REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

AMMEX I-SUPPORT CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10190

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:
SEP 05 2023 8:40 a.m.

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DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Ammex I-Support Corporation (**petitioner/AIC**) pursuant to Section 3(a)[2], Rule 8 in relation to Section 3(a)(1)[3], Rule 4 of the Revised Rules of the

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[1] Filed on 17 October 2019, Division Docket, pp. 6-64, 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.

[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:

Court of Tax Appeals (**RRCTA**). It seeks the refund of its alleged unutilized input value-added tax (**VAT**) on its domestic purchases of goods and services, and purchases and importation of goods and capital goods that are attributable to zero-rated sales for the period from 01 April 2017 to 30 June 2017 or the 2nd quarter of calendar year (**CY**) 2017 in the amount of ₱591,850.45.

PARTIES OF THE CASE

Petitioner is a corporation duly organized and existing under the laws of the Philippines and registered with the Securities and Exchange Commission (**SEC**), with principal office at Unit 701-703, Pearlbank Centre Building, 146 Valero Street, Salcedo Village, Makati City.[4] As stated in its Amended Articles of Incorporation[5] (**AOI**), petitioner is engaged in business process outsourcing using computer based IT enabled systems to service the needs of its global clients. It is also registered with the Bureau of Internal Revenue (**BIR**) as a VAT taxpayer with Taxpayer's Identification No. (**TIN**) 246-226-340-00000, as evidenced by BIR Certificate of Registration No. OCN 9RC0000115551E.[6]

Respondent, on the other hand, is the Commissioner of Internal Revenue (**respondent/CIR**), who is vested with authority to exercise the functions of said office; including, among others, the power to refund any internal revenue tax erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, or of input VAT attributable to zero-rated sales, with office at the BIR National Office Building, Agham Road, Diliman, Quezon City.[7]

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(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[.]

4 Paragraph 1, Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI), Division Docket, Volume I, p. 278.

5 Exhibit "ICPA P-13", ICPA Report, USB.

6 Exhibit "ICPA P-3", id.

7 Paragraph 2, Stipulation of Facts, JSFI, supra at note 4.

FACTS OF THE CASE

Petitioner duly filed its Amended Quarterly VAT Return for the 2nd quarter of CY 2017 on 31 August 2017.[8]

On 28 June 2019, petitioner filed with the BIR Revenue District Office (**RDO**) No. 050 its administrative claim for refund of unutilized input VAT in the aggregate amount of ₱591,850.45 covering the period from 01 April 2017 to 30 June 2017 (or the 2nd quarter of CY 2017).[9] Petitioner also submitted all supporting documents and complied with the requirements provided by the National Internal Revenue Code (**NIRC**) of 1997, as amended, and applicable BIR issuances, to wit: Application for Tax Credits/Refunds (BIR Form No. 1914)[10], Revised Checklist of Mandatory Requirements for Claims for VAT Refund[11], Sworn Declaration of Taxpayer's Profile[12], Sworn Certification as to Completeness of the Documents Submitted[13] and Sworn Statements.[14]

On 18 September 2019, petitioner received a copy of the Letter dated 02 September 2019[15] (**Denial Letter**), denying the subject administrative claim for lack of factual and legal basis. Officer-In-Charge Assistant Commissioner for Assessment Service Maria Luisa I. Belen (**OIC-Assistant Commissioner Belen**) signed the Denial Letter.

PROCEEDINGS BEFORE THE SECOND DIVISION

On 17 October 2019 and within thirty (30) days from receipt of the Denial Letter, petitioner filed the instant Petition for Review before the Court in Division to appeal the rejection of its administrative claim.[16] The same was raffled to the Second Division, docketed as CTA Case No. 10190.[17]

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8 Exhibit "P-1", Division Docket, Volume I, pp. 105-107.
9 Exhibit "P-5", id., p. 120.
10 Id.
11 Exhibit "P-6", id., p. 121.
12 Exhibit "P-7", id., pp. 122-123.
13 Exhibit "P-8", id., p. 124.
14 Exhibits "P-9" and "P-10", id., pp. 125 and 126, respectively.
15 Exhibit "P-4", id., pp. 118-119.
16 Supra at note 1.
17 Then Second Division was composed of Hon. Associate Justice Juanito C. Castañeda, Jr. (Ret.), as Chairperson, and Hon. Associate Justice Cielito N. Mindaro-Grulla (Ret.) and Hon. Associate Justice Jean Marie A. Bacorro-Villena, as Members.

On 13 December 2019, after being granted an extension by the Second Division[18], respondent filed his Answer[19] and therein interposed special and affirmative defenses. Respondent contended that the instant petition must be denied due to petitioner's failure to substantiate its refund claim at the administrative level. As an unfavorable decision has already been rendered at the administrative level, attributed to the petitioner's inability to substantiate their claim, respondent posited that petitioner cannot introduce documents before this Court that were not originally submitted during the administrative proceedings. This limitation allegedly arose from the fact that this Court is confined to the issue of whether a lack of substantiation warrants the denial of the aforementioned refund claim.

On 18 December 2019, the Second Division issued a Notice of Pre-Trial Conference[20], setting the Pre-Trial Conference on 13 February 2020. Accordingly, on 07 February 2020, petitioner filed its Pre-Trial Brief[21], while respondent filed his or her Pre-Trial Brief[22] on 10 February 2020.

On 20 January 2020, respondent forwarded to the Second Division the entire BIR Records of the present case consisting of two (2) folders: Folder 1 (pages 811 to 1011) and Folder 2 (pages 1 to 810).[23] The Second Division noted the same in the Minute Resolution dated 21 January 2020.[24]

During the 13 February 2020 Pre-Trial Conference, the Second Division gave both parties fifteen (15) days within which to file their Joint Stipulation of Facts and Issues (JSFI).[25] On 26 February 2020, the parties submitted their JSFI.[26]

On 10 March 2020, the Second Division issued a Pre-Trial Order[27] approving the parties' JSFI and terminating the pre-trial.

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18 See Order dated 18 November 2019, Division Docket, Volume I, p. 71.
19 Id., pp. 73-82.
20 Id., pp. 84-85.
21 Id., pp. 91-94.
22 Id., pp. 246-249.
23 See Compliance dated 20 January 2020, id., pp. 86-88.
24 Id., p. 90.
25 See Minutes of the Hearing dated 13 February 2020, id., p. 251.
26 Id., pp. 278-280.
27 Id., pp. 282-285.

Earlier, on 03 March 2020, petitioner filed a motion for the commissioning of Lorenz Samuel D. Gomez (**L.S. Gomez**) as the Independent Certified Public Accountant (**ICPA**).[28] Subsequently, in the Order dated 15 June 2020[29], the Second Division appointed L.S. Gomez as the ICPA and directed him to submit his report (in the form of hard and soft copies contained in a flash drive) within forty-five (45) days therefrom. Accordingly, on 24 July 2020, ICPA L.S. Gomez filed his Report, with Transmittal Letter of even date and supporting documents.[30]

In the trial that thereafter ensued, petitioner presented its testimonial and documentary evidence. It offered the testimonies of its witnesses, namely: (1) Lhyric Gomez (**L. Gomez**), petitioner's Finance Manager; and, (2) L.S. Gomez, the Court-commissioned ICPA.

On the witness stand, L. Gomez identified his Judicial Affidavit dated 07 February 2020[31], where she declared essentially that: (1) as petitioner's Finance Manager, she is responsible for the preparation, timely filing, payment and submission of tax returns and other reports to the BIR, SEC and other government agencies, as well as overseeing petitioner's accounting process on a daily basis; (2) petitioner duly filed its Quarterly VAT Return for the 2nd Quarter of CY 2017 and has unutilized input VAT in the amount of not less than ₱591,850.45; (3) petitioner duly filed the required Monthly VAT Return covering the period April 2017 to May 2017; (4) petitioner duly applied for input VAT refund in the amount of ₱591,850.45, covering the period from 01 April 2017 to 30 June 2017 within the two (2)-year period allowed by law; (5) the amount of ₱591,850.45 was not applied as tax refund or carried over to the succeeding period; (6) on 18 September 2019, petitioner received the Denial Letter, rejecting petitioner's administrative claim for refund; (7) petitioner is entitled to a VAT refund for the 2nd Quarter of CY 2017 or the period covering 01 April 2017 to 30 June 2017 in the amount of ₱591,850.45.

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28 See Motion to Commission An Independent Certified Public Accountant dated 02 March 2020, id., pp. 275-277.
29 Id., pp. 288-289.
30 Exhibit "P-21", Separate Folder and USB.
31 Exhibit "P-19", Division Docket, Volume I, pp. 95-245, with exhibits.

Respondent did not conduct any cross-examination.[32]

Later, during the hearing held on 14 October 2020, ICPA L.S. Gomez identified his (1) ICPA Report dated 24 July 2020[33], and (2) Judicial Affidavit dated 05 August 2020.[34]

In view of the absence of respondent's counsel during the 14 October 2020 hearing, the Second Division granted the motion of petitioner's counsel that respondent's right to cross-examine ICPA L.S. Gomez be deemed waived.[35]

On 16 November 2020, after completing the presentation of its testimonial evidence, petitioner filed its Formal Offer of Evidence[36] (**FOE**) consisting of Exhibits "P-1" to "P-22" and "ICPA P-1" to "ICPA P-29", inclusive of sub-markings. On 24 November 2020, respondent filed his or her Comment[37] thereto.

In the Resolution dated 18 December 2020[38], the Second Division admitted petitioner's exhibits *except* Exhibits "P-1", "P-1.1", "P-1.2", "P-2", "P-3", "P-4", "P-5", "P-6", "P-7", "P-8", "P-9", "P-10", "P-11", "P-12", "P-13", "P-14", "P-15", "P-16" and "P-17"[39] (**Denied Exhibits**), for failure to submit the duly marked documents.

32 See Order dated 15 June 2020, supra at note 29 and TSN dated 15 June 2020, p. 11.
33 Exhibit "P-21", supra at note 30.
34 Exhibit "P-20", Division Docket, Volume I, pp. 326-355.
35 See Minutes of the Hearing and Order, both dated 14 October 2020, id., pp. 356 and 357, respectively; TSN dated 14 October 2020, pp. 5-6.
36 Division Docket, Volume I, pp. 359-580, with exhibits and annexes.
37 Id., pp. 581-583.
38 Id., Volume II, pp. 586-587.
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Exhibit No.	Description
"P-1"	2nd Quarterly Value-Added Tax (VAT) Return (BIR Form No. 2550-Q) covering the period from 01 April 2017 to 30 June 2017.
"P-1.1"	Monthly VAT Declaration (BIR Form No. 2550-M) for April 2017.
"P-1.2"	Monthly VAT Declaration (BIR Form No. 2550-M) for May 2017.
"P-2"	2nd Quarterly VAT Return (BIR Form No. 2550-Q) covering the period from 01 April 2018 to 30 June 2018.
"P-3"	Certification of Registration issued by the BIR.
"P-4"	Denial Letter dated 02 September 2019 received by petitioner, through Lhyric C. Gomez, on 18 September 2019.
"P-5"	Application for Tax Credit/Refund (BIR Form No. 1914) for the period covering 01 April 2017 to 30 June 2017.
"P-6"	Revised Checklist of Mandatory Requirements for Claims of VAT Refund.
"P-7"	Notarized Sworn Declaration of Taxpayer's Profile.

On 19 January 2021, petitioner filed a "Motion for Partial Reconsideration (of the Resolution dated December [18], 2020"[40] (**MPR of the FOE Resolution**), asking the Second Division to admit the Denied Exhibits[41] and explaining therein that during the 29 June 2020 Commissioner's Hearing, the Division Clerk of Court directed the parties' counsels to proceed with the marking and comparison of the documentary exhibits and have the same recorded in a listing (which markings were acknowledged by the parties' counsels and the Court's staff and left to the Court's custody). This manner of conducting the Commissioner's Hearing was done to reduce the physical exposure of the Court's staff, thereby reducing the risk of contracting the COVID-19 virus.

In the Resolution dated 08 March 2021[42], the Second Division granted petitioner's MPR of the FOE Resolution, thereby admitting the Denied Exhibits attached to the records of this case, with corresponding markings in the listing[43], and set the presentation of respondent's evidence on 21 April 2021. The Second Division later reset the said hearing on the presentation of respondent's evidence to 16 June 2021.

On 16 June 2021, respondent presented his lone witness, Revenue Officer III Ma. Cleofe T. Tasarra (**RO Tasarra**), who testified by way of her Judicial Affidavit[44] that: (1) the mandatory audit or evaluation of

"P-8"	Notarized Sworn Certification as to Completeness of the Documents Submitted.
"P-9"	Notarized Sworn Statement stating the Completeness and Authenticity of Official Receipts with Billing Statements for the Sale of Services and Sales Invoices for the Purchase of Goods and Services.
"P-10"	Sworn Statemement Certifying the Amount of Sales Declared with Breakdown as to amount of zero-rated, taxable and exempt sales, that the company did not file any and/or will not file any similar claim with the Bureau of Investments (BOI), Bureau of Customs (BOC) and other BIR offices.
"P-11"	Delinquency Verification Certificate from the BIR National Office.
"P-12"	Notarized Secretary's Certificate stating the authorized representative to file and follow-up VAT refund claims.
"P-13"	Amended Articles of Incorporation (AOI) and By-Laws.
"P-14"	Annual Registration Fee for CY 2017.
"P-15"	Annual Income Tax Return (ITR) (BIR Form No. 1702-RT) for CY 2017.
"P-16"	Audited Financial Statements (AFS) for CY 2017.
"P-17"	General Information Sheet (GIS) for CY 2018.

[40] Division Docket, Volume II, pp. 599-604, with annexes.
[41] Supra at note 39.
[42] Division Docket, Volume II, pp. 609-610.
[43] Id., Volume I, p. 292.
[44] Exhibit "R-4", id., Volume II, pp. 592-597.

petitioner's application for refund (for alleged unutilized input VAT on local purchases of goods and services covering the period 01 April 2017 to 30 June 2017) was assigned to her group through Tax Verification Notice No. TVN201800083099 dated 28 June 2019[45]; (2) based on the Revised Checklist of Mandatory Requirements for VAT Credit Claims for the 2nd quarter of CY 2017[46], petitioner submitted documents in support of its application for VAT refund; (3) as stated in the Memorandum Report dated 22 August 2019[47], petitioner is not entitled to refund because: (**a**) the Bank Certification supporting the remittances for zero-rated sales does not indicate the name of the remitter as prescribed under Part II.7.b of Revenue Memorandum Circular (**RMC**) No. 47-2019[48] and (**b**) petitioner had a delinquent account on late eFPS payment of its withholding tax on compensation (**WTC**) and expanded withholding tax (**EWT**) as of 23 May 2019; (4) based on such findings, her group recommended the denial of petitioner's administrative claim for input VAT refund; and (5) thereafter, the entire tax docket of the subject refund claim was forwarded to the Tax Audit Review Division (**TARD**) for final review on 22 August 2019.

On cross-examination, RO Tasarra confirmed that she and her co-ROs, Estela G. Buenviaje (**RO Buenviaje**) and Jonathan G. Simon (**RO Simon**), conducted the evaluation of petitioner's refund claim. When asked about the Bank Certification mentioned in the Memorandum Report dated 22 August 2019[49] and whether it was issued upon petitioner's request, she responded that such a presumption can be made since it is included in the checklist of requirements. On another point of clarification, she stated that her group recommended the denial of petitioner's entire refund claim.

On 21 June 2021, respondent filed his or her FOE[50] consisting of Exhibits "R-1" to "R-4-A". Petitioner filed its Comment[51] thereto on 29 June 2021.

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45 Exhibit "R-1", BIR Records, p. 988.
46 Exhibit "R-2", id., p. 985.
47 Exhibit "R-3", id., pp. 992-993.
48 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.
49 Supra at note 47.
50 Division Docket, Volume II, pp. 616-618.
51 Id., pp. 620-621.

In the Resolution dated 05 July 2021[52], the Second Division (1) admitted respondent's exhibits *except* Exhibits "R-1", "R-2" and "R-3"[53], for failure to mark the said exhibits, and (2) gave the parties a period of thirty (30) days from notice to file their respective memoranda.

On 16 July 2021, respondent filed an "Omnibus Motion A. Motion for Partial Reconsideration (Re: Resolution dated 05 July 2021) B. Motion to Set Commissioner's Hearing C. Motion to Suspend the Period to File Memorandum"[54] (**Omnibus Motion**), asking the Second Division to (1) re-consider the denial of Exhibits "R-1", "R-2" and "R-3"[55]; (2) set a Commissioner's Hearing for the marking of the said exhibits; (3) grant a period of five (5) days to file a Supplemental FOE therefor; and, (4) suspend the period to file a memorandum until the resolution of the Omnibus Motion. Petitioner filed its Comment[56] thereto on 29 October 2021. Meanwhile, on 21 October 2021, respondent filed another "Motion for Suspension of Period to File Memorandum"[57] (**Motion to Suspend**).

In the Resolution dated 11 December 2021[58], the Second Division granted respondent's Omnibus Motion and set the Commissioner's Hearing on 24 January 2022 for the marking and comparison of Exhibits "R-1", "R-2" and "R-3"[59], granted respondent five (5) days to file his or her Supplemental FOE, suspended the period to file his or her memorandum until further notice and rendered moot respondent's subsequent Motion to Suspend.

However, in view of the Memorandum Order No. 10-2022 dated 12 January 2022 issued by Supreme Court Chief Justice Alexander G. Gesmundo, ordering the physical closure of the Court of Tax Appeals (CTA) due to the surge of COVID-19 cases, the Second Division reset the

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52 Id., pp. 623-624.

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Exhibit No.	Description
"R-1"	Tax Verification Notice No. TVN201800083099 dated 28 June 2019.
"R-2"	Revised Checklist of Mandatory Requirements for Claims for VAT Refund.
"R-3"	Memorandum Report of Revenue Officer Ma. Cleofe T. Tasarra dated 22 August 2019.

54 Division Docket, Volume II, pp. 626-631.

55 Supra at note 53.

56 Division Docket, Volume II, pp. 640-642.

57 Id., pp. 635-637.

58 Id., pp. 644-647.

59 Supra at note 53.

Commissioner's Hearing to 06 April 2022 and gave respondent five (5) days therefrom, or until 11 April 2022, within which to file his or her Supplemental FOE.[60]

On 07 April 2022, in compliance with the Court's order, respondent filed his or her Supplemental FOE[61] consisting of the previously denied Exhibits "R-1", "R-2" and "R-3"[62], plus Exhibit "R-5".[63] On 27 May 2022, petitioner filed its Comment[64] thereto.

In the Resolution dated 21 July 2022[65], the Second Division admitted Exhibits "R-1", "R-2", "R-3" and "R-5" and granted the parties a period of 30 days from notice to file their respective memoranda.

On 11 August 2022, respondent filed his or her Memorandum[66], while petitioner filed its Memorandum[67] on 25 August 2022. Accordingly, on 05 September 2022, the Second Division considered the case submitted for decision.[68]

ISSUE

As the parties so stipulated, the main issue[69] for this Court's determination is —

> WHETHER PETITIONER AMMEX I-SUPPORT CORPORATION IS ENTITLED TO THE CLAIM FOR REFUND IN THE AMOUNT OF ₱591,850.45, REPRESENTING ITS ALLEGED UNUTILIZED INPUT VALUE-ADDED TAX (VAT) FOR THE 2ND QUARTER OF THE CALENDAR YEAR 2017.

Petitioner submits that it is entitled to its claim for refund of unutilized input VAT in the total amount of ₱591,850.45, covering the

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60 See Resolution dated 11 March 2022, Division Docket, Volume II, p. 649.
61 Id., pp. 652-655.
62 Supra at note 53.
63 Entire BIR Docket.
64 Division Docket, Volume II, pp. 659-661.
65 Id., pp. 663-665.
66 Id., pp. 667-676.
67 Id., pp. 678-694.
68 See Resolution dated 05 September 2022, id., p. 695.
69 Par. 4, Issues, JSFI, supra at note 26, p. 279.

2nd quarter of CY 2017, as it has complied with the requisites provided for under the NIRC of 1997, as amended, and the applicable rules and regulations. Thus, at the administrative level, respondent should have given due course to its VAT refund application.

Petitioner maintains that being a VAT-registered entity, its direct and indirect export sales are subject to VAT at zero percent (0%) rate, relying on Section 108(B)(2)[70] of the NIRC of 1997, as amended[71], for its entitlement to VAT at 0% rate. It argues further that pursuant to the said provision, such zero-rated sales will not result in any output VAT.

On the other hand, respondent avers that this Court should not rule on matters that have not been substantiated at the administrative level. Since he or she has already rendered a decision denying petitioner's administrative claim for VAT refund for failure to substantiate the same, petitioner cannot submit documents that it did not submit at the administrative level. According to respondent, this Court's jurisdiction is strictly appellate in nature, *i.e.*, confined to a more limited issue of whether the denial was proper given the evidence submitted at the administrative level.

Respondent likewise invokes the tenet that a tax refund is in the nature of a tax exemption which must be strictly construed against the claimant. It should not be allowed unless granted in the most explicit and categorical language. In the instant case, petitioner allegedly failed to present sufficient proof that it is entitled to the relief sought, justifying the denial of its claim for refund.

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[70] **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:

(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 non-resident 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)**[.] (Emphasis supplied)

...

[71] Prior to the changes introduced by the TRAIN Law.

RULING OF THE COURT

After a careful review of the case, We are constrained to deny this petition.

Petitioner anchors its claim for refund on Section 110(B), in relation to Section 112 of the NIRC of 1997, as amended by Republic Act (**RA**) No. 10963[72], otherwise known as Tax Reform for Acceleration and Inclusion (**TRAIN**). The said provisions read as follows:

> ...
> **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 of properties or services, and the amount of creditable input tax due or paid cannot be

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72 AN ACT AMENDING SECTIONS 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35, 62, AND 89; ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

> 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.
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> ...
>
> (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.
>
> ...

In *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*[73] (**Deutsche Knowledge Services**), the Supreme Court laid down the requisites that must concur in order to allow a claim for refund of unutilized input VAT attributable to zero-rated sales, to wit:

> ...
>
> Under Section 4.112-1(a) of Revenue Regulations No. (RR) 16-05, otherwise known as the Consolidated VAT Regulations of 2005, in relation to Section 112 of the Tax Code, a claimant's entitlement to a tax refund or credit of excess input VAT attributable to zero-rated sales hinges upon the following requisites: "(1) the taxpayer must be VAT-registered; (2) the taxpayer must be engaged in sales which are zero-rated or effectively zero-rated; (3) the claim must be filed within two years after the close of the taxable quarter when such sales were made; and (4) the creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax."
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> ...

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[73] G.R. No. 234445, 15 July 2020; Citations omitted.

In determining petitioner's compliance with the foregoing, the Court deems it more appropriate to preliminarily discuss whether it complied with the *third requisite* or the timeliness of the filing of its refund claim.

In accordance with the above-cited Section 112(A) and (C) of the NIRC of 1997, as amended by TRAIN, 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 were made.

The instant claim covers the 2nd quarter of CY 2017, *i.e.*, from 01 April 2017 to 30 June 2017. Consequently, petitioner's last day for filing of its administrative claim is on 30 June 2019. Thus, petitioner timely filed its administrative claim on 28 June 2019.[74]

As to the timeliness of petitioner's judicial claim, Section 112(C) of the NIRC of 1997, as amended, provides that respondent has ninety (90) days from the date of submission of the official receipts (**ORs**) or invoices and other documents in support of the administrative claim, *i.e.*, on 28 June 2019, or until 26 September 2019, to decide on petitioner's refund claim. Respondent denied petitioner's refund claim, through a Denial Letter[75], which petitioner received on 18 September 2019.

Section 7(a)(1) of RA 1125[76], as amended by RA 9282[77], provides:

> ...
>
> **SEC. 7.** *Jurisdiction.* — The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> (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

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74 Exhibit "P-5", supra at note 9.
75 Exhibit "P-4", supra at note 15.
76 AN ACT CREATING THE COURT OF TAX APPEALS.
77 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue...[.][78]

...

Furthermore, Section 11 of RA 1125, as amended by RA 9282, states:

...

SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* — **Any party adversely affected by a decision**, ruling or inaction **of the Commissioner of Internal Revenue**, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts **may file an appeal with the CTA within thirty (30) days after the receipt of such decision** or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.[79]

...

Based on the foregoing, petitioner had 30 days from receipt of respondent's Denial Letter[80] on 18 September 2019, or until 18 October 2019, to file an appeal before this Court. Evidently, petitioner's judicial claim for refund was also timely filed on 17 October 2019.[81]

The Court shall now proceed with the determination of petitioner's compliance with the other requisites in *Deutsche Knowledge Services*.

<u>FIRST (1ST) REQUISITE:</u>
PETITIONER IS A VALUE-ADDED TAX (VAT)-REGISTERED ENTITY.

Indisputably, petitioner is a VAT-registered entity with TIN 246-226-340-000, as evidenced by its Certificate of Registration Number OCN9RC0001155511E dated 23 August 2017.[82]

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78 Emphasis supplied.
79 Emphasis supplied.
80 Exhibit "P-4", supra at note 15.
81 Petition for Review, supra at note 1.
82 Exhibit "ICPA P-3", ICPA Report, USB.

<u>SECOND (2ND) REQUISITE:</u>
PETITIONER IS ENGAGED IN ZERO-RATED OR EFFECTIVELY ZERO-RATED SALES.

Petitioner claims that during the 2nd quarter of CY 2017, it rendered business process outsourcing services in the Philippines to its global clients that are allegedly non-resident foreign corporations (**NRFCs**) not doing business in the Philippines pursuant to Section 108(B)(2) of the NIRC of 1997, as amended[83], which states:

> ...
>
> **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.
>
> (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).**[84]
>
> ...

Petitioner's total receipts for the period of claim, as shown in its 2nd Quarter Original VAT Return[85] and the corresponding Summary

[83] Supra at note 71.
[84] Emphasis supplied.
[85] Exhibit "ICPA P-1", ICPA Report, USB.

Lists of Sales (SLS)[86], amounted to ₱30,460,861.15, broken down as follows:

O.R. No.	O.R. Date	Customer	Amount
VATable Sales			
-	-	MEGAOFFICE INC.	₱58,035.67
Zero-rated Sales			
1054	01 April 2017	CSG SERVICES CORP.	12,536.15
1039	03 April 2017	CLOUDSTAFF HK LTD.	473,999.00
1040	11 April 2017	AMMEX CORP.	9,994,953.91
1041	05 May 2017	AMMEX CORP.	10,154,995.35
1042	05 May 2017	CLOUDSTAFF HK LTD.	477,471.00
1043	23 May 2017	FIBERFIX LLC	694,654.58
1044	01 June 2017	CLOUDSTAFF HK LTD.	473,999.00
1045	08 June 2017	AMMEX CORP.	8,120,228.99
Subtotal			₱30,402,837.98[87]
Total			₱30,460,873.65[88]

It is evident from petitioner's Amended AOI[89] that petitioner is primarily engaged in "business process outsourcing using computer-based IT enabled systems to service the needs of global clients." Clearly, the nature of services petitioner is authorized to render falls within the scope of services other than "processing, manufacturing or repacking of goods" contemplated under Section 108(B)(2) of the NIRC of 1997, as amended.

In *Deutsche Knowledge Services*[90], the Supreme Court held that for the sales of "other services" (such as qualifying services rendered to NRFC-clients) to be considered VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the taxpayer-claimant must prove the following conditions:

86 Exhibits "ICPA P-26" to "ICPA 26.2", id.
87 The difference of ₱12.50 pertains to the negative sales to Echez Solutions SDN BHD *per* April 2017 SLS.
88 Id.
89 Exhibit "ICPA P-13", supra at note 5.
90 Supra at note 73; Citation omitted.

> ...
>
> ... *First*, the seller is VAT-registered. *Second*, the services are 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." *Third*, services are "paid for in acceptable foreign currency and accounted in accordance with [BSP] rules and regulations."
>
> ...

In addition to the foregoing, as provided under Section 108(B)(2) of the NIRC of 1997, as amended, the said "other services" must be performed in the Philippines.

As to the ***1st condition***, it was previously established that petitioner is a VAT-registered entity.

As regards the ***2nd condition***, which requires that the recipient of such services must be engaged in business conducted outside the Philippines or not engaged in business and is outside the Philippines when the services are performed, in *Deutsche Knowledge Services*[91], the Supreme Court also discussed the two (2) components that the taxpayer-claimant must establish to prove a client's NRFC status, to wit:

> ...
>
> For purposes of zero-rating under Section 108(B)(2) of the Tax Code, the claimant must establish the two components of a client's NRFC status, *viz:* (1) that their client was established under the laws of a country not the Philippines or, simply, is not a domestic corporation; and (2) that it is not engaged in trade or business in the Philippines. **To be sure, there must be sufficient proof of *both* of these components: showing not only that the clients are foreign corporations, but also are not doing business in the Philippines.**
>
> ...
>
> To recall, the CTA found that the SEC Certification of Non-Registration of Company and Authenticated Articles of Association and/or Certificates of Registration/Good Standing/Incorporation sufficiently established the NRFC status of 11 of DKS's affiliates clients.
>
> The Court upholds these findings.
>
> ...

91 Supra at note 73; Citations omitted, italics in the original text and emphasis supplied.

> In any case, after a judicious review of the records, the Court still do not find any reason to deviate from the court *a quo*'s findings. **To the Court's mind, the SEC Certifications of Non-Registration show that their affiliates are foreign corporations. On the other hand, the articles of association/certificates of incorporation stating that these affiliates are registered to operate in their respective home countries, outside the Philippines are *prima facie* evidence that their clients are not engaged in trade or business in the Philippines.**
>
> Proof of the above-mentioned second component sets the present case apart from *Accenture, Inc. v. Commissioner of Internal Revenue* and *Sitel Philippines Corp. v. Commissioner of Internal Revenue*. In these cases, the claimants similarly presented SEC Certifications and client service agreements. However, the Court consistently ruled that documents of this nature only establish the *first* component (*i.e.*, that the affiliate is foreign). The absence of any other competent evidence (*e.g.*, articles of association/ certificates of incorporation) proving the *second* component (*i.e.*, that the affiliate is not doing business here in the Philippines) shall be fatal to a claim for credit or refund of excess input VAT attributable to zero-rated sales.
>
> ...

As can be gleaned from the foregoing, there must be sufficient proof of both components, namely: (1) that its clients or affiliates are **foreign corporations** (which can be proven by the <u>SEC Certifications of Non-Registration of Company</u>); and, (2) that they are **not doing business in the Philippines** (the *prima facie* proof of which is the <u>articles of association/certificates of incorporation stating that these affiliates are registered to operate in their respective home countries, outside the Philippines</u>).

In the instant case, to prove that it rendered services to NRFCs doing business outside the Philippines, petitioner presented their SEC Certifications of Non-Registration of Company and consularized foreign registration documents, as follows:

	Registered Name of Client	SEC Certification of Non-Registration of Company	Consularized/ Apostilled Certificate/Articles of Incorporation/ Association
		Exhibit No.	
1	Echez Solutions Sdn Bhd	"ICPA P-24"[92]	-
2	Echez, Inc.	-	"ICPA P-25.2"
3	CSG Services Corporation	"ICPA P-24.1"	-
4	FiberFix LLC	"ICPA P-24.2"	-
5	Cloudstaff HK Ltd.	"ICPA P-24.3"	"ICPA P-25.1"
6	Ammex Corporation	"ICPA P-24.4"	"ICPA P-25"

With the above, this Court finds that petitioner has sufficiently proved that Cloudstaff HK Ltd. and Ammex Corporation qualify as NRFCs doing business outside the Philippines as contemplated under Section 108(B)(2) of the NIRC of 1997, as amended. The same cannot be said as to the rest of its clients.

With respect to the *3rd condition*, *i.e.*, that payment for such services must be in acceptable foreign currency duly accounted for in accordance with the BSP's rules and regulations, petitioner presented documents such as: (1) Certificate of Inward Remittance issued by BDO Unibank, Inc. dated 14 March 2019[93]; and (2) ORs issued for zero-rated sales.[94]

As noted by ICPA L.S. Gomez, petitioner's zero-rated sales amounting to ₱30,402,837.98 are traceable to the Certificate of Inward Remittance and are all supported with zero-rated ORs.

In addition, as to the foreign currency remittances referred to under Section 108(B)(2) of the NIRC of 1997, as amended, the same must not only be duly accounted for in accordance with the BSP's rules and regulations, they must likewise be compliant with the pertinent invoicing requirements, containing all the required information under

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[92] The SEC certified that Echez Solutions Sdn Bhd is doing business in the Philippines through a branch office.
[93] Exhibit "ICPA P-28", ICPA Report, USB.
[94] Exhibit "ICPA P-20" to "ICPA P-20.7", id.

Section 113(A) and (B) of the NIRC of 1997, as amended, as implemented by and Sections 4.113-1(A)(1), (B)(1) and (2)(c) of Revenue Regulations (RR) No. 16-2005[95], which provide:

> ...
> SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* —
>
> (A) *Invoicing Requirements.* — A VAT-registered person shall issue:
>
> ...
>
> 2. **A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.**
>
> (B) *Information Contained in the VAT Invoice or VAT Official Receipt.* — The following information shall be indicated in the VAT invoice or VAT official receipt:
>
> 1. A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
>
> 2. The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided*, That:
>
>   ...
>
> 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[.][96]
>
> ...
>
> SEC. 4.113-1. ***<u>Invoicing Requirements</u>***. —
>
> (A) *A VAT-registered person shall issue:* —
>
> ...
>
> 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.

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[95] Consolidated Value-Added Tax Regulations of 2005.
[96] Emphasis supplied.

> 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:
>
>   ...
>
>   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[.][97]
>
> ...

Moreover, the ORs supporting petitioner's sales of "other services" must be duly registered with the BIR and must contain all the required information, pursuant to Section 237 of the NIRC of 1997, as amended, which states:

> ...
> SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* — All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, **issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or <u>nature of service</u>**. *Provided, however,* That in the case of sales, receipts or transfers in the amount of One hundred pesos (P100.00) or more, or regardless of the amount, where the sale or transfer is made by a person liable to value-added tax to another person also liable to value-added tax; or where the receipt is issued to cover payment made as rentals, commissions, compensations 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

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97 Emphasis supplied.

invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser.[98]

...

To summarize the foregoing requirements, the following information shall be indicated in the VAT invoice or OR:

1. A statement that the seller is a VAT-registered person, followed by its 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, or (**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; and (**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 breakdown of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale;

3. In the case of sales in the amount of one thousand pesos (₱1,000.00) or more, where the sale or transfer is made to a VAT-registered person, the name, business style, if any, **address** and TIN of the purchaser, customer or client;

4. Date of transaction; and,

5. Quantity, unit cost and description of merchandise or **nature of service.**

98 Emphasis and underscoring supplied and italics in the original text.

Corollarily, RMC No. 42-03[99] expressly provides that a taxpayer's failure to comply with the invoicing requirements will result in the disallowance of the claim for input tax, as follows:

> ...
>
> Q-13: **Should penalty be imposed on TCC application for failure of claimant to comply with certain *invoicing requirements*, (e.g., sales invoices must bear the TIN of the seller)?**
>
> A-13: Failure by the supplier to comply with the invoicing requirements on the documents supporting the sale of goods and services will result to the disallowance of the claim for input tax by the purchaser-claimant.
>
> If the claim for refund/[tax credit certificate] is based *on the existence of zero-rated sales by the taxpayer but it fails to comply with the invoicing requirements in the issuance of sales invoices (e.g., failure to indicate the TIN), its claim for tax credit/refund of VAT on its purchases shall be* <u>*denied*</u> considering that the invoice it is issuing to its customers does not depict its being a VAT-registered taxpayer whose sales are classified as zero-rated sales. Nonetheless, this treatment is without prejudice to the right of the taxpayer to charge the input taxes to the appropriate expense account or asset account subject to depreciation, whichever is applicable. Moreover, the case shall be referred by the processing office to the concerned BIR office for verification of other tax liabilities of the taxpayer.[100]
>
> ...

A scrutiny of petitioner's ORs reveals that it failed to indicate the addresses of its customers and the nature of the transactions on the following ORs:

Exhibit	OR No.	Customer	Amount
"ICPA P-20"	1054	CSG SERVICES CORP.	₱12,536.15
"ICPA P-20.1"	1039	CLOUDSTAFF HK LTD.	473,999.00
"ICPA P-20.2"	1040	AMMEX CORP.	9,994,953.91

99 Clarifying Certain Issues Raised Relative to the Processing of Claims for Value-Added Tax (VAT) Credit/Refund, Including Those Filed with the Tax and Revenue Group, One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center, Department of Finance (OSS) by Direct Exporters.

100 Emphasis in the original text, italics and underscoring supplied.

"ICPA P-20.3"	1041	AMMEX CORP.	10,154,995.35
"ICPA P-20.4"	1042	CLOUDSTAFF HK LTD.	477,471.00
"ICPA P-20.5"	1043	FIBERFIX LLC	694,654.58
"ICPA P-20.6"	1044	CLOUDSTAFF HK LTD.	473,999.00
"ICPA P-20.7"	1045	AMMEX CORP.	8,120,228.99
Total			**₱30,402,837.98**

It bears noting that our VAT system is invoice-based, *i.e.*, taxation relies on sales invoices or ORs.[101] Also, Section 237[102] of the NIRC of 1997, as amended, uses the word "shall" and thus operates to impose a duty which may be enforced.[103] Consequently, the taxpayer-claimant is duty bound to ensure full compliance with the invoicing requirements. Furthermore, along with the entity name, the address serves as a connection between petitioner's ORs and the foreign registration documents.

Based on the foregoing, the *entire* amount of petitioner's zero-rated sales must be disallowed.

The Supreme Court underscored the importance of submitting supporting documents in a claim for refund in the case of *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*[104], *viz:*

> ...
>
> ... First, a judicial claim for refund or tax credit in the CTA is by no means an original action but rather an *appeal* by way of petition for review of a previous, unsuccessful administrative claim. Therefore, as in every appeal or petition for review, **a petitioner has to convince the appellate court that the quasi-judicial agency *a quo* did not have any reason to deny its claims. In this case, it was necessary for petitioner to show the CTA not only that it was entitled under substantive law to the grant of its claims but also that it satisfied all the documentary and evidentiary requirements for an administrative claim for refund or tax credit.** Second, cases

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101 *Team Energy Corporation (Formerly: Mirant Pagbilao Corporation and Southern Energy Quezon, Inc.) v. Commissioner of Internal Revenue*, G.R. No. 197663, 14 March 2018.

102 Supra at pp. 22-23.

103 See *Lorna Frances Filipino v. F. Walter R. Macabuhay*, G.R. No. 158960, 24 November 2006.

104 G.R. No. 145526, 16 March 2007; Citations omitted, emphasis supplied and italics in the original text.

> filed in the CTA are litigated *de novo*. Thus, a petitioner should prove every minute aspect of its case by presenting, formally offering and submitting its evidence to the CTA. Since it is crucial for a petitioner in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first place, part of the evidence to be submitted to the CTA must necessarily include whatever is required for the successful prosecution of an administrative claim.
>
> ...

Moreover, in *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*[105], the Supreme Court emphasized that the pieces of evidence presented to entitle a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven, *viz*:

> ...
>
> 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 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. ...
>
> ...

For failure to substantiate the alleged zero-rated sales, petitioner cannot claim for refund the unutilized input VAT attributable thereto. Accordingly, this Court finds it unnecessary to discuss petitioner's compliance with the rest of the requisites for its entitlement to refund or tax credit under Section 112(A) of the NIRC of 1997, as amended. Without the supporting documents needed to prove petitioner's alleged zero-rated sales and the input VAT attributable thereto, the outcome of the case may no longer be altered. Necessarily, the Court must deny the instant petition.

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105 G.R. No. 222428, 19 February 2018 citing *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 159490, 18 February 2008; Citations omitted and emphasis supplied.

WHEREFORE, premises considered, the instant Petition for Review filed by petitioner Ammex I-Support Corporation on 17 October 2019 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice

ATTESTATION

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Special 2nd Division Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Special 2nd Division Acting Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice