REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

SCHAEFFLER PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10301

Members:

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

Promulgated:
OCT 17 2023 4:25 pm

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DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Schaeffler Philippines, Inc. **(petitioner/SPI)** pursuant to Rule 8, Section 3(a)[2], in relation to Rule 4, Section 3(a)(1)[3] of the Revised Rules of the Court of

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1 Filed on 10 July 2020, Division Docket, Volume I, pp. 7-48.

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:
(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

Tax Appeals[4] **(RRCTA)**. It prays for the refund of the amount of ₱7,283,737.00, allegedly representing petitioner's unutilized input value-added tax (**VAT**) from its importation of goods, attributable to its zero-rated sales and effectively zero-rated sales, covering the period of 01 October 2017 to 31 December 2017[5] or the fourth (4th) quarter of taxable year (**TY**) 2017.

PARTIES OF THE CASE

Petitioner is a domestic corporation duly organized and existing under Philippine laws[6], with registered address at 5F Optima Building, 221 Salcedo St., Legaspi Village, Makati City. It is registered as a domestic market enterprise[7] under Republic Act (**RA**) No. 7042 or the Foreign Investments Act of 1991. It is also registered with the Bureau of Internal Revenue (**BIR**) as VAT taxpayer with Certificate of Registration (**COR**) No. OCN 9RC0000541209[8], issued by Revenue District Office No. 047 - East Makati (**RDO No. 047**).

Respondent, on the other hand, is the duly-appointed Commissioner of Internal Revenue (**respondent/CIR**) empowered to perform the duties of the said office including, among others, the power to decide, approve, and grant tax refunds or tax credits as provided for by law. He or she is represented by the Legal Division of Revenue Region 8A[9], with office address at 36th Floor, Exportbank Plaza Building, Chino Roces Avenue corner Sen. Gil Puyat Avenue, Makati City.[10]

FACTS OF THE CASE

Petitioner is a domestic market enterprise primarily engaged in the business of wholesale, exportation, importation, and commissioning of rolling bearings, journal bearings, auxiliary devices, and other

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

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4 A.M. No. 05-11-07- CTA.

5 See Summary of the Case, Pre-Trial Order dated 31 May 2021, Division Docket, Volume II, p. 601.

6 Exhibit "P-1", id., pp. 720-721.

7 Exhibit "P-2", id., p. 722.

8 Exhibit "P-3", id., p. 738.

9 Pursuant to Executive Order No. 175 dated 03 November 1999, as implemented by Revenue Administrative Order No. 10-2000 dated 07 August 2000.

10 See Joint Stipulation of Facts and Issues (JSFI), Division Docket, Volume II, p. 586.

components and parts, including spare parts, for automotive and other vehicles, railways, aircrafts, general machineries, high precision devices, and other equipment, as well as the provision of after-sales services, consulting services, and other relevant services.[11] Similarly, its COR from the BIR indicates that it is engaged in the business of 'wholesale of machinery, equipment, and supplies', 'wholesale of other machinery, equipment, and supplies', and 'other service activities.'[12]

For the 4th quarter of TY 2017, petitioner reported the following sales, with the corresponding output tax as shown below:

	Amount	Output Tax
VATable Sales/Receipts[13]	₱100,020,864.78	₱12,002,503.77
Zero Rated Sales/Receipts[14]	130,241,421.89	-
Total sales[15]	₱230,262,286.67	₱12,002,503.77

On the other hand, petitioner's reported input tax for the same quarter totaled to ₱131,917,315.98.[16] After applying a portion thereof to output tax in the sum of ₱12,002,503.77[17], the excess and unutilized input taxes for the same period amounted to ₱119,914,812.21.[18]

On 23 December 2019, petitioner filed with RDO No. 047 an administrative claim for refund[19] for the amount of ₱7,283,738.00, representing input taxes attributable to zero-rated sales, with accomplished BIR Form No. 1914 and its supporting documents.[20]

On 10 June 2020[21], petitioner received a letter (the **assailed Decision**) dated 09 March 2020[22], from then Regional Director Maridur V. Rosario (**RD Rosario**), denying its claim for refund due to its alleged non-compliance with Revenue Memorandum Circular (**RMC**) No.

11 Exhibit "P-2", supra at note 7; Exhibit "P-47", Question & Answer (Q&A) No. 5, Judicial Affidavit of Melany A. Belen, Division Docket, Volume I, p. 177.
12 Exhibit "P-3", supra at note 8.
13 Lines 15, 15A and 15B, Exhibit "P-4", Division Docket, Volume II, p. 739.
14 Line 17, id.
15 Lines 19, 19A and 19B, id.
16 Line 24, id.
17 Line 19B, id.
18 Lines 25, 27, and 29, id.
19 Exhibit "R-2", id., pp. 486-487 and Exhibits "P-30" and "P-30-a", id., p. 794.
20 Exhibit "P-31", id., p. 795.
21 Exhibits "P-32" and "P-32-a", id., pp. 796-797.
22 Id.

47-2019[23] on venue or office of filing and for its failure to comply with the documentary requirements therefor.

The aforesaid letter[24] of 09 March 2020 indicated that the refund claim should have been filed with the VAT Credit Audit Division (**VCAD**) as petitioner was considered a "direct exporter". RMC No. 47-2019 provides that direct exporters must file refund claims with the VCAD, regardless of the percentage of export sales to total sales. Additionally, the letter notified petitioner that among the documentary requirements, it failed to provide a Delinquency Verification Certificate issued by the Accounts Receivable Monitoring Division and Audited Financial Statements (**AFS**) with complete notes to the AFS covering the year of the claim, certified as "true copy" by the Accounting Manager, Finance Officer, or any authorized responsible officer of the claimant. The letter further stated that petitioner "has the judicial remedy to appeal with the Court of Tax Appeals [**CTA**] within thirty (30) days upon receipt."

On 16 June 2020, petitioner, through its Treasurer/Finance Manager, filed with RDO No. 047 a letter entitled "Request for Clarification"[25] imploring the Regional Director to explain why the denial (as contained in the assailed Decision) is grounded on petitioner's alleged failure to present a certified true copy of the AFS with complete notes to the AFS covering year of the claim when Revenue Officer (**RO**) Jerwin Dave V. Patacsil (**Patacsil**) had marked the same as submitted[26] *per* item 2.6 of the checklist[27] (that he evaluated). Petitioner alleges that the BIR has not since replied to the said letter.[28]

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23 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" dated 16 April 2019.

24 Supra at note 21.

25 Exhibits "P-34" and "P-34-a", Division Docket, Volume II, p. 798.

26 Exhibit "P-31", id., p. 795.

27 "**Revised Checklist of Mandatory Requirements on Claims for VAT Refund**
Pursuant to Section 112(A) of the Tax Code of 1997, as Amended by R.A. No. 10963.

...

2. GENERAL REQUIREMENTS

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2.6 <u>Audited Financial statements (AFS) with complete Notes to AFS covering the year of claim, certified as "true copy" by the Accounting Manager, Finance Officer or any authorized responsible officer of the taxpayer/claimant.</u> For quarterly claims where an Annual AFS has not yet been issued Interim Financial Statement covering the period covered by the claim duly signed by the Company's Finance Officer or Accounting Officer and/or with attestation from an external auditor." (Underscoring supplied)

28 Petition for Review, par. 44, supra at note 1, p. 23.

PROCEEDINGS BEFORE THIS COURT

On 10 July 2020, petitioner filed the instant petition[29] before Us wherein it prayed that it be refunded with the amount of ₱7,283,737.00, representing its excess and unutilized input VAT on its importations attributable to its zero-rated and effectively zero-rated sales for the 4th quarter of the TY that ended 31 December 2017.

On 16 September 2020, respondent filed an "Answer with Motion to Dismiss"[30] and contended that the petition must be dismissed for being filed out of time, for being in violation of the doctrine of exhaustion of administrative remedies, and for petitioner's failure to fully substantiate its administrative claim for refund.

Respondent added that petitioner has the burden of proof to establish the factual basis of its claim for refund. As the same partakes the nature of tax exemption, it would have to be strictly construed against the claimant and liberally in favor of the taxing authority.

In a Resolution dated 15 January 2021[31], the Court found the instant petition to have been timely filed in consideration of the impacts of RMC No. 27-2020[32], interrupting the processing period for VAT refund claims. With this finding, it then denied respondent's Motion to Dismiss for lack of merit. The Court noted that when petitioner received the assailed Decision on 10 June 2020, the National Capital Region (**NCR**) was still under General Community Quarantine (**GCQ**); hence, it had thirty (30) days from its receipt to file the petition. When it thus filed the instant petition on 10 July 2020, the period to file the same has yet to lapse. 8

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29 Supra at note 1.

30 Division Docket, Volume II, pp. 373-388.

31 Id., pp. 448-460.

32 Extending the Deadline for the Filing of Applications for VAT Refund and Ninety (90)-Day Processing Period Pursuant to Section 112 of the Tax Code of 1997, as Amended by the R.A. No. 10963 (TRAIN Law).

...

2. <u>The 90-day period of processing VAT refund claims by the processing offices for those claims that are currently being evaluated</u> and for those that may be received from March 16 to April 14, 2020 <u>is suspended and that the counting of the number of processing days shall resume after the lifting of the "community quarantine" issued by the President.</u> (Underscoring supplied)

...

Later, on 09 February 2021, respondent's Pre-Trial Brief[33] was filed, while petitioner's Pre-Trial Brief[34] was filed on 05 March 2021.

In compliance with the Court's directive during the 08 March 2021 Pre-Trial Conference[35], the parties submitted their Joint Stipulation of Facts and Issues[36] (**JSFI**) on 24 May 2021. Still later, on 31 May 2021, the Pre-Trial Order[37] was issued.

Subsequently, on 28 June 2021, petitioner presented its sole witness, Melany A. Belen (**Belen**), and the Independent Certified Public Accountant (**ICPA**), Ma. Fedna B. Parallag (**Parallag**), for commissioning.[38]

Belen testified through her Judicial Affidavit[39] that: (1) she is petitioner's Treasurer and Finance Manager; (2) her testimony relates mainly to petitioner's claim for refund; (3) petitioner derived zero-rated sales for the 4th quarter of TY 2017 by selling goods to Schaeffler Manufacturing (Thailand) Co., Ltd., a foreign corporation based in Thailand (**Schaeffler Thailand**) and to Philippine Economic Zone Authority (**PEZA**)-registered enterprises, particularly: Asian Transmission Corporation (**ATC**), Isuzu Autoparts Manufacturing Corporation (**IAMC**), Mitsuba Philippines Corp. (**MPC**), and Toyota Autoparts Philippines, Inc. (**TAPI**); (4) the amount of input taxes for the 4th quarter of TY 2017 being claimed for refund represents petitioner's excess and unutilized input VAT on its importations attributable to its zero-rated and effectively zero-rated sales of goods for the said period; (5) petitioner deducted the claimed input VAT credits amounting to ₱7,283,737.00 in its third (3rd) quarter Amended Quarterly VAT return[40] for TY 2019; (6) petitioner filed its administrative claim for refund[41] with RDO No. 047 on 23 December 2019; (7) when petitioner filed its administrative claim, the BIR furnished a checklist[42] showing that petitioner had submitted documents in support of its administrative claim; (8) the BIR denied petitioner's refund claim through a letter

[33] Division Docket, Volume II, pp. 463-469.
[34] Id., pp. 525-558.
[35] See Order dated 08 March 2021, id., p. 561.
[36] Id., pp. 584-598.
[37] Id., pp. 601-612.
[38] See Order dated 28 June 2021, id., p. 614.
[39] Exhibit "P-47", Judicial Affidavit of Melany A. Belen, id., Volume I, pp. 174-203.
[40] Exhibit "P-19", id., Volume II, pp. 777-778.
[41] Supra at note 19.
[42] Exhibit "P-37", Division Docket, Volume I, p. 363.

signed by then RD Rosario, dated 09 March 2020; (9) the said letter laid down the factual and legal bases of the denial, *i.e.*, petitioner's alleged failure to submit a certified true copy of its AFS with complete notes to the AFS for TY 2017 and a Delinquency Verification Certificate issued by the Accounts Receivable Monitoring Division (**ARMD**) and, erroneously filing the claim when it should have been filed with the VCAD pursuant to RMC No. 47-2019; (10) that petitioner had submitted select items with its refund application, namely, its Articles of Incorporation (**AOI**) and copies of its approved application for zero-rating issued by the BIR, which were allegedly left unticked by RO Patacsil when the checklist was being accomplished (though these items were not mentioned in the assailed Decision); and, (13) that she wrote a letter to the BIR on 16 June 2020, requesting for clarification[43] on petitioner's supposed failure to submit the certified true copy of the AFS.

Through a Supplemental Judicial Affidavit[44], Belen testified further that the PEZA no longer issues certified true copies of PEZA certifications (or **PEZA-ERD Forms**) as each form bears a quick response code (**QR code**) that will display a PEZA-registered enterprise's pertinent registration information; hence, petitioner is only able to produce photocopies.

In the same hearing, without objection from respondent, the Court granted petitioner's Motion to Commission Parallag as the ICPA.[45]

On 08 November 2021, in a video conference hearing for the ICPA's presentation, petitioner presented its last witness, ICPA Parallag, who testified through her Judicial Affidavit[46] that: (1) she was commissioned to make a verification of petitioner's voluminous supporting documents; (2) she prepared a report and made her recommendation as contained in the ICPA Report dated 27 October 2021[47]; and, (3) based on the results of her verification, petitioner is entitled to a reduced amount of ₱7,211,958.97 of input taxes which it

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43 Supra at note 25.
44 Exhibit "P-48", Supplemental Judicial Affidavit of Melany A. Belen, Division Docket, Volume II, pp. 498-508.
45 Supra at note 38.
46 Exhibits "P-49" and "P-49-A", Judicial Affidavit of Ma. Fedna B. Parallag, Division Docket, Volume II, pp. 623-641.
47 Exhibits "P-50" and "P-50-a", ICPA Report.

claimed to represent valid input taxes attributable to its zero-rated and effectively zero-rated sales.

In the ICPA Report, in her process of verifying the schedule of zero-rated sales/receipts that petitioner provided for the period of the claim, Parallag determined that the transactions considered as sales subject to VAT at zero percent (0%) allegedly pertained to the following:[48]

> ...
>
> a. Sale of services to Philippine Gold Processing and Refining Corp (PGPRC), a manufacturer/producer registered with BOI and whose products are 100% exported. ...
>
> b. Sale of goods to the following manufacturers/producers registered with PEZA:
>
> 1. Asian Transmission Corporation (ATC);
> 2. Honda Parts Manufacturing Corporation (HPMC);
> 3. Isuzu Autoparts Manufacturing Corporation (IAMC);
> 4. Mitsuba Philippines Corp. (MPC); and,
> 5. Toyota Autoparts Philippines, Inc. (TAPI).
>
> ...
>
> c. Export sale of goods to Schaeffler Manufacturing (Thailand) Co., Ltd. (Schaeffler Thailand). ...
>
> ...

On 02 February 2022, petitioner filed its Formal Offer of Evidence[49] (FOE). Respondent filed a Comment[50] thereto on 10 February 2022. On 11 April 2022[51], the Court denied admission of Exhibits "P-25" to "P-28"[52] or the photocopies of PEZA Certificates of

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[48] Id., pp. 8-9.
[49] Division Docket, Volume II, pp. 693-718.
[50] Id., Volume III, pp. 827-831.
[51] See Resolution dated 11 April 2022, id., pp. 834-837.
[52]

Exhibit No.	Description
"P-25"	Philippine Economic Zone Authority (PEZA) Certificate No. 2017-0661 issued on 22 December 2016 in favor of Asian Transmission Corporation (ATC) valid from 1 January to 31 December 2017.
"P-26"	PEZA Certificate (PEZA-ERD Form) No. 2017-0342 issued on 07 December 2016 in favor of Isuzu Autoparts Manufacturing Corporation (IAMC) valid from 01 January to 31 December 2017.
"P-27"	PEZA Certificate (PEZA-ERD Form) No. 2017-0298 issued on 05 December 2016 in favor of Mitsuba Philippines Corp. (MPC) valid from 1 January to 31 December 2017.

Registration or *PEZA-ERD Forms*, as well as a number of exhibits[53] that ICPA Parallag merely provisionally marked (with petitioner failing to produce the originals for verification and comparison) and were pre-marked but were later on not found in the records. The rest of petitioner's exhibits were admitted.

On 18 May 2022, respondent presented RO Chastine Grace Calapatia-Lontoc (**Calapatia-Lontoc**), as the sole witness to rebut petitioner's claim. Through her Judicial Affidavit[54], she stated that: (1) she holds the position of RO I and is presently assigned in RDO No. 047–East Makati; (2) petitioner was informed, through Tax Verification Notice (**TVN**) No. TVN2009-00004244 dated 27 December 2019[55], of her authority to verify all documents that petitioner had submitted; (3) on 23 December 2019, petitioner applied for a VAT refund claim and submitted supporting documents thereto and did not submit any

"P-28"	PEZA Certificate (PEZA-ERD Form) No. 2017-1344 issued on 25 January 2017 in favor of Toyota Autoparts Philippines, Inc. (TAPI) valid from 01 January to 31 December 2017.

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Exhibit No.	Description
	Exhibits provisionally marked
"P-22"	Combined Transport Bill of Lading under B/L No. 891-17-05306-891101 dated 27 November 2017, with attached Terms and Conditions.
"P-24"	HSBC Certificate of Inward Remittance issued on 29 October 2019, evidencing inward remittances credited to the account "SCHAEFFLER PHILIPPINES INC." SSV USD Account Number 001-228014-130 maintained with HSBC in 2017.
"P-36"	Delinquency Verification Certificate issued by the Accounts Receivable Monitoring Division of the BIR National Office in favor of "SCHAEFFLER PHILIPPINES INC." on 16 June 2020.
"P-54"	Permit to Use Computerized Books of Accounts and other Computer Generated Accounting Records.
"P-55"	Authority to Print Sales Invoice.
"P-56"	Authority to Print Official Receipt.
"P-58"	Philippine Economic Zone Authority (PEZA) Certificate of Registration (PEZA-ERD Form) issued in favor of Honda Parts Manufacturing Corporation (HPMC).
"P-130"	VAT-registered Sales Invoice (SI) No. 01-0004901, representing zero-rated sales (export sales) of goods to Schaeffler Thailand.
"P-322" to "P-515"	Single Administrative Documents (**SADs**) and Statements of Settlement of Duties and Taxes (**SSDTs**) verified through bank certificates, as support for input VAT on importations for the 4th quarter of TY 2017.
"P-560"	HSBC Bank Statement for December 2017.
"P-561"	HSBC Bank Statement for January 2018.
"P-562"	Copy of the Petition for Review.
"P-563"	Board of Investments (**BOI**) certificate issued in favor of Philippine Gold Processing and Refining Corp (PGPRC).
	Exhibits not found in the records
"P-53"	Transmittal letter addressed to the BIR.
"P-516" to "P-549"	Documentation for substantiating input VAT from Local Purchases for the 4th quarter of TY 2017.

54 Exhibits "R-7" and "R-7-A", Revenue Officer Chastine Grace Calapatia-Lontoc, Division Docket, Volume III, pp. 858-869.

55 Exhibit "R-1", id., p. 845.

additional documentation thereafter; (4) the result of her examination is stated in her Memorandum Report dated 10 February 2020[56], recommending the grant of the refund; (5) a subsequent Memorandum Report dated 03 March 2020[57] was issued by the Assessment Division reversing her earlier recommendation; and, (6) RD Rosario issued a decision dated 09 March 2020[58] denying petitioner's claim.

On 23 May 2022, respondent filed his or her FOE[59], to which petitioner filed its Comment[60] on 07 June 2022. On 31 August 2022, the Court admitted all of respondent's documentary evidence.[61]

On 30 September 2022, respondent filed his or her Memorandum[62] while petitioner filed its own Memorandum[63] on 10 October 2022, prompting the Court to submit the case for decision on 17 October 2022.[64]

On 27 September 2023, petitioner filed a "Motion to Reopen Case to Submit Supplemental Evidence"[65], to which respondent commented on 10 October 2023. Through its motion, petitioner sought an opportunity to present additional witnesses and evidence to prove the admissibility of a number of its previously offered exhibits, consisting of Single Administrative Documents (**SADs**) and Statements of Settlement of Duties and Taxes (**SSDTs**), which were denied admission.

ISSUES

The parties put forward several issues in the court-approved JSFI, as well as an additional issue in light of petitioner's most recent motion, which the Court summarizes for resolution to be as follows:

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56 Exhibit "R-3", id., pp. 848-850.
57 Exhibit "R-4", id., pp. 851-854.
58 Exhibits "R-5" and "R-5-a", id., pp. 855-856.
59 Id., pp. 840-844.
60 Id., pp. 871-878.
61 See Resolution dated 31 August 2022, id., pp. 881-882.
62 Id., pp. 883-900.
63 Id., pp. 902-926.
64 See Resolution dated 17 October 2022, id., p. 958.
65 Id., pp. 959-966.

I.
WHETHER PETITIONER SCHAEFFLER PHILIPPINES, INC. IS ENTITLED TO ITS CLAIM FOR REFUND IN THE AMOUNT OF ₱7,283,737.00, REPRESENTING ITS EXCESS AND UNUTILIZED INPUT VALUE-ADDED TAX (VAT) ON ITS IMPORTATIONS ATTRIBUTABLE TO ITS ZERO-RATED SALES AND EFFECTIVELY ZERO-RATED SALES FOR THE FGOURTH (4^{TH}) QUARTER OF TAXABLER YEAR (TY) THAT ENDED 31 DECEMBER 2017;

II.
WHETHER PETITIONER SCHAEFFLER PHILIPPINES, INC. CAN BE CONSIDERED A "DIRECT EXPORTER" INSOFAR AS ITS EXPORT SALES TO A NON-RESIDENT FOREIGN CORPORATION (NRFC) ARE CONCERNED; AND,

III.
WHETHER PETITIONER SCHAEFFLER PHILIPPINES, INC.'S MOTION TO "REOPEN CASE TO SUBMIT SUPPLEMENTAL EVIDENCE" SHOULD BE GRANTED.

Petitioner maintains that it has complied with all the requisites for a valid claim for VAT refund and is entitled to the amount being claimed, *i.e.*, ₱7,283,737.00. It also argues that it cannot be considered a "direct exporter" for purposes of RMC No. 47-2019 as the volume of its sales could not warrant its classification as a direct exporter, nor is it engaged in such a line of business. Petitioner adds that its sale of goods to a foreign company and to PEZA-registered firms are considered zero-rated and effectively zero-rated sales of goods, respectively.

As regards petitioner's prayer to reopen the case in response to the denial of its offered exhibits, it invokes the interest of justice as its ground in seeking recourse and argues that its offered SADs and SSDTs should be deemed as electronic documents which are equivalent to originals.

Meanwhile, respondent maintains that the instant petition was filed out of time and is in violation of the doctrine of exhaustion of administrative remedies. It insists that petitioner is a "direct exporter" that should have filed its claim with the VCAD pursuant to RMC No. 47-2019. Finally, it also contends that petitioner failed to prove its claim for refund and the amount thereof.

RULING OF THE COURT

After a careful review of the records of the case, the Court finds that the instant petition lacks merit.

PETITIONER FAILED TO MEET THE REQUISITES TO BE ENTITLED TO THE REFUND CLAIMED.

The subject claim for refund of input taxes finds basis in Section 110(B), in relation to Section 112(A) and (C) of the National Internal Revenue Code (**NIRC**) of 1997, as amended by RA 10963[66], otherwise known as the Tax Reform for Acceleration and Inclusion (**TRAIN**). The said provisions read as follows:

> ...
>
> **Sec. 110.** *Tax Credits.* —
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> ...
>
> (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

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66 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.

108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.

...

(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.*[67] (**Deutsche Knowledge Services**), the Supreme Court laid down the requisites for the entitlement to tax refund or credit of excess 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

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67 G.R. No. 234445, 15 July 2020; Citations omitted.

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."

...

Applying the foregoing principle, the Court shall now proceed to the determination of petitioner's compliance with the aforementioned requisites.

FIRST (1ST) REQUISITE:
PETITIONER MUST BE VALUE-ADDED TAX (VAT)-REGISTERED.

As to the *first requisite*, as is fundamental to an input VAT refund claim, it is established that petitioner is a VAT-registered taxpayer with Tax Identification Number (TIN) 006-868-990-000, as evidenced by its BIR COR No. OCN 9RC0000541209.[68]

Moving forward, in appraising the factual circumstances of the instant petition and in determining petitioner's compliance with the foregoing, the Court deems it more appropriate to preliminarily discuss whether it complied with the third requisite, *i.e.*, the timeliness of the filing of its claim.

THIRD (3RD) REQUISITE:
THE CLAIM MUST BE FILED WITHIN TWO (2) YEARS AFTER THE CLOSE OF THE TAXABLE QUARTER WHEN SUCH SALES WERE MADE.

Pursuant to the above-cited Section 112(A) and (C)[69] of the NIRC of 1997, as amended, the administrative claim for refund of excess input tax must be filed within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

68 Supra at note 8.
69 Supra at pp. 12-13.

Here, the subject claim for refund covers the 4th quarter of TY 2017 which ended on 31 December 2017. Counting two (2) years therefrom, petitioner's last day to file its administrative claim was on 31 December 2019. Thus, the same was timely filed on 23 December 2019.[70]

However, while this Court has passed upon the question of its timeliness on the administrative level, we underline further considerations regarding procedural infirmities of petitioner's administrative claim, *i.e.*, discussions as to whether or not petitioner (for the purpose of this claim) may be considered a "direct exporter", as discussed further below.

Reverting to the main issue, on the timeliness of petitioner's judicial claim, We note the Court's discussion in its Resolution dated 15 January 2021[71], denying respondent's Motion to Dismiss:

> ...
>
> ...[W]hen petitioner received respondent's decision on <u>10 June 2020</u>, the said 90-day period was still suspended as the NCR was still under GCQ which is encompassed under the term "community quarantine" under RMC 27-2020. Although the period of suspension of the 90-day period was subsequently limited to areas under [ECQ] or Modified ECQ under RR 16-2020 dated 19 June 2020, the same cannot be applied retroactively to the prejudice of petitioner. Thus, at the time when RR 16-2020 was issued on 19 June 2020, petitioner already received respondent's decision on 10 June 2020. Therefore, the timeliness of petitioner's filing of judicial claim must be reckoned from the date of receipt of respondent's decision and not on the lapse of the 90-day period which remained suspended during such time.
>
> **Accordingly, petitioner had thirty (30) days from its receipt of respondent's decision on 10 June 2020, or until 10 July 2020, within which to file its Petition for Review; hence, the same was timely filed.**
>
> ...

In sum, the judicial claim filed *via* this petition on 10 July 2020 was timely made.

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70 Exhibits "P-30" and "P-30-a", supra at note 19.

71 Supra at note 31, p. 460; Citation omitted and emphasis supplied.

FOURTH (4TH) REQUISITE:
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.

To satisfy the *fourth requisite*, the following conditions must concur:

a. 1st **condition**: the input taxes are due or paid;

b. 2nd **condition**: the input taxes claimed are attributable to zero-rated or effectively zero-rated sales and 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;

c. 3rd **condition**: the input taxes are not transitional input taxes; and,

d. 4th **condition**: the input taxes have not been applied against output taxes during and in the succeeding quarters.

As to the 1st requisite, it requires petitioner to substantiate its input tax claims by providing adequate supporting documentation to prove that the input taxes claimed during the subject period were actually due or paid. Section 110(A) of the NIRC of 1997, as amended, provides:

...
SEC. 110. *Tax Credits.* – ...

(A) *Creditable Input Tax.*

(1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against output tax:

(a) Purchase or importation of goods:

(i) For sale; or,
(ii) For conversion into or intended to form part of a finished product for sale including packaging materials; or,
(iii) For use as supplies in the course of business; or,
(iv) For use as materials supplied in the sale of service; or,
(v) For use in trade or business for which deduction for depreciation or amortization is allowed under this Code.

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

...

(2) The input tax on domestic purchase or importation of goods or properties by a VAT-registered person shall be creditable:

(a) To the purchaser upon consummation of sale and on importation of goods or properties[.] ...

...

... *Provided, finally,* That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee, or licensee upon payment of the compensation, rental, royalty or fee.

...

Implementing the foregoing is Revenue Regulations (**RR**) No. 16-2005[72], with Sections 4.110-1, 4.110-2, and 4.110-8 therein setting forth:

...

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

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

Any input tax on the following transactions evidenced by a VAT invoice or official receipt issued by a VAT-registered person in

[72] Consolidated Value-Added Tax Regulations of 2005, Revenue Regulations No. 16-2005, 01 September 2005.

accordance with Secs. 113 and 237 of the Tax Code shall be creditable against the output tax:

(a) Purchase or importation of goods

(1) For sale; or,
(2) For conversion into or intended to form part of a finished product for sale, including packaging materials; or,
(3) For use as supplies in the course of business; or,
(4) For use as raw materials supplied in the sale of services; or,
(5) For use in trade or business for which deduction or depreciation or amortization is allowed under the Tax Code;

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

(c) Purchases of services in which a VAT has actually been paid.

...

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

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

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

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

...

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

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

> (1) For the importation of goods — import entry or other equivalent document showing actual payment of VAT on the imported goods.
>
> (2) For the domestic purchase of goods and properties — invoice showing the information required under Secs. 113 and 237 of the Tax Code.
>
> (3) For the purchase of real property — public instrument i.e., deed of absolute sale, deed of conditional sale, contract/agreement to sell, etc., together with VAT invoice issued by the seller.
>
> (4) For the purchase of services — official receipt showing the information required under Secs. 113 and 237 of the Tax Code.

...

Serving as the foundation for its refund claim, petitioner alleged[73] that it had incurred and paid input VAT amounting to ₱20,349,482.82 for the 4th quarter of TY 2017. The components of the aggregated input tax from current transactions can be gleaned from its amended Quarterly VAT Return (2550-Q) for the said period, detailed below:

a.	Domestic purchase of goods other than capital goods[74];	₱16,092.41
b.	Importation of goods other than capital goods[75]; and,	19,479,947.00
c.	Domestic purchase of services.[76]	853,443.41
	Total	**₱20,349,482.82**

Petitioner reported no other sources of input taxes from current transactions for the said period. Neither did it allege the same during the proceedings, nor were any observed during the examination and verification of the supporting documents presented to this Court. The remainder of its available input tax pertains to that which was carried over from the previous period.[77]

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73 See par. 37, Petition for Review, supra at note 1, p. 21.
74 Exhibit "P-4", Line 21F, Division Docket, Volume II, pp. 739-740.
75 Id., Line 21H.
76 Id., Line 21J.
77 Id., Line 20A.

Out of the above-mentioned amount, particularly from importations of goods other than capital goods, petitioner claims that the refundable amount arises from a substantial portion of the excess input VAT it incurred from its importations during the said period, with the amount claimed amounting to ₱7,283,737.00 being directly and exclusively attributable to its zero-rated sales or effectively zero-rated sales.[78]

In the Court's Resolution discussed further above, acting on petitioner's FOE[79], relevant pieces of evidence were denied admission[80], including purchase documents which would have been necessary to substantiate petitioner's input VAT claims. While superfluous, the Court also notes that the verification procedures that the ICPA used have disclosed that about ₱809,220.81[81] worth of domestic purchases (from the aforesaid total) were not properly substantiated with the documents she was provided with (if We were to assume that such documents were made available to and admitted by this Court), while a further ₱3,448.44[82] of above domestic purchases were unsupported.

From the foregoing, as regards the 1st requisite, it becomes apparent that petitioner has failed to establish that the input taxes covered by its refund claim are due or paid. Resultantly, it will be unable to substantiate the fact that the creditable input tax due or paid must be attributable to its sales which are zero-rated or effectively zero-rated (to the extent that such input tax has not been applied against the output tax).

In consideration of all the foregoing, the Court is thus constrained to disallow the entirety of petitioner's input VAT claims amounting to ₱20,349,482.82.

In line with the *second requisite* for entitlement to a tax refund or credit of excess input VAT attributable to zero-rated sales, as a precursor to determining the petitioner's entitlement to a tax refund, it must also be established that the taxpayer engaged in zero-rated or effectively zero-rated sales.

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78 See par. 69, Petition for Review, supra at note 1, p. 33.
79 Supra at note 49.
80 Supra at note 53.
81 Exhibit "P-50", ICPA Report, p. 17-18.
82 Id., p. 16 and p. 17.

However, there being no valid input VAT claims to serve as the basis for a refund claim, the Court deems it unnecessary to determine whether petitioner complied with the remainder of the requisites under Section 112 of the NIRC of 1997, as amended.

PETITIONER IS CONSIDERED A "DIRECT EXPORTER" FOR PURPOSES OF RMC NO. 47-2019.

Assuming *ex gratia in argumenti* that a certain amount of input tax would have been considered refundable to petitioner (notwithstanding the substantiation issues discussed thus far), the instant petition will still fail for petitioner's failure to file its administrative claim with the proper office.

RMC No. 47-2019[83] provides:

> ...
>
> a. For direct exporters, **regardless of the percentage of export sales to total sales** and whose claims are anchored under Section 112(A) of the Tax Code of 1997, as amended, the claim shall be filed at the VAT Credit Audit Division (VCAD).[84]
>
> ...

Respondent correctly pointed out in his or her Answer[85] that the phrase "direct exporter" is not defined under the NIRC of 1997, as amended, and in the absence of a specific statutory definition, and without a contrary definition within the material, words must be given their plain, ordinary and literal meaning – a well-established rule of statutory construction.

Respondent's approximation of the term is restated for clarity - "the sale of a product directly to its customer in another country, without the participation of another person or organization to facilitate the same", wherein in such an instance, it can be expected that the seller will issue its own invoice directly to its customer.

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[83] Supra at note 23.
[84] Emphasis supplied.
[85] See Answer with Motion to Dismiss, pars. 23 and 24, Division Docket, Volume II, pp. 373-388.

A closer reading of the rule laid down in RMC No. 47-2019 defines *direct exporters*, for purposes of the Circular, further within the rule itself, indicating "*regardless of the percentage of export sales to total sales*", to clarify its scope. With this, it is apparent that the Circular was framed to have a taxpayer-claimant file its claim with the VCAD regardless of the total sales volume and the proportion of the export sales.

The CIR's revenue or tax issuances that specify, prescribe or define rules and regulations for the effective enforcement of the provisions of the NIRC of 1997, as amended, and other related statutes. As the Tax Code itself mandates these issuances, they are in the nature of a subordinate legislation that are as compelling as the provisions of the tax law they implement.[86] As such, they operate to provide a binding set of rules in the filing of administrative claims such as input tax refunds. Absent any showing that RMC No. 47-2019 contravenes the Tax Code, petitioner's argument must fail.

The records show that petitioner made direct export sales to Schaeffer Thailand in the covered period of the claim.[87] Rightfully, petitioner should have filed its claim with the VCAD. Having filed instead with RDO No. 047, its administrative claim could only be considered to have been filed in the wrong office. As such, petitioner's administrative claim is deemed as not made nor filed, as a result of its filing with the wrong venue.

THERE IS NO SUFFICIENT GROUND TO GRANT REOPEN THE CASE TO ALLOW PETITIONER TO SUBMIT SUPPLEMENTAL EVIDENCE.

It is to be noted that after this case was submitted for decision on 17 October 2022[88], petitioner has filed a motion to reopen the trial for it to present witnesses and supplemental evidence supporting the admissibility of its previously offered SADs and SSDTs, which purportedly support its input tax claims for the period covered by the claim. Particularly, it sought to present testimony from its broker and

86 *Commissioner of Internal Revenue v. San Roque Power Corporation*, G.R. No. 187485, 12 February 2013.
87 "Exhibit "P-57", USB.
88 Supra at note 64.

Accounting Officer, and documentary evidence in the form of correspondences and email exchanges with its broker and website printouts.

Evidently, petitioner did not make any mention of the fact of denial of admission or question of admissibility of the aforesaid exhibits in its memorandum or any of its filings prior to the submission of the case for decision. Neither did it file any motion or submission to this effect. In this regard, the Court had not received any such motions, filings, or submissions until 27 September 2023.[89]

At this juncture, in the interest of judicial economy, the Court also finds it apt to resolve petitioner's "Motion to Reopen Case to Submit Supplemental Evidence"[90] filed on 26 September 2023 wherein it prayed for the reopening of the instant case.

In the motion, petitioner seeks to present additional witnesses and documentary and testimonial evidence as may be necessary to prove the admissibility in evidence of its SADs and SSDTs which were merely provisionally marked and eventually denied admission. Respondent commented thereto on 10 October 2023.[91]

As the records bear, despite having an ample opportunity to have the case reopened after the case had been submitted for decision, petitioner did not file any such motion until one year later from the submission of the case for decision on 06 October 2022. It did not also act on the non-admission of its exhibits in approximately six (6) months after the Court resolved its FOE on 11 April 2022 (although it was able to file comments and its memorandum in the *interim*).

With the above circumstances collectively considered, it is clear that a relaxation of the rules of procedure is not justified. It is also noted that petitioner itself manifested that the new or additional testimony and pieces of evidence sought to be presented were already known to and available to it before the case was submitted for decision.

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89 *Per* Records Verification dated 13 October 2023, Division Docket, Volume III, p. 977.
90 Supra at note 65.
91 See Comment by respondent, Division Docket, Volume III, pp. 971-975.

Notwithstanding the foregoing, while it is appropriate that a motion to reopen be filed after either or both parties have formally offered and closed the presentation of their evidence (before judgment[92]), due consideration must be given to the nature of the evidence to be presented. The pieces of evidence described in petitioner's motion partake the nature of *forgotten evidence* and are not the proper subject of a motion to reopen a case. In *Philippine National Bank v. Commissioner of Internal Revenue*[93], the Supreme Court held:

> ...
>
> ... Presentation of forgotten evidence is disallowed, because it results in a piecemeal presentation of evidence, a procedure that is not in accord with orderly justice and serves only to delay the proceedings. ...

With the foregoing disquisition, this Court fails to find sufficient merit in petitioner's motion.

In closing, we reiterate that this Court must disallow the entirety of petitioner's input VAT claims amounting to ₱20,349,482.82. There being no valid input VAT claims to serve as the basis for a refund claim, the Court deems it unnecessary to determine whether petitioner complied with the remainder of the requisites under Section 112 of the NIRC of 1997, as amended.

WHEREFORE, in view of the foregoing, the instant Petition for Review filed by petitioner Schaeffler Philippines, Inc. on 10 July 2020 is hereby **DENIED** for lack of merit. Additionally, petitioner's "Motion to Reopen Case to Submit Supplemental Evidence" filed on 27 September 2023 is **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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92 *Ramon J. Alegre v. Hon. Manuel T. Reyes, etc., et al.*, G.R. No. L-56923, 09 May 1988.
93 G.R. No. 242647 & 243814, 15 March 2022 (Resolution).

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
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.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice