CTA Form No. 8

22-000360-0052

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10932

PURE ESSENCE INTERNATIONAL INCORPORATED,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

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

ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. NIKI BERYL B. DELA CRUZ
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

GAREN CASTILLEJOS AND ASSOCIATES
2nd Floor, Calderon Building
827 EDSA, Quezon City

GREETINGS:

You are hereby notified by these presents that on **May 16, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **May 19, 2025.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PURE ESSENCE INTERNATIONAL INCORPORATED, *Petitioner,*	**CTA CASE NO. 10932**
	Members:
-versus-	**DEL ROSARIO**, *P.J., Chairperson,* **BACORRO-VILLENA**, *and* **CUI-DAVID**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: MAY 16 2025; 9:40AM

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DECISION

CUI-DAVID, J.:

Before this Court is a *Petition for Review*[1] ("*Petition*") seeking the refund of ₱45,972,202.93, allegedly representing petitioner's excess or unutilized input value-added tax (VAT) for taxable year (TY) 2020.

THE PARTIES

Petitioner Pure Essence International Inc.,[2] is a corporation duly registered and existing under the laws of the Republic of the Philippines.[3] It is a VAT-registered entity[4] engaged in the production of biofuel, particularly, coco-diesel and its by-products. Petitioner alleges that it is accredited by the Department of Energy (DOE) as a manufacturer of biodiesel, with a Certificate of Accreditation No. DOE-COA-2019-BD004 dated September 5, 2018, valid for five years from said date.[5] Petitioner also alleges that it is registered with the Board of

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[1] Docket, pp. 6–15.

[2] Per BIR Certificate of Registration and SEC Certificate of Filing of Amended Articles of Incorporation, the registered name of petitioner is Pure Essence Int'l. Inc.

[3] Docket, p. 6, Petition for Review, The Parties, par. 1; 173, Exhibit "P-2".

[4] *Id.* at 7, Petition for Review, Statement of the Facts, par. 1; 182, Exhibit "P-3".

[5] *Id.* at 7, Petition for Review, Statement of the Facts, par. 1; 20, Exhibit "P-4"; Exhibit "R-5", BIR Records - Folder 1 of 5, p.1.

Investments (BOI) as a New Export Producer of Coconut Methyl Ester (CME) or coco-diesel and other by-products, such as crude glycerin, soap noodles, and toilet soaps under Certificate of Registration No. 2006-123 dated October 12, 2006.[6]

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), vested with authority to cancel and abate taxes, as well as grant tax refunds, among others.[7] He can be served with court processes and pleadings at the Litigation Division, Room 703, BIR National Office Building, Diliman, Quezon City.[8]

THE FACTS

On March 24, 2022, petitioner filed an Application for Tax Credit/Refund (BIR Form No. 1914) with the BIR's Large Taxpayers Service, claiming a refund of ₱45,972,202.93 representing excess or unutilized input VAT for the first (1st), second (2nd), third (3rd), and fourth (4th) quarters of TY 2020,[9] as follows:

Input VAT on current purchases	₱59,014,372.08[10]
Add: Deferred input VAT amortized in TY 2020	195,000.00[11]
Total Current Input VAT for TY 2020	₱59,209,372.08

6 *Id.* at 7, Petition for Review, Statement of the Facts, par. 1; 21, Exhibit "P-5"; BIR Records - Folder 1 of 5 (Exhibit "R-5"), p.11.

7 *Id.* at 147, Pre-Trial Order dated July 14, 2023, Admitted Facts and Stipulation of Facts, par. 1; Answer, par. 1 in relation to Petition for Review, "The Parties", par. 2.

8 *Id.*

9 *Id.* at 7, Petition for Review, "Statement of Facts", par. 2.

10 Sum of Line 21F, Exhibits "P-7" to "P-7-c", Docket pp. 183–184, 191–192, 199–200 & 207–208, respectively.

Exhibit	Docket Page No.	TY 2020	Line 21F
"P-7"	183	1st Quarter	₱35,910,214.65
"P-7-a"	191	2nd Quarter	5,262,603.00
"P-7-b"	199	3rd Quarter	6,578,111.74
"P-7-c"	207	4th Quarter	11,263,442.69
Total			**₱59,014,372.08**

11 Total of deferred input tax of ₱3,266,071.44 (*sum of Line 20B, Exhibits "P-7" to "P-7-c", Docket, pp. 183–184, 191–192, 199–200 & 207–208, respectively*) less Total input tax deferred for the succeeding period of ₱3,071,071.44 (*sum of Line 23A, Exhibits "P-7" to "P-7-c", Docket, pp. 183–184, 191–192, 199–200 & 207–208, respectively*).

Exhibit	Docket Page No.	TY 2020	(a) Line 20B	(b) Line 23A	(a) less (b)
"P-7"	183	1st Quarter	₱889,642.86	₱840,892.86	₱48,750.00
"P-7-a"	191	2nd Quarter	840,892.86	792,142.86	48,750.00
"P-7-b"	199	3rd Quarter	792,142.86	743,392.86	48,750.00
"P-7-c"	207	4th Quarter	743,392.86	694,642.86	48,750.00
		Total	**₱3,266,071.44**	**₱3,071,071.44**	**₱195,000.00**

Less: Output VAT due for the period	(13,237,169.10)[12]
Balance of input VAT as of TY 2020	**₱45,972,202.98**[13]

Petitioner also submitted all relevant documents required under the Revised Checklist of Mandatory Requirements on Claims for VAT Credit/Refund (Revised Checklist).[14]

Thereafter, on June 9, 2022, respondent issued a letter, signed by Beverly S. Milo, HREA-Excise Group, Large Taxpayers Service, which petitioner received on June 22, 2022.[15] The letter denied petitioner's application for refund on the ground that it allegedly failed to "make/file the amended quarterly vat returns for the period of April 1, 2021 to September 30, 2021 to reflect the necessary adjustment corresponding to the deduction on the 'VAT Refund Claimed', on or before March 24, 2022."[16]

The same letter further stated the reason for the denial of the refund, to wit:

> "Likewise, verification with LT-Doc. Processing & Quality Assurance Division showed that your Company has outstanding liabilities and that the application for tax refund cannot be given due course in accordance with the Policy No. 7 as enumerated under RMO 47-2020, ..."[17]

On July 4, 2022, petitioner replied to respondent's denial through a letter addressed to Maridur V. Rosario, ACIR-Large Taxpayers Service. To date, petitioner has not received any response regarding its refund claim.[18]

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12 Sum of Line 15B, Exhibits "P-7" to "P-7-c", Docket, pp. 183–184, 191–192, 199–200 & 207–208, respectively.

Exhibit	Docket Page No.	TY 2020	Line 15B
"P-7"	183	1st Quarter	₱ –
"P-7-a"	191	2nd Quarter	794,096.95
"P-7-b"	199	3rd Quarter	1,636,114.29
"P-7-c"	207	4th Quarter	10,803,957.86
Total			**₱13,237,169.10**

13 Difference of ₱0.05 due to rounding-off.

14 Docket, p. 7, Petition for Review, "Statement of Facts", par. 2.

15 Docket, p. 148, Pre-Trial Order dated July 14, 2023, Admitted Facts and Stipulation of Facts, par. 3 & par. 4; Answer, par. 2 in relation to Petition for Review, "Statement of Facts", par. 4; Exhibit "R-4", BIR Records, Folder 1 of 5 (Exhibit "R-5"), p. 582, VAT Refund/Credit Notice dated June 9, 2022.

16 *Id.*; Exhibit "R-4", BIR Records, Folder 1 of 5 (Exhibit "R-5"), p. 582, VAT Refund/Credit Notice dated June 9, 2022.

17 *Id.* at 147–148, Pre-Trial Order dated July 14, 2023, Admitted Facts and Stipulation of Facts, par. 2; Answer, par. 1 in relation to Petition for Review, "The Parties", par. 5; Exhibit "R-4", BIR Records, Folder 1 of 5 (Exhibit "R-5"), p. 582, VAT Refund/Credit Notice dated June 9, 2022.

18 Docket, p. 8, Petition for Review, "Statement of Facts", par. 6.

PROCEEDINGS BEFORE THE COURT

Petitioner filed the instant *Petition* on July 22, 2022.

Respondent filed a *Motion for Extension of Time to File Answer* on September 7, 2022,[19] which the Court granted in an Order dated September 12, 2022.[20] Respondent filed his *Answer* on October 7, 2022, within the allowed extended period, via registered mail.[21]

On December 19, 2022, respondent transmitted to the Court the BIR Records of the case, consisting of five folders.[22]

Both parties submitted their Pre-Trial Briefs, respondent on February 9, 2023,[23] and petitioner on February 14, 2023.[24] Thereafter, the Pre-Trial Conference was held on February 16, 2023. As the parties failed to file their Joint Stipulation of Facts and Issues (JSFI), the right to file the same was deemed waived.[25] A *Pre-Trial Order* was issued on July 14, 2023.[26]

Trial ensued, during which both parties presented documentary and testimonial evidence in support of their respective claims.

Petitioner presented the testimonies of: (1) Ms. Divine C. Cailing,[27] petitioner's authorized representative and Executive Assistant, and (2) Mr. Sanriel Chris D. Ajero (Mr. Ajero), the Court-commissioned Independent Certified Public Accountant (ICPA).[28]

Petitioner filed its *Formal Offer of Evidence* on October 20, 2023.[29] Respondent filed his *Comment/Opposition (to Petitioner's Formal Offer of Evidence)* on October 31, 2023.[30] In a Resolution dated January 15, 2024, the Court admitted all of petitioner's exhibits *except* for Exhibits "P-4", "P-5", "P-8" and "P-10", for failure to submit the duly marked exhibits, and

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[19] *Id.* at 53–56.
[20] *Id.* at 58.
[21] *Id.* at 59–71.
[22] *Id.* at 110–112, Respondent's Compliance dated December 1, 2022.
[23] *Id.* at 115–118.
[24] *Id.* at 121–124.
[25] *Id.* at 130, Resolution dated May 4, 2023.
[26] *Id.* at 144–153.
[27] *Id.* at 45-56, Exhibit "P-12"; 168–169, Order dated August 20, 2023.
[28] *Id.* at 286–289, Exhibit "P-20"; 304–305, Order dated October 10, 2023.
[29] *Id.* at 307–311.
[30] *Id.* at 312–315.

Exhibit "P-11", for failure to present the originals for comparison.[31]

For respondent, Revenue Officer (RO) Leonila D.C. Manuel was presented as a witness.[32]

On January 26, 2024, *Respondent's Formal Offer of Evidence* was filed.[33] Petitioner did not file any comment, as confirmed by a Records Verification dated February 6, 2024.[34] The Court admitted all of respondent's exhibits in its Resolution dated March 15, 2024.[35]

On February 19, 2024, respondent filed his *Memorandum*,[36] while petitioner filed its *Memorandum*[37] on April 22, 2024.

The present case was submitted for decision on May 7, 2024.[38]

THE ISSUE

The parties stipulated this lone issue to be resolved by the Court: [39]

> Whether or not petitioner is entitled to its claim for refund, or issuance of tax credit certificate of the alleged excess unutilized input VAT amounting to ₱45,972,202.93 for taxable year 2020.

Petitioner's arguments:

In its *Petition*[40] and *Memorandum*,[41] petitioner argues that the ground for respondent's denial of its claim for refund is invalid.

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[31] *Id.* at 322–323, Resolution dated January 15, 2024.
[32] *Id.* at 328–329, Order dated January 23, 2023; 237–241, Amended Judicial Affidavit of Revenue Officer Leonila D.C. Manuel.
[33] *Id.* at 331–334.
[34] *Id.* at 336.
[35] *Id.* at 343–344, Resolution dated March 15, 2024.
[36] *Id.* at 345–357.
[37] *Id.* at 359–370.
[38] *Id.* at 371, Minute Resolution dated May 7, 2024 (Notice).
[39] *Id.* at 149, Pre-Trial Order, Issue/s to be tried or resolved.
[40] *Supra* note 1.
[41] Docket, pp. 359–370.

Petitioner states that it filed an adjusted return for the period April 1, 2021 to September 30, 2021, to which respondent claims that no amended quarterly VAT returns were filed for said period. It further argues that even if it did not submit the amended returns, such documents were not among the requirements listed in the *Revised Checklist.* At any rate, petitioner maintains that all previous adjustments were already reflected in its amended quarterly VAT returns filed on June 1, 2022, of which the BIR has a copy.

Petitioner also points out that it obtained a Delinquency Verification Certificate on December 10, 2021 from the BIR showing that it had no delinquent tax liabilities. This, petitioner claims, belies respondent's contention that it failed to file amended quarterly VAT returns for the period April 1, 2021 to September 30, 2021.

As to petitioner's alleged tax liabilities, it asserts that such is not a valid ground for the denial of its refund claim. According to petitioner, BIR denied such claim relying on No. 7[42] of the Policies stated under Revenue Memorandum Order (RMO) No. 47-2020. A plain reading of said policy, petitioner argues that it is nothing more than an instruction to revenue officers to process claims based on submitted documents and clarifies that such review does not constitute a tax assessment. Moreover, petitioner opines that the said policy only states that an LOA may be issued in case of discrepancies, but there is no mention that any adverse findings would give cause for the denial of the refund claim.

Furthermore, petitioner contends that it is entitled to the refund. It avers that its sales of biofuel qualify for VAT zero-rating under Section 108(B)(7) of the National Internal Revenue Code (NIRC) of 1997, as amended. To prove such status as a biofuel producer and its entitlement to VAT zero-rating, petitioner states that it has been accredited by the DOE and certified by the BOI as a manufacturer of coco-diesel.

Petitioner likewise asserts that it has complied with the requisites of Section 112(A) of the NIRC of 1997, as amended, concerning refunds or tax credits of input tax attributable to zero-rated or effectively zero-rated sales, and Section 113 on

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[42] 7. The claims shall be processed based on submitted documents for verification by the assigned Revenue Officer (RO)/Group Supervisor (GS). This process shall not be construed as an audit/investigation; hence, the claimant may be issued subsequently an electronic Letter of Authority (LA) by an authorized office for that purpose. However, the books of accounts and accounting records that may have relevance to the claim of the taxpayer may be examined and verified upon request of the assigned RO.

invoicing requirements. Its invoices and receipts issued to customers would prove the existence of its zero-rated sales. It incurred input taxes amounting to ₱59,209,372.08 as evidenced by its quarterly VAT returns for TY 2020 and supported by voluminous receipts from suppliers showing VAT payment. However, petitioner also has taxable sales amounting to ₱13,237,169.09 likewise supported by receipts. As a result, petitioner has remaining excess input VAT in the amount of ₱45,972,202.98.

Finally, petitioner posits that, as a biofuel producer registered with the DOE and BOI under Republic Act (RA) No. 9513, otherwise known as the "Renewable Energy Act of 2008," from which it partly grounds its claim, the objectives of said law must be given consideration. It argues that the BIR 's actions make it highly difficult for Renewable Energy (RE) Developers to exercise the rights under RA No. 9513, seemingly detracting from the purpose for which such law was enacted.

Respondent's counter-arguments:

In his *Answer*[43] and *Memorandum*,[44] respondent counters that petitioner failed to substantiate its administrative claim for refund. Citing the Supreme Court case *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue (Pilipinas Total Gas)*,[45] he argues that petitioner cannot present before the Court documents it did not submit at the administrative level, and the Court is confined to a more limited issue of whether the denial was proper given the evidence submitted at such a level.

Moreover, respondent contends that the denial of petitioner's refund claim has factual and legal bases as sufficiently supported by the audit report. Aside from petitioner's failure to make/file the required amended quarterly VAT returns for the period April 1, 2021 to September 30, 2021 and the existence of outstanding tax liabilities which results to its application for tax refund not being given due course in accordance with Policy No. 7 under RMO No. 47-2020, the audit revealed that certain input VAT claims were not properly supported by sales invoices (SIs) and official receipts (ORs) pursuant to Sections 110, 113 and 237 of the NIRC of 1997, as amended.

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[43] Docket, pp. 59–71.
[44] *Id.* at 345–357.
[45] *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*, G.R. No. 207112, December 8, 2015 [Per J. Mendoza, *En Banc*].

Lastly, respondent maintains that claims for refund are strictly construed against the taxpayer for the same partake the nature of tax exemptions.

THE COURT'S RULING

The present *Petition for Review* is partly meritorious.

The Court has jurisdiction over the instant case.

Before delving into the merits, the Court must first determine whether it has jurisdiction over the present case.

Sections 7(a)(1) and (2), and 11 of RA No. 1125,[46] as amended by RA No. 9282,[47] confer appellate jurisdiction upon this Court over decisions, rulings, or inactions of the Commissioner of Internal Revenue (CIR), *viz.*:

> 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 matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
>
> (2) **Inaction by 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, **where the National Internal Revenue Code provides a specific period for action, in which case the inaction shall be deemed a denial**;

[46] AN ACT CREATING THE COURT OF TAX APPEALS.

[47] 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.

In relation to claims for refund or issuance of a tax credit certificate, Section 112 of the NIRC of 1997, as amended by RA No. 10963,[48] states:

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 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

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[48] 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 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES, January 1, 2018.

(90)-day period shall be punishable under Section 269 of this Code. (Emphasis supplied)

Section 112 of the NIRC of 1997, as amended, provides that the CIR has ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application to act thereon. In the event of a full or partial denial, the taxpayer affected may appeal the decision to this Court within thirty (30) days from receipt thereof.

In this case, the claim for refund covers all four quarters of TY 2020. Under Section 112(A) of the NIRC, as amended, an administrative claim for refund must be filed within two (2) years from the close of the taxable quarter when the relevant sales were made. The pertinent dates for each quarter are summarized below:

Period	Close of the Taxable Quarter	Deadline/Last Day to File Administrative Claim	Actual Filing Date of Administrative Claim
January 1 to March 31, 2020 (1st Quarter)	March 31, 2020	March 31, 2022	March 24, 2022
April 1 to June 30, 2020 (2nd Quarter)	June 30, 2020	June 30, 2022	
July 1 to September 30, 2020 (3rd Quarter)	September 30, 2020	September 30, 2022	
October to December 31, 2020 (4th Quarter)	December 31, 2020	December 31, 2022	

Petitioner filed its application for VAT refund in the amount of ₱45,972,202.93 with the BIR's Large Taxpayers Service on March 24, 2022. This filing was well within the two-year prescriptive period, at least with respect to the first quarter of TY 2020. The BIR, in its *Memorandum Report,* also confirmed the timeliness of the administrative claim and acknowledged that it was filed within the period prescribed by law.[49]

As regards the judicial claim, Section 11 of RA No. 1125, as amended by RA No. 9282, states that an appeal to this Court must be filed within 30 days from receipt of the decision or

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[49] Exhibit "R-3", BIR Records - Folder 1 of 5, Memorandum Report, pp. 548–563.

ruling, or upon the expiration of the period prescribed by law for the CIR to act:

> 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 . . . 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.** (Emphasis supplied)

Petitioner received the BIR's denial letter, dated June 9, 2022, on June 22, 2022.[50] Counting 30 days from June 22, 2022, petitioner had until July 22, 2022, to file its judicial claim. The present *Petition* was timely filed on July 22, 2022.

Accordingly, the Court has the requisite jurisdiction over the instant case.

As a "court of record," the CTA conducts a trial de novo.

Respondent contends that since a decision was already rendered at the administrative level, the CTA's jurisdiction is *strictly* appellate and, following the *Pilipinas Total Gas* case, the Court should limit its review to the documents submitted to the BIR, focusing on whether the findings of respondent were consistent with law.

This argument lacks merit.

Respondent's reliance on *Pilipinas Total Gas* is misplaced. Under Section 8[51] of RA No. 1125, as amended, the CTA is described as a *court of record,* and in line with established jurisprudence, cases filed before the CTA are litigated *de novo;* thus, party litigants should prove every minute aspect of their case by presenting, formally offering, and submitting to the

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[50] Docket, p. 148, Pre-Trial Order dated July 14, 2023, Admitted Facts and Stipulation of Facts, par. 3 & par. 4; Answer, par. 2 in relation to Petition for Review, "Statement of Facts", par. 4.

[51] SECTION 8. *Court of record; seal; proceedings.* — The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence.

Court all evidence required for the successful prosecution of their claims.[52]

In the instant case, petitioner's claim for tax refund or credit was litigated *de novo* before the Court. Consequently, the latter's decision must be based solely on the evidence formally presented before it during trial, regardless of whether such documents were previously submitted (or not submitted) to the CIR.

In *Commissioner of Internal Revenue v. Philippine Bank of Communications,*[53] the Supreme Court emphasized that since the claim for tax refund or credit was litigated anew before the CTA, the latter's decision must be anchored exclusively on the evidence formally offered before the Court, notwithstanding any pieces of evidence submitted at the administrative level, *viz.*:

> In the case of *Commissioner of Internal Revenue v. Manila Mining Corporation,* this Court held that cases before the CTA are litigated *de novo* where party litigants should prove every minute aspect of their cases, to wit:
>
> > Under Section 8 of Republic Act No. 1125 (RA 1125), the CTA is described as a court of record. As cases filed before it are litigated *de novo,* party litigants should prove every minute aspect of their cases. <u>No evidentiary value can be given the purchase invoices or receipts submitted to the BIR as the rules on documentary evidence require that these documents must be formally offered before the CTA.</u> (Underscoring supplied)
>
> As applied in the instant case, **since the claim for tax refund/credit was litigated anew before the CTA, the latter's decision should be solely based on the evidence formally presented before it, notwithstanding any pieces of evidence that may have been submitted (or not submitted) to the CIR.** (Emphasis supplied)

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[52] *Commissioner of Internal Revenue v. Vestas Services Philippines, Inc.*, G.R. No. 255085, March 29, 2023 [Per J. Hernando, First Division]; *Commission of Internal Revenue v. Deutsche Knowledge Services, Pte. Ltd.*, G.R. Nos. 226548 & 227691, 226682–83, February 15, 2023 [Per J. M.V. Lopez, Second Division] citing *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007 [Per J. Corona, First Division]; See also *Edison (Bataan) Cogeneration Corporation v. Commissioner of Internal Revenue,* G.R. Nos. 201665 & 201668, August 30, 2017 [Per J. Del Castillo, First Division]; *Commissioner of Internal Revenue v. Philippine National Bank,* G.R. No. 180290, September 29, 2014 [Per J. Leonen, Second Division]; *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014 [Per J. Peralta, Third Division]; *Dizon v. Court of Tax Appeals, et al.*, G.R. No. 140944, April 30, 2008 [Per J. Nachura, Third Division]; *Commissioner of Internal Revenue v. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005 [Per J. Carpio-Morales, Third Division].

[53] G.R. No. 211348, February 23, 2022 [Per J. Hernando, Second Division].

Applying this jurisprudence to the present case, the Court rules that its decision must rest solely on the evidence duly offered and admitted during trial.

The records reveal that the BIR's denial of petitioner's administrative claim was not due to the failure to submit complete documents despite notice or request. On the contrary, a review of the audit report and the administrative record shows that the BIR examined petitioner's VAT returns, SIs, ORs, certifications, and other supporting documents. Notably, respondent did not identify any specific document that petitioner supposedly failed to submit during the administrative proceedings and he did not raise any objection to the admissibility of any evidence presented before the Court on the ground that it had not been previously submitted to the BIR.[54]

Accordingly, in judicial claims for tax refund or credit, the decisive factor is the sufficiency and admissibility of the evidence presented before the CTA, not merely what was submitted to the BIR. The Court is not bound by the findings of the administrative agency and is empowered to make its own factual determination based on the entirety of the evidence on record.

In view of the foregoing, the Court now proceeds to determine petitioner's compliance with the requisites prescribed by law and jurisprudence for the grant of a refund or issuance of a tax credit, and to assess petitioner's entitlement thereto.

Requisites for the grant of a refund or issuance of a tax credit certificate of unutilized or excess input VAT attributable to zero-rated sales.

Under the previously quoted Section 112 of the NIRC of 1997, as amended, and as clarified in *Commissioner of Internal Revenue v. Toledo Power Company*,[55] a taxpayer-claimant must comply with the following requisites to successfully obtain a refund or tax credit of unutilized or excess input VAT attributable to zero-rated sales:

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[54] Docket, pp. 312–315, Comment/Opposition (to Petitioner's Formal Offer of Evidence).
[55] G.R. Nos. 195175 & 199645, August 10, 2015 [Per C.J. Sereno, First Division].

As to the timeliness of the filing of the administrative and judicial claims:

1. The refund claim is filed with the BIR within two years after the close of the taxable quarter when the sales were made.[56]

2. In case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act on the said claim within a period of 90 days, the judicial claim has been filed with this Court, within 30 days from receipt of the decision or after the expiration of the said 90-day period.[57]

Concerning the taxpayer's registration with the BIR:

3. The taxpayer is a VAT-registered person.[58] Relative thereto, it must be emphasized that registration is an indispensable requirement under our VAT law.[59]

In relation to the taxpayer's output VAT:

4. The taxpayer is engaged in zero-rated or effectively zero-rated sales.[60]

5. For zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2),[61] the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the *Bangko Sentral ng Pilipinas* (BSP) rules and regulations.[62]

As regards the taxpayer's input VAT being refunded:

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56 *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010 [Per J. Carpio-Morales, Third Division]; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callejo, Sr., Third Division].

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

58 *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010 [Per J. Carpio-Morales, Third Division]; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callejo, Sr., Third Division].

59 *Commissioner of Internal Revenue v. Seagote Technology (Philippines)*, G.R. No. 153866, February 11, 2005 [Per J. Panganiban, Third Division].

60 *Id.*

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

62 *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010 [Per J. Carpio-Morales, Third Division]; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callejo, Sr., Third Division].

6. The input taxes are not transitional.[63]

7. The input taxes are due or paid.[64]

8. The input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume.[65]

9. The input taxes have not been applied against output taxes during and in the succeeding quarters.[66]

In addition to the above, the taxpayer-applicant must comply with the substantiation and invoicing requirements prescribed under the NIRC and its implementing rules and regulations.[67] Such compliance is indispensable to a "valid claim for input taxes attributable to zero-rated sales,"[68] as it provides the necessary basis to "determine the veracity of the taxpayer's claims."[69]

Strict adherence to these requirements is necessary considering VAT's nature and VAT system's tax credit method, where tax payments are based on output and input taxes and where the seller's output VAT becomes the buyer's input VAT that is available as a tax credit or refund in the same transaction. It ensures the proper collection of taxes at all stages of distribution, facilitates the computation of tax credits, and provides an accurate audit trail or evidence for BIR monitoring purposes.[70]

To reiterate, cases before this Court are litigated *de novo*. As such, party-litigants must prove **every minute aspect** of their case by presenting, formally offering, and submitting their evidence to the CTA.[71] It is incumbent upon petitioner to establish compliance with the foregoing requisites. Conversely,

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63 *Id.*
64 *Id.*
65 *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callejo, Sr., Third Division].
66 *Supra* note 56.
67 *Team Energy Corporation (Formerly: Mirant Pagbilao Corporation and Southern Energy Quezon, Inc.) v. Commissioner of Internal Revenue*, G.R. Nos. 197663 & 197770, March 14, 2018 [Per J. Leonen, Third Division].
68 *J.R.A. Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013 [Per J. Perlas-Bernabe, Second Division].
69 *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018 [Per J. Martires, Third Division].
70 *Supra* note 67.
71 *Supra* note 52.

failure to satisfy any of these requirements constitutes valid ground for the denial of the refund or tax credit claim.

<u>First and second requisites:</u> Petitioner's administrative and judicial claims were timely filed.

The *first* and *second* requisites pertain to the timeliness of the administrative and judicial claims, which are both mandatory and jurisdictional. A taxpayer-claimant must not only prove its entitlement to a refund but also demonstrate compliance with the reglementary periods within which to file the claims.

As thoroughly discussed earlier, the Court finds that petitioner has satisfied the *first* and *second* requisites.

<u>Third requisite:</u> Petitioner is a VAT-registered entity.

The *third* requisite, that petitioner is a VAT-registered entity, is likewise duly established through the presentation of petitioner's BIR Certificate of Registration (BIR Form No. 2303)[72] OCN 3RC0000475766, with Tax Identification Number (TIN) 232-837-989-000.

<u>Fourth and fifth requisites</u>: Petitioner had zero-rated or effectively zero-rated sales, but only in the amount of ₱492,762,356.56.

The *fourth* and *fifth* requisites require that the taxpayer must be engaged in zero-rated or effectively zero-rated sales. For zero-rated sales under Sections 106(A)(2)(a)(1), (2), and (b), and 108(B)(1) and (2), of the NIRC of 1997, as amended, the acceptable foreign currency exchange proceeds must be duly accounted for in accordance with BSP rules and regulations.

In its Amended Quarterly VAT Returns for TY 2020, petitioner reported total sales of ₱631,257,500.50, which include VAT-able sales amounting to ₱110,309,742.44, and

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[72] Docket, p. 182, Exhibit "P-3".

zero-rated sales amounting to ₱520,947,758.06, as shown below:

Period	**VAT-able Sales**	**Zero-Rated Sales**	**Total**
1st Quarter[73]	₱ –	₱286,035,297.37	₱286,035,297.37
2nd Quarter[74]	6,617,474.59	49,392,003.20	56,009,477.79
3rd Quarter[75]	13,659,285.71	103,942,914.03	117,602,199.74
4th Quarter[76]	90,032,982.14	81,577,543.46	171,610,525.60
Total	**₱110,309,742.44**	**₱520,947,758.06**	**₱631,257,500.50**

Upon verification, the Court noted discrepancies between the zero-rated sales reflected in petitioner's SIs and those declared in its Amended Quarterly VAT Returns for TY 2020. Specifically, the Court observed an unaccounted zero-rated sale of ₱1.50 in the 1st quarter and an undeclared zero-rated sale of ₱100.00 in the 3rd quarter, resulting in a net variance of ₱98.50. Accordingly, this amount is added to the declared zero-rated sales for TY 2020, as summarized below:

Period Covered	**Zero-rated Sales**		
TY 2020	**Per SI**	**Per Amended Quarterly VAT Return**	**Discrepancy**
January	₱75,791,119.87		
February	135,774,256.50		
March	74,469,919.50		
1st Quarter	**₱286,035,295.87**	**₱286,035,297.37**	**₱ (1.50)**
April	₱15,669,480.00		
May	4,059,555.50		
June	31,940,309.70		
2nd Quarter	**₱51,669,345.20**	**₱ 49,392,003.20**	**₱ 2,277,342.00**
July	₱11,842,570.28		
August	49,095,339.35		
September	43,005,104.40		
3rd Quarter	**₱103,943,014.03**	**₱103,942,914.03**	**₱ 100.00**
October	₱26,364,532.81		
November	32,791,030.65		
December	22,421,980.00		
4th Quarter	**₱81,577,543.46**	**₱81,577,543.46**	**₱ –**
Total	**₱523,225,198.56**	**₱520,947,758.06**	**₱2,277,440.50**[77]

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[73] *Id.* at 183–184, Exhibit "P-7".
[74] *Id.* at 191–192, Exhibit "P-7-a".
[75] *Id.* at 199–200, Exhibit "P-7-b".
[76] *Id.* at 207–208, Exhibit "P-7-c".
[77] Out of the total variance of ₱2,277,440.50, ₱2,277,342.00 of which is traced to the difference of treatment to the export sale to an NRFC and the remaining amount of ₱98.50 is unaccounted.

The discrepancy in the 2nd quarter amounting to ₱2,277,342.00 relates to petitioner's alleged **export sale** to Sakamoto Yakuhin Kogyo Co., Ltd., which was recorded in its sales journal as a VAT-able sale.[78] The ICPA, however, justified categorizing the sale as zero-rated based on the Supreme Court's ruling in *Commissioner of Internal Revenue v. Philex Mining Corporation*,[79] where it was held that the details recorded in the subsidiary journals do not affect the character of an invoice or receipt as a "VAT invoice/official receipt".[80]

To establish that an export sale of goods qualifies for VAT zero-rating, Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, provides:

> SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* —
>
> (A) *Rate and Base of Tax.* — ...
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (a) *Export Sales.* — The term 'export sales' means:
>
> (1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP); ...

Under the above provision, the following essential elements must be established to qualify as VAT zero-rated **export sale**:

1. The sale was made by a VAT-registered person;
2. There was sale and actual shipment of goods from the Philippines to a foreign country; and
3. The sale was paid for in acceptable foreign currency accounted for in accordance with the rules and regulations of the BSP.

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78 Docket, p. 291, ICPA Report (Exhibit "P-19"), No. 3 of Procedures and Findings; Docket, p. 296, ICPA Report (Exhibit "P-19"), Annex E.
79 G.R. No. 230016, November 23, 2020 [Per J. Lopez, Second Division].
80 Docket, p. 291, ICPA Report (Exhibit "P-19"), No. 3 of Procedures and Findings.

To substantiate entitlement to VAT zero-rating, a VAT-registered person must present at least three (3) types of supporting documents:

1. Sales invoice as proof of sale of goods;
2. Bill of lading or airway bill as proof of actual shipment of goods from the Philippines to a foreign country; and
3. Bank credit advice, certificate of bank remittance or any other document proving payment for the goods in acceptable foreign currency or its equivalent in goods and services.

In this case, petitioner presented only SI No. 15510[81] as proof of the sale of goods. In the absence of the required shipping and payment documents, the purported export sale of crude glycerin amounting to ₱2,277,342.00 cannot qualify as a zero-rated transaction and was, therefore, properly treated as a VAT-able sale in petitioner's sales journal. The ICPA's reclassification of the transaction must thus be disregarded.

Moreover, upon judicial scrutiny of petitioner's zero-rated sales based on its SIs, the Court finds that its total zero-rated sales for TY 2020 amount to ₱520,947,856.56. These include: (1) Sales of Coconut Methyl Ester (CME), a biodiesel, and alcohol to local customers; and (2) Sales of crude glycerin, a by-product, to an export-oriented entity enterprise registered with the Philippine Economic Zone Authority (PEZA), detailed as follows:

Customer	Product Sold	Amount
1. Sales of Biodiesel and Alcohol to local customers		
Chevron Philippines, Inc.	CME	₱463,851,814.56
	Alcohol	10,500.00
Phoenix Petroleum Philippines, Inc.	CME	46,000,000.00
Total Sales of Biodiesel and Alcohol to local customers		**₱509,862,314.56**
2. Sales of Crude Glycerin to Export-Oriented Entity registered with PEZA		
Sakamoto Orient Chemicals Corp. ($221,710.84 at ₱50.00 exchange rate)	Crude Glycerin	₱11,085,542.00
Total Sales to Export-Oriented Entity		**₱11,085,542.00**
Total Zero-rated Sales		**₱520,947,856.56**[82]

[81] Exhibit "P-16-CH", USB.
[82] Adjusted by ₱98.50 to reflect the understatement of the total zero-rated sales of ₱520,947,758.06 per Quarterly VAT Returns vis-à-vis ₱520,947,856.56 per SIs, which arose from the following:

Aside from determining whether the above transactions are indeed zero-rated or effectively zero-rated sales, the Court must also verify petitioner's compliance with the invoicing requirements under Section 113(A) and (B) of the NIRC of 1997, as amended, which reads:

> 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:
>
> (a) The amount of the tax shall be shown as a separate item in the invoice or receipt;
>
> (b) If the sale is exempt from value-added tax, the term 'VAT-exempt sale' shall be written or printed prominently on the invoice or receipt;
>
> (c) If the sale is subject to zero percent (0%) value-added tax, the term **'zero-rated sale'** shall be written or printed prominently on the invoice or receipt;
>
> (d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the breakdown of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be

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TY 2020	Per SI	Per Quarterly VAT Return	Amount
1st quarter	₱286,035,295.87	₱286,035,297.37	₱ (1.50)
3rd quarter	103,943,014.03	103,942,914.03	100.00
Net variance			**₱ 98.50**

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shown on the invoice or receipt: *Provided*, That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated component of the sale.

(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and

(4) In the case of sales in the amount of One thousand pesos (₱1,000.00) or more where the sale or transfers is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer, or client. (Emphasis supplied)

Section 113 of the NIRC of 1997, as amended, is implemented by Section 4.113-1 of Revenue Regulations (RR) No. 16-2005,[83] as amended, *viz.*:

SEC. 4.113-1. *Invoicing Requirements.* —

(A)A VAT-registered person shall issue: —

(1)A VAT invoice for every sale, barter or exchange of goods or properties; and

(2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.

Only VAT-registered persons are required to print their TIN followed by the word 'VAT' in their invoice or official receipts. Said documents shall be considered as a "VAT Invoice" or "VAT official receipt". All purchases covered by invoices/receipts other than VAT Invoice/VAT Official Receipts shall not give rise to any input tax.

VAT invoice/official receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records.

(B) *Information contained in VAT invoice or VAT official receipt.* — The following information shall be indicated in VAT invoice or VAT official receipt:

(1)A statement that the seller is a VAT-registered person, followed by his TIN;

(2)The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; *Provided,* That:

[83] SUBJECT: Consolidated Value-Added Tax Regulations of 2005.

(a) The amount of tax shall be shown as a separate item in the invoice or receipt;

(b) If the sale is exempt from VAT, the term "VAT-exempt sale" shall be written or printed prominently on the invoice or receipt;

(c) If the sale is subject to zero percent (0%) VAT, the term "zero-rated sale" shall be written or printed prominently on the invoice or receipt;

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

(3) In the case of sales in the amount of one thousand peso (₱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, shall be indicated in addition to the information required in (1) and (2) of this Section.

Additionally, the SIs and ORs must be duly registered with the BIR, pursuant to Section 237, in relation to Section 238, of the NIRC of 1997, as amended, which provides:

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 nature of service. ...

SEC. 238. *Printing of Receipts or Sales or Commercial Invoices.* — All persons who are engaged in business shall secure from the Bureau of Internal Revenue an authority to print receipts or sales or commercial invoices before a printer can print the same.

No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity

> to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner. (Emphasis supplied)

Thus, only sales of goods or services that are supported by SIs or ORs, containing the required information and issued by entitles with a valid Authority to Print, shall qualify for VAT zero-rating.

With the afore-quoted provisions in mind, the Court now proceeds to determine the propriety and veracity of petitioner's zero-rated sales transactions.

1. Sale of Biodiesel and Alcohol to local customers

In both its Application for Refund and the present *Petition*, petitioner hinges on its entitlement to VAT zero-rating on sales of biofuel pursuant to Section 108(B)(7) of the NIRC of 1997, as amended by RA No. 10963, which reads:

> SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* —
>
> (A) *Rate and Base of Tax.* — . . . .
>
> (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:
>
> ... ...
>
> (7) Sale of power or **fuel generated through renewable sources of energy** such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels. (Emphasis supplied)

Relative to this, Section 4.108-5 (b) (7) of RR No. 16-2005 which implements the immediately preceding provision, qualifies the applicability of such zero-rating as follows:

> SEC. 4.108-5. Zero-Rated Sale of Services. — . . . .
>
> (b) *Transactions Subject to Zero Percent (0%) VAT Rate.* —The following services performed in the Philippines by a VAT-registered person shall be subject to zero percent (0%) VAT rate:

... ...

(7) Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal and steam, ocean energy, and other emerging sources using technologies such as fuel cells and hydrogen fuels; *Provided*, however, that zero-rating shall apply strictly to the sale of power or fuel generated through renewable sources of energy, and shall not extend to the sale of services related to the maintenance or operation of plants generating said power.

Petitioner claims that it is accredited by the DOE as a manufacturer of biodiesel and certified by the BOI as a producer of CME or coco-diesel, among others.[84]

Although not specifically alleged in the *Petition*, the Court finds sufficient basis to conclude that petitioner is registered as an RE Developer. In its *Memorandum,* petitioner admits that part of its claim is based on RA No. 9513, stating:[85]

"Petitioner as a producer of biofuel, is **registered with the DOE and BOI in accordance with the provisions of Republic Act (RA) 9513** from which it **partly grounds its claim**." (Emphasis and underscoring supplied)

This assertion is likewise uncontroverted by the BIR, which, in its *Memorandum*[86] dated May 23, 2022, confirmed the following:

BUSINESS UNDERTAKING OF THE TAXPAYER

The subject taxpayer is a domestic corporation registered with the Securities and Exchange Commission on July 30, 2004. It is engaged in the manufacture of biofuels/biomass and other products that can be derived from but not limited to coconut. PEII was registered with the Board of Investments (BOI) (page 14) as a new producer of Coconut Methyl Ester (CME) or coco-diesel and other by-products such as crude glycerin, soap noodles and toilet soaps. **The said registration covered by BOI Certificate of Registration No. 2006-123 dated October 12, 2006 under EO 226 was transferred to RA 9513 (Renewable Energy Act of 2008) as RE Developer of Biomass Resources. It is accredited by the Department of Energy as a manufacturer of biodiesel, entitled to availing incentives for non-power application under Section 15 of RA 9513 or the Renewable Energy Act of 2008, with**

[84] Docket, p. 7, Petition for Review, Statement of the Facts, par. 1.
[85] *Id.* at 368–370, Petitioner's Memorandum.
[86] Exhibit "R-3", BIR Records - Folder 1 of 5, Memorandum Report, pp. 548–563.

> **Certificate of Accreditation (Renewal) No. DOE-COA-2019-BD004 issued on September 5, 2018, valid for five (5) years.**
>
> . . . .
>
> LEGAL BASIS
>
> As a **duly registered Renewable Energy (RE) Developer, Pure Essence Int'l. is entitled to several incentives under the Renewable [Energy] Act of 2008,** one of which is entitlement to a Zero Percent VAT rate for its sales transactions on its sale of CME. ...
>
> . . . .
>
> RELEVANT VERIFICATION PROCEDURES UNDERTAKEN
>
> . . . .
>
> 4. Evaluation of business activities and applicable tax incentive
>
> Documents submitted showed that the taxpayer is an **accredited manufacturer of biodiesel, entitled to availing incentives for non-power application under Section 15 of RA 9513 or the Renewable Energy Act of 2008**, with Certificate of Accreditation (Renewal) No. DOE-COA-2019-BD004 issued on September 5, 2018, valid for five (5) years. (Emphasis supplied)

Petitioner marked its Exhibit "P-4," DOE Certificate of Accreditation (Renewal) No. DOE-COA-2019-BD004 dated September 5, 2018, with five-year validity where petitioner was accredited as biodiesel manufacturer ("DOE-COA"), and Exhibit "P-5," BOI Certificate of Registration No. 2006-123 dated October 12, 2006, where petitioner was registered as a New Export Producer of CME or coco-diesel and other by-products such as crude glycerin, soap noodles, and toilet soaps ("BOI-COR") during the Commissioner's Hearing on August 3, 2023.[87]

Although these marked exhibits were attested by respondent's counsel as certified true copies, the Court denied their admission due to petitioner's failure to formally submit the duly marked exhibits,[88] which were returned to petitioner's counsel.[89] Nevertheless, the same documents were included in

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[87] Docket, pp. 157–163, Commissioner's Report (On Exhibits Marked for Petitioner) August 3, 2023, at 1:30 p.m. and 2:00 p.m.

[88] *Id.* at 322–323, Resolution dated January 15, 2024.

[89] *Supra* note 87.

respondent's Exhibit "R-5," the BIR Records, which was duly admitted in evidence by the Court.[90]

In addition, the BIR Records includes the following documents, which were also admitted in evidence:

(1) DOE Certificate of Registration No. RE-B2013-08-029 dated September 5, 2013, confirming petitioner's registration with the DOE as an RE Developer of Biomass Resources ("DOE-COR");[91] and

(2) Annex A (Specific Terms and Conditions) to the DOE-COA.[92]

Taken together, these documents constitute preponderant evidence establishing petitioner's registration as an RE Developer qualified to avail of tax incentives under RA No. 9513. It is thus evident that petitioner is claiming VAT zero-rating for its sales of CME or coco-diesel pursuant to Section 108(B)(7) of the NIRC of 1997, as amended, in conjunction with RA No. 9513.

Specifically, Section 15 (g) of RA No. 9513 grants certain tax incentives to RE Developers, such as petitioner. The pertinent provision states:

CHAPTER VII
General Incentives

SEC. 15. *Incentives for Renewable Energy Projects and Activities* — RE Developers of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications, as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives:

... ...

(g) Zero Percent Value-Added Tax Rate — The sale of fuel or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject

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[90] Docket, pp. 164–166, Commissioner's Report (On Exhibits Marked for Respondent) August 3, 2023, at 2:30 p.m.; 343–344, Resolution dated March 15, 2024; See also Exhibit "R-5", BIR Records - Folder 1 of 5, pp. 1 & 11.
[91] Exhibit "R-5", BIR Records - Folder 1 of 5, p. 2.
[92] *Id.* at 3–10.

> to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337.
>
> All RE Developers shall be entitled to zero-rated value-added tax on its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities.
>
> This provision shall also apply to the whole process of exploring and developing renewable energy sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors.

From the foregoing, it is clear that the sale of fuel derived from renewable sources of energy, such as biomass, may be subject to zero percent (0%) VAT.

Under Section 4(b) of RA No. 9513, "biomass resources" are defined as:

> (b) "**Biomass resources**" refer to **non-fossilized, biodegradable organic material originating from naturally occurring or cultured plants, animals and micro-organisms, including agricultural products, by-products and residues such as, but not limited to, biofuels** except corn, soya beans and rice **but including** sugarcane and **coconut**, rice hulls, rice straws, coconut husks and shells, corn cobs, corn stovers, bagasse, biodegradable organic fractions of industrial and municipal wastes that can be used in bioconversion process and other processes, as well as gases and liquids recovered from the decomposition and/or extraction of non-fossilized and biodegradable organic materials; ... (Emphasis supplied)

To further establish that petitioner is a manufacturer of biofuel, its Amended Articles of Incorporation[93] states that it was incorporated with the following primary purpose, to wit:

> To engage in **manufacture**, handle, buy and sell at wholesale or retail, deal in, license the manufacture of export and import, toll manufacture soaps, detergents and cleansing compounds of every character and descriptions, cosmetics and personal care products, drugs and pharmaceuticals, bleach/disinfectant, soap noodles, glycerin, **bio fuel** and

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[93] Docket, pp. 173–181, Exhibit "P-2".

> other products **that can be derived from but not limited to coconut**. (Emphasis supplied)

To avail of the incentives under RA No. 9513, RE Developers must comply with the conditions laid down in its Implementing Rules and Regulations (IRR),[94] specifically Section 18 (A), (B) and (C), Rule 5, Part III thereof, which provides:

> SEC. 18. *Conditions for Availment of Incentives and Other Privileges.* —
>
> A. *Registration/Accreditation with the DOE*
>
> **For purposes of entitlement to the incentives and privileges under the Act, existing and new RE Developers**, and manufacturers, fabricators, and suppliers of locally-produced RE equipment **shall register with the DOE**, through the Renewable Energy Management Bureau (REMB). The following certifications shall be issued:
>
> (1) ***DOE Certificate of Registration*** — issued to an RE Developer holding a valid RE Service/Operating Contract.
>
> ... ...
>
> (2) ***DOE Certificate of Accreditation*** — issued to RE manufacturers, fabricators, and suppliers of locally-produced RE equipment, upon submission of necessary requirements to be determined by the DOE, in coordination with the DTI.
>
> B. *Registration with the Board of Investments (BOI)*
>
> ... ...
>
> **To qualify for the availment of the incentives under Sections 13 and 15 of this IRR, RE Developers** and manufacturers, fabricators, and suppliers of locally-produced RE equipment, **shall register with the BOI**.
>
> ... ...
>
> C. *Certificate of Endorsement by the DOE*
>
> **RE Developers, and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall be qualified to avail of the incentives provided for in the Act only after securing a Certificate of Endorsement**

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[94] DOE Circular No. DC2009-05-0008, Rules and Regulations Implementing Republic Act No. 9513 (Renewable Energy Act of 2008), May 25, 2009.

> **from the DOE, through the REMB, on a per transaction basis.**
>
> The DOE, through the REMB, shall issue said certification within fifteen (15) days upon request of the RE Developer or manufacturer, fabricator, and supplier; *Provided*, That the certification issued by the DOE shall be without prejudice to any further requirements that may be imposed by the government agencies tasked with the administration of the fiscal incentives mentioned under Rule 5 of this IRR. (Emphasis and underscoring supplied)

As clarified in *CBK Power Company Limited v. Commissioner of Internal Revenue (CBK Power)*,[95] the DOE has the authority to prescribe criteria for determining whether an entity qualifies as an RE Developer entitled to fiscal incentives under RA No. 9513. The Supreme Court held:

> To reiterate, it is not the mere fact that an entity is an RE Developer that makes such an entity entitled to the fiscal incentives under Republic Act No. 9513. In addition to the registration requirement expressly provided in Republic Act No. 9513, the DOE, pursuant to its power under Section 26 of the law, also has the authority to provide for a set of criteria which would qualify an RE Developer for registration in order to avail of the fiscal incentives. Moreover, the DOE IRR also requires RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment to register with the Board of Investments (BOI) as a condition for entitlement to the fiscal incentives under Republic Act No. 9513.
>
> . . . .
>
> To be sure, implementing rules and regulations, promulgated by administrative agencies tasked to enforce a particular law, are not necessarily binding upon the Court. The Court has the ultimate authority to determine the validity of implementing rules and regulations. However, in the absence of any showing that such implementing rules and regulations go beyond the language and intent of the law that it seeks to enforce or that they violate any other law or rule or are manifestly erroneous, such rules and regulations, which constitute an administrative agency's contemporaneous interpretation of the law, carries persuasive value. It is well settled that an administrative agency's contemporaneous interpretation of the law that it is duty bound to enforce deserves great weight.

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[95] *CBK Power Company Limited v. Commissioner of Internal Revenue*, G.R. No. 247918, February 1, 2023 [Per J. Singh, Third Division].

There is no showing in this case that the DOE IRR is invalid, goes beyond Republic Act No. 9513, or is manifestly erroneous. Thus, the DOE's contemporaneous interpretation of Republic Act No. 9513, and particularly the requirement of registration with the DOE before an RE Developer can avail of the fiscal incentives under the law, is persuasive upon this Court.

Sections 25 and 26 of RA No. 9513 provide that RE Developers, local manufacturers, fabricators, and suppliers of locally-produced renewable energy equipment who register with the DOE shall be issued a certification by the Renewable Energy Management Bureau. This certification shall serve as basis for RE Developers to avail of the incentives identified under RA No. 9513, including VAT at zero-rate.[96]

Moreover, in *Halliburton Worldwide Limited-Philippine Branch v. Commissioner of Internal Revenue,*[97] citing *Vestas Services Philippines, Inc. v. Commissioner of Internal Revenue,*[98] the CTA *En Banc* held that a Certificate of Endorsement by the DOE ("DOE-COE") is not a requirement for the grant of VAT zero-rating under RA No. 9513, *viz.*:

> Reading Section 18 (C), Rule 5, Part III of DOE DC No. 2009-05-0008, with Section 15 (b) of RA No. 9513, **a DOE-COE is crucial only when the incentive sought to be claimed is the duty-free importation of RE machinery, equipment, materials, and parts thereof,** as well as the tax- and duty-free exemption in the event the same was subsequently sold, transferred, or disposed. (Emphasis supplied)

Accordingly, as petitioner is not seeking incentives related to importation of RE equipment, the submission of a DOE-COE is not required in this case.

Petitioner's compliance with the registration requirements under RA No. 9513 and the DOE IRR has been duly established by competent evidence, as earlier discussed. Unlike in *CBK Power*, where the Supreme Court found no proof that the taxpayer had registered with the DOE or the BOI, the records in this case clearly show that petitioner is duly registered with both agencies and has obtained the necessary certifications. The Court cannot disregard these facts as supported by the totality of evidence presented by both parties.

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[96] *Id.*
[97] CTA *EB* Case No. 2476 (CTA Case No. 9670), April 4, 2023.
[98] CTA *EB* Case No. 2479 (CTA Case No. 9544), October 14, 2022.

At this juncture, the Court turns to petitioner's claimed zero-rated sales, *i.e.* sales of CME and alcohol to local customers, Chevron Philippines Inc., and Phoenix Petroleum Philippines Inc. In support of its claim, petitioner submitted the related SIs, which were examined by the ICPA, Mr. Ajero, together with the sales journal, as follows:

Customer Name	Product Sold	Amount	SIs
Chevron Philippines Inc.	CME	₱463,851,814.56	Exhibits "P-16", "P-16-A", "P-16-D", "P-16-M", "P-16-N", "P-16-P", "P-16-R", "P-16-T", "P-16-W", P-16-AA", "P-16-AB", "P-16-AC", "P-16-AR", "P-16-AS", "P-16-AT", "P-16-AU", "P-16-AX", "P-16-BA", "P-16-BD", "P-16-BE", P-16-BF", "P-16-BG", "P-16-BH", "P-16-BI", "P-16-BJ", "P-16-BK", "P-16-BL", "P-16-BM", "P-16-BN", "P-16-BO", "P-16-BQ", "P-16BS", "P-16BU", "P-16-BW", "P-16-BY", "P-16-CC", "P-16-CD", P-16-CE", and "P-16-CD"
Chevron Philippines Inc.	Alcohol	10,500.00	Exhibit "R-5" (BIR Records)[99]
Phoenix Petroleum Philippines, Inc.	CME	46,000,000.00	Exhibits "P-16-O", "P-16-Q", and "P-16-S"
Total Sales of Biodiesel and Alcohol to Local Customers		**₱509,862,314.56**	

Upon further verification, SI No. 15475, issued to Phoenix Petroleum Philippines, Inc. in the amount of ₱28,175,000.00, was found to contain unreadable details and is disallowed for non-compliance with the invoicing requirements.[100]

As for the sale of alcohol to Chevron Philippines Inc., supported by SI No. 15493, in the amount of ₱10,500.00,[101] petitioner classified the transaction as zero-rated sale, as there was no VAT component on the face of the SI. However, upon examination, it is noted that the line directly parallel to "Zero Rated Sales" in SI No. 15493 was left blank, in violation of the

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[99] The sales invoice (SI) pertaining to the sale of alcohol to Chevron Philippines Inc. amounting to ₱10,500.00 cannot be located in the USB containing the SIs for zero-rated and taxable sales (Exhibit "P-16-series") but it was located in BIR Records – Folder 3 of 5 (Exhibit "R-5"), p. 92.

[100] Exhibit "P-16-Q", USB.

[101] BIR Records - Folder 3 of 5 (Exhibit "R-5"), p. 92.

invoicing requirements. In any event, the sale of alcohol does not clearly fall under Section 108(B)(7) of the NIRC of 1997, as amended, and must therefore be classified as a VAT-able transaction.

Considering the above findings, the valid zero-rated sales of CME to local customers are adjusted to ₱481,676,814.56, as follows:

	Chevron Philippines Inc.	**Phoenix Petroleum Philippines Inc.**	**Total**
Total Zero-rated Sales of CME to local customers	₱463,862,314.56	₱46,000,000.00	₱509,862,314.56
Less: Disallowances			
1. Sale of Alcohol	(10,500.00)	-	(10,500.00)
2. SI No. 15475 with unreadable details	-	(28,175,000.00)	(28,175,000.00)
Total Adjusted Zero-Rated Sales of CME to local customers	**₱463,851,814.56**	**₱17,825,000.00**	**₱481,676,814.56**

2. Sale of Crude Glycerin to an export-oriented entity

The second item comprising petitioner's claimed zero-rated sales pertains to its sale of crude glycerin to Sakamoto Orient Chemicals Corp., amounting to ₱11,085,546.50.

Crude glycerin, as admitted by petitioner, is only one of the by-products from the manufacture of CME. Section 4.108-5 (b) (7) of RR No. 16-2005, implementing Section 108 (B)(7) of the NIRC of 1997, as amended, expressly limits VAT zero-rating to the sale of power or fuel generated through renewable sources of energy.[102] Thus, the treatment of VAT zero-rating cannot be extended to the sale of crude glycerin, which is merely a by-product and not the renewable fuel itself. This is consistent with petitioner's own treatment of a similar sale of crude glycerin to Chemrez Technologies, Inc., which was treated by petitioner as subject to output VAT.[103]

[102] Section 4.108-5 (b) (7) of RR No. 16-2005, implementing Section 108 (B)(7) of the NIRC of 1997, as amended, mentions that "zero-rating shall apply **strictly** to the sale of power or fuel generated through renewable sources of energy." (Emphasis supplied)

[103] Exhibit "P-16-CH" and "P-16-CI", USB (pertaining to SI Nos. 15508 and 15520); See also *ICPA Report*, Annex A, USB.

Nevertheless, the records of the instant case show that the sale of crude glycerin to Sakamoto Orient Chemicals Corp. is *"considered export sale"* under Section 106(A)(2)(a)(5) of the NIRC, as amended, which provides:

> SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* —
>
> (A) *Rate and Base of Tax.* — ...
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (a) *Export Sales.* — The term 'export sales' means:
>
> ... ...
>
> (5) Those considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, and other special laws.

In relation thereto, Section 4.106-5(a)(5) of RR No. 16-2005, as amended by RR No. 04-2007, provides:

> SEC. 4.106-5. *Zero-Rated Sales of Goods or Properties.* — ...
>
> The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (a) *Export Sales.* — 'Export Sales' shall mean:
>
> ... ...
>
> (5) Transactions considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, and other special laws.
>
> ***'Considered export sales under Executive Order No. 226'*** shall mean the Philippine port F.O.B. value determined from invoices, bills of lading, inward letters of credit, landing certificates, and other commercial documents, of export products exported directly by a registered export producer, or the net selling price of export products sold by a registered export producer to another export producer, or to an export trader that subsequently exports the same; *Provided*, That sales of export products to another producer or to an export trader shall only be deemed export sales when actually exported by the latter, as evidenced by landing certificates or similar commercial documents; *Provided, further*, That pursuant to EO 226 and other special laws, even without actual exportation, the

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> following shall be considered constructively exported: (1) sales to bonded manufacturing warehouses of export-oriented manufacturers; (2) sales to export processing zones pursuant to Republic Act (RA) Nos. 7916, as amended, 7903, 7922 and other similar export processing zones; (3) sale to enterprises duly registered and accredited with the Subic Bay Metropolitan Authority pursuant to RA 7227; (4) sales to registered export traders operating bonded trading warehouses supplying raw materials in the manufacture of export products under guidelines to be set by the Board in consultation with the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC); (5) sales to diplomatic missions and other agencies and/or instrumentalities granted tax immunities, of locally manufactured, assembled or repacked products whether paid for in foreign currency or not.
>
> For purposes of zero-rating, the export sales of registered export traders shall include commission income. The exportation of goods on consignment shall not be deemed export sales until the export products consigned are in fact sold by the consignee: and *Provided, finally,* that sales of goods, properties or services made by a VAT-registered supplier to a BOI-registered manufacturer/producer whose products are 100% exported are considered export sales. A certification to this effect must be issued by the Board of Investment (BOI) which shall be good for one year unless subsequently re-issued by the BOI.

Indeed, for a "*considered export sale*" to qualify for VAT zero-rating, the following essential elements must be present:

1. The sale was made by a VAT registered person; and,
2. There was sale of goods or services to an entity entitled to incentives under Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987 (OIC), and other special laws.

As to the *first* element, it is undisputed that petitioner is duly registered as a VAT-registered taxpayer.

As to the *second* element, the claimant must present, among others, the following documents:

1. A sales invoice as proof of the sale of goods; and
2. Proof of entitlement to zero-rating under the OIC or other special laws.

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In this case, the BIR Records confirm that the sale of crude glycerin was made to Sakamoto Orient Chemicals Corp., an export-oriented enterprise duly registered with the PEZA, as evidenced by the following:

Customer Name	**Proof of VAT Zero-rating**	**Certification Period**	**Exhibit No.**
Sakamoto Orient Chemicals Corporation	PEZA Certificate No. 2020-0524 issued on December 18, 2019	January 1 to December 31, 2020	"R-5" (BIR Records)[104]

Further, such sale was supported by the following SIs, as examined and verified by the ICPA:

Customer Name	**Product Sold**	**Amount (as converted in Philippine Peso)**	**SIs**
Sakamoto Orient Chemicals Corp.	Crude Glycerin	₱11,085,542.00	Exhibits "P-16-B", "P-16-C", "P-16-E", "P-16-F", "P-16-G", "P-16-H", "P-16-I", "P-16-J", "P-16-K", "P-16-L", "P-16-U", "P-16-V", "P-16-X", "P-16-Y", "P-16-Z", "P-16-AD", "P-16-AE", "P-16-AF", "P-16-AG", "P-16-AH", "P-16-AI", "P-16-AJ", "P-16-AK", "P-16-AL", "P-16-AM", "P-16-AN", "P-16-AO", "P-16-AP", "P-16-AQ", "P-16-AV", "P-16-AW", "P-16-AY", "P-16-AZ", "P-16-BB", "P-16-BC", "P-16-BP", "P-16-BR", "P-16-BT", "P-16-BV", "P-16-BX", "P-16-BZ", "P-16-CA", and "P-16-CB"
Total Sale of Crude Glycerin to Local Customers		**₱11,085,542.00**	

Therefore, the total sales to Sakamoto Orient Chemicals Corp., in the amount of ₱11,085,542.00, qualify as zero-rated under Section 106(A)(2)(a)(5) of the NIRC of 1997, as amended.

Summary of petitioner's zero-rated Sales, as adjusted.

For TY 2020, petitioner reported total zero-rated sales amounting to ₱520,947,856.56. Upon review, only ₱492,762,356.56 qualified as zero-rated under Sections

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[104] Exhibit "R-5", BIR Records - Folder 1 of 5, p. 12.

108(B)(7) and 106(A)(2)(a)(5) of the NIRC of 1997, as amended, broken down as follows:

Zero-rated sales of CME to local customers under Section 108(B)(7) of the NIRC of 1997, as amended	₱481,676,814.56
Zero-rated sale of crude glycerin to an export-oriented entity under Section 106(A)(2)(a)(5) of the NIRC of 1997, as amended	11,085,546.50
Total Valid Zero-rated Sales for TY 2020	**₱492,762,356.56**

Adjustments were made due to the following disallowances:

Total Zero-Rated Sales	₱520,947,856.56
Less: Exceptions noted	
a. Sale of Alcohol	(10,500.00)
b. SI No. 15475 with unreadable details	(28,175,000.00)
Total Valid Zero-rated Sales for TY 2020	**₱492,762,356.56**

Having found that petitioner had valid zero-rated sales in the total amount of ₱492,762,356.56 for TY 2020, the Court shall now proceed to determine whether petitioner has satisfied the remaining requisites for the refund or issuance of tax credit certificate of its claimed input VAT.

<u>Sixth requisite</u>: The claimed input VAT does not appear to be transitional input taxes.

Petitioner's claimed input VAT does *not* constitute transitional input taxes under Section 111(A) of the NIRC of 1997, as amended, which provides:

> SEC. 111. *Transitional/Presumptive Input Tax Credits.* —
>
> (A) *Transitional Input Tax Credits.* — A person who becomes liable to value-added tax or any person who elects to be a VAT-registered person shall, subject to the filing of an inventory according to rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, be allowed input tax on his beginning inventory of goods, materials and supplies equivalent to two percent (2%) of the value of such inventory or the actual value-added tax paid on such goods, materials and supplies, whichever is higher, which shall be creditable against the output tax.

As held by the Supreme Court in *Fort Bonifacio Development Corporation v. Commissioner of Internal Revenue,*[105] transitional input tax credit operates to benefit newly VAT-registered persons, whether or not they previously paid taxes in the acquisition of their beginning inventory of goods, materials, and supplies. During the transition period from non-VAT to VAT status, the transitional input tax credit alleviates the impact of the VAT on the taxpayer.

As there is no indication that the subject input VAT arises from a transition to VAT registration, the input taxes in question do not qualify as transitional input tax credits. Thus, the *sixth* requisite is deemed satisfied.

Seventh requisite: Petitioner's claimed input VAT must be duly substantiated as due or paid.

To be eligible for a VAT refund, a claimant must substantiate the input VAT with supporting documents demonstrating that the input taxes were actually due or paid, pursuant to Section 110 (A) of the NIRC of 1997, as amended:

> SEC. 110. *Tax Credits.* —
>
> (A) *Creditable input Tax.* —
>
> (1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax:
>
> (a) Purchase or importation of goods:
>
> (i) For sale; or
>
> (ii) For conversion into or intended to form part of a finished product for sale including packaging materials; or
>
> (iii) For use as supplies in the course of business; or
>
> (iv) For use as materials supplied in the sale of service; or
>
> (v) For use in trade or business for which deduction for depreciation or amortization is allowed under this Code.

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[105] G.R. Nos. 158885 & 170680, April 2, 2009 [Per J. Tinga, *En Banc*].

> (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; and
>
> (b) To the importer upon payment of the value-added tax prior to the release of the goods from the custody of the Bureau of Customs.
>
> *Provided,* That the input tax on goods purchased or imported in a calendar month for use in trade or business for which deduction for depreciation is allowed under this Code, shall be spread evenly over the month of acquisition and the fifty-nine (59) succeeding months if the aggregate acquisition cost for such goods, excluding the VAT component thereof, exceeds One Million pesos (P1,000,000): *Provided, however,* That if the estimated useful life of the capital good is less than five (5) years, as used for depreciation purposes, then the input VAT shall be spread over such a shorter period: *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.

This requirement is further implemented by Sections 4.110-1 to 4.110-3 of RR No. 16-2005, as amended, which provide:

> 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 accordance with Secs. 113 and 237 of the Tax Code shall be creditable against the output tax:
>
> (a) Purchase or importation of goods:

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(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 materials supplied in the sale of services; or

(5) For use in trade or business for which deduction for depreciation or amortization is allowed under the Tax Code,

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

(c) Purchase of services in which a VAT has actually been paid;

(d) Transactions "deemed sale" under Sec. 106 (B) of the Tax Code;

(e) Transitional input tax allowed under Sec. 4.111 (a) of these Regulations;

(f) Presumptive input tax allowed under Sec. 4.111 (b) of these Regulations;

(g) Transitional input tax credits allowed under the transitory and other provisions of these Regulations.

SEC. 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.

SEC. 4.110-3. *Claim for Input Tax on Depreciable Goods.* — Where a VAT-registered person purchases or imports capital goods, which are depreciable assets for income tax purposes, the aggregate acquisition cost of which (exclusive of VAT) in a calendar month exceeds One Million pesos (P1,000,000.00), regardless of the acquisition cost of each capital good, shall be claimed as credit against output tax in the following manner:

(a) If the estimated useful life of the capital good is five (5) years or more – The input tax shall be spread evenly over a period of sixty (60) months and the claim for input tax credit will commence in the calendar month when the capital good is acquired. The total input taxes on purchases or importations of this type of capital goods shall be divided by 60 and the quotient will be the amount to be claimed monthly.

(b) If the estimated useful life of a capital good is less than five (5) years – The input tax shall be spread evenly on a monthly basis by dividing the input tax by the actual number of months comprising the estimated useful life of the capital good. The claim for input tax credit shall commence in the calendar month that the capital goods were acquired.

Where the aggregate acquisition cost (exclusive of VAT) of the existing or finished depreciable capital goods purchased or imported during any calendar month does not exceed one million pesos (P1,000,000.00), the total input taxes will be allowable as credit against output tax in the month of acquisition.

Capital goods or properties refers to goods or properties with estimated useful life greater than one (1) year and which are treated as depreciable assets under Sec. 34(F) of the Tax Code, used directly or indirectly in the production or sale of taxable goods or services.

The aggregate acquisition cost of depreciable assets in any calendar month refers to the total price, excluding the VAT, agreed upon for one or more assets acquired and not on the payments actually made during the calendar month. Thus, an asset acquired on installment for an acquisition cost of more than P1,000,000.00, excluding the VAT, will be subject to the amortization of input tax despite the fact that the monthly payments/installments may not exceed P1,000,000.00.

Construction in progress (CIP) is the cost of construction work which is not yet completed. CIP is not depreciated until the asset is placed in service. Normally, upon completion, a CIP item is reclassified and the reclassified asset is capitalized and depreciated.

CIP is considered, for purposes of claiming input tax, as a purchase of service, the value of which shall be determined based on the progress billings. Until such time the construction has been completed, it will not qualify as capital goods as herein defined, in which case, input tax credit on such transaction can be recognized in the month the payment was made: *Provided*, that an official receipt of payment has been issued based on the progress billings.

In case of contract for the sale of service where only the labor will be supplied by the contractor and the materials will be purchased by the contractee from other suppliers, input tax credit on the labor contracted shall still be recognized on the month the payment was made based on a progress billing while input tax on the purchase of materials shall be recognized at the time the materials were purchased.

(a) The amortization of the input VAT shall only be allowed until December 31, 2021 after which taxpayers with unutilized input VAT on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized: *Provided,* 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.

... ...

Once the input tax has already been claimed while the construction is still in progress, no additional input tax can be claimed upon completion of the asset when it has been reclassified as a depreciable capital asset and depreciated."

Meanwhile, Section 4.110-8 of RR No. 16-2005 provides for the substantiation requirements of input tax credits as follows:

SEC. 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.

A cash register machine tape issued to a registered buyer shall constitute valid proof of substantiation of tax credit only if it shows the information required under Secs. 113 and 237 of the Tax Code.

Verily, in order to prove entitlement to credits for input taxes due and paid, petitioner must not only present the supporting documents prescribed under Section 4.110-8 of RR No. 16-2005, but these documents must also comply with the invoicing requirements under Sections 113(A) and (B), 237 and 238 of the NIRC of 1997, as amended, as implemented under Section 4.113-1(A) and (B) of RR No. 16-2005.

i. Unaccounted and unsupported input VAT – ₱1,173,429.00

Based on petitioner's Amended Quarterly VAT Returns for TY 2020,[106] total input VAT from domestic purchases of goods and services amounted to ₱59,209,372.08, out of which ₱45,972,202.93[107] is the subject of the present claim for refund as follows:

Particulars	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Input VAT on domestic purchase of goods other than capital goods	₱35,910,214.65	₱5,262,603.00	₱6,578,111.74	₱11,263,442.69	₱59,014,372.08
Deferred from the previous quarter	889,642.86	840,892.86	792,142.86	743,392.86	3,266,071.44
Less: Deferred for the succeeding period	(840,892.86)	(792,142.86)	(743,392.86)	(694,642.86)	(3,071,071.44)
Total Input VAT	**₱35,958,964.65**	**₱5,311,353.00**	**₱6,626,861.74**	**₱11,312,192.69**	**₱59,209,372.08**
Less: Output VAT	–	794,096.95	1,639,114.29	10,803,957.86	13,237,169.10
Excess Input VAT	**₱35,958,964.65**	**₱4,517,256.05**	**₱4,987,747.45**	**₱508,234.83**	**₱45,972,202.98**

The *ICPA Report*[108] noted that petitioner's purchase journal was unavailable, and the ICPA was only able to examine petitioner's Amended Quarterly VAT Returns, SIs and ORs evidencing its purchase transactions for TY 2020. Based on the ICPA's examination of the SIs and ORs, the total purchases and

[106] Docket, pp. 183–184, 191–192, 199–200 and 207–208, Exhibit "P-7", "P-7-A", "P-7-B" and "P-7-C", respectively.
[107] Difference of ₱0.05 from computation below due to rounding-off.
[108] Docket, pp. 290–296, Exhibit "P-19".

input VAT are ₱483,890,346.80 and ₱58,035,943.08, respectively.[109]

Consequently, a variance of ₱1,173,429.00 was noted between the amount of input VAT reported in the Amended Quarterly VAT Returns and the amount reflected in the SIs and ORs, as summarized below:

Total input VAT per amended Quarterly VAT Returns	₱59,209,372.08
Less: Total input VAT per examination of SIs/ORs (Annex B of ICPA Report)	(58,035,943.08)
Unaccounted input VAT	**₱1,173,429.00**

Since this discrepancy is neither supported by SIs nor ORs, the unaccounted input VAT should be disallowed.

ii. Input VAT disallowed under Section 15(g) of R.A. No. 9513 (Non-VATable Purchases) – ₱56,831,065.20

As an RE Developer, petitioner is entitled to zero-rated VAT on its purchases of local supply of goods, properties, and services needed for the development, construction, and installation of its plant facilities and for the whole process of exploring and developing RE sources up to their conversion into power, pursuant to Section 15(g) of RA No. 9513, as implemented by Part III, Rule 5, Section 13.G[110] of its Implementing Rules and Regulations (IRR).

[109] *ICPA Report,* Annex B, USB.

[110] SECTION 13. *Fiscal Incentives for Renewable Energy Projects and Activities.* — DOE-certified existing and new RE Developers of RE facilities, including Hybrid Systems, in proportion to and to the extent of the RE component, for both Power and Non-Power Applications, shall be entitled to the following incentives:

. . . .

G. Zero Percent Value-Added Tax Rate

The following transactions/activities shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337:

(a) Sale of fuel from RE sources or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels;
(b) Purchase of local goods, properties and services needed for the development, construction, and installation of the plant facilities of RE Developers; and
(c) Whole process of exploration and development of RE sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors.

The DOE, BIR and DOF shall, within six (6) months from issuance of this IRR, formulate the necessary mechanisms/guidelines to implement this provision. (Emphasis supplied)

However, considering that petitioner had already completed the development, construction, and installation of its plant facilities, being in commercial operations since July 2007,[111] the benefit under the 2nd paragraph of Section 15(g) no longer applies in this case.

Nonetheless, the 3rd paragraph of Section 15(g) remains relevant and may still be applied, allowing zero-rated VAT on purchases of goods, properties, and services related to "*the whole process of exploring and developing renewable energy sources up to its conversion into power.*" Accordingly, purchases falling within this scope are not subject to VAT, and any input VAT incurred thereon and claimed for refund must be denied. Conversely, only input VAT attributable to petitioner's purchase of goods and services not directly related to "*the whole process of exploring and developing renewable energy sources up to conversion into power*" may be considered in the present claim for VAT refund.

In this case, input VAT in the total amount of ₱56,831,065.20, incurred on petitioner's local purchases of goods, properties, and services necessary for the entire process of exploring and developing RE sources up to its conversion into power covered by Section 15(g), is subject to zero-rated VAT and, therefore, must be disallowed. The disallowed amount is itemized below:

Supplier Name	Particulars	SIs/ ORs Exhibit No.	Input VAT[112]
Belman Laboratories	Iodine Solution, Acetic Acid, Chloroform, Propanol, Ethyl Alcohol (Ethanol), Acetone, Potassium Hydroxide Pellets; Universal Ind Strips, Sodium Hydroxide Pellets, Toulene AR, Buffer Soln, Propanil, Isooctane	"P-17-F" to "P-17-J", "P-17-DW" to "P-17-DZ", "P-17-EA", "P-17-JU", and "P-17-AHB"	₱18,260.48
Chemi-Source Unlimited Corporation	Citric Acid Anhydrous	"P-17-ABK"	5,558.04
Dumaguete Coconut Mills, Inc.	Crude Coconut Oil	"P-17-KC", "P-17-NW", and "P-17-AHE"	12,250,608.74
Filipinas Agri-Milling Corporation	Crude Coconut Oil	"P-17-EP" to "P-17-ES", "P-17-KE" to "P-17-KF", "P-17-XB" to "P-17-XD", "P-17-ABP" to "P-17-ABR", "P-17-AFA" to "P-17-	1,897,908.66

[111] BIR Records - Folder 1 of 5, p. 10.
[112] Amounts are based on the Summary of SIs and ORs listed in Annex B of the ICPA Report.

		AFD", and "P-17-AHF" to "P-17-AHH"	
Gloton Enterprise, Inc.	CNO (Coconut Natural Oil)	"P-17-Z", "P-17-EW", "P-17-EX", "P-17-KJ" to "P-17-KK", "P-17-ABU" to "P-17-ABV", "P-17-AFF", and "P-17-AHK"	799,422.18
Harnwell Chemicals Corporation	Hydranal Composite 5, Hydranal Methanol Dry, Sodium Thiosulfate Pentahydrate Duksan, Hydranal Water Standard, Potassium Hydroxide Duksan; Sodium Thiosulfate Anhydous, Sodium Thiosulfate Duksan, Acetone AR Duksan	"P-17-EZ", "P-17-FA" to "P-17-FB", "P-17-KN" to "P-17-KO", "P-17-RD," and "P-17-XK"	20,806.32
Himmel Industries, Inc.	Methanol	"P-17-AJ" to "P-17-AP", "P-17-FD" to "P-17-FO", "P-17-KP" to "P-17-KZ", "P-17-LA", "P-17-NX" to "P-17-NZ", "P-17-OA" to "P-17-OF", "P-17-RE" to "P-17-RG", "P-17-UE" to "P-17-UK", "P-17-XL" to "P-17-XO", and "P-17-ABZ" to "P-17-ACB"	1,867,828.94
Jet Power Corporation	Coal	"P-17-AR" to "P-17-AV", "P-17-FQ" to "P-17-FX", "P-17-LB" to "P-17-LC", "P-17-OG" to "P-17-OL", "P-17-RH" to "P-17-RK", "P-17-UL" to "P-17-UN", "P-17-XQ" to "P-17-XV", and "P-17-ACD" to "P-17-ACH"	424,166.62
Kemichem Industries Corp.	Caustic Soda Pearl, Para-toluene Sulfonic Acid	"P-17-GD", "P-17-OP", "P-17-YA", and "P-17-AFU"	254,464.29
Lapu-Lapu Wholesale Traders, Inc.	Coconut Oil	"P-17-GL" to "P-17-GN", and "P-17-LO" to "P-17-LP"	8,925,535.71
Legaspi Import & Export Corporation	Methanol	"P-17-BH" to "P-17-BO", "P-17-GO" to "P-17-GV", "P-17-YH" to "P-17-YJ", and "P-17-ACW" to "P-17-ACY"	693,407.08
Mabuhay Vinyl Corporation	Hydrochloric Acid	"P-17-HF", "P-17-LT", "P-17-OZ", and "P-17-ADJ"	33,251.79
Malabon Soap & Oil Industrial Co., Inc.	Edible Oil in Bulk	"P-17-HH" to "P-17-HL", "P-17-AGB" to "P-17-AGI", and "P-17-AIE" to "P-17-AIQ"	3,319,363.39
Matchpoint Traders & Wholesalers Inc.	Coconut Oil	"P-17-CC" to "P-17-CE", "P-17-HR" to "P-17-HT", and "P-17-YV" to "P-17-YX"	17,197,125.00
MC MAI (Cebu) Trading Corp.	Caustic Soda Liquid	"P-17-CF", "P-17-HU", "P-17-NA", "P-17-SL", and "P-17-YY"	145,155.35
MRS Technologies, Inc.	Alfa Laval Brazed Plate Heat Exchanger	"P-17-NB"	140,422.43
Narchem Industrial Sales	Caustic Soda Pearl Taiwan, Phosporic Acid	"P-17-CJ" to "P-17-CK", "P-17-HY", and "P-17-ADR"	63,176.79
New Asia Oil, Incorporated	Crude Coconut Oil	"P-17-HZ", and "P-17-IA"	6,070,178.57

MV

Roadscape Construction	Bitumen	"P-17-AEC"	910.71
San Pablo Manufacturing Corporation	Coconut Fatty Acid Distillate	"P-17-AED" to "P-17-AEK", and "P-17-AGP"	1,788,081.00
Sprint Industrial & Development Corp.	Indonesian Steam Coal	"P-17-CW" to "P-17-DC", "P-17-IR" to "P-17-IX", "P-17-MB", "P-17-NE" to "P-17-NH", "P-17-VS" to "P-17-VT", "P-17-ZI" to "P-17-ZJ", and "P-17-ZL"	241,170.74
Stelaron International, Inc.	Diesel	"P-17-DF", "P-17-JE", "P-17-MC", and "P-17-AAE"	481,928.57
Universal Aquarius, Inc.	Sulfuric Acid, Hydrochloric Acid	"P-17-DH", "P-17-JI", "P-17-MH", "P-17-QA", and "P-17-AAF"	35,791.71
Universal Harvester, Inc.	Hydrochloric Acid	"P-17-DI" to "P-17-DJ", "P-17-DM", "P-17-JJ" to "P-17-JM", "P-17-NP" to "P-17-NQ", "P-17-QB", "P-17-TB" to "P-17-TD", "P-17-WK" to "P-17-WL", "P-17-AAG" to "P-17-AAJ", and "P-17-AEM" to "P-17-AEN"	155,427.80
YANA Chemodities, Inc.	Ethanol Absolute	"P-17-WM"	1,114.29
TOTAL			**₱56,831,065.20**

iii. Input VAT disallowed due to non-compliance with the invoicing requirements – ₱121,627.53

Upon further verification of the SIs and ORs, the Court disallows input VAT in the total amount of ₱121,627.53 for the specific reasons outlined below:

1. Input VAT supported by SIs or ORs with incorrect or no TIN			
Month	**Exhibit No.**	**Supplier Name**	**Input VAT**
January	"P-17-DD"	Sunjoice Marketing Corporation	₱248.85
January	"P-17-DE"	Sunjoice Marketing Corporation	414.75
February	"P-17-IE"	Philippine Institute of Pure and Applied Chemistry	924.00
February	"P-17-IY"	Standard Insurance Co., Inc.	11,433.60
February	"P-17-JA"	Standard Insurance Co., Inc.	3,457.80
February	"P-17-JC"	Standard Insurance Co., Inc.	1,905.38
March	"P-17-LZ"	Rising Sun Security & Investigation Agency Inc.	2,378.96
May	"P-17-NI"	Standard Insurance Co. Inc.	3,818.55
May	"P-17-NK"	Standard Insurance Co. Inc.	4,738.71
June	"P-17-NU"	Co Ban Kiat Hardware, Inc.	1,607.14
June	"P-17-PB"	Philippine Institute of Pure and Applied Chemistry	924.00

June	"P-17-PO"	Standard Insurance Co., Inc.	2,024.82
June	"P-17-PQ"	Standard Insurance Co., Inc.	3,609.35
June	"P-17-PS"	Standard Insurance Co., Inc.	2,607.03
July	"P-17-RN"	Jobtract Resources & Marketing Solutions Inc.	850.97
August	"P-17-UZ"	Philippine Institute of Pure and Applied Chemistry	924.00
August	"P-17-VU"	Standard Insurance Co., Inc.	53.91
August	"P-17-VW"	Standard Insurance Co., Inc.	3,252.59
August	"P-17-VY"	Standard Insurance Co., Inc.	3,114.77
August	"P-17-WA"	Standard Insurance Co., Inc.	3,566.03
August	"P-17-WC"	Standard Insurance Co., Inc.	53.91
September	"P-17-XW"	Jobtract Resources & Marketing Solutions Inc.	1,962.00
September	"P-17-XY"	Jobtract Resources & Marketing Solutions Inc.	1,716.33
September	"P-17-ZM"	Standard Insurance Co., Inc.	15,085.80
September	"P-17-ZO"	Standard Insurance Co., Inc.	10,954.80
September	"P-17-ZQ"	Standard Insurance Co., Inc.	3,473.14
September	"P-17-ZS"	Standard Insurance Co., Inc.	3,485.89
September	"P-17-ZU"	Standard Insurance Co., Inc.	53.91
September	"P-17-ZW"	Standard Insurance Co., Inc.	4,228.20
September	"P-17-ZY"	Standard Insurance Co., Inc.	3,973.02
September	"P-17-AAA"	Standard Insurance Co., Inc.	2,253.60
November	"P-17-AGM"	P.S. Electrical Services	2,978.57
November	"P-17-AGR"	Standard Insurance Co., Inc.	53.91
November	"P-17-AGT"	Standard Insurance Co., Inc.	2,717.96
November	"P-17-AGV"	Standard Insurance Co., Inc.	3,292.34
		Subtotal	**₱108,138.59**
2. Input VAT supported by ORs with unspecified or unascertainable nature of payment			
Month	**Exhibit No.**	**Supplier Name**	**Input VAT**
March	"P-17-LW"	Raymundo Avenue Glass & Aluminum Supply & Service	₱488.57
June	"P-17-ON"	JNJ Instrumentation Sales and Services, Inc.	1,460.37
June	"P-17-PY"	The First Analytical Services and Technical Cooperative	1,347.60
June	"P-17-PZ"	The First Analytical Services and Technical Cooperative	94.80
June	"P-17-QC"	Webcast Technologies, Inc.	1,007.16
July	"P-17-TA"	The First Analytical Services and Technical Cooperative	438.00
August	"P-17-TV"	Dynalab Corp.	7,017.86
October	"P-17-ACI"	JNJ Instrumentation Sales and Services, Inc.	342.86
November	"P-17-AEY"	Co Ban Kiat Hardware, Inc.	1,285.71
		Subtotal	**₱13,482.93**
3. Overclaimed input VAT			

January	"P-17-BQ"	Linkbelt Industrial Corporation	
	Input VAT per claim ₱555.22		
	Input VAT per actual 549.21		**₱6.01**
		TOTAL	**₱121,627.53**

Summary of petitioner's Valid Input VAT

Based on the foregoing findings, petitioner has complied with the *seventh* requisite. Out of the total reported input VAT amounting to ₱59,209,372.08, only ₱1,083,250.35 represents substantiated input VAT, in accordance with the invoicing and substantiation requirements prescribed by law and regulations, as computed below:

Total Declared Input VAT per quarterly VAT returns		₱59,209,372.08
Less: Exceptions noted		
i.	Unaccounted input VAT	(1,173,429.00)
ii.	Input VAT disallowed under Sec. 15(g) of R.A. No. 9513 (Non-VATable Purchases)	(56,831,065.20)
iii.	Input VAT disallowed due to non-compliance with the invoicing requirements	(121,627.53)
Substantiated or Valid Input VAT for TY 2020		**₱1,083,250.35**

<u>Eighth requisite</u>: Petitioner's declared input taxes must be proportionately allocated based on sales volume.

Under the *eighth* requisite, input VAT claimed must be attributable to zero-rated or effectively zero-rated sales. Where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly or entirely attributed to any specific sales category, the input taxes must be proportionately allocated based on sales volume.

Considering the foregoing, in *Commissioner of Internal Revenue v. Stefanini Philippines, Inc (Stefanini),*[113] the CTA *En Banc* departed from the previous approach of using "Substantiated or Valid Input VAT" in apportioning input VAT for purposes of calculating the portion allocable to VAT-able sales. The Court instead adopted the use of "Declared Input

[113] CTA *EB* Case No. 2753 (CTA Case No. 10188), October 21, 2024.

VAT" to avoid making an indirect judicial assessment of deficiency VAT, which is the exclusive prerogative of the BIR.

The *Stefanini* case shed guidance on the computation of the apportionment of input VAT where the CTA *En Banc* explained that for purposes of computing the "Output VAT Still Due", the allocation must be based on the "Declared Input VAT" rather than the "Substantiated or Valid Input VAT", *viz.*:

> As regards the computation of "Output VAT Still Due," the 'no judicial assessment rule' necessarily prevents the Court from reducing the ratable portion of input VAT allocable to VAT-able sales for failure of substantiation. **Thus, instead of the "Substantiated or Valid Input VAT," which is what the Court typically uses in apportioning input VAT based on sales volume, it should be the "Declared Input VAT" for the period of claim.**
>
> To reiterate, as held in *Chevron,* "the substantiation of input taxes that can be credited against the output tax is an issue relevant to the assessment for potential deficiency output VAT liability." **Given that the ratable portion of input VAT allocable to VAT-able sales is credited against output VAT to arrive at "Output VAT Still Due," the Court is bound to apportion the taxpayer-claimant's declaration of "Total Available Input VAT" in the relevant VAT Return for the period of claim. Reducing this amount to only the substantiated portion would be tantamount to an indirect judicial assessment for deficiency VAT.** (Emphasis supplied)

As culled from the records, petitioner reported total sales of ₱631,257,500.50, broken down into VATable and zero-rated sales. However, since its input VAT could not be directly or entirely attributed to either type of sale, the *declared input VAT* of ₱59,209,372.08 was proportionately allocated based on sales volume, in line with the dictum in *Stefanini* case, as follows:

	Amount [A]	**Percentage to Total Sales** [B]	**Allocated Declared Input VAT** [C] = [A x B]
VAT-able sales	₱110,309,742.44	17.4746003%[114]	₱10,346,601.13
Zero-rated sales	520,947,856.56[115]	82.5253997%[116]	48,862,770.95
Total	**₱631,257,599.00**	**100.00%**	**₱59,209,372.08**

[114] ₱110,309,742.44 divided by ₱631,257,599.00.
[115] Adjusted amount to reflect the understatement of the amount per Amended Quarterly VAT Returns for TY 2020 *vis-à-vis* ORs.
[116] ₱520,947,856.56 divided by ₱631,257,599.00.

Thus, only ₱48,862,770.95 of petitioner's declared input VAT is attributable to its zero-rated sales.

<u>Ninth requisite</u>: Petitioner's input taxes have not been applied against output taxes in the same or succeeding quarters.

To satisfy the *ninth* requisite, it must be established that petitioner's input VAT attributable to zero-rated sales was not applied against its output VAT liability during the same or succeeding quarters.

Petitioner declared an output VAT in the aggregate amount of ₱13,237,169.10 for taxable sales during the 1st to 4th quarters of TY 2020, to wit:

Exhibit[117]	**TY 2020**	**Output VAT**
"P-7"	1st Quarter	₱ -
"P-7-a"	2nd Quarter	794,096.95
"P-7-b"	3rd Quarter	1,639,114.29
"P-7-c"	4th Quarter	10,803,957.86
	Total	**₱13,237,169.10**

Following the input VAT allocation based on *Stefanini*, petitioner has a net output VAT still due of ₱2,890,567.97, computed as follows:

Output VAT per quarterly VAT Returns	₱13,237,169.10
Less: Declared Input VAT allocable to VAT-able sales	(10,346,601.13)
Output VAT Still Due	**₱2,890,567.97**

In *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue (Chevron)*,[118] the Supreme Court held that the input VAT attributable to zero-rated sales may, at the option of the VAT-registered taxpayer, either be: (1) charged against output VAT from VAT-able sales, and any unutilized or "excess" input VAT may be claimed for refund or issuance of tax credit certificate; or (2) claimed for refund or tax credit in its entirety, and such option is vested with the taxpayer-claimant, to wit:

[117] Sum of Line 15B, Exhibits "P-7" to "P-7-c", Docket, pp. 183–184, 191–192, 199–200 & 207–208, respectively.
[118] G.R. No. 215159, July 5, 2022 [Per J. Lopez, M., *En Banc*].

> Thus, the input tax attributable to zero-rated sales may, **at the option of the VAT-registered taxpayer**, be: (1) charged against output tax from regular 12% VAT-able sales, and any unutilized or "excess" input tax may be claimed for refund of the issuance of tax credit certificate; **or** (2) claimed for refund or tax credit in its entirety. It must be stressed that the **remedies of charging the input tax against the output tax and applying for a refund or tax credit are alternative and cumulative.** Furthermore, **the option is vested with the taxpayer-claimant.** (Emphasis supplied)

In the present case, petitioner clearly exercised the *first* option by offsetting its output VAT amounting to ₱13,237,169.10 against its total declared input VAT of ₱59,209,372.08 for the 1st to 4th quarters of TY 2020, as shown below:[119]

Input VAT on domestic purchase of goods other than capital goods	₱59,014,372.08
Add: Amortized input VAT on capital goods exceeding ₱1 million	–
Deferred from previous quarter	3,266,071.44
Less: Deferred for the succeeding period	(3,071,071.44)
Total Input VAT	59,209,372.08
Less: Declared Output VAT	(13,237,169.10)
Net VAT Refund based on the Petition	**₱45,972,202.98**[120]

This confirms that petitioner sought a refund of its unutilized or "excess" input VAT after applying a portion thereof against its output VAT liabilities.

In this case, petitioner's declared input VAT allocated to VAT-able sales (₱10,346,601.13) was insufficient to cover its output VAT liability (₱13,237,169.10). Consequently, a portion of the declared input VAT allocated to zero-rated sales (₱48,862,770.95) was applied against the remaining output VAT of ₱2,890,567.97. This left ₱45,972,202.98 as the excess input VAT attributable to declared zero-rated sales in the amount of ₱520,947,856.56, as shown below:

Declared input VAT allocated to zero-rated sales	₱48,862,770.95
Less: Output VAT still due	2,890,567.97
Excess input VAT attributable to declared zero-rated sales	**₱45,972,202.98**

hr

[119] Docket, p. 23, Exhibit "P-6-A", Annex A of BIR Form No. 1914.
[120] Difference of ₱0.05 due to rounding-off.

However, under the previously discussed *seventh* requisite, it is not enough that the input VAT be declared, it must also be **valid and substantiated**. Of the total declared input VAT of ₱59,209,372.08, only ₱1,083,250.35 was properly substantiated and therefore qualifies as valid input VAT for TY 2020. Accordingly, even if petitioner has excess input VAT attributable to declared zero-rated sales amounting to ₱45,972,202.98, it may only be refunded up to the extent of its valid and substantiated input VAT:

[A] Excess input VAT attributable to declared zero-rated sales	₱45,972,202.98
[B] Valid input VAT (*see seventh requisite)*	₱1,083,250.35
Valid input VAT attributable to zero-rated sales *(whichever is lower between A or B)*	**₱1,083,250.35**

Further, while petitioner has declared zero-rated sales of ₱520,947,856.56, only ₱492,762,356.56 qualifies as valid zero-rated sales. Thus, applying the ratio of valid to declared zero-rated sales (94.589574%), the refundable input VAT must be proportionately adjusted as follows:

Valid zero-rated sales	₱492,762,356.56
Declared zero-rated sales	520,947,856.56
Ratio of valid zero-rated sales to total declared zero-rated sales	**94.589574%**
Multiply by: Valid input VAT attributable to zero-rated sales	₱1,083,250.35
Refundable excess input VAT attributable to valid zero-rated sales	**₱1,024,641.89**

Although petitioner initially carried over the excess input VAT of ₱45,972,202.93, which includes the refundable valid input VAT of ₱1,024,641.89, to its succeeding Quarterly VAT Returns, such amount remained unutilized until it was deducted as "VAT Refund/TCC claimed"[121] in its Amended Quarterly VAT Return for the 1st quarter of TY 2021. Accordingly, the subject claim no longer formed part of the excess input VAT of ₱1,047,047,742.93[122] as of the end of the 1st quarter of TY 2021, which would have been carried over to the succeeding quarters. Thus, it eliminates the possibility that the valid input VAT of ₱1,024,641.89 would be applied to any future output VAT liability, thereby satisfying the *ninth* requisite under Section 112(A) of the NIRC of 1997, as amended.

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[121] BIR Records, Folder 1 of 5 (Exhibit "R-5"), p. 109, Line 23D; Included in the amount of ₱45,972,202.98; With ₱0.05 difference.

[122] BIR Records, Folder 1 of 5 (Exhibit "R-5"), p. 108, Line 29.

In fine, petitioner has sufficiently proven its entitlement to a refund or issuance of a tax credit certificate, but only in the amount of ₱1,024,641.89, as determined above.

WHEREFORE, premises considered, the present *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, respondent is **DIRECTED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of **₱1,024,641.89,** representing its unutilized excess input value-added tax attributable to its zero-rated sales for the first, second, third, and fourth quarters of taxable year 2020.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

(With Separate Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

PURE ESSENCE INTERNATIONAL INCORPORATED,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10932

Members:

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

Promulgated:
MAY 16 2025 9:40AM

x- -x

SEPARATE OPINION

DEL ROSARIO, P.J.:

I concur to partially grant petitioner's claim for refund, but only in the amount of ₱922,098.67.

I submit that petitioner's valid zero-rated sales amounts only to ₱443,448,113.71, computed as follows:

Declared Zero-Rated Sales	**₱520,947,856.56**
Disallowances per Decision	
a. Sale of Alcohol	10,500.00
b. Sales Invoice No. 15475 with unreadable details	28,175,000.00
Additional disallowance (Sales Invoices without "ZERO-RATED" stamp)	**49,314,242.85**
Total Disallowances	**77,499,742.85**
Adjusted valid zero-rated sales	**₱443,448,113.71**

The additional disallowance of ₱49,314,242.85[1] should be made due to petitioner's failure to comply with the invoicing requirement under Section 113(B)(2)(c) of the National Internal Revenue Code (NIRC) of 1997, as amended.[2]

[1] Additional disallowed zero-rated sales based on Exhibits "P-16-Z", "P-16-AU", "P-16-AV", "P-16-AW", "P-16-AX", "P-16-AY", "P-16-AZ", "P-16-BA", "P-16-BB", "P-16-BC", and "P-16-BD".

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

(B) *Information Contained in the VAT Invoice or VAT Official Receipt.* - The following information shall be indicated in the VAT invoice or VAT official receipt:

x x x

(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

(c) If the sale is subject to zero percent (0%) value-added tax, the term "zero-rated sale" shall be written or printed prominently on the invoice or receipt[.] *(Boldfacing supplied)*

Thus, petitioner's entitlement to the refund of ₱922,098.67 is computed as follows:

Adjusted valid zero-rated sales	₱443,448,113.71
Divided by: Declared zero-rated sales	520,947,856.56
Multiplied by valid input VAT attributable to zero-rated sales	1,083,250.35
Refundable Excess Input VAT attributable to valid zero-rated sales	**₱922,098.67**

All told, I vote to: (i) PARTIALLY GRANT the Petition for Review; and (ii) ORDER respondent Commissioner of Internal Revenue to REFUND in favor of petitioner in the reduced amount of **₱922,098.67**, representing its unutilized excess input value-added tax attributable to zero-rated sales for taxable year 2020.

ROMAN G. DEL ROSARIO
Presiding Justice