CTA Form No. 8

14-000091-0057

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 8784

CBK POWER COMPANY LIMITED,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF AMENDED DECISION

To:

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

ATTY. CORNELIO CHITO M. DELA PEÑA
ATTY. MARIA HAIDEE LOURDES C. ORGANO
ATTY. CLARISSA J. VIRTUDES-BABARAN
Bureau of Internal Revenue
Rm. 703, Litigation Division, BIR National Office Bldg.,
BIR Road, Diliman, Quezon City

THE LAW OFFICES OF MAMALATEO, VICTORINO, GUEVARA AND MAMALATEO-JUSAY
(Formerly: V. C. MAMALATEO & ASSOCIATES)
Unit 6C, 20 Lansbergh Place,
170 Tomas Morato Ave., Quezon City

GREETINGS:

You are hereby notified by these presents that on **October 31, 2024,**an Amended Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **November 4, 2024.**

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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CBK POWER COMPANY LIMITED, Petitioner,	**CTA CASE NO. 8784**
	Members:
- versus -	**DEL ROSARIO**, *P.J., Chairperson,* **BACORRO-VILLENA**, and **CUI-DAVID**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: OCT 3 1 2024 8:35am

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AMENDED DECISION

***DEL ROSARIO, P.J.*:**

This case was remanded by the Court of Tax Appeals (CTA) *En Banc* to the CTA First Division for the purpose of determining (i) whether petitioner complied with the requisites for entitlement to a tax refund; and, (ii) whether it is entitled to a tax refund, and if entitled, the amount of the refund, pursuant to the Supreme Court Third Division's Decision dated February 1, 2023 in G.R. No. 247918 entitled *CBK Power Company Limited vs. Commissioner of Internal Revenue*, the dispositive portion of which reads:

> **WHEREFORE,** the Petition is **GRANTED**. The Decision, dated February 20, 2019, of the Court of Tax Appeals *En Banc* and the Resolution, dated June 27, 2019, in CTA EB No. 1685 are **REVERSED**. The case is **REMANDED** to the Court of Tax Appeals Special First Division for the purpose of determining whether CBK complied with the requisites for entitlement to a tax refund, whether CBK is entitled to a tax refund, and if so, the amount of the refund.
>
> **SO ORDERED.**

(m)

NATURE OF THE CASE

The present case involves petitioner's claim for refund in the amount of ₱50,060,766.08, allegedly representing its unutilized or excess creditable input value-added tax (VAT) paid or incurred on its domestic purchases of goods and services, all attributable to zero-rated sales for the period covering January 1, 2012 to December 31, 2012 (CY 2012).

THE FACTS

As culled from the CTA First Division's original Decision dated February 23, 2017,[1] the undisputed facts of the present case are as follows:

> Petitioner CBK Power Company Limited is a partnership duly organized and existing under and by virtue of the laws of the Philippines, with principal office at the NPC Compound, Kalayaan, Laguna. It is a special purpose entity, the sole purpose of which is to engage in all aspects of (a) the design, financing, construction, testing, commissioning, operation, maintenance, management and ownership of the Kalayaan II pumped storage hydroelectric power plant, the New Caliraya Spillway, and other assets to be located in the Province of Laguna, and (b) the rehabilitation, upgrade, expansion, testing, commissioning, operation, maintenance and management of the Caliraya, Botocan and Kalayaan I hydroelectric power plants and their related facilities located in the Province of Laguna. Petitioner is registered as a VAT entity with the Bureau of Internal Revenue (BIR) with Taxpayer Identification Number (TIN) 205-760-474-000. It was issued a BIR Certificate of Registration No. OCN 8RC0000019901 dated April 10, 2000.
>
> On the other hand, respondent is the duly appointed Commissioner of the BIR who has the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the Tax Code or other laws or portions thereof administered by the BIR. He holds office at the 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.
>
> On September 20, 2000, petitioner entered into a Second Accession Undertaking with the National Power Corporation (NPC), Industrias Metalurgicas Pescarmona S.A. (IMPSA), and CBK Power Corporation, wherein petitioner became a party to the Build-Rehabilitate-Operate-Transfer (BROT) Agreement dated November 6, 1998. By virtue of the Second Accession Undertaking, petitioner shall assume and undertake the responsibility to rehabilitate, construct, operate, and maintain the Caliraya, Botocan, and Kalayaan hydroelectric power plants and other civil structures for the purpose of

[1] CTA Docket Vol. V, pp. 2919-2960.

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generating electricity for NPC. In consideration thereof, NPC shall pay petitioner Capital Recovery Fees, Operation and Maintenance Fees, and other amounts specified in the BROT Agreement.

Consequently, petitioner entered into an Agreement with IMPSA Construction Corporation designated as Turnkey Contract dated August 18, 200, whereby IMPSA Construction Corporation as Contractor represented itself to be technically and financially capable of undertaking the design, engineering, procurement, supply of all plant and materials, rehabilitation, construction, commissioning, testing, completion and handover of such power plants, together with the civil structures, access roads and other works as specified in the BROT Agreement, on a fixed price, turnkey basis.

Petitioner filed with the BIR its Monthly VAT Declarations and Original Quarterly VAT Returns for the first, second, third, and fourth quarters of calendar year (CY) 2012 on April 25, 2012, on July 25, 2012, on October 24, 2012, and on January 24, 2012, respectively.

Subsequently, petitioner amended its Monthly VAT Declarations and Quarterly VAT Returns for the same period of January 1, 2012 to December 31, 2012. Petitioner filed its last Amended Quarterly VAT Returns for the four (4) quarters of CY 2012 on October 18, 2013.

On November 18, 2013, petitioner filed with the BIR Large Taxpayers Service (LTS), Revenue District Office (RDO) No. 121, an administrative claim for the refund of the amount of ₱50,060,766.08, allegedly representing its unutilized or excess creditable input taxes paid or incurred on its domestic purchases of goods and services, all attributable to zero-rated sales for January 1, 2012 to December 31, 2012. It also submitted to the BIR the complete documents in support of its administrative claim dated November 18, 2013 in accordance with Section 112 of the NIRC of 1997, as amended, and its implementing rules and regulations.

Due to respondent's inaction, petitioner filed the present Petition for Review on March 21, 2014.

On April 14, 2014, respondent filed his Answer, interposing the following Special and Affirmative Defenses: xxx.

The case was set for Pre-Trial Conference on May 30, 2014. Respondent's Pre-Trial Brief was filed on May 14, 2014; while petitioner filed its Pre-Trial Brief on May 21, 2014.

The parties filed their Joint Stipulation of Facts and Issues on June 13, 2014 and Supplemental Joint Stipulation of Facts and Issues on July 1, 2014. Both were approved by the Court in the Resolution dated September 17, 2014. The Pre-Trial Order was issued on October 9, 2014.

During the trial, petitioner presented its documentary and testimonial evidence. It presented two witnesses namely: Fernando J. De la Paz; and Atty. Leonard L. Escueta, the Independent Certified Public Accountant (CPA).

On May 12, 2015, petitioner filed its Formal offer of Evidence, offering Exhibits xxx as documentary exhibits. Respondent filed his Comment (On Petitioner's Formal Offer of Evidence) on May 23, 2015.

In the Resolution dated June 15, 2015, the Court admitted Exhibits xxx.

In the same Resolution, the Court denied the admission of Exhibits xxx.

Petitioner filed its Manifestation and Motion for Partial Reconsideration on July 6, 2015. Respondent, however, failed to file his comment to petitioner's Manifestation and Motion for Partial Reconsideration.

In the Resolution dated February 4, 2016, the Court admitted Exhibits xxx.

Petitioner's documentary exhibits are as follows: xxx.

Respondent manifested that there is no report of investigation and that he will no longer present any witness. Both parties were given thirty (30) days within which to file their respective memoranda.

Respondent filed his Memorandum on July 16, 2015; while the Memorandum for the Petitioner was filed on March 7, 2016. Hence, the case was submitted for decision.

On February 23, 2017, the CTA First Division rendered its original Decision on the present case,[2] denying the Petition for Review for lack of merit.

On March 10, 2017, petitioner filed a Motion for Reconsideration.[3] On March 24, 2017, respondent filed his Comment/Opposition (Re: Motion for Reconsideration).[4]

On July 11, 2017, the CTA First Division issued a Resolution denying petitioner's Motion for Reconsideration for lack of merit.[5]

On July 25, 2017, petitioner filed a Motion for Extension of Time To File Petition for Review,[6] which the CTA *En Banc* granted in the Minute Resolution dated August 1, 2017.[7] Consequently, petitioner was given a final and non-extendible period of fifteen (15) days from

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[2] CTA Division Docket Vol. V, pp. 2918-2975.
[3] CTA Division Docket Vol. V, pp. 2976-3007.
[4] CTA Division Docket Vol. V, pp. 3049-3052.
[5] CTA Division Docket Vol. V, pp. 3059-3074.
[6] CTA EB Docket Vol. I, pp. 1-4.
[7] CTA EB Docket Vol. I, p. 118.

August 1, 2017 or until August 16, 2017 within which to file its Petition for Review.

Petitioner filed its Petition for Review before the CTA *En Banc* on August 11, 2017, docketed as CTA EB No. 1685.[8]

On September 8, 2017, the CTA *En Banc* ordered respondent to file his Comment, not a motion to dismiss, within ten (10) days from notice.[9] Per Records Verification dated October 19, 2017, however, respondent failed to file his Comment.[10]

In the Resolution dated November 29, 2017,[11] the CTA *En Banc* resolved to give due course to the Petition for Review. Accordingly, the parties were required to submit their respective memoranda within thirty (30) days from notice.

Respondent filed his Memorandum[12] on January 26, 2018. On the other hand, petitioner filed its Memorandum[13] on February 13, 2018.

On February 20, 2019, the CTA *En Banc* denied petitioner's Petition for Review for lack of merit.[14]

On March 18, 2019, petitioner filed a Motion for Reconsideration.[15]

In the Resolution dated June 27, 2019,[16] the CTA *En Banc* denied petitioner's Motion for Reconsideration for lack of merit.

On July 15, 2019, petitioner filed with the Supreme Court a Motion for Extension of Time to File Petition for Review on Certiorari.[17] On August 1, 2019, petitioner filed with the Supreme Court a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court with Motion to Refer the Instant Petition to the Honorable Supreme Court *En Banc* docketed as G.R. No. 247918.[18]

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[8] CTA EB Docket Vol. I, pp. 119-215.
[9] CTA EB Docket Vol. I, pp. 478-479.
[10] CTA EB Docket Vol. I, p. 480.
[11] CTA EB Docket Vol. I, pp. 482-483.
[12] CTA EB Docket Vol. I, pp. 484-490.
[13] CTA EB Docket Vol. II, pp. 492-618.
[14] CTA EB Docket Vol. II, pp. 625-644.
[15] CTA EB Docket Vol. II, pp. 653-692.
[16] CTA EB Docket Vol. II, pp. 728-731.
[17] CTA EB Docket Vol. II, pp. 736-743.
[18] CTA EB Docket Vol. III, pp. 888-1025.

On March 1, 2021, the CTA *En Banc* received a copy of respondent's Comment filed through the Office of the Solicitor General (OSG).[19]

On July 5, 2021, the Supreme Court Third Division required petitioner to file a Reply to the OSG's Comment on the Petition for Review on Certiorari.[20] On June 2, 2022,[21] the Supreme Court noted petitioner's Reply dated November 10, 2021.[22]

Thereafter, the Supreme Court Third Division issued the Decision dated February 1, 2023,[23] granting petitioner's Petition for Review on Certiorari.

On October 12, 2023, the CTA *En Banc* received the Supreme Court Entry of Judgment certifying that the Decision dated February 1, 2023 in G.R. No. 247918 had become final and executory on May 26, 2024.[24]

On January 9, 2024, the CTA *En Banc* remanded the case to the CTA First Division for the purpose of determining whether petitioner complied with the requisites for entitlement to a tax refund, whether it is entitled to a tax refund, and if entitled, the amount of the refund.[25]

THE COURT'S RULING

In determining petitioner's entitlement to a tax refund, the question is whether it has complied with the following established requisites of a valid claim for refund of unutilized input tax, to wit:[26]

1. The taxpayer is VAT-registered;

2. The administrative and judicial claims for refund were filed within their respective prescriptive periods;

3. The taxpayer is engaged in zero-rated or effectively zero-rated sales;

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[19] CTA EB Docket Vol. III, pp. 1214-1238.
[20] CTA EB Docket Vol. III, p. 1246.
[21] CTA EB Docket Vol. III, p. 1249.
[22] CTA EB Docket Vol. III, pp. 1251-1261.
[23] CTA EB Docket Vol. III, pp. 1266-1275.
[24] CTA EB Docket Vol. III, p. 1292.
[25] CTA EB Docket Vol. III, pp. 1296-1297.
[26] *CBK Power Company Limited vs. Commissioner of Internal Revenue,* G.R. No. 247918 dated February 1, 2023.

4. The input taxes were incurred or paid;

5. The input taxes are attributable to zero-rated or effectively zero-rated sales; and

6. The input taxes were not applied against any output VAT liability.

In G.R. No. 247918, the Supreme Court expressly declared that the first and second requisites are already established and that there is no dispute that petitioner's sale to National Power Corporation (NPC) of power generated through hydropower are VAT zero-rated. Nevertheless, petitioner still has the *onus* to prove its compliance with Sections 113(A), 237 and 238 of the NIRC of 1997, as amended, and the remaining requisites, *viz.*:

> Here, **the first and second requisites have already been established.** Further, there is also no dispute that CBK's sale of power generated through hydropower to NPC are VAT zero rated. Nonetheless, even as these transactions are VAT zero rated, **CBK still has the *onus* to prove that it complied with the pertinent invoicing requirements under Section 113 (A) and (B) of the NIRC**. Moreover, CBK must also show that its sales invoices and official receipts are duly registered with the BIR pursuant to Section 237 in relation to Section 238 of the NIRC. However, because the CTA *En Banc* and the CTA Special First Division based their rulings on the question of whether CBK's transactions are subject to zero-rated VAT under Republic Act No. 9513, they did not examine CBK's evidence on record to determine whether they sufficiently established that CBK did comply with the invoicing requirements under the NIRC.
>
> The same is true as to the fourth, fifth, and sixth requisites. As regards the fourth requisite, CBK has the duty to present supporting documents to prove that its input taxes were actually due or paid. In connection with this, Section 4.110-8 of Revenue Regulation No. 16-2005 lists the substantiation requirements for input tax credits. For the fifth requisite, the evidence on record must be examined to confirm if the input taxes are attributable to zero-rated sales or if CBK has both zero-rated and taxable or exempt sales. In the latter case, if the input taxes cannot be directly and entirely attributable to any of the sales, the input taxes must be proportionately allocated on the basis of sales volume. Further, as to the sixth requisite, the evidence submitted by CBK must be reviewed to ascertain if the input taxes

were indeed not applied to any outstanding output VAT liability. *(Boldfacing supplied)*

Thus, the Court shall proceed to determine petitioner's compliance with the third to sixth requisites.

Third Requisite: There must be zero-rated or effectively zero-rated sales.

For the period January 1, 2012 to December 31, 2012, petitioner reported in its Amended Quarterly VAT Returns zero-rated sales, all of which were made to NPC, in the total amount of ₱2,377,460,123.57,[27] broken down as follows:

Period	Amount
First Quarter	₱ 602,251,685.03[28]
Second Quarter	605,689,736.49[29]
Third Quarter	590,147,379.62[30]
Fourth Quarter	579,371,322.43[31]
Total	**₱ 2,377,460,123.57**

In support of the foregoing declarations in its Amended Quarterly VAT Returns, petitioner presented its official receipts related to its sales for CY 2012, *viz.*:

Exhibit No.	Client	Type of Sale
"P-100-FF-57"	NATIONAL POWER CORPORATION	Non-VATable
"P-100-FF-114"; "P-100-FF-206"	THE MANILA SOUTHWOODS GOLF AND COUNTRY CLUB, INC.	
"P-100-FF-38"	HUMBELINA M. CASTRO	VATable

[27] Exhibit No. "P-100-Z", p. 5, Folder #10, Box 1.
[28] Exhibit No. "P-100-T-3-b", p. 13, Folder #7, Box 1.
[29] Exhibit No. "P-100-T-6-b", p. 28, Folder #7, Box 1.
[30] Exhibit No. "P-100-T-9-b", p. 43, Folder #7, Box 1.
[31] Exhibit No. "P-100-T-11-b", p. 53, Folder #7, Box 1.

"P-100-FF-76"	FERNANDO J. DE LA PAZ	
"P-100-FF-113"	GRACE M. SUBIDO	
"P-100-FF-187"	CTL IMAGE ENTERPRISES	
"P-100-FF-20" to "P-100-FF-37"; "P-100-FF-39" to "P-100-FF-56"; "P-100-FF-58" to "P-100-FF-75"; "P-100-FF-77" to "P-100-FF-112"; "P-100-FF-115" to "P-100-FF-186"; "P-100-FF-188" to "P-100-FF-205"; "P-100-FF-207" to "P-100-FF-254"	PSALM CORP. FAO NATIONAL POWER CORP.	Zero-rated

At the outset, those official receipts pertaining to non-VATable and VATable transactions shall no longer be considered. It bears stressing that only zero-rated sale transactions may give rise to a refundable input tax.

The requisite invoicing requirements are set forth in Section 113(A), in relation to Section 113(B) of the NIRC of 1997, as amended, *viz.*:

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

> (B) *Information Contained in the VAT Invoice or VAT Official Receipt.* - The following information **shall** be indicated in the VAT invoice or VAT official receipt:
>
> (1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
>
> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax. Provided, That:
>
> x x x
>
> (3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and
>
> (4) **In the case of sales in the amount of one-thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person**, the name, business style, if any, address and **<u>taxpayer identification number (TIN) of the purchaser or client</u>**. (Boldfacing and underscoring supplied)

The above provision is implemented by Section 4.113-1 of Revenue Regulations (RR) No. 16-2005, as amended, which reads:

> SEC. 4.113-1. *Invoicing Requirements.* –
>
> x x x
>
> (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:
>
> x x x
>
> (3) **In the case of sales in the amount of one thousand pesos (₱1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and <u>TIN</u> of the purchaser, customer or client**, shall be indicated in addition to the information required in (1) and (2) of this Section. (*Boldfacing and underscoring supplied*)

Verily, it is a requirement that for sale involving the amount of one thousand pesos (₱1,000) or more, and such sale is made to a VAT-registered person, the VAT invoice or official receipt should

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indicate, among others, the TIN of the purchaser, customer or client. Failure to comply with the invoicing requirements is sufficient ground to deny the claim for refund or tax credit.[32]

Section 13(a) of Republic Act (RA) No. 6395 revising the Charter of the NPC exempts NPC from payment of all taxes, duties, fees, imposts, and all other charges imposed by the Republic of the Philippines, to wit:

> Sec. 13. Non-profit Character of the Corporation; Exemption from all Taxes, Duties, Fees, Imposts and Other Charges by Government and Governmental Instrumentalities. The Corporation shall be non-profit and shall devolve all its returns from its capital investment, as well as excess revenues from its operation, for expansion. To enable the Corporation to pay its indebtedness and obligations and in furtherance and effective implementation of the policy enunciated in Section one of this Act, **the Corporation is hereby declared exempt:**
>
> (a) **From the payment of all taxes**, duties, fees, imposts, charges, costs and service fees in any court or administrative proceedings in which it may be a party, restrictions and duties **to the Republic of the Philippines**, its provinces, cities, municipalities and other government agencies and instrumentalities;
>
> xxx xxx xxx.
>
> *(Boldfacing supplied)*

NPC's exemption from VAT as set out in the foregoing provision was later withdrawn by Congress in RA No. 9337.[33] Section 24(A) of the said law reads:

> SEC. 24. *Repealing Clause.* – The following laws or provisions of laws are hereby repealed and other persons and/or transactions affected therein are made subject to the value-added tax subject to the provisions of Title IV of the National Internal Revenue Code of 1997 as amended:
>
> (A) **Section 13 of R.A. No. 6395 on the exemption from value-added tax of National Power Corporation (NPC)**;
>
> xxx xxx xxx.
>
> *(Boldfacing supplied)*

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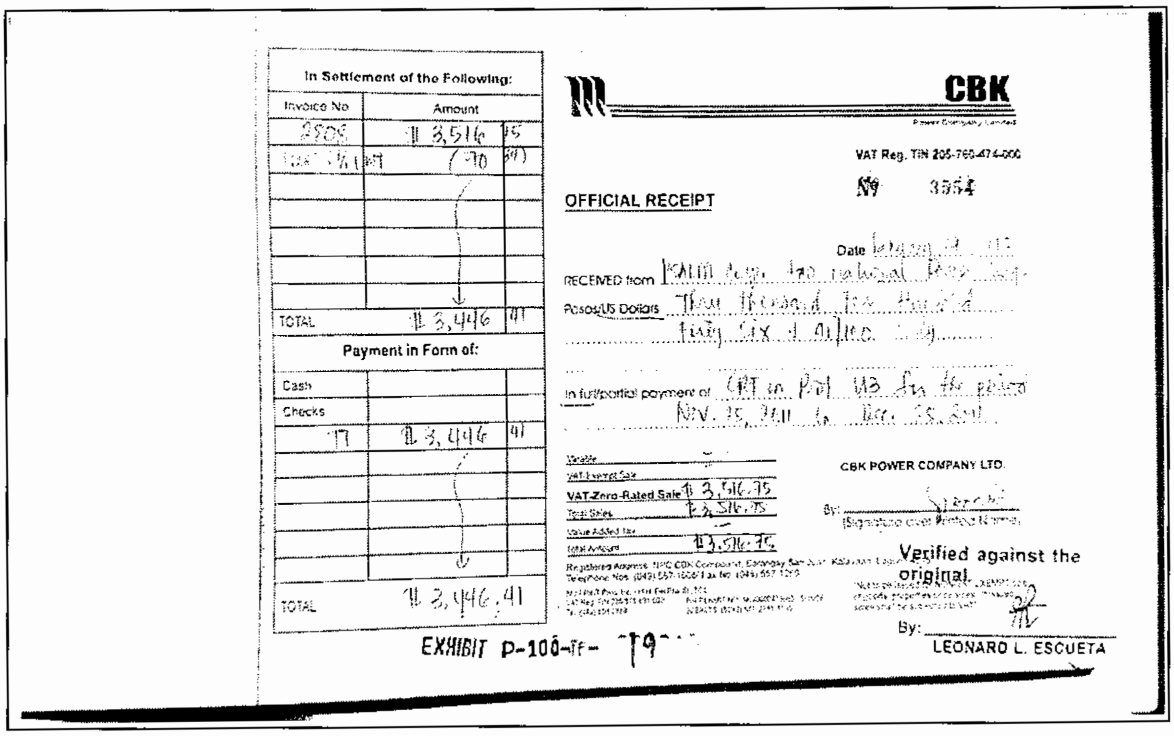
[32] *Commissioner of Internal Revenue vs. Philex Mining Corporation*, G.R. No. 230016, November 23, 2020.

[33] An Act Amending Sections 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 and 288 of the National Internal Revenue Code of 1997, as amended, and For Other Purposes.

Beginning November 1, 2005, when RA No. 9337 took effect, NPC was already subject to VAT. Consequently, NPC was required to register under the VAT system.

In this case, petitioner's alleged zero-rated sales pertain to its sales of hydropower to NPC, a VAT-registered person. Pursuant to Section 113(B)(4) of the NIRC of 1997, as implemented by Section 4.113-1(B)(3) of Revenue Regulations (RR) No. 16-2005, petitioner should indicate, among others, the TIN of NPC.

A review of the VAT official receipts evidencing petitioner's alleged zero-rated sales, however, shows that the TIN of NPC was not indicated. As shown in these three sample official receipts, petitioner clearly failed to comply with the pertinent requirement:


In Settlement of the Following:

Invoice No	Amount
2505	₱ 3,516.75
	(70.34)
TOTAL	₱ 3,446.41

Payment in Form of:

Cash	
Checks	
TT	₱ 3,446.41
TOTAL	₱ 3,446.41

CBK

VAT Reg. TIN 205-760-474-000

№ 3554

OFFICIAL RECEIPT

Date

RECEIVED from

Pesos/US Dollars

In full/partial payment of

Nov. 25, 2011 to Dec. 25, 2011

Vatable

VAT-Exempt Sale

VAT-Zero-Rated Sale ₱ 3,516.75

Total Sales ₱ 3,516.75

Value Added Tax

Total Amount ₱ 3,516.75

CBK POWER COMPANY LTD.

By:

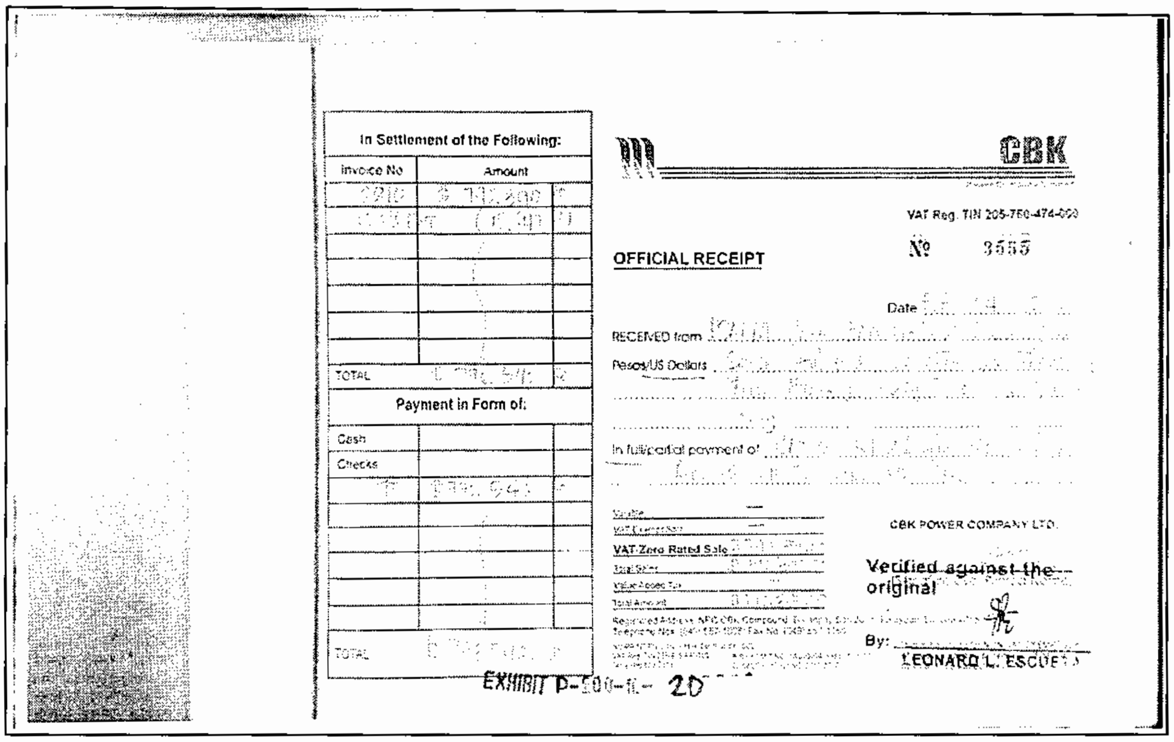
(Signature over Printed Name)

Verified against the original.

By:

LEONARO L. ESCUETA

EXHIBIT P-100-ff- "T9"



In Settlement of the Following:

Invoice No	Amount
TOTAL	

Payment in Form of:

Cash	
Checks	
TOTAL	

CBK

VAT Reg. TIN 205-760-474-000

OFFICIAL RECEIPT №3555

Date

RECEIVED from

Pesos/US Dollars

In full/partial payment of

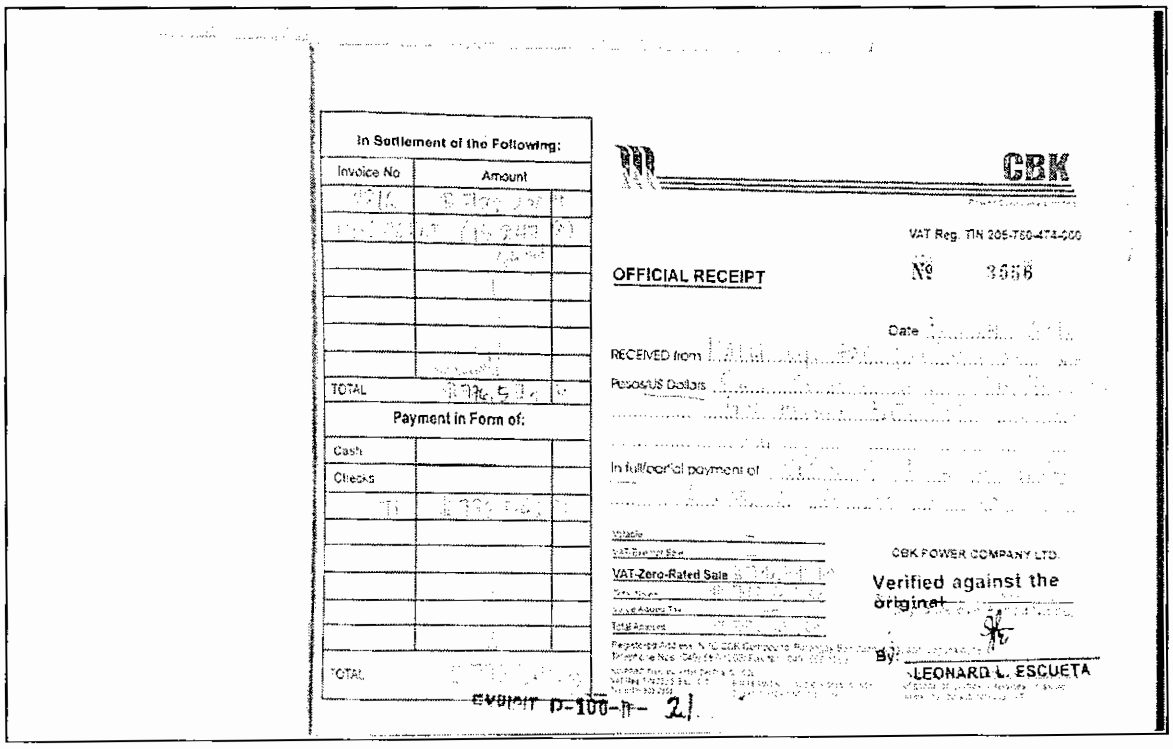
VAT-Zero Rated Sale

CBK POWER COMPANY LTD.

Verified against the original

By: LEONARD L. ESCUETA

EXHIBIT P-100-II-20



In Settlement of the Following:

Invoice No	Amount
TOTAL	

Payment in Form of:

Cash	
Checks	
TOTAL	

CBK

VAT Reg. TIN 205-760-474-000

OFFICIAL RECEIPT №3556

Date

RECEIVED from

Pesos/US Dollars

In full/partial payment of

VAT-Zero-Rated Sale

CBK POWER COMPANY LTD.

Verified against the original

By: LEONARD L. ESCUETA

EXHIBIT P-100-II-21

As petitioner was unable to prove compliance with the third requisite thereby precluding its entitlement to refund, the Court need not belabor on the other requisites.

Again, tax refunds are in the nature of a claim for tax 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.[34]

WHEREFORE, the Petition for Review filed by CBK Power Company Limited on March 21, 2014 is still **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice

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[34] *Pilipinas Shell Petroleum Corporation vs. Commissioner of Internal Revenue*, G.R. No. 211779, November 3, 2020.