21-000017-0075

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIST DIVISION

CTA CASE NO. 10448

GLOBAL CATERING SERVICES CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

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

ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. BRYAN ANTHONY C. SAN DIEGO
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

CABRERA & COMPANY
28th Floor, Philamlife Tower
8767 Paseo de Roxas, Makati City

GREETINGS:

You are hereby notified by these presents that on **June 24, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **June 27, 2025.**

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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

GLOBAL CATERING SERVICES CORPORATION,
Petitioner,

CTA Case No. **10448**

Members:

- versus -

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JUN 24 2025 4:00PM

x - x

DECISION

BACORRO-VILLENA, J.:

Before the Court is a Petition for Review[1] filed by petitioner Global Catering Services Corporation (**petitioner/GCSC**) on 18 December 2020, pursuant to Section 3(a)[2], Rule 8 in relation to Section 3(a)(1)[3], Rule 4 of the Revised Rules of the Court of Tax Appeals

---

1 Division Docket, pp. 7-226, with annexes.

2 **SEC. 3**. *Who may appeal; period to file petition.* —
(a) A party adversely affected by a **decision**, ruling or the inaction of the **Commissioner of Internal Revenue on** disputed assessments or **claims for refund of internal revenue taxes**, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes. (Emphasis supplied)

3 **SEC. 3**. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

(**RRCTA**). It seeks a refund or issuance of tax credit certificate (**TCC**) in the aggregate amount of ₱35,851,451.10, allegedly representing unutilized input value-added tax (**VAT**) attributable to zero-rated sales for the period from 01 January 2018 to 31 December 2018 or the Calendar Year (**CY**) 2018.

PARTIES TO THE CASE

Petitioner, formerly known as Miascor Catering Services Corporation, is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines.[4] It was registered with the Securities and Exchange Commission (**SEC**) on 04 December 1996 and is authorized to engage in the business of providing catering services. These include the supply of food, beverages, liquor, cigarettes, gifts, and other merchandise for all types of passenger carriers, both international and domestic. Petitioner is likewise authorized to provide food and related services for dinners, banquets, conventions, and meetings of all kinds. Additionally, it may engage in the wholesale trade of importing and exporting processed, bottled, canned, frozen, or preserved, as well as raw food products, beverages, and liquor. It is also permitted to operate a cold storage facility and refrigeration system for preserving food, supplies, and other perishable goods.[5]

Petitioner is a VAT-registered taxpayer under Tax Identification Number (**TIN**) 004-676-765-000[6] and is registered with the Bureau of Internal Revenue (**BIR**), Revenue District Office (**RDO**) No. 51. Its principal address is located at NAIA Catering City, West Service Road, South Superhighway, Merville Park, Barangay 201, Pasay City, National Capital Region (**NCR**), Fourth District, Philippines 1300.

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue (**respondent/CIR**), vested by the National Internal Revenue Code (**NIRC**) of 1997, as amended, with the authority to decide, approve and grant tax refunds. He or she may be

---

(1) **Decisions of the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue[.] (Emphasis supplied)

4 Exhibit "P-3", Division Docket, Volume II, pp. 772-782.

5 Exhibit "P-1", id., pp. 729-754.

6 Exhibits "P-4" and "P-4-5", id., pp. 783 and 785-787, respectively.

served with summons and other legal processes at the BIR Litigation Division, Room 703, BIR Building, BIR Road, Diliman, Quezon City.[7]

FACTS OF THE CASE

During CY 2018, petitioner generated sales or receipts aggregating ₱707,107,681.49, consisting of both VAT-able and zero-rated sales. Petitioner claims that the excess input VAT accumulated at the end of CY 2018 was carried over and applied against its reported output VAT liability for the first three (3) taxable quarters of CY 2019. By the fourth quarter of CY 2019, respondent removed the total amount of ₱35,851,451.10 (now the subject of the present refund claim) from the total allowable input VAT. It is alleged that this portion of input VAT was neither utilized nor applied against any of petitioner's output VAT liabilities.

Thus, on 15 July 2020, petitioner filed an "Application for Tax Credits/Refunds (BIR Form No. 1914)"[8] (**administrative claim**) with the BIR-VAT Credit Audit Division (**BIR-VCAD**). In the said administrative claim, petitioner requested the refund of the amount of ₱35,851,451.10, which allegedly represent the excess or unutilized input VAT attributable to zero-rated sales made from 01 January 2018 to 31 December 2018.

Thereafter, on 20 November 2020, petitioner received the Letter dated 25 September 2020[9] (**Denial Letter**), signed by Maria Luisa I. Belen, Assistant Commissioner of the Assessment Service (**ACIR Belen**), denying petitioner's VAT refund application for lack of factual basis, as follows:

> ...
>
> This has reference to your claim for value-added tax (VAT) refund covering the period from **January 01, 2018 to December 31, 2018** in the amount of Php35,851,451.10, pursuant to Section 112(A) of the Tax Code of 1997, as amended.

---

7 Paragraph 1(a), I. Stipulation of Facts, Joint Stipulation of Facts and Issues (**JSFI**), id., Volume I, p. 440.

8 Exhibit "P-24", id., Volume II, p. 819; Exhibit "R-2", BIR Records (offered and admitted as Exhibit "R-7"), p. 132; Par. 1(b), I. Stipulation of Facts, JSFI, supra at note 38, p. 441.

9 Exhibit "P-25", Division Docket, Volume I, pp. 820-826, with annexes; Exhibit "R-6", BIR Records (offered and admitted as Exhibit "R-7"), pp. 400-407, with annexes.

> Please be informed that upon processing of your claim, based on the documents submitted upon filing of the application for VAT refund as mandated under Section II of Revenue Memorandum Circular (RMC) No. 47-2019, the deductions/disallowances from your claim exceeded the amount sought to be refunded, as summarized in the herein attached Annex "A".
>
> In view of the foregoing facts, provisions of the Tax Code and revenue issuances, we regret to inform that your application for VAT refund for the period **January 1 to December 31, 2018** is **DENIED** for lack of factual basis.
>
> However, your Company has the judicial remedy to appeal with the Court of Tax Appeals within thirty (30) days from the receipt of the decision on the subject administrative claim pursuant to Section 112(C) of the Tax Code, as amended by Republic Act No. 10963.[10]
>
> ...

PROCEEDINGS BEFORE THE COURT

On 18 December 2020, within thirty (30) days from receipt of the Denial Letter[11], petitioner filed the instant Petition for Review[12], which was raffled to the Second Division[13] and docketed as CTA Case No. 10448. On 18 January 2021, the Court issued Summons[14] to respondent directing him or her to submit an Answer within 30 days from service. Respondent received the said Summons on 20 January 2021.[15]

After the Second Division granted two (2) extension of time[16] (allowing filing until 31 March 2021) and pursuant to the initial extension of filing periods for pleadings and other court submissions due between 29 March 2021 and 31 March 2021 under Supreme Court

---

10 Emphasis and italics in the original text.

11 Exhibit "P-25"/Exhibit "R-6", supra at note 9.

12 Supra at note 1.

13 The Second Division is composed of Associate Justice Juanito C. Castañeda, Jr. (Ret.), as Chairperson, and Associate Justice Jean Marie A. Bacorro-Villena, as Member.

14 Division Docket, Volume I, p. 229.

15 See Summons dated 18 January 2021, id.

16 See Orders dated 22 February 2021 and 22 March 2021, id., pp. 236 and 242, respectively.

Administrative Circular (**AC**) No. 14-2021[17] (further extended for three [3] days counted from 05 April 2021), as well as the subsequent extension due to the physical closure of the courts within the National Capital Judicial Region and the provinces of Bulacan, Cavite, Laguna and Rizal (**NCRJ+**), pursuant to Supreme Court AC Nos. 15-2021[18], 21-2021[19], 22-2021[20], 29-2021[21] and 33-2021[22] (with extensions effective until 24 May 2021), respondent filed his or her Answer[23] (*via* email on 07 May 2021 and the hard copy thereof received by the Court on 26 May 2021), citing the following special and affirmative defenses: (1) since an unfavorable decision had already been rendered at the administrative level due to petitioner's failure to substantiate its refund claim, petitioner is barred from presenting before this Court any evidence not submitted during the administrative proceedings and this Court's review should be limited to determining whether there was indeed insufficient substantiation to justify the denial of the claim; and (2) petitioner's refund claim must be denied for failure to comply with the mandatory invoicing requirements under Section 113[24], in relation to Section 110[25], of the NIRC of 1997, as amended.

Earlier, on 24 May 2021, petitioner filed a Motion to Declare Respondent in Default.[26] Respondent filed a Comment[27] thereto on 25 June 2021. In the Resolution dated 27 July 2021[28], the Second Division denied petitioner's motion for lack of merit, admitted respondent's Answer and set the pre-trial conference on 20 September 2021.

On 26 May 2021, respondent transmitted to the Second Division the entire BIR Records of the present case consisting of 411 pages in

---

17 *Extension of Filing Periods for Pleadings/Court Submissions for Courts in the National Capital Judicial Region and Nearby Provinces Placed Under Enhanced Community Quarantine from March 29 to April 4, 2021.* Issued on 28 March 2021.

18 *Extension of the Physical Closure of Courts and the Filing Periods for Pleadings and Other Court Submissions in Light of the Further Extension of the Enhanced Community Quarantine from April 5 to April 11, 2021.* Issued on 03 April 2021.

19 *Extension of Physical Closure of Courts.* Issued on 10 April 2021.

20 *Physical Closure of Courts in Enhanced Community Quarantine and Modified Enhanced Community Quarantine Areas.* Issued on 14 April 2021.

21 *Work Arrangements in Courts on 3-14 May 2021.* Issued on 30 April 2021.

22 *Court Operations Starting 17 May 2021.* Issued on 14 May 2021.

23 Division Docket, Volume I, pp. 250-260.

24 **SEC. 113.** *Invoicing and Accounting Requirements for VAT-Registered Persons.*

25 **SEC. 110.** *Tax Credits.*

26 Division Docket, Volume I, pp. 243-249.

27 Id., pp. 272-275.

28 Id., pp. 279-281.

one (1) folder.[29] The Court noted the same in the Resolution dated 17 June 2021.[30]

On 28 July 2021, the Second Division issued a Notice of Pre-Trial Conference[31], initially setting the pre-trial on 20 September 2021. However, the scheduled date was reset to 01 December 2021 due to the implementation of Enhanced Community Quarantine (**ECQ**), Modified Enhanced Community Quarantine (**MECQ**) and General Community Quarantine (**GCQ**) Alert Level 4 restrictions in the NCR, as well as the physical closure of the Court.[32] The pre-trial was again reset to 26 January 2022 in view of the "Continuing Legal Education Program (CLEP) for the Court Attorneys of the Court of Tax Appeals [**CTA**]" conducted by the Philippine Judicial Academy (**PHILJA**) from December 1-3, 2021.[33] Lastly, the pre-trial was moved to 04 April 2022 due to a surge of COVID-19 cases, which once again necessitated the Court's physical closure.[34]

In compliance with the Court's directive, petitioner filed its Pre-Trial Brief[35] on 22 March 2022, while respondent filed his or her Pre-Trial Brief[36] on 28 March 2022.

At the scheduled Pre-Trial Conference on 04 April 2022, the Second Division granted the parties a twenty (20)-day period to file their Joint Stipulation of Facts and Issues (**JSFI**).[37] On 25 April 2022, the parties filed their JSFI[38], which the Second Division approved and adopted in its Pre-Trial Order[39] of 10 May 2022, thereby terminating the pre-trial.

Meanwhile, on 25 April 2022, petitioner filed a "Motion for Commissioning of Independent Certified Public Accountant [**ICPA**]"[40],

---

29 See Compliance dated 24 May 2021, id., pp. 262-263.
30 Id., p. 267.
31 Id., pp. 282-283.
32 See Notice of Resetting dated 11 October 2021, id., p. 286.
33 See Notice of Resetting dated 23 November 2021, id., p. 287.
34 See Notice of Resetting dated 18 February 2022, id., p. 288.
35 Id., pp. 292-301.
36 Id., pp. 416-419.
37 See Minutes of the Hearing and Order, both dated 04 April 2022, id., pp. 435 and 436, respectively.
38 Id., pp. 440-443.
39 Id., pp. 449-453.
40 Id., pp. 437-439.

requesting the appointment of Krista V. Bambao (**Bambao**) as the ICPA for this case. The Second Division granted the requested commissioning during the 30 May 2022 hearing.[41]

In the trial that ensued thereafter, petitioner presented its testimonial and documentary evidence. It offered the testimonies of the following witnesses: (1) Jose C. Catequista (**Catequista**), petitioner's President and Board of Director; and (2) ICPA Bambao.

During the 30 May 2022 hearing, petitioner presented Catequista, who testified through his Judicial Affidavit dated 17 December 2020[42], that: (1) as President, he is the Chief Executive Officer (**CEO**), overseeing the administration and direction of petitioner's day-to-day business affairs and all matters relating to operations, including but not limited to sales, procurement, financial recording, regulatory compliance and tax reporting; (2) petitioner is an entity duly registered with the SEC; (3) petitioner's original corporate name is Miascor Catering Corporation, which was changed to Miascor Catering Services Corporation, and later to GCSC; (4) petitioner is a VAT-registered entity, as evidenced by the BIR-issued Certificate of Registration (**BIR-COR**); (5) petitioner is engaged in VAT-zero rated sales; (6) petitioner's administrative claim was filed on 15 July 2020; (7) petitioner received the Denial Letter on 20 November 2020; (8) petitioner's Quarterly VAT Returns for CYs 2018, 2019 and 2020 were duly filed; (9) petitioner's excess input tax of ₱35,851,451.10 for the period 01 January 2018 to 31 December 2018 is attributable to its zero-rated sales that remains unutilized; and (10) respondent issued BIR Ruling No. DA-127-2006 dated 16 March 2006[43] in favor of Miascor Catering Services Corporation, petitioner's former corporate name.

On cross-examination, Catequista admitted that, as President, he is knowledgeable about petitioner's submissions, or the documents submitted to the BIR. With respect to the subject refund claim, he confirmed that he was petitioner's authorized representative when it filed the administrative claim, and that he oversaw the preparation of the supporting documents for the refund application. He also

---

41 See Minutes of the Hearing and Order dated 30 May 2022, id., pp. 469 and 470, respectively.
42 See Exhibit "P-30", id., pp. 108-126.
43 Exhibit "P-12", id., Volume II, pp. 803-804.

confirmed that the documents submitted were all original copies and that these were presented to the examiner.[44]

On redirect examination, Catequista declared that, during the preparation of the administrative claim, his finance manager regularly provided him with updates on its status. Specifically, he was informed that the administrative claim had been filed, that the BIR had conducted its examination, and that for some reason the claim was denied, prompting petitioner to elevate the matter to this Court. He also answered in the affirmative when asked whether he was certain that the financial reports were properly substantiated.[45]

Respondent did not conduct any re-cross examination.[46]

On 13 July 2022, the Second Division received ICPA Bambao's original ICPA Report, along with a USB.[47] However, following petitioner's "Motion for Leave of Court to File Amended Report (of the [ICPA])"[48] filed on 22 August 2022, the Second Division, in the Resolution dated 07 September 2022[49], ordered ICPA Bambao to complete the verification and revalidation of all documents and information relevant to petitioner's claim for refund, and to submit an Amended ICPA Report within 30 days from notice. Petitioner was likewise directed to file a manifestation identifying the specific documents and information that were not previously addressed in the original ICPA Report and which necessitated the filing of the amended version.

On 17 October 2022, the Second Division received ICPA Bambao's timely filed Amended ICPA Report (**First Amended ICPA Report**), along with a USB.[50]

After several resettings[51], on 16 February 2023, petitioner presented ICPA Bambao. However, the hearing was again reset to

44 TSN dated 30 May 2022, pp. 9-10.
45 Id., pp. 10-11.
46 Id., p. 11.
47 Separate Binder and USB.
48 Division Docket, Volume II, pp. 481-485.
49 Id., pp. 487-489.
50 Separate Binder and USB.

23 March 2023 upon discovery that petitioner had submitted to ICPA Bambao twenty (20) additional documents—referred to in her Judicial Affidavit dated 10 February 2023[52]—that were not included in her First Amended ICPA Report, despite having already filed said report. Consequently, ICPA Bambao was directed to submit another Amended ICPA Report by 03 March 2023.[53]

In compliance with the Court's directive and after being granted an extension of time[54], on 28 April 2023, ICPA Bambao filed her updated Amended ICPA Report[55] (**Second Amended ICPA Report**), along with a USB.[56] On even date, petitioner filed a Manifestation[57] identifying the relevant documents and information that were not covered in the previously filed First Amended ICPA Report and which warranted the submission of a Second Amended ICPA Report. The Second Division took note of these submissions in a Minute Resolution dated 04 May 2023.[58]

Subsequently, in view of the reorganization of the three (3) Divisions of the Court effective 29 May 2023[59], the present case was transferred to the First Division.[60]

ICPA Bambao's presentation continued on 12 September 2023[61], during which she identified her Second Amended ICPA Report, the USB attached thereto, and her Judicial Affidavit dated 07 September 2023.[62] In her affidavit, she essentially stated the following: (1) she was tasked with evaluating the merits of petitioner's tax refund claim on its excess and unutilized input VAT attributable to its zero-rated sale of

51 See Order dated 10 August 2022 (12 September 2022 setting), Resolution dated 07 September 2022 (20 October 2022 setting) and Resolution dated 17 October 2022 (16 February 2023 setting), Division Docket, Volume II, pp. 479-480, 487-489 and 498, respectively.

52 Id., pp. 503-521.

53 See Minutes of the Hearing and Order, both dated 16 February 2023, id., pp. 522 and 523, respectively.

54 See Resolution dated 22 March 2023, id., pp. 530-532.

55 Separate Binder (Exhibit "P-32").

56 USB (Exhibit "P-32-1").

57 Division Docket, Volume II, pp. 535-538.

58 Id., p. 539.

59 See Notice dated 29 May 2023, id., p. 540.

60 The First Division is composed of Presiding Justice Roman G. Del Rosario, as Chairperson, and Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as Members.

61 See Minutes of the Hearing and Order, both dated 12 September 2023, id., pp. 661-663 and 664-666, respectively.

62 Exhibit "P-31-2", id., pp. 544-655, with attached exhibits.

services to international carriers for CY 2018, amounting to ₱35,851,451.10; (2) petitioner is a VAT-registered entity with TIN 004-676-765-000 and maintains a branch office registered under TIN 004-676-765-001; (3) petitioner's clients include international carriers engaged in international air transport, as well as local carriers engaged in both domestic and international air transport; (4) petitioner's basis for applying VAT zero-rating to its sales to carriers engaged in international air transport is Section 108(B)(4)[63] of the NIRC of 1997, as amended, and, in support of this, petitioner secured BIR Ruling No. DA-127-2006[64], which affirms that its sales to such international carriers are subject to VAT at 0%; (5) petitioner's zero-rated sales for CY 2018 amounted to ₱648,677,843.67; (6) the input VAT from purchases of goods and services attributable to these zero-rated sales was generally supported by purchase documents issued in accordance with Section 113 of the NIRC of 1997, as amended; and (7) having filed a VAT refund claim in the amount of ₱35,851,451.10 for CY 2018 on 15 July 2020, petitioner subsequently removed said amount from its VAT returns for the succeeding periods or quarters, as evidenced by its Amended Quarterly VAT Return for the 4th Quarter of CY 2019[65] filed on 16 March 2020.

During her cross-examination, ICPA Bambao confirmed that additional documents were submitted to her after she had drafted the Second Amended ICPA Report. She clarified that there were two (2) sets of documents, the second set consisting of those presented during her direct examination on 16 February 2023, specifically Exhibits "P-3900" to "P-3911"[66], which were duly marked and included in her Second Amended ICPA Report.[67]

When asked about the recommendation in her Second Amended ICPA Report, she stated that she recommended a refund in favor of petitioner in the amount of ₱7,070,109.39. This was computed based on

---

63 **SEC. 108.** *Value-added Tax on Sale of Services and Use or Lease of Properties.* —

...

(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:

...

(4) Services rendered to persons engaged in international shipping or international air transport operations, including leases of property for use thereof: *Provided*, That these services shall be exclusively for international shipping or air transport operations[.]

64 Supra at note 43.

65 Exhibit "P-20", Division Docket, Volume II, pp. 811-812.

66 Scanned copies contained in USB marked as Exhibit "P-32-1".

67 TSN dated 12 September 2023, pp. 21-22.

compliant input VAT totaling ₱14,147,337.81, less output VAT of ₱7,070,228.42.[68]

When further questioned about where the term "zero-rated sale" is indicated in the official receipt (**OR**) or invoice, ICPA Bambao responded that this information appears in the middle portion of the document, specifically in the breakdown section that states "zero-rated sales." She also admitted that such term does not appear elsewhere apart from that portion of the breakdown.[69]

Petitioner did not conduct any redirect examination.[70]

In response to the Court's clarificatory questions, ICPA Bambao confirmed that out of the total refund claim of ₱35,851,451.10, petitioner was to be entitled to only ₱7,070,109.39. As for the remaining ₱28,781,341.71, this represents the portion of the input VAT that was either offset by output VAT or supported by non-compliant purchase documents, rendering it ineligible for refund.[71]

After petitioner completed its presentation of evidence, on 06 October 2023, petitioner filed its "Formal Offer of Evidence [with Manifestation]"[72] (**FOE**), consisting of Exhibits "P-1" to "P-3917", inclusive of sub-markings. On 10 October 2023, respondent filed a Comment[73] thereto.

In the Resolution dated 12 January 2024[74], the First Division admitted petitioner's exhibits, *except* for the following: (**a**) Exhibits "P-4-1", "P-4-3", "P-4-4" and "P-3907"[75], for being mere photocopies and

---

68 Id., p. 23.
69 Id., pp. 23-25.
70 Id., p. 25.
71 Id., pp. 25-27.
72 Division Docket, Volume II, pp. 675-832, with attached exhibits.
73 Id., pp. 833-836.
74 Id., pp. 844-849.
75

Exhibit No.	FOE Description
"P-4-1"	BIR Certificate of Registration with OCN No. 9RC0000125415.
"P-4-3"	BIR Certificate of Registration with OCN No. 9RC000497020.
"P-4-4"	BIR Certificate of Registration with OCN No. 2RC0001495588.
"P-3907"	Service Agreement between Hong Kong Airlines Limited and Petitioner.

thus only provisionally marked; (**b**) Exhibit "P-12"[76], for being a mere photocopy;[77] (**c**) Exhibits "P-193", "P-1245", "P-1973" and "P-2076"[78], for not being found in the records[79]; and (**d**) Exhibits "P-3858", "P-3859" and "P-3862"[80], as the descriptions of the documents do not correspond with document actually marked (collectively, "**Denied Exhibits**").

During the 18 January 2024 hearing before the First Division[81], respondent presented his or her sole witness, Revenue Officer Jerome C. Manuncia (**RO Manuncia**), who testified through his Judicial Affidavit dated 28 March 2022.[82] In his affidavit, he essentially stated that: (1) when he executed his Judicial Affidavit, he held the position of RO III and had previously been assigned to the BIR-VCAD (where he evaluated petitioner's refund claim); (2) his duties included the verification and evaluation of tax credit or refund cases; (3) he was

76 Supra at note 43.

77 Certified Photocopy of the Photocopy on file.

78

Exhibit No.	FOE Description
"P-193"	One of the ORs described as compliant VAT-registered ORs to support VAT-able sales.
"P-1245"	One of the ORs described as ORs of Purchases for the 2nd Quarter of CY 2018 with properly substantiated input VAT.
"P-1973"	One of the ORs described as ORs of Purchases for the 2nd Quarter of CY 2018 with incorrect name of petitioner.
"P-2076"	One of the ORs described as ORs of Purchases for the 2nd Quarter of CY 2018 with TIN and address of petitioner not indicated.

79 Not found in USB.

80

Exhibit No.	FOE Description	Document Marked
"P-3858"	SEC Certificate of Non-Registration of **Kuwait Airways Corp.**	SEC Certificate of Non-Registration of **Kuwait Airways** Note: Kuwait Airways Corp. is an SEC-registered entity.
"P-3859"	SEC Certificate of Non-Registration of **Air China Limited (Manila Branch)**	SEC Certificate of Non-Registration of **Air China Limited** Note: Air China Limited (Manila Branch) is an SEC-registered entity.
"P-3862"	SEC Certificate of Non-Registration of **Malaysia Airlines System Berhad**	SEC Certificate of Non-Registration of **Malaysian Airlines System Berhad** Note: Malaysia Airlines System Berhad is an SEC-registered entity.

81 See Minutes of the Hearing and Order, both dated 18 January 2024, Division Docket, Volume II, pp. 850-850-B and 851-852.

82 Exhibit "R-8", id., Volume I, pp. 425-433.

among those who conducted the audit and investigation of petitioner's claim for VAT refund for CY 2018; (4) Tax Verification Notice (**TVN**) No. TVN201800116323 dated 15 July 2020[83] was issued to authorize the investigation and evaluation of petitioner's refund claim; (5) in the Memorandum Report dated 11 September 2020[84], his team recommended the denial of petitioner's refund claim; (6) the entire records were forwarded to the Tax Audit Review Division (**TARD**) for further review and evaluation; (7) in a Memorandum Report dated 25 September 2020[85], the TARD approved the BIR-VCAD's recommendation; and (8) thereafter, the BIR-VCAD issued and sent the Denial Letter[86] to petitioner.

On cross-examination, RO Manuncia stated that his team's initial assessment of petitioner's refund claim is based on Revenue Memorandum Circular (**RMC**) No. 47-2019[87], the prevailing BIR issuance at that time. After the initial screening of the documents, they proceeded to validate the receipts, invoices or the other documents that petitioner submitted. In preparing the Memorandum Report, he confirmed that they examined all the documents and relevant ORs pertaining to the purchases and sales of petitioner.[88]

As to the disallowances mentioned in the Memorandum Report, RO Manuncia confirmed the following: (1) a disallowance of ₱10,533,676.39 due to ORs being out-of-period, invalid or lacking supporting documents, among other reasons; (2) a disallowance of ₱490,073.50 based on the verification of the VAT registration status of suppliers in the BIR Integrated Tax System (**BIR-ITS**); (3) a disallowance of ₱8,274,648.52 as a result of petitioner's submission of a VAT return that was not duly certified; and (4) a disallowance of ₱727,673.11 for over-claimed input VAT.[89]

As for the remaining ₱15,825,379.58—computed as the difference between petitioner's refund claim of ₱35,851,451.10 and the total

---

[83] Exhibit "R-1", BIR Records, p. 134.
[84] Exhibit "R-4", id., pp. 390-393.
[85] Exhibit "R-5", id., p. 399.
[86] Exhibit "P-25"/Exhibit "R-6", supra at note 9.
[87] Revised Guidelines and Mandatory Requirements for the Processing and Grant of Value-Added Tax (VAT) Refund Claims within the 90-day Period Pursuant to Section 112 of the Tax Code of 1997, as Amended.
[88] TSN dated 18 January 2024, pp. 12-14.
[89] Id., p. 15.

disallowances mentioned above amounting to ₱20,026,071.52—RO Manuncia explained that this amount was likewise disallowed due to findings related to petitioner's sales, among other deductions. He described these as disallowances unrelated to input tax or purchases. He further noted that the total deductions from the refund claim amounted to ₱37,221,588.06, which exceeds the total amount claimed; hence, the team recommended the outright denial of the refund application.[90]

Respondent did not conduct any redirect examination.[91]

On 22 January 2024, respondent filed an "Omnibus Motion A. To Suspend the Period to File Respondent's [FOE]; B. To Set Commissioner's Hearing; and C. To Grant a Fresh Period to File [FOE]"[92] (**Omnibus Motion**). Petitioner filed its "Comment/ Opposition"[93] thereto on 05 February 2024. In a Minute Resolution dated 30 January 2024[94], the First Division granted respondent's Omnibus Motion.

On 31 January 2024, petitioner filed a "Motion for Partial Reconsideration [Re: 12 January 2024 Resolution of the Honorable [CTA] – First Division]"[95] (**MPR**), asking the First Division to reconsider the denial of some of the Denied Exhibits, namely, Exhibits "P-1245", "P-1973", "P-3858", "P-3859" and "P-3862".[96] Respondent file his or her "Comment and Opposition"[97] thereto on 26 February 2024.

In the meantime, on 15 February 2024, respondent filed his or her FOE[98], consisting of Exhibits "R-1" to "R-8-1". Petitioner filed its "Comment/Objection"[99] thereto on 21 February 2024.

---

90 Id., pp. 15-19.
91 Id., p. 19.
92 Division Docket, Volume II, pp. 855-859.
93 Id., pp. 870-874.
94 Id., p. 861.
95 Id., pp. 863-869.
96 Supra at notes 78 and 80.
97 Division Docket, Volume II, pp. 893-897.
98 Id., pp. 882-886.
99 Id., pp. 888-892.

In the Resolution dated 25 April 2024[100], the First Division granted petitioner's MPR. Accordingly, Exhibits "P-1245" and "P-1973" were deemed admitted as the corrected Exhibits "P-1246" and "P-1974"[101], respectively. Further, petitioner's FOE[102] was deemed amended to conform to the corrected descriptions of Exhibits "P-3858", "P-3859" and "P-3862" and these exhibits were admitted. In the same Resolution, the First Division also admitted all of respondent's exhibits and granted both parties a period of 30 days from notice within which to file their respective memoranda.

In compliance with the Court's directive, on 31 May 2024, petitioner filed a Memorandum[103], while respondent filed a Manifestation[104] stating the adoption of the arguments raised in the Answer dated 06 May 2021[105] as respondent's memorandum.

In a Minute Resolution dated 24 June 2024[106], the First Division considered the instant case submitted for decision.

ISSUE

As the parties so stipulated, the sole issue for this Court's resolution is —

> WHETHER PETITIONER GLOBAL CATERING SERVICES CORPORATION IS ENTITLED TO A TAX REFUND OF ITS INPUT VALUE-ADDED TAX (VAT) COVERING THE PERIOD FROM 01 JANUARY 2018 TO 31 DECEMBER 2018, OR THE CALENDAR YEAR (CY) 2018, AMOUNTING TO ₱35,851,451.10.[107]

---

100 Id., pp. 903-907.

101

Exhibit No.	FOE Description
"P-1246"	One of the ORs described as ORs of Purchases for the 2nd Quarter of CY 2018 with properly substantiated input VAT.
"P-1974"	One of the ORs described as ORs of Purchases for the 2nd Quarter of CY 2018 with incorrect name of petitioner.

102 Supra at note 72.

103 Division Docket, Volume II, pp. 908-935.

104 Id., pp. 936-938.

105 Supra at note 23.

106 Division Docket, Volume II, p. 940.

107 II. Stipulation of Issue, JSFI, supra at note 38, p. 441.

ARGUMENTS

Petitioner asserts entitlement to the subject refund claim, arguing that: (1) it is a VAT-registered entity, as required under Section 112(A)[108] of the NIRC of 1997, as amended; (2) both the administrative and judicial claims for refund of the excess and unutilized input VAT attributable to petitioner's zero-rated sales for CY 2018 were filed within the respective reglementary periods; (3) sales of services to clients engaged in international air transport operations are subject to 0% VAT; and (4) the excess input VAT is attributable to zero-rated sales and remained unutilized in the succeeding periods.

As earlier noted, in his or her Answer[109], respondent contends that: (1) the instant judicial claim should be denied due to petitioner's failure to substantiate the refund claim at the administrative level; (2) it is an established fact that a decision has already been rendered by respondent, and in such cases, the Supreme Court has held that this Court's role is limited to determining whether said decision was proper; and (3) the refund claim should be denied for failure to comply with the mandatory invoicing requirements under Section 113[110], in relation to Section 110[111], of the NIRC of 1997, as amended.

---

108 **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)

109 Supra at note 23.

110 Supra at note 24.

111 Supra at note 25.

RULING OF THE COURT

After a careful and thorough evaluation of the parties' respective evidence and the applicable laws, rules and regulations, the Court finds the instant petition unmeritorious.

Petitioner anchors its claim on Sections 110(B)[112], 112(A) and (C) of the NIRC of 1997, as amended by Republic Act (**RA**) No. 10963 or the Tax Reform for Acceleration and Inclusion (**TRAIN**) Law, which are quoted hereunder:

> ...
> **SEC. 110**. *Tax Credits.* —
> ...
>
> (B) *Excess Output or Input Tax.* — If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters: *Provided, however,* That any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.
> ...
>
> **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

---

112 As amended by Republic Act (**RA**) No. 9361, "AN ACT AMENDING SECTION 110(B) OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES".

> 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.
>
> ...
>
> (C) *Period within which Refund of Input Taxes shall be Made.* — In proper cases, the Commissioner shall grant a refund for creditable input taxes within ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof: *Provided,* That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.
>
> In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals: *Provided, however,* That failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code.
>
> ...

Based on the foregoing provisions, jurisprudence has laid down certain requisites that a taxpayer-applicant must satisfy to successfully obtain a refund of input VAT. These requisites are categorized as follows:

<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.[113]

2. In case of full or partial denial of the refund claim, or the failure on the part of respondent to act on the said claim within a period of ninety (90) days, the judicial

[113] *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182364, 03 August 2010; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, 25 November 2009; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, 27 April 2007.

claim has been filed with this Court, within 30 days from receipt of the decision or after the expiration of the said 90-day period.[114]

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

3. The taxpayer is a VAT-registered person.[115] Relative thereto, it must be emphasized that registration is an indispensable requirement under our VAT law.[116]

In relation to the taxpayer's output VAT:

4. The taxpayer is engaged in zero-rated or effectively zero-rated sales.[117]

5. For zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2)[118], the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the BSP rules and regulations.[119]

As regards the taxpayer's input VAT being refunded:

6. The input taxes are not transitional input taxes.[120]

7. The input taxes are due or paid.[121]

---

114 *Commissioner of Internal Revenue v. Vestas Services Philippines, Inc.*, G.R. No. 255085, 29 March 2023; *Commissioner of Internal Revenue v. CE Casecnan Water And Energy Company, Inc.*, G.R. No. 212727, 01 February 2023; *Energy Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 203367, 17 March 2021. [cf: Sections 7(a)(1) and (2), and 11 (first paragraph), Republic Act (**RA**) No. 1125, as amended by RA 9282]

115 *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, supra at note 113; *San Roque Power Corporation v. Commissioner of Internal Revenue*, supra at note 113; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, supra at note 113.

116 *Commissioner of Internal Revenue v. Seagate Technology (Philippines)*, G.R. No. 153866, 11 February 2005.

117 Id.

118 Under RA 10963 of the TRAIN Law, Section 106(A)(2)(a)(**2**) was renumbered to Section 106(A)(2)(a)(**3**) while Section 106(A)(2)(**b**) was deleted. However, there was no corresponding amendment to the subsections cited in Section 112(A) of the NIRC of 1997, as amended.

119 *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, supra at note 113; *San Roque Power Corporation v. Commissioner of Internal Revenue*, supra at note 113; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, supra at note 113.

120 Id.

121 Id.

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.[122]

9. The input taxes have not been applied against output taxes during and in the succeeding quarters.[123]

In addition, in claims for VAT refund, applicants must satisfy the substantiation and invoicing requirements under the NIRC of 1997, as amended, and other implementing rules and regulations.[124] Thus, petitioner's compliance with all the VAT invoicing requirements is required to be able to file a claim for input taxes attributable to zero-rated sales.[125] The invoicing and substantiation requirements should be followed because it is the only way to determine the veracity of the taxpayer's claims.[126] Moreover, it must be pointed out that compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.[127]

Strict compliance with substantiation and invoicing requirements is necessary considering VAT's nature and VAT system's tax credit method, where tax payments are based on output and input taxes and where the seller's output tax becomes the buyer's input tax that is available as tax credit or refund in the same transaction. It ensures the proper collection of taxes at all stages of distribution, facilitates computation of tax credits, and provides accurate audit trail or evidence for BIR monitoring purposes.[128]

---

122 *San Roque Power Corporation v. Commissioner of Internal Revenue*, supra at note 113; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, supra at note 113.

123 *AT&T Communications Services Philippines, Inc., v. Commissioner of Internal Revenue*, supra at note 113; *San Roque Power Corporation v. Commissioner of Internal Revenue*, supra at note 113; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, supra at note 113.

124 *Team Energy Corporation v. Commissioner of Internal Revenue*, G.R. Nos. 197663 and 197770, 14 March 2018.

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

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

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

128 *Team Energy Corporation v. Commissioner of Internal Revenue*, supra at note 124.

Furthermore, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove <u>every minute aspect</u> of their case.[129] Thus, it behooves petitioner to show compliance with each of the foregoing requisites and invoicing requirements. As a corollary, the absence of *any* of the said requisites is already a valid ground to deny the refund claim.

Based on the foregoing, this Court will proceed to determine whether petitioner complied with the aforementioned requisites.

<u>FIRST (1ST) AND SECOND (2ND) REQUISITES:</u>
PETITIONER'S ADMINISTRATIVE AND JUDICIAL CLAIMS FOR REFUND MUST BE TIMELY FILED.

In accordance with Section 112(A)[130] of the NIRC of 1997, as amended by the TRAIN Law, the administrative claim for refund of unutilized input VAT must be filed with the BIR within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales are made.

Petitioner's present claim covers all four (4) quarters of CY 2018. Counting two (2) years from the close of each quarter, the respective deadlines for filing the administrative claim for each quarter are as follows:

---

129 *Edison (Bataan) Cogeneration Corporation v. Commissioner of Internal Revenue*, G.R. Nos. 201665 and 201668, 30 August 2017; *Commissioner of Internal Revenue v. Philippine National Bank*, G.R. No. 180290, 29 September 2014; *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, 02 July 2014; *Rafael Arsenio S. Dizon v. Court of Tax Appeals, et al.*, G.R. No. 140944, 30 April 2008; *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 145526, 16 March 2007; *Commissioner of Internal Revenue v. Manila Mining Corporation*, G.R. No. 153204, 31 August 2005.

130 Supra at pp. 17-18.

Quarter (CY 2018)	**Period Covered**	**Last Day for Filing an Administrative Claim**	**Filing Date of Administrative Claim**
1st Quarter	January to March 2018	31 March 2020 (but was extended until **15 July 2020**)[131]	15 July 2020[132]
2nd Quarter	April to June 2018	30 June 2020 (but was extended until **31 August 2020**)[133]	
3rd Quarter	July to September 2018	30 September 2020	
4th Quarter	October to December 2018	31 December 2020	

The case records confirm that petitioner filed its administrative claim for refund covering all four (4) quarters of CY 2018 on **15 July 2020**. Considering that the deadline for filing the administrative claim for the 1st quarter of CY 2018 was extended until 15 July 2020, petitioner timely filed its administrative claim for the 1st to 4th quarters of CY 2018 within the applicable prescriptive period.

As to the timeliness of the judicial claim, Section 112(C) of the NIRC of 1997, as amended by the TRAIN Law, provides that respondent has 90 days from the date of submission of the complete documents, in support of the application for refund or tax credit, within which to grant or deny the claim. Section 112(C) speaks of two (2) periods: (1) the period of 90 days which serves as a waiting period to give time for respondent or the BIR to act on the administrative claim for refund or tax credit; and (2) the period of 30 days which refers to the period for filing a judicial claim with this Court.

Thus, from the filing of petitioner's administrative claim on 15 July 2020, respondent had 90 days, or until **13 October 2020**, to act on the claim. If no action was taken within this period, petitioner had 30 days from its expiration, or until **10 November 2020**, to file a judicial claim.

---

131 Pursuant to Section 4(z) of Republic Act (**RA**) No. 11469, as implemented by Section 2, of BIR Revenue Regulations (**RR**) No. 16-2020, filing of claims for VAT refund for calendar quarter ending 31 March 2018 was extended until 15 July 2020.

132 Exhibit "P-24"/Exhibit "R-2", supra at note 8.

133 Pursuant to Section 4(z) of RA 11469 as implemented by Section 2, of BIR RR No. 16-2020, filing of claims for VAT refund for calendar quarter ending 30 June 2018 was extended until 31 August 2020.

In this case, while respondent issued the Denial Letter, totally denying the subject refund claim of unutilized input VAT for CY 2018, on 25 September 2020, which is within the 90-day processing period, petitioner received a copy thereof only on **20 November 2020**.[134] Counting 30 days therefrom, petitioner had until **21 December 2020**[135] to file its judicial claim for refund. Accordingly, the instant Petition for Review was also seasonably filed on **18 December 2020**.[136]

Given the foregoing, this Court finds that petitioner satisfied the above-stated ***1st*** and ***2nd requisites*** relative to the refund claim for the 1st to 4th quarters of CY 2018.

THIRD (3RD) REQUISITE:
PETITIONER MUST BE VALUE-ADDED TAX (VAT)-REGISTERED.

Indisputably, petitioner is a VAT-registered taxpayer with TIN 004-676-765-000, as evidenced by its BIR-COR.[137] Thus, petitioner complied with the ***3rd requisite***.

FOURTH (4TH) AND FIFTH (5TH) REQUISITES:
PETITIONER MUST BE ENGAGED IN ZERO-RATED OR EFFECTIVELY ZERO-RATED SALES.

THE CORRESPONDING FOREIGN CURRENCY EXCHANGE PROCEEDS BE DULY ACCOUNTED FOR ACCORDING TO BANGKO SENTRAL NG PILIPINAS (BSP) RULES AND REGULATIONS.

The ***4th and 5th requisites*** require that the taxpayer be engaged in zero-rated or effectively zero-rated sales and, for zero-rated sales under Sections 106(A)(2)(a)(1),(2) and (B)[138], and 108(B)(1) and (2)[139] of

---

134 Exhibit "P-25"/Exhibit "R-6", supra at note 9.

135 20 December 2020 (the 30th day from 20 November 2020) fell on a Sunday.

136 Supra at note 1.

137 Exhibits "P-4" and "P-4-5", supra at note 6.

138 Section 106(B) cited in Section 112(A) of Republic Act (**RA**) No. 8424 was later amended by RA 9337 to pertain to Section 106(A)(2)(b). However, in view of the amendments introduced by RA 10963, Section 106(A)(2)(b) is now deleted.

139 **SEC. 108.** *Value-Added Tax on Sale of Services and Use or Lease of Properties.* —

...

the NIRC of 1997, as amended, the acceptable foreign currency exchange proceeds must have been duly accounted for in accordance with BSP rules and regulations.

The case records show that petitioner was authorized to engage in the business of providing catering services and related supplies to passenger carriers and events, engage in the import and export of food and beverages, and operate cold storage and refrigeration facilities.[140]

In its amended Quarterly VAT Returns for the periods covering the 1st to 4th quarters of CY 2018, petitioner reported total sales or receipts amounting to ₱707,107,681.49. This consisted of VAT-able sales or receipts totaling ₱58,429,837.82 and zero-rated sales or receipts amounting to ₱648,677,843.67, as shown below:

Period Covered (CY 2018)	Exhibit No.	VAT-able Sales/Receipts	Zero-Rated Sales/Receipts	Total Sales/Receipts
1st Quarter	"P-5"[141]	₱16,707,619.35	₱183,083,117.14	₱199,790,736.49
2nd Quarter	"P-6"[142]	13,751,801.75	146,693,410.51	160,445,212.26
3rd Quarter	"P-8"[143]	8,810,618.08	158,249,527.10	167,060,145.18
4th Quarter	"P-7"[144]	19,159,798.64	160,651,788.92	179,811,587.56
	Total	₱58,429,837.82	₱648,677,843.67	₱707,107,681.49

The total amount of ₱648,677,843.67, which petitioner treated as zero-rated sales or receipts, allegedly pertains to sales of services rendered to clients engaged in international air transport operations.

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

140 Exhibit "P-1", supra at note 5.
141 Division Docket, Volume II, p. 788.
142 Id., p. 790.
143 Id., p. 794.
144 Id., p. 792.

Petitioner contends that these sales are subject to 0% VAT pursuant to Section 108(B)(4) of the NIRC of 1997, as amended, which provides:

> ...
>
> SEC. 108. *Value-Added Tax on Sale of Services and Use or Lease of Properties.* —
>
> ...
>
> (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:
>
> ...
>
> (4) Services rendered to persons engaged in international shipping or **international air transport operations**, including leases of property for use thereof: Provided, That these services shall be exclusive for international shipping or air transport operations[.][145]
>
> ...

Corollary thereto, Section 4.108-5(b)(4) of Revenue Regulations (**RR**) No. 16-2005[146], as amended by RR No. 13-2018[147], provides, as follows:

> ...
>
> SECTION 2. *Amendments.* — Sections 4.106-5, 4.108-3, 4.108-5, 4.109-1, 4.109-2, 4.110-3, 4.112-1, 4.114-1, 4.114-2, and 4.116 of RR No. 16-2005, as amended, are hereby further amended to read as follows:
>
> ...
>
> **SEC. 4.108-5. <u>Zero Rated Sale of Services</u>.** —
>
> ...
>
> (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:
>
> ...

145 Emphasis supplied and italics in the original text.

146 Consolidated Value-Added Tax Regulations of 2005.

147 Regulations Implementing the Value-Added Tax Provisions under the Republic Act (RA) No. 10963, or the "Tax Reform for Acceleration and Inclusion (TRAIN)," Further Amending Revenue Regulations (RR) No. 16-2005 (Consolidated Value-Added Tax Regulations of 2005), as Amended.

> (4) Services rendered to persons engaged in international shipping or air transport operations, including leases of property for use thereof: ***Provided, that*** **these services shall be exclusively for international shipping or air transport operations**. Thus, the services referred to herein shall not pertain to those made to common carriers by air and sea relative to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines, the same being subject to twelve percent (12%) VAT under Sec. 108 of the Tax Code[.][148]

...

From the foregoing provisions, in order to be entitled to the zero percent (0%) VAT rate, petitioner must establish that: (1) its clients are engaged in international air transport operations; (2) the services rendered are exclusively for use in international air transport operations; and (3) the services are performed in the Philippines.

As gathered from the Second Amended ICPA Report[149], petitioner presented in evidence the following documents to prove that its clients are engaged in international air transport operations, to wit:

Client	Certificate or Articles of Incorporation (AOI)/ License to Transact Business	SEC Certificate of Non-Registration/ SEC Certificate of Corporate Filing/ Information	Service Agreement
Air China Limited	License to Transact Business in the Philippines[150] ***(to engage in international scheduled and unscheduled air passenger, air cargo and luggage transportation)***	SEC Certificate of Non-Registration[151]	Standard Catering Services Agreement[152]

---

148 Italics and underscoring in the original text, emphasis in the original text and supplied.
149 Exhibit "P-32", supra at note 55.
150 Exhibit "P-3379", USB (Exhibit "P-31-2").
151 Exhibit "P-3859", id.
152 Exhibit "P-3900", id.

Client	**Certificate or Articles of Incorporation (AOI)/ License to Transact Business**	**SEC Certificate of Non-Registration/ SEC Certificate of Corporate Filing/ Information**	**Service Agreement**
Air Philippines Corporation	None	None	None
Airmen Aviation Solution Corporation	None	SEC Certification of Corporate Filing/ Information[153] (*The Certificate of Registration was **suspended** on 29 January 2018.*)	None
Alpha Flight Services Pty Ltd.	None	SEC Certificate of Non-Registration[154]	None
Asiana Airlines, Inc.	AOI[155] ***(to engage, among others, in the domestic and international air transportation and maintenance and repair of aircraft)***	SEC Certification of Corporate Filing/ Information[156]	Catering Agreement[157]
Cebu Air, Inc.	None	SEC Certification of Corporate Filing/ Information[158]	Catering Services Agreement[159]
China Southern Airlines Co Ltd	None	None	None
Citadel Air Services Corporation	None	None	None
Custom	None	None	None
Dawson Media Direct Limited	None	None	None
Delta Air Lines, Inc.	Amended and Restated Certificate of Incorporation[160] (*to engage in any lawful act*	SEC Certification of Corporate Filing/ Information[161]	Amendment to Catering Agreement between Delta Air Lines Inc. and Gate

153 Exhibit "P-3852", id.
154 Exhibit "P-3848", id.
155 Exhibit "P-3901", id.
156 Exhibit "P-3912", Division Docket, Volume II, p. 827.
157 Exhibit "P-3902", USB (Exhibit "P-31-2").
158 Exhibit "P-3913", Division Docket, Volume II, p. 828.
159 Exhibit "P-3903", USB (Exhibit "P-31-2").
160 Exhibit "P-3904", id.
161 Exhibit "P-3854", id.

Client	Certificate or Articles of Incorporation (AOI)/ License to Transact Business	SEC Certificate of Non-Registration/ SEC Certificate of Corporate Filing/ Information	Service Agreement
	or activity for which corporations may be organized under the Delaware General Corporation Law)		Gourmet Switzerland GmbH, Inc. (and petitioner as its affiliate)[162]
Delta Airlines – Interpacific Transit Inc.	None	SEC Certificate of Non-Registration[163]	None
DNATA, Inc.	None	SEC Certification of Corporate Filing/ Information[164]	None
Ethiopian Airlines	None	None	None
Gulf Air Company Philippines Inc.	None	SEC Certificate of Non-Registration[165]	Addendum to the Standard Catering Services Agreement between Gulf Air B.S.C. and petitioner[166]
Hong Kong Airlines Limited	None	SEC Certification of Corporate Filing/ Information[167] (*The Certificate of Registration was* ***suspended*** *on 18 September 2017.*)	In-flight Catering Services Agreement[168] (*This exhibit was* ***denied*** *for being merely provisionally marked.*)
KLM Royal Dutch Airlines	Articles of Association[169] (***to carry on the business of air transport*** *and to engage in any other activities of a commercial, industrial or financial nature, including participation in other enterprises, both for the Company's own account*	SEC Certificate of Non-Registration[170]	Standard Inflight Catering Agreement[171]

162 Exhibit "P-3905", id.
163 Exhibit "P-3853", id.
164 Exhibit "P-3914", Division Docket, Volume II, p. 829.
165 Exhibit "P-3861", USB (Exhibit "P-31-2").
166 Exhibit "P-3906", id.
167 Exhibit "P-3915", Division Docket, Volume II, p. 830.
168 Exhibit "P-3907", USB (Exhibit "P-31-2").
169 Exhibit "P-3380", id.
170 Exhibit "P-3850", id.
171 Exhibit "P-3908", id.

Client	Certificate or Articles of Incorporation (AOI)/ License to Transact Business	SEC Certificate of Non-Registration/ SEC Certificate of Corporate Filing/ Information	Service Agreement
	and for the account of or *in participation or co-operation with third parties*)		
Kuwait Airways Corporation	None	SEC Certificate of Non-Registration of **Kuwait Airways**[172]	Catering Agreement[173]
Mabuhay Maritime Express Transport	None	None	None
Malaysia Airlines Berhad	Certificate of Incorporation[174] (*The corporation's purpose is not indicated.*)	SEC Certificate of Non-Registration of **Malaysian Airlines System Berhad**[175]	Catering Services Agreement[176]
Miascor Groundhandling Corp.	None	SEC Certification of Corporate Filing/ Information[177]	None
Okay Airways	None	None	None
Oman Air	None	SEC Certificate of Non-Registration[178] SEC Certification of Corporate Filing/ Information of **Oman Air (S.A.O.C.)**[179]	None
Pan Pacific Airlines	None	None	None
Philippine Airlines Inc.	None	SEC Certification of Corporate Filing/ Information[180]	None
Royal Brunei	None	SEC Certificate of Non-Registration[181]	None

172 Exhibit "P-3858", id.
173 Exhibit "P-3909", id.
174 Exhibit "P-3381", id.
175 Exhibit "P-3862", id.
176 Exhibit "P-3910", id.
177 Exhibit "P-3851", id.
178 Exhibit "P-3857", id.
179 Exhibit "P-3916", Division Docket, Volume II, p. 831.
180 Exhibit "P-3917", id., p. 832.
181 Exhibit "P-3849", USB (Exhibit "P-31-2").

Client	**Certificate or Articles of Incorporation (AOI)/ License to Transact Business**	**SEC Certificate of Non-Registration/ SEC Certificate of Corporate Filing/ Information**	**Service Agreement**
Thai Airways International Public Company Limited	None	SEC Certificate of Non-Registration[182]	None
Turkish Airlines, Inc.	None	SEC Certification of Corporate Filing/ Information[183]	Catering Agreement[184]
United Airlines, Inc.	Amended and Restated Certification of Incorporation[185] *(to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware)*	SEC Certification of Corporate Filing/ Information[186] *(The corporation's Certificate of Withdrawal of License of a foreign corporation to transact business in the Philippines as a branch office was issued on 08 April 2014.)*	None

In essence, the above Service Agreements show that petitioner is engaged to provide catering facilities and related services within the aviation industry, as specified in the respective contracts.[187] These services include, among others, representation and accommodation, documentation and communication, passenger catering and provisioning, dry stores/sundry items, bonded stores, special services, equipment handling, catering ramp handling, storage, laundry services, passenger amenities, administration, and security. The services are to be performed at *Manila or MNL.*

182 Exhibit "P-3860", id.
183 Exhibit "P-3855", id.
184 Exhibit "P-3911", id.
185 Exhibit "P-3378", id.
186 Exhibit "P-3856", id.
187 Exhibits "P-3900" (Standard Catering Services Agreement with Air China Limited), "P-3902" (Catering Agreement with Asiana Airlines, Inc.), "P-3903" (Catering Services Agreement with Cebu Air, Inc.), "P3905" (Amendment to Catering Agreement between Delta Air Lines Inc. and Gate Gourmet Switzerland GmbH, Inc. [and petitioner as its affiliate]), "P-3906" (Addendum to the Standard Catering Services Agreement between Gulf Air B.S.C. and petitioner), "P-3908" (Standard Inflight Catering Agreement with KLM Royal Dutch Airlines), "P-3909" (Catering Agreement with Kuwait Airways Corporation), "P-3910" (Catering Services Agreement with Malaysia Airlines Berhad) and "P-3911" (Catering Agreement with Turkish Airlines, Inc.), supra at notes 152, 157, 159, 162, 166, 171, 173, 176 and 184, respectively.

Based on the above-listed documents, only three (3) of petitioner's clients, *i.e.*, **Air China Limited**, **Asiana Airlines, Inc.** and **KLM Royal Dutch Airlines**, have satisfied all the requisites for VAT zero-rating, as evidenced by the submission of their respective Articles of Incorporation (**AOIs**), which indicate their corporate purpose or business activity, and Service Agreements, which identify the nature and location of the services performed by petitioner. A majority petitioner's clients are not supported by either AOIs and/or Service Agreements. Notably, while petitioner submitted the Certificates of Incorporation of Delta Air Lines, Inc., Malaysia Airlines Berhad and United Airlines, Inc., the corporate purpose or business activity of these entities was either not specifically stated or not indicated at all.

With the foregoing, the Court finds that only petitioner's sales of services to Air China Limited, Asiana Airlines, Inc. and KLM Royal Dutch Airlines during the period covered by the refund claim qualify for VAT zero-rating under Section 108(B)(4)[188] of the NIRC of 1997, as amended, as these services were determined to have been rendered to entities engaged in international air transport operations.

Nevertheless, petitioner must substantiate its sales of services to the aforesaid entities through VAT ORs, which must contain all the required information in compliance with the invoicing requirements under Section 113 of the NIRC of 1997, as amended by RA 9337[189], to wit:

> ...
>
> SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* —
>
> (A) *Invoicing Requirements.* — A VAT-registered person shall issue:
>
> (1) A VAT invoice for every sale, barter or exchange of goods or properties; and
>
> (2) **A VAT official receipt for** every lease of goods or properties, and **for every sale, barter or exchange of services.**

---

188 Supra at p. 25.

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

(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 (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client.[190]

...

[190] Emphasis supplied and italics in the original text.

Implementing the foregoing provision, Section 4.113-1 of RR No. 16-2005[191] provides as follows:

> ...
>
> 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;

---

191 Supra at note 146.

(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 (P1,000.00) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and TIN of the purchaser, customer or client, shall be indicated in addition to the information required in (1) and (2) of this Section.[192]

...

In addition to the above requirements, the 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, to wit:

...

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

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

...

SEC. 238. *Printing of Receipts or Sales or Commercial Invoices.* — All persons who are engaged in business shall secure from the Bureau of

192 Emphasis supplied and italics in the original text.

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.[193]

...

Records show that out of the total ₱648,677,843.67 in zero-rated sales or receipts reported by petitioner in its amended 2018 Quarterly VAT Returns, **only ₱141,033,872.27 (21.74%)** pertains to its sales of services to Air China Limited, Asiana Airlines, Inc. and KLM Royal Dutch Airlines, as reflected in petitioner's Schedule of Zero-Rated Sales for CY 2018.[194]

Upon review and validation of ICPA Bambao's findings based on her examination of the ORs supporting petitioner's claimed zero-rated sales, the Court finds that the entire amount of ₱141,033,872.27, representing petitioner's reported zero-rated sales of services to Air China Limited, Asiana Airlines, Inc., and KLM Royal Dutch Airlines, was not properly substantiated by BIR-registered VAT ORs, as detailed below:

Summary Reference (Second Amended Annexes to Exhibit "P-32")	Period Covered of Claim (CY 2018)	Exhibit No.	OR No.	Customer Name	Zero-Rated Sales	
					In US Dollar ($)	In Philippine Peso (₱)
Without supporting BIR-registered VAT ORs						
Annex 2	1st Quarter		0007768	Air China Limited	51,757.53	2,485,134.43
Annex 2	1st Quarter		0007822	Air China Limited	46,196.37	2,253,419.67
Annex 2	1st Quarter		0007803	Air China Limited	30,392.38	1,478,196.25
Annex 2	1st Quarter			Air China Limited	(1,814.88)	(93,241.28)
Annex 2	1st Quarter			Air China Limited	(907.45)	(46,621.12)
Annex 2	1st Quarter			Air China Limited	(1,103.72)	(57,439.42)

[193] Emphasis supplied and italics in the original text.

[194] See Second Amended Annexes 2 to 5, Second Amended ICPA Report, Exhibit "P-32", supra at note 55.

Summary Reference (Second Amended Annexes to Exhibit "P-32")	Period Covered of Claim (CY 2018)	Exhibit No.	OR No.	Customer Name	Zero-Rated Sales	
					In US Dollar ($)	In Philippine Peso (₱)
Annex 2	1st Quarter			Air China Limited	(551.85)	(28,719.17)
Annex 2	1st Quarter			Air China Limited	(1,632.22)	(85,094.28)
Annex 2	1st Quarter			Air China Limited	(816.11)	(42,547.14)
Annex 2	1st Quarter		0007806	Asiana Airlines Inc.	700.85	33,651.22
Annex 2	1st Quarter		0007772	Asiana Airlines Inc.	171,274.17	8,323,387.83
Annex 2	1st Quarter		0007722	Asiana Airlines Inc.	177,775.50	8,535,879.90
Annex 2	1st Quarter			Asiana Airlines Inc.	700.85	34,147.76
Annex 2	1st Quarter			Asiana Airlines Inc.	(4,764.34)	(244,772.67)
Annex 2	1st Quarter			Asiana Airlines Inc.	(4,333.69)	(225,532.44)
Annex 2	1st Quarter			Asiana Airlines Inc.	(4,394.65)	(229,110.87)
Annex 3	2nd Quarter			Air China Limited	(964.47)	(49,795.12)
Annex 3	2nd Quarter			Air China Limited	(482.23)	(24,897.31)
Annex 3	2nd Quarter			Air China Limited	(1,137.14)	(59,825.98)
Annex 3	2nd Quarter			Air China Limited	(568.57)	(29,912.99)
Annex 3	2nd Quarter			Air China Limited	(1,059.67)	(56,520.45)
Annex 3	2nd Quarter			Air China Limited	(529.83)	(28,259.98)
Annex 3	2nd Quarter			Air China Limited	85.20	4,182.46
Annex 3	2nd Quarter		0007878	Asiana Airlines Inc.	90.30	4,357.03
Annex 3	2nd Quarter			Asiana Airlines Inc.	138,931.35	6,703,701.18
Annex 3	2nd Quarter			Asiana Airlines Inc.	676.78	32,655.62
Annex 3	2nd Quarter			Asiana Airlines Inc.	(3,702.61)	(191,164.03)
Annex 3	2nd Quarter			Asiana Airlines Inc.	(3,564.09)	(187,509.99)
Annex 3	2nd Quarter			Asiana Airlines Inc.	(3,534.34)	(188,513.90)
Annex 3	2nd Quarter			KLM Royal Dutch Airlines	-	(62,656.02)
Annex 3	2nd Quarter			KLM Royal Dutch Airlines	-	(66,975.40)
Annex 4	3rd Quarter			Air China Limited	29,476.30	1,460,297.49
Annex 4	3rd Quarter			Air China Limited	962.05	48,615.50
Annex 4	3rd Quarter			Air China Limited	(1,050.56)	(55,689.48)
Annex 4	3rd Quarter			Air China Limited	(525.28)	(27,844.71)
Annex 4	3rd Quarter			Air China Limited	(1,077.77)	(57,628.00)
Annex 4	3rd Quarter			Air China Limited	(538.88)	(28,813.75)
Annex 4	3rd Quarter			Air China Limited	(878.75)	(47,436.28)
Annex 4	3rd Quarter			Air China Limited	(439.37)	(23,717.89)
Annex 4	3rd Quarter			Air China Limited	964.71	48,669.80
Annex 4	3rd Quarter		0062	Asiana Airlines Inc.	10,591.18	529,203.85
Annex 4	3rd Quarter			Asiana Airlines Inc.	2,452.98	122,586.75
Annex 4	3rd Quarter			Asiana Airlines Inc.	(3,428.49)	(181,741.93)
Annex 4	3rd Quarter			Asiana Airlines Inc.	(3,781.32)	(202,185.86)

Summary Reference (Second Amended Annexes to Exhibit "P-32")	Period Covered of Claim (CY 2018)	Exhibit No.	OR No.	Customer Name	Zero-Rated Sales	
					In US Dollar ($)	In Philippine Peso (₱)
Annex 4	3rd Quarter			Asiana Airlines Inc.	(2,984.01)	(161,081.45)
Annex 5	4th Quarter		0200	Air China Limited	19,886.56	979,261.62
Annex 5	4th Quarter		0160	Air China Limited	48,271.61	2,396,910.81
Annex 5	4th Quarter		0201	Air China Limited	50,771.59	2,482,262.10
Annex 5	4th Quarter			Air China Limited	(1,700.72)	(89,132.01)
Annex 5	4th Quarter			Air China Limited	(850.37)	(44,566.54)
Annex 5	4th Quarter			Air China Limited	(2,701.23)	(142,001.35)
Annex 5	4th Quarter			Air China Limited	(1,068.54)	(57,102.34)
Annex 5	4th Quarter			Air China Limited	(534.26)	(28,550.65)
Annex 5	4th Quarter			Air China Limited	24,005.80	1,258,144.00
Annex 5	4th Quarter		0139	Asiana Airlines Inc.	127,452.73	6,365,438.35
Annex 5	4th Quarter		0167	Asiana Airlines Inc.	1,101.02	54,988.79
Annex 5	4th Quarter		0166	Asiana Airlines Inc.	699.25	34,353.94
Annex 5	4th Quarter		0169	Asiana Airlines Inc.	138,936.39	6,813,801.43
Annex 5	4th Quarter			Asiana Airlines Inc.	(3,369.17)	(176,572.78)
Annex 5	4th Quarter			Asiana Airlines Inc.	(3,681.38)	(193,526.94)
Annex 5	4th Quarter			Asiana Airlines Inc.	(3,346.51)	(178,836.08)
Annex 5	4th Quarter			Asiana Airlines Inc.	676.24	33,773.80
				Subtotal	***1,007,011.22***	***48,821,483.98***
No amount was indicated in the space provided for "Zero-rated Sales"						
Annex 2	1st Quarter	"P-46"	0007742	KLM Royal Dutch Airlines	-	3,502,611.81
Annex 2	1st Quarter	"P-48"	0007751	KLM Royal Dutch Airlines	-	2,982,199.03
Annex 2	1st Quarter	"P-49"	0007792	KLM Royal Dutch Airlines	-	2,915,327.72
Annex 3	2nd Quarter	"P-80"	0007940	KLM Royal Dutch Airlines	-	2,205,063.81
Annex 3	2nd Quarter	"P-83"	0007851	KLM Royal Dutch Airlines	-	2,342,281.19
Annex 3	2nd Quarter	"P-85"	0007869	KLM Royal Dutch Airlines	-	2,246,059.54
Annex 4	3rd Quarter	"P-108"	0007975	KLM Royal Dutch Airlines	-	2,338,767.91
Annex 4	3rd Quarter	"P-109"	0007970	KLM Royal Dutch Airlines	-	2,067,739.40
Annex 4	3rd Quarter	"P-110"	0047	KLM Royal Dutch Airlines	-	1,885,613.35
Annex 5	4th Quarter	"P-140"	0087	KLM Royal Dutch Airlines	-	2,232,396.98
				Subtotal	-	***24,718,060.74***
Nature of the payment/services provided by petitioner was not indicated						
Annex 2	1st Quarter	"P-3751"	0007825	Asiana Airlines Inc.	165,237.57	8,053,512.04
Annex 3	2nd Quarter	"P-3776"	0007920	Air China Limited	60,552.68	2,950,612.38
Annex 3	2nd Quarter	"P-3779"	0007964	Air China Limited	29,642.79	1,477,645.49
Annex 3	2nd Quarter	"P-3780"	0007910	Asiana Airlines Inc.	136,249.80	6,699,274.26
Annex 3	2nd Quarter	"P-3783"	0007952	Asiana Airlines Inc.	284,449.57	14,131,406.13
Annex 4	3rd Quarter	"P-3792"	0030	Asiana Airlines Inc.	721.18	36,038.54

Summary Reference (Second Amended Annexes to Exhibit "P-32")	Period Covered of Claim (CY 2018)	Exhibit No.	OR No.	Customer Name	Zero-Rated Sales	
					In US Dollar ($)	In Philippine Peso (₱)
Annex 4	3rd Quarter	"P-3798"	0005	Air China Limited	35,639.47	1,780,174.13
Annex 4	3rd Quarter	"P-3803"	0031	Asiana Airlines Inc.	676.78	34,143.32
Annex 4	3rd Quarter	"P-3812"	0026	Air China Limited	52,238.01	2,651,448.06
Annex 4	3rd Quarter	"P-3818"	0032	Asiana Airlines Inc.	115,958.91	5,838,157.30
Annex 4	3rd Quarter	"P-3819"	0029	Asiana Airlines Inc.	216,231.67	10,961,289.95
Annex 5	4th Quarter	"P-139"	0098	Air China Limited	31,620.95	1,567,800.82
Annex 5	4th Quarter	"P-150"	0152	KLM Royal Dutch Airlines	-	2,393,241.02
Annex 5	4th Quarter	"P-155"	0206	KLM Royal Dutch Airlines	-	2,416,944.73
Annex 5	4th Quarter	"P-168"	0088	KLM Royal Dutch Airlines	-	720.00
Annex 5	4th Quarter	"P-3833"	0077	Asiana Airlines Inc.	698.71	34,896.03
Annex 5	4th Quarter	"P-3834"	0076	Asiana Airlines Inc.	129,731.50	6,467,023.35
				Subtotal	*1,259,649.59*	*67,494,327.55*
				Total	**2,266,660.81**	**141,033,872.27**

Clearly, from the foregoing, the total amount of **₱48,821,483.98** must be disallowed for being **unsupported by BIR-registered VAT ORs**, in violation of Section 113(A)(2)[195] of the NIRC of 1997, as amended, and Section 4.113-1(A)(2)[196] of RR No. 16-2005, as amended.

Likewise, the aggregate amount of **₱24,718,060.74, supported by ORs that lacked the required indication of "Zero-rated Sales,"** must be disallowed pursuant to Section 113(B)(2)(c)[197] of the NIRC of 1997, as amended, and Section 4.113-1(B)(2)(c)[198] of RR No. 16-2005, as amended.

Similarly, the amount of **₱67,494,327.55** must be disallowed due to petitioner's **failure to indicate in the corresponding ORs the nature of the services rendered**, as required under Section 113(B)(3)[199] of the NIRC of 1997, as amended.

195 Supra at p. 31.
196 Supra at p. 33.
197 Supra at pp. 31-32.
198 Supra at p. 33.
199 Supra at pp. 31-32.

The Court observed that, while certain reference number(s) were indicated under the "Particulars" column of the ORs corresponding to the payments received by petitioner, some of these reference number(s) were either blurred or unclear. More importantly, petitioner failed to submit into evidence the documents referred to by these reference number(s), which could have been cross-referenced with the ORs to provide essential details confirming the nature and particulars of the zero-rated sales. As a result, the Court is unable to independently determine whether the payments received correspond to the services claimed to have been rendered by petitioner.

In sum, the Court disallows petitioner's entire claimed zero-rated sales of services to Air China Limited, Asiana Airlines, Inc., and KLM Royal Dutch Airlines in the amount of ₱141,033,872.27, for failure to properly substantiate the same with ORs issued in compliance with the invoicing requirements under applicable VAT law and regulations.

Apropos, compliance with the substantiation and invoicing requirements under the law is imperative. It also bears emphasis that in *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*[200], the Supreme Court said:

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

To recapitulate, out of the total amount of ₱648,677,843.67 treated by petitioner as zero-rated sales or receipts in its amended 2018 Quarterly VAT Returns, ₱507,643,971.40 is disallowed for failure to

---

200 G.R. No. 222428, 19 February 2018; Citations omitted, italics in the original text and emphasis supplied.

satisfy the conditions for VAT zero-rating under Section 108(B)(4) of the NIRC of 1997, as amended. While the remainder of ₱141,033,872.27—pertaining to petitioner's sales of services to Air China Limited, Asiana Airlines, Inc., and KLM Royal Dutch Airlines—qualifies for VAT zero-rating under the same provision, it is likewise disallowed for lack of proper substantiation through BIR-registered VAT ORs.

In view of the foregoing, petitioner's claim for refund in the amount of ₱35,851,451.10, allegedly representing excess and unutilized input VAT attributable to its zero-rated sales for CY 2018, must be denied. Consequently, it is no longer necessary to discuss or determine petitioner's compliance with the other remaining requisites for the grant of an input VAT refund.

WHEREFORE, premises considered, the instant Petition for Review filed by petitioner Global Catering Services Corporation on 18 December 2020 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

With Separate Concurring Opinion
ROMAN G. DEL ROSARIO
Presiding Justice

LANEE S. CUI-DAVID
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

FIRST DIVISION

GLOBAL CATERING SERVICES CORPORATION, Petitioner,	**CTA CASE NO. 10448**
	Members:
- versus -	**DEL ROSARIO,** *P.J., Chairperson,* **BACORRO-VILLENA,** *and* **CUI-DAVID,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUN 24 2025, 4:00 PM

x- x

SEPARATE CONCURRING OPINION

DEL ROSARIO, P.J.:

I concur with the *ponencia* in denying for lack of merit the present Petition for Review filed by Global Catering Services Corporation, but on the sole ground of petitioner's non-compliance with the invoicing requirements under Section 113(B)(2)(c) of the National Internal Revenue Code (NIRC) of 1997, as amended.[1]

It is a requirement that for any VAT invoice or official receipt (OR) evidencing a zero-rated transaction, the term **"zero-rated sale" should be written or printed prominently thereon**. Failure to comply

---

[1] SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.*

xxx xxx xxx

(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:

xxx xxx xxx

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

xxx xxx xxx

(c) If the sale is subject to zero percent (0%) value-added tax, the term "zero-rated sale" shall be written or printed prominently on the invoice or receipt;" *(Boldfacing supplied)* with the invoicing requirements is sufficient ground to deny the claim for refund or tax credit.[2]

In the present case, an examination of **petitioner's ORs for its zero-rated sales** shows that **all lacked the "ZERO-RATED SALES" stamp** required under Section 113(B)(2)(c) of the NIRC of 1997, as amended.

Thus, for failure of petitioner to comply with the invoicing requirements for all its alleged zero-rated sales, its claim for refund or issuance of a tax credit certificate (TCC) for unutilized input value-added tax (VAT) attributable to its zero-rated sales for the period January 1, 2018 to December 31, 2018 or Calendar Year (CY) 2018 should be denied.

All told, I vote to **DENY** the Petition for Review for lack of merit.

ROMAN G. DEL ROSARIO
Presiding Justice

---

[2] *Commissioner of Internal Revenue vs. Philex Mining Corporation*, G.R. No. 230016, November 23, 2020.