolidated Petitions for Review were submitted for decision.[23]

THE ISSUES

CIR raises the lone error allegedly committed by the Court in Division, to wit:

> THE SPECIAL FIRST DIVISION OF THE HONORABLE COURT ERRED IN RULING THAT RESPONDENT IS ENTITLED TO REFUND IN THE REDUCED AMOUNT OF ₱1,779,377.16 ALLEGEDLY REPRESENTING UNUTILIZED EXCESS INPUT VAT FOR THE PERIOD 1 MARCH 2003 TO 31 AUGUST 2004.

CPI, on the other hand, has the following issue for the resolution of the Court, to wit:

> WHETHER CPI IS ENTITLED TO A REFUND IN THE AMOUNT OF ₱3,053,469.99, REPRESENTING EXCESS INPUT VAT ATTRIBUTABLE TO ITS ZERO-RATED SALES FOR THE PERIOD MARCH 1, 2003 TO AUGUST 31, 2004.

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22 *En Banc* docket (CTA EB No. 1986), p. 52.
23 Resolution, *En Banc* docket (CTA EB No. 1986), pp. 75-76.

In his petition, the CIR mimics his old argument that only "creditable input taxes" that are "directly attributable" may be refunded. Per the CIR, Section 112 of the NIRC of 1997, as amended, does not state that all input taxes of a VAT-taxpayer whose sales are zero-rated are refundable. For him, only creditable input taxes incurred from purchases of goods that form part of the finished product of the taxpayer or directly used in the chain of production are refundable. Thus, direct connection of the purchase or input tax to the finished product, subject of zero-rated sale must be established. Further, tax refunds, like tax exemptions, are construed strictly against the taxpayer. Hence, the claimant like CPI has the burden of proof to establish the factual basis of its claim for tax credit or refund.

In its *Comment*, CPI submits that *Petition for Review* filed by the CIR should be denied as it failed to state why the Court in Division erred in granting its claim for refund in the reduced amount of ₱1,779,377.16, a requirement expressly provided in Section 2, Rule 6 of the Revised Rules of the Court of Tax Appeals (RRCTA).

The CPI believes that the CIR's discussion on creditable input tax attributable to zero-rated sales is vague as to support his claim that the Court in Division erred in partially granting its claim for refund. It explains that as early as August 24, 2010, when the original decision was rendered, the Court in Division had already explained how the input VAT subject of the claim for refund was attributable to its zero-rated sales.

In its own Petition for Review, CPI avers that in arriving at the refundable amount of ₱1,779,377.16, the Court in Division removed from CPI's excess input VAT the amount of ₱1,274,092.82 pertaining to input VAT carried over from the previous period. The amount of ₱1,274,092.82 allegedly pertains to the overpayment for the period April 1, 2001 to February 28, 2003 (covered by CTA Case No. 6714), therefore, should not be accumulated with the overpayment for the period March 1, 2003 to August 31, 2004 (covered by CTA Case No. 7262).

Further, the amount of ₱1,274,092,82 should no longer be treated as overpayment since CTA Case No. 6714 had been dismissed. The said amount should instead be considered as input VAT carried forward from the previous quarter. CPI added that the amount of ₱1,274,092.82 was fully substantiated as excess input VAT carried-over from previous quarter, and may be credited against its output VAT for the period March 1, 2003 to August 31, 2004 pursuant to Sections 4.110-5 and 4.110-6 of Revenue Regulations (RR) No. 16-2005.

CPI theorizes that if the Court *En Banc* were to isolate CTA Case No. 7262 but still use the same figures, the computation of its excess input VAT for the period March 1, 2003 to August 31, 2004 should be as follows:

	March 1, 2003 to August 31, 2004
Output VAT	₱ 26,322,238.96
Less: Input VAT	
Carried-over from previous quarter	1,274,092.82
Presumptive Input Tax	-
Domestic purchases	28,101,616.12
Total Available Input Tax	₱ 29,375,708.94
VAT payable/(Excess Input Tax)	₱ (3,053,469.99)
Less: Advance Payment	-
Tax Payable/(Overpayment)	₱ (3,053,469.99)

In his *Comment,* the CIR counters that CPI has the burden of proof to establish the factual basis of its claim for refund. Being in the nature of tax exemptions, its claim for refund is regarded as in derogation of sovereign authority and should be construed *strictissimi juris* against it claimant and liberally in favor of the taxing authority.

The Court *En Banc's* Ruling

Both *Petitions for Review* must fail.

CTA EB No. 1986 (CIR's Petition for Review):

The CIR claims that the Court in Division erred when it granted CPI's claim for refund/tax credit even in the reduced amount of ₱1,779,377.16, allegedly representing its unutilized excess input VAT for the period March 1, 2003 to August 31, 2004. He argues that since only *creditable input taxes* incurred from purchases of goods that form part of the finished product of the taxpayer or directly used in the chain of production are refundable, CPI had the burden of establishing the direct connection of the purchase or input tax to the finished product, the sale of which is zero-rated. For the CIR, CPI failed in this regard.

Section 112(A) of the NIRC of 1997, as amended, relevantly provides, thus:

> 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.

Clearly, the above provision does not require that the input taxes subject of a claim refund be directly attributable to zero-rated sales or effectively zero-rated sales. Input taxes that bear a direct or indirect connection with a taxpayer's zero-rated sales satisfy the requirement of the law.[24] In fact, the allocation of input taxes in case the same cannot be directly and entirely attributed to any of the sales is allowed.[25]

The case of *Toledo Power Company vs. Commissioner of Internal Revenue*[26] is in point. The Court aptly explained that not only those purchases of goods that form part of the finished product of the taxpayer can be subject of an input VAT refund, in the following manner:

> Section 110(A)(1) of the NIRC of 1997, as amended, provides that any input tax on the following transactions evidenced by a VAT invoice or official receipt shall be creditable against the output tax:
>
> > 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:
> >
> > (i) 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.

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24 *Coral Bay Nickel Corporation vs. Commissioner of Internal Revenue*, CTA Case No. 8905, October 19, 2017.

25 *CBK Power Company Limited vs. Commissioner of Internal Revenue*, CTA Case No. 7887, February 2, 2018.

26 CTA Case No. 8792, January 29, 2019.

(b) Purchase of services on which a value-added tax has been actually paid.

Moreover, Section 110(A)(3) of the NIRC of 1997, as amended, provides that the term "input tax" means the value-added tax due from or paid by a VAT-registered person in the course of his trade or business on importation of goods or local purchase of goods or services, including lease or use of property, from a VAT-registered person.

From the foregoing, it is significant to note that the NIRC did not limit input taxes to those purchases that only form part of the finished product of the taxpayer.

To the extent possible, words must be given their ordinary meaning; this is consistent with the basic precept of *verba legis*. The word "attribute," the adjective form of which is "attributable," is defined in the dictionary as "to explain as to cause or origin," in other words, "creditable input tax due or paid attributable to such sales" simply means that the input tax is connected with the zero-rated or effectively zero-rated sales.

Hence, when Section 112(A) of the NIRC of 1997, as amended, speaks of "creditable input tax due or paid attributable to such sales," it is more logical to interpret this phrase as referring to instances of an apportionment of the input VAT in mixed transactions (taxpayer is engaged in both zero-rated or effectively zero-rated sales and in taxable or exempt sales) rather than on the classification of the purchase/expense/cost. However, respondent seem to have confused the phrases "attributable to such sales" and "directly and entirely attributed" to mean "direct costs" which applies to the computation of gross income.

The above interpretation of the phrase "attributable to such sales," to simply mean that the input tax is connected with a taxpayer's zero-rated or effectively zero-rated sales and not to its taxable or exempt sales, is likewise within the context of Section 112(A) of the NIRC of 1997, as amended, taking into consideration the proviso which states 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." Hence, Section 112(A) of the NIRC of 1997, as amended, provides for a scenario where the taxpayer is engaged in (1) purely zero-rated or effectively zero-rated sales; (2) engaged in both zero-rated or effectively zero-rated sales and in taxable or exempt sales and the creditable input tax due or paid can be attributed to each of the transactions; and (3) engaged in both zero-rated or effectively zero-rated sales and in taxable or exempt sales but the creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions.
>
> It is a rule in statutory construction that every part of the statute must be interpreted with reference to the context, *i.e.*, that every part of the statute must be considered together with the other parts, and kept subservient to the general intent of the whole enactment. Because the law must not be read in truncated parts, its provisions must be read in relation to the whole law. The statute's clauses and phrases must not, consequently, be taken as detached and isolated expressions, but the whole and every part thereof must be considered in fxing the meaning of any of its parts in order to produce a harmonious statutory construction, all the words in the statute must be taken into consideration in order to ascertain its meaning.

And as correctly pointed out by CPI, the CIR utterly failed to sharply plead or cite with specificity which part of the Court's finding and/or observation pertaining to the amount of ₱1,779,377.16 was contrary to law or jurisprudence, or inconsistent with the evidence adduced, *a fortiori*, erroneous. His general and vague discussion on the issue eloquently demonstrates that he himself is not fully convinced that the Court in Division committed reversible error in granting, *albeit* in the significantly reduced amount, the refund prayed for.

As a rule, the findings of fact by the Court in Division are not to be disturbed without any showing of grave abuse of discretion considering that the members of the Division are in the best position to analyze the documents presented by the parties.[27] Note that only CPI presented evidence in support of its case. When the ball was in his court, the CIR opted not to present any.

<u>*CTA EB No. 2001 (CPI's Petition for Review)*</u>:

A judicious review of the arguments raised by CPI reveals that its *Petition for Review* mirrors the same flawed arguments it raised in its *Motion for Reconsideration* dated August 6, 2018, which had been thoroughly discussed and passed upon in the assailed by the Court in Division in the assailed Amended Decision dated July 13, 2018 and Resolution dated December 12, 2018. Be that as it may, and only to emphasize the highlight of the ruling of the Court in Division, we shall discuss them anew.

Taking an oblique opposite position, CPI insists that since CTA Case No. 6714 had been dismissed, the amount of ₱1,274,092.82 should no longer be treated as overpayment but rather as a fully substantiated input VAT carried forward from the previous quarter. With the premise, it follows that the said amount may be credited against its output VAT for the period March 1, 2003 to August 31, 2004 pursuant to Sections 4.110-5 and 4.110-6 of RR No. 16-2005.

CPI's hypothesis should be rejected. On the matter, *We* join the Court in Division in its observation, to wit:

> **In the Decision dated August 24, 2010 pertaining to both CTA Case Nos. 6714 and 7262**, this Court partially granted [CPI's] claim for refund or issuance of tax credit certificate in the amount of ₱3,053,469.99, computed as follows:

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[27] *Republic of the Philippines, represented by the Commissioner of Internal Revenue vs. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation),* G.R. No. 188016, January 14, 2015 citing *Sea-Land Service, Inc. vs. Court of Appeals*, G.R. No. 122605, April 30, 2001. Refer also to *Rhombus Energy, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 206362, August 1, 2018.

	April 1, 2001 to Feb. 28, 2003	March 1, 2003 to Aug. 31, 2004	Total
Output VAT	₱ 194,184,554.44	₱ 26,322,238.96	₱ 220,506,793.40
Less: Input VAT			
Carried-over from prev qtr	₱ 15,414,288.07	₱ 1,274,092.82	₱ 15,414,288.07
Presumptive Input Tax	6,701,884.34	-	6,701,884.34
Domestic purchases	165,655,103.00	28,101,616.12	193,756,719.12
Total Available Input Tax	₱ 187,771,275.41	₱ 29,375,708.94	₱ 215,872,891.54
VAT Payable/(Excess Input Tax)	₱ 6,413,279.03	₱ (3,053,469.99)	₱ 4,633,901.86
Less: Advance Payment	7,687,371.85	-	7,687,371.85
Tax Payable/(Overpayment)	**₱ (1,274,092.82)**	**₱(3,053,469.99)**	**₱(3,053,469.99)**

It could be gleaned from the above that **the refundable excess input VAT as per the original Decision in the amount of ₱3,053,469.99 is composed of ₱1,274,092.82 pertaining to the overpayment for the period April 1, 2001 to February 28, 2003 which was then carried over to the following period and accumulated with the overpayment for the period March 1, 2003 to August 31, 2004 in the amount of ₱1,779,377.17** (₱3,053,469.99 less ₱1,274,092.82).

However, **since only CTA Case No. 7262 was remanded by the Supreme Court, we shall tackle the issues raised in [CPI's] Motion for Reconsideration and Supplement to [CPI's] Motion for Reconsideration filed on September 13, 2010 and December 29, 2010, respectively, of this Court's August 24, 2010 Decision as they relate to CTA Case No. 7262 and determine whether or not the refundable input VAT of ₱1,779,377.17 as originally granted is correct.**

The explanation of the Court in Division in rejecting CPI's contention that the amount of ₱1,274,092.82 was fully substantiated is also worth to note, and we quote:

Input Tax Carried Over from the Previous Quarter requires substantiation

[CPI] posits that the substantiation of ₱21,633,716.56 representing the excess input VAT carried over from the 4th quarter of taxable year 2000, through the presentation of invoices and receipts, does not form part of the requisites necessary to entitle [CPI] to a refund in this case. In order to be entitled to a refund of excess input VAT attributable to zero-rated sales, the provisions of Section 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended, shall apply.

Moreover, according to [CPI], in order to satisfy the requisite of Sec. 112(A), it is imperative for a taxpayer to prove the extent that its input tax was not applied against its output tax. It then follows that the taxpayer also has to prove the input tax that was ACTUALLY applied or utilized against its output tax.

In this case, [CPI] allegedly had excess input tax of ₱27,847,897.72 at the end of the period April 1, 2001 to February 23, 2003 because the total input tax it incurred during the said period plus the amount of ₱38,199,071.54 which presents input tax carried over from the quarter preceding said period, was much higher than its total output tax.

The Court disagrees.

At the outset, it must be noted that this issue pertains only to [CPI's] claimed excess input VAT covering the period of April 1, 2003 to February 28, 2003 (CTA Case No. 6714) and does not have a bearing on [CPI's] claimed excess input VAT for the period of March 1, 2003 to August 31, 2004 (CTA Case No. 7262). However, for purposes of academic discussion, we shall elucidate on the said issue.

To recall, [CPI's] excess input tax to be carried over to the period April 1, 2001 to February 28, 2003 (CTA Case No. 6714), was arrived at as follows:

Total Output Taxes	₱ 38,700,447.19
Less: Accumulated Input Taxes Carried Over from Previous Quarter	21,633,716.56
Sub-total	₱ 17,066,730.63
Less: Total Input Taxes from Current Purchases	55,265,802.17
Excess Input Tax Credits to be Carried Over	**₱(38,199,071.54)**

From the foregoing, a component of the excess amount of ₱38,199,071.54 as of the end of February 28, 2003 is the Accumulated Input Taxes Carried Over from Previous Quarter of ₱21,633,716.56. The other components are [CPI's] Output Taxes of ₱38,700,447.19 and Total Input Taxes from Current Purchases of ₱55,265,802.17.

It is undeniable that [CPI's] Accumulated Input Taxes Carried Over from Previous Quarter of ₱21,633,716.56 formed part of its total input tax credits of ₱76,899,518.73 (the sum of ₱21,633,716.56 and ₱55,265,802.17) that were used or applied to cover its Output Taxes of ₱38,700,447.19 and that the excess amount of ₱38,199,071.54 resulted from its total tax credits less its output tax liability. Clearly, its Accumulated Input Taxes Carried Over from Previous Quarter in the

> <u>amount of ₱21,633,716.56 is a part of [CPI's] excess input VAT of ₱38,199,071.54</u>.
>
> In other words, **if the Accumulated Input Taxes Carried Over from Previous Quarter remains unsupported, the Excess Input Tax of ₱38,199,071.54 which will be carried over to April 1, 2001 to February 28, 2003 will be reduced. Hence, the substantiation of the amount of ₱21,633,716.56 is crucial in order to fully grant the petition.**
>
> xxx xxx xxx
>
> *Refundable Excess Input Tax for period March 1, 2003 to August 31, 2004 shall be ₱1,779,377.16*
>
> In fine, our perusal of the issues raised by [CPI] in its Motion for Reconsideration and Supplement to [CPI's] Motion for Reconsideration shows that the same were not meritorious enough to overturn the Court's original Decision in CTA Case No. 7262.
>
> Thus, the Court hereby finds [CPI] entitled to a refundable input VAT amounting to ₱1,779,377.16 attributable or allocable to its zero-rated export sales for the period March 1, 2003 to August 31, 2004 under CTA Case No. 7262, computed as follows:

	March 1, 2003 to Aug. 31, 2004
Output VAT	₱ 26,322,238.96
Less: Input VAT	
Carried-over from prev qtr	₱ -
Presumptive Input Tax	-
Domestic purchases	28,101,616.12
Total Available Input Tax	₱ 28,101,616.12
VAT Payable/(Excess Input Tax)	₱ (1,779,377.16)
Less: Advance Payment	-
Tax Payable/(Overpayment)	**₱ (1,779,377.16)**

In fine, there being no substantiated input VAT from previous quarters, the refundable input VAT should only be the excess of the substantiated input VAT for the period of March 1, 2003 to August 31, 2004 after deducting the output tax, as computed in the assailed Amended Decision of July 13, 2018.

WHEREFORE, the *Petition for Review* filed by the Commissioner of Internal Revenue in CTA EB No. 1986 as well as the *Petition for Review* filed by Cargill Philippines, Inc. in CTA EB No. 2001, are hereby **DENIED**, for lack of merit. Accordingly, the assailed Amended Decision and Resolution dated July 13, 2018 and December 12, 2018, respectively, are **AFFIRMED**.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA G. MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice