

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

VESTAS SERVICES CTA CASE NO. 9544 (EB No.
PHILIPPINES, INC., 2479)
Petitioner,

Members:

-versus-

RINGPIS-LIBAN, PJ, and
MODESTO-SAN PEDRO, JJ.

COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

Promulgated:

SEP 02 2026

3:20 p.m.

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DECISION

RINGPIS-LIBAN, PJ.:

THE CASE

This is a *remanded case* for the further determination of the other requisites for petitioner Vestas Services Philippines, Inc.'s claim of input value-added tax (VAT) refund or tax credit certificate for the 3rd quarter of calendar year (CY) 2014, pursuant to this Court *En Banc's* Decision dated October 14, 2022,¹ and Resolution dated March 8, 2023,² rendered in CTA EB No. 2479, and Entry of Judgment dated April 8, 2023.³

ANTECEDENTS

On February 27, 2017, petitioner filed a *Petition for Review* before this Court,⁴ praying that judgment be rendered ordering respondent to refund to petitioner its excess and/or unutilized input VAT credits in the amount of ₱186,802,326.96 for the 3rd quarter of CY ending December 31, 2014.

¹ Docket – Vol. 3, pp. 1461 to 1500.

² Docket – Vol. 3, pp. 1543 to 1550.

³ Docket – Vol. 3, p. 1552.

⁴ Docket – Vol. 1, pp. 10 to 37.

After trial, on November 11, 2020, this Court, through its former Third Division, promulgated a Decision,⁵ which denied petitioner's *Petition for Review* for insufficiency of evidence, the dispositive portion of which reads:

“**WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for insufficiency of evidence.

SO ORDERED.”

Petitioner then filed its *Motion for Reconsideration (Re: Decision Dated 11 November 2020)* on December 18, 2020,⁶ to which respondent posted his *Comment/Opposition (on Petitioner's Motion for Reconsideration)* on January 27, 2021.⁷ In the Resolution dated May 19, 2021,⁸ the Court denied petitioner's *Motion* for lack of merit.

Consequently, on June 15, 2021, petitioner filed with the Court *En Banc* its *Petition for Review*,⁹ which was docketed as CTA EB Case No. 2479. Respondent submitted his *Comment/Opposition (on Petitioner's Petition for Review)* on June 27, 2021.¹⁰ In the Resolution dated October 14, 2021,¹¹ the Court *En Banc* submitted the *Petition for Review* for decision.

On October 14, 2022, the Court *En Banc* rendered its Decision,¹² the dispositive portion of which reads:

“**WHEREFORE**, the foregoing considered, the *Petition for Review* filed by petitioner Vestas Services Philippines, Inc. on 15 June 2021 is hereby **GRANTED**. The assailed Decision dated 11 November 2020 and Resolution dated 19 May 2021, respectively, of the Court's Third Division in CTA Case No. 9544, entitled *Vestas Services Philippines, Inc. v. Commissioner of Internal Revenue* are hereby **REVERSED** and **SET ASIDE**. Accordingly, let the case be **REMANDED** to the Court in Division for further determination of the other requisites for the claim of input Value-Added Tax refund or Tax Credit Certificate from the third quarter of calendar year 2014.

SO ORDERED.”

Respondent then posted his *Motion for Reconsideration* on November 7, 2022,¹³ to which petitioner filed a *Comment/Opposition (To the Motion for*

⁵ Docket – Vol. 3, pp. 1315 to 1334.

⁶ Docket – Vol. 3, pp. 1335 to 1348.

⁷ Docket – Vol. 3, pp. 1356 to 1364.

⁸ Docket – Vol. 3, pp. 1370 to 1374.

⁹ Docket – Vol. 3, pp. 1375 to 1420.

¹⁰ Docket – Vol. 3, pp. 1451 to 1455.

¹¹ Docket – Vol. 3, pp. 1458 to 1459.

¹² Docket – Vol. 3, pp. 1461 to 1500.

¹³ Docket – Vol. 3, pp. 1510 to 1520.

Reconsideration dated 07 November 2022) on January 16, 2023.¹⁴ In the Resolution dated March 8, 2023,¹⁵ the Court denied respondent's *Motion for Reconsideration* for lack of merit.

The Court *En Banc* then issued the *Entry of Judgment* dated April 8, 2023,¹⁶ which states that the Decision rendered on October 14, 2022 has "become final and executory, respondent's Motion for Reconsideration thereof having been denied in a Resolution promulgated on March 8, 2023, without any appeal being taken thereon, and is hereby recorded in the Book of Entries of Judgments."

In the *Resolution* dated June 23, 2025,¹⁷ this Court directed the parties to submit within five (5) days from notice their respective Manifestations, informing this Court of any supervening event that may affect the disposition of the case, after which, the case shall be deemed submitted for decision.

On July 1, 2025, petitioner filed its *Manifestation*,¹⁸ while respondent posted his *Manifestation* on July 4, 2025.¹⁹

The present case was submitted for decision on September 15, 2025.²⁰

THE STIPULATED ISSUE

The parties submit the following issue for this Court's resolution:

"2.1 Whether VSPI is entitled to a refund or to the issuance of tax credit certificate in the amount of Php186,802,326.96 representing its excess and/or unutilized input VAT attributable to its zero-rated sales of goods and services for the third quarter of CY 2014."²¹

Petitioner's arguments:

Petitioner argues that it is entitled to the refund of its excess and/or unutilized input VAT in the amount of ₱186,802,326.96 which is attributable to its zero-rated sales for the 3rd quarter of CY 2014;²² that respondent's denial of petitioner's claim for refund for the 3rd quarter of CY 2014 is incorrect and

¹⁴ Docket – Vol. 3, pp. 1525 to 1540.

¹⁵ Docket – Vol. 3, pp. 1543 to 1550.

¹⁶ Docket – Vol. 3, p. 1552.

¹⁷ Docket – Vol. 3, pp. 1155 to 1156.

¹⁸ Docket – Vol. 3, pp. 1163 to 1165.

¹⁹ Docket – Vol. 3, pp. 1171 to 1172.

²⁰ Minute Resolution dated September 15, 2025, Docket – Vol. 3, p. 1175.

²¹ Par. 2.1, Stipulation of the Issue, *Joint Stipulation of Facts and Issues*, Docket – Vol. 2, p. 861.

²² Arguments/Discussions, petitioner's *Memorandum*, Docket – Vol. 3, at p. 1279.

without basis;²³ and that the input VAT, noted by the Independent Certified Public Accountant (ICPA) as exceptions, should be allowed and recognized.²⁴

Respondent's counter-arguments:

In his *Answer*,²⁵ respondent argues that petitioner's claim for tax refund in the amount of ₱186,802,326.96, representing the alleged excess and unutilized input VAT arising from its importation and domestic purchases of goods and services attributable to its zero-rated sales for the 3rd quarter of taxable year ending December 31, 2014 evidently failed to comply with the substantiation requirements prescribed under Revenue Regulations (RR) No. 16-2005, in relation to Revenue Memorandum Circular (RMC) No. 54-2014 and RMC No. 2-2014, as well, as to the conditions/requirements prescribed under Sections 112(A)(C) (D), 113 and 237 of the 1997 Tax Code; that petitioner failed to comply with the conditions/requirements prescribed under Revenue Memorandum Order No. 16-07 and RMC No. 29-09, in relation to Section 110 (A) of the 1997 Tax Code; that the amount subject of the claim for tax refund does not pertain in full to its input VAT attributable to its zero-rated sales for the 3rd quarter of taxable year ending December 31, 2014; and that petitioner's claim for refund in the amount of ₱186,802,326.96 was already denied by respondent in his letter denial dated January 27, 2017, for lack of factual and legal bases.

THE COURT'S RULING

The *Petition for Review* is partly meritorious.

***Requisites for the grant of the refund
or issuance of a tax credit certificate
under the law.***

To reiterate, Section 112 of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act (RA) No. 9337,²⁶ provides:

“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

²³ Arguments/Discussions, petitioner's *Memorandum*, Docket – Vol. 3, at p. 1288.

²⁴ Arguments/Discussions, petitioner's *Memorandum*, Docket – Vol. 3, at p. 1301.

²⁵ Docket – Vol. 1, at pp. 95 to 96.

²⁶ AN ACT AMENDING SECTIONS 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.

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(C) Period within which Refund or Tax Credit of Input Taxes shall be Made.

— In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.

In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.”

Pursuant to the foregoing, jurisprudence has laid down certain requisites which must be complied with by the taxpayer-applicant to successfully obtain a credit/refund of input VAT. Said requisites are classified into certain categories, to wit:

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

1. the refund claim is filed with the BIR within two (2) years after the close of the taxable quarter when the sales were made;²⁷
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 120 days, the judicial claim has been

²⁷ *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009; and *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010.

filed with this Court, within thirty (30) days from receipt of the decision or after the expiration of the said 120-day period;²⁸

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

3. the taxpayer is a VAT-registered person;²⁹

In relation to the taxpayer's output VAT:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;³⁰
5. for zero-rated sales under Section 106(A)(2)(a)(1), (2), and (b); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with *Bangko Sentral ng Pilipinas* (BSP) rules and regulations;³¹

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;³²
7. the input taxes are due or paid;³³
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;³⁴ and
9. the input taxes have not been applied against output taxes during and in the succeeding quarters.³⁵

²⁸ *Steag State Power, Inc. (Formerly State Power Development Corporation) vs. Commissioner of Internal Revenue*, G.R. No. 205282, January 14, 2019; *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.

²⁹ *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc., vs. Commissioner of Internal Revenue*, supra.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.

³⁵ *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, supra.

In addition, in claims for VAT refund/credit, applicants must satisfy the substantiation and invoicing requirements under the NIRC and other implementing rules and regulations (IRR).³⁶ Thus, petitioner's compliance with all the VAT invoicing requirements is required to be able to file a claim for input taxes attributable to zero-rated sales.³⁷ The invoicing and substantiation requirements should be followed because it is the only way to determine the veracity of the taxpayer's claims.³⁸ Moreover, it must be pointed out that compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.³⁹

Strict compliance with substantiation and invoicing requirements is necessary considering VAT's nature and VAT system's tax credit method, where tax payments are based on output and input taxes and where the seller's output tax becomes the buyer's input tax that is available as tax credit or refund in the same transaction. It ensures the proper collection of taxes at all stages of distribution, facilitates computation of tax credits, and provides accurate audit trail or evidence for BIR monitoring purposes.⁴⁰

Furthermore, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove every minute aspect of their case.⁴¹ Thus, it behooves petitioner to show compliance with each of the foregoing requisites and invoicing requirements. As a corollary, the absence of *any* of the said requisites is already a valid ground to deny the refund claim.

Moreover, it must be emphasized that Section 113 of the NIRC of 1997, as amended by RA No. 9337, provides the VAT invoicing requirements under the law, to wit:

“SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* –

(A) *Invoicing Requirements.* – A VAT-registered person shall issue:

³⁶ *Team Energy Corporation vs. Commissioner of Internal Revenue, et seq.*, G.R. Nos. 197663 and 197770, March 14, 2018.

³⁷ *J.R.A. Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013.

³⁸ *Nippon Express (Philippines) Corporation vs. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018.

³⁹ *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.

⁴⁰ *Team Energy Corporation vs. Commissioner of Internal Revenue, et seq.*, *supra*.

⁴¹ *Edison (Bataan) Cogeneration Corporation vs. Commissioner of Internal Revenue, et seq.*, G.R. Nos. 201665 and 201668, August 30, 2017; *Commissioner of Internal Revenue vs. Philippine National Bank*, G.R. No. 180290, September 29, 2014; *Commissioner of Internal Revenue vs. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014; *Dizon vs. Court of Tax Appeals, et al.*, G.R. No. 140944, April 30, 2008; *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007; and *Commissioner of Internal Revenue vs. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.

(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 break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: *Provided, That* the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

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

(4) In the case of sales in the amount of One thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client.

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Implementing the foregoing provision, Section 4.113-1 of RR No. 16-2005⁴² provides as follows:

"SEC. 4.113-1. Invoicing Requirements. 

⁴² SUBJECT: Consolidated Value-Added Tax Regulations of 2005.

(A) A VAT-registered person shall issue:

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

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

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

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

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

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

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

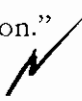
(a) The amount of tax shall be shown as a separate item in the invoice or receipt;

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

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

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



Anent the above-stated *first*, *second* and *third* requisites, the same have been previously found to have been complied with by petitioner, as this Court has ruled in its Decision dated November 11, 2020.

As for the *fourth* requisite, *i.e.*, that the taxpayer is engaged in zero-rated or effectively zero-rated sales, the same has been settled by this Court *En Banc* in its Decision dated October 14, 2022, declaring that “[s]ince petitioner has duly complied with the requirements under Section 25 of RA [No.] 9513, it thus ably established that its declared sales for the entire period of claim qualify for VAT zero-rating.” In any event, this Court will still look into petitioner’s compliance with the invoicing requirements under the VAT law vis-à-vis petitioner’s compliance with the *fourth* requisite.

As pointed out earlier, Section 113(A) and (B) of the NIRC of 1997, as amended, and Section 4.113-1 of RR No. 16-2005, require that BIR-registered VAT sales invoices (SIs) must support the sale of goods, whereas BIR-registered VAT official receipts (ORs) must substantiate the sale of services. The SIs and ORs must contain all the information required under the said law and regulations.

Out of the ₱1,494,848,562.00 declared total sales/receipts for the 3rd quarter of 2014, Mr. Glenn Ian D. Villanueva of Reyes Tacandong & Co., the ICPA, verified that sales amounting to ₱60,831,912.87 were not properly supported by ORs, summarized as follows:⁴³

Details	Total
Total zero-rated sales per VAT return ⁴⁴	₱1,494,848,562.00
Less: Disallowed zero-rated sales	
a) Sales to EDC Burgos Wind Power Corporation not supported by ORs	60,831,912.87 ⁴⁵
Properly substantiated zero-rated sales	₱1,434,016,649.13

Regarding petitioner’s sales to EDC in the amount of ₱1,434,016,649.13, petitioner presented the following BIR-registered ORs, to wit:

Exhibit ⁴⁶	OR No.	OR Date	Currency	Zero-Rated Sales	Zero-Rated Sales in Peso
“P-44”	151	July 14, 2014	US\$	2,422,025.86	₱105,408,987.45
“P-46”	153	July 22, 2014	US\$	1,082,107.00	46,919,077.41
“P-49”	156	Aug. 22, 2014	US\$	1,082,107.00	47,406,025.56
“P-51”	158	Sept. 18, 2014	US\$	1,442,810.00	64,220,915.91

⁴³ Exhibit “P-36”, Docket – Vol. 3, at p. 1022.

⁴⁴ Line 17, Exhibit “P-9”, Docket – Vol. 1, p. 255.

⁴⁵ Par. 3.1.a, Exhibit “P-36”, Docket – Vol. 3, pp. 1026 to 1027.

⁴⁶ CD (Exhibit “P-289”).

Exhibit ⁴⁶	OR No.	OR Date	Currency	Zero-Rated Sales	Zero-Rated Sales in Peso
"P-45"	152	July 15, 2014	PHP	-	420,081,036.80
"P-47"	154	July 23, 2014	PHP	-	224,994,182.00
"P-48"	155	Aug. 22, 2014	PHP	-	224,994,182.00
"P-50"	157	Sept. 18, 2014	PHP	-	299,992,242.00
Total					₱1,434,016,649.13

On the other hand, petitioner's claimed sales/receipts in the amount of ₱60,831,912.87 must be disallowed for being unsupported by BIR-registered VAT ORs, which is in violation of Section 113(A)(2) of the NIRC of 1997, as amended, and Section 4.113-1(A)(2) of RR No. 16-2005.

Thus, in relation to the *fourth* requisite, the Court finds that out of the total declared zero-rated sales/receipts in the amount of ₱1,494,848,562.00 for the 3rd quarter of 2014, only the effectively zero-rated sales/receipts derived by petitioner from services rendered to EDC amounting to ₱1,434,016,649.13, duly covered by BIR-registered VAT ORs, qualify for VAT zero-rating under Section 15(g) of RA No. 9513, in relation to Section 108(B)(3) of the NIRC of 1997, as amended, for the purpose of determining the amount to be refunded to petitioner, if any.

As for the *fifth* requisite, which is to the effect that petitioner must prove that the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations under Sections 106(A)(2)(a)(1), (2) and (b), and 108(B)(1) and (2), all of the NIRC of 1997, as amended, since the legal basis for petitioner's effectively zero-rated sales of ₱1,434,016,649.13 is Section 108(B)(3) of the same law, the present case need not show compliance with the said *fifth* requisite.

The input VAT being claimed do not appear to be transitional input taxes.

As for the *sixth* requisite, records show that the claimed input taxes do not appear to be transitional input taxes, as understood under Section 111(A) of the NIRC of 1997, as amended, to wit:

"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 the 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.”

To be sure, transitional input tax credits operate to benefit newly VAT-registered persons, whether they previously paid taxes in the acquisitions of their beginning inventory of goods, materials and supplies. During the period of transition from non-VAT to VAT status, the transitional input tax credit serves to alleviate the impact of the VAT on the taxpayer.⁴⁷

Since there is no showing that the claimed input taxes are transitional input taxes, petitioner has complied with the *sixth* requisite for the grant of an input VAT refund.

Not all of the input VAT being claimed for refund were duly substantiated.

Anent the *seventh* requisite, it is extremely important that the input taxes claimed for refund are properly supported to prove that the same are due or paid in accordance with Section 110(A) of the NIRC of 1997, as amended, which provides as follows:

“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 ✓

⁴⁷ *Fort Bonifacio Development Corporation vs. Commissioner of Internal Revenue, et al., et seq.*, G.R. Nos. 158885 and 170680, April 2, 2009.

- (iv) For use as materials supplied in the sale of service; or
 - (v) For use in trade or business for which deduction for depreciation or amortization is allowed under this Code.
- (b) Purchase of services on which a value-added tax has actually been paid.
- (2) The input tax on domestic purchase or importation of goods or properties by a VAT-registered person shall be creditable:
- (a) To the purchaser upon consummation of sale and on importation of goods or properties; 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.”

The above provisions are implemented by Sections 4.110-1 to 4.110-3 of RR No. 16-2005, as amended by RR No. 4-2007,⁴⁸ which provides as follows:

“SECTION 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:

⁴⁸ SUBJECT: Amending Certain Provisions of Revenue Regulations No. 16-2005, As Amended, Otherwise Known as the Consolidated Value-Added Tax Regulations of 2005

- (a) Purchase or importation of goods
 - (1) For sale; or
 - (2) For conversion into or intended to form part of a finished product for sale, including packaging materials; or
 - (3) For use as supplies in the course of business; or
 - (4) For use as raw materials supplied in the sale of services; or
 - (5) For use in trade or business for which deduction 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. 4.111-1 (a) of these Regulations;
- (f) Presumptive input tax allowed under Sec. 4.111-1 (b) of these Regulations;
- (g) Transitional input tax credits allowed under the transitory and other provisions of these Regulations.

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

- (a) To the importer upon payment of VAT prior to the release of goods from customs custody;
- (b) To the purchaser of the domestic goods or properties upon consummation of the sale; or
- (c) To the purchaser of services or the lessee or licensee upon payment of the compensation, rental, royalty or fee.

SECTION 4.110-3. *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 a 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.
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(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 a capital good. The claim for input tax credit shall commence in the 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.

xxx

xxx

xxx”

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

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

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

(1) For the importation of goods — import entry or other equivalent document showing actual payment of VAT on the imported goods.

(2) For the domestic purchase of goods and properties — invoice showing the information required under Secs. 113 and 237 of the Tax Code.

(3) For the purchase of real property — public instrument i.e., deed of absolute sale, deed of conditional sale, contract/agreement to sell, etc., together with VAT invoice issued by the seller.

(4) For the purchase of services — official receipt showing the information required under Secs. 113 and 237 of the Tax Code.

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.

(b) Transitional input tax shall be supported by an inventory of goods as shown in a detailed list to be submitted to the BIR.

(c) Input tax on 'deemed sale' transactions shall be substantiated with the invoice required under Sec. 4.113-2 of these Regulations.

(d) Input tax from payments made to non-residents (such as for services, rentals and royalties) shall be supported by a copy of the Monthly Remittance Return of Value Added Tax Withheld (BIR Form 1600) filed by the resident payor in behalf of the non-resident evidencing remittance of VAT due which was withheld by the payor.

(e) Advance VAT on sugar shall be supported by the Payment Order showing payment of the advance VAT."

Thus, in order to prove entitlement to credits for input taxes due or paid, the same must be evidenced by VAT invoices (for domestic purchases of goods) or ORs (for domestic purchases of services) issued in accordance with Sections 113(A) and (B), 237 and 238 of the NIRC of 1997, as amended, as implemented by Section 4.113-1(A) and (B) of RR No. 16-2005, as amended, as the case may be, as well as, the import entry or other equivalent documents showing actual payment of VAT (for importation of goods) and BIR Form No. 1600 with corresponding payment confirmation (for services rendered by non-residents).

In its *Quarterly Value-Added Tax Return* for the 3rd quarter of 2014, petitioner reported an aggregate amount of ₱186,802,326.96 input VAT arising from the domestic purchases and importation of goods other than capital goods, domestic purchases of services and services rendered by non-residents, which is the subject of the present claim for refund, as shown below:⁴⁹

Source of Input VAT	Amount
Domestic purchases of goods other than capital goods	₱ 416,438.76
Importation of goods other than capital goods	4,232,287.92
Domestic purchases of services	176,971,348.56
Services rendered by non-residents	5,182,251.72
TOTAL INPUT VAT	₱186,802,326.96

To support the above input VAT, petitioner presented, among others, its suppliers' ORs, SIs and other purchase documents,⁵⁰ importation documents;⁵¹

⁴⁹ Exhibit "P-9", Docket – Vol. 1, at p. 255.

⁵⁰ Exhibits "P-76" to "P-128" and "P-139" to "P-252", CD (Exhibit "P-289").

⁵¹ Exhibits "P-256" to "P-285" and "P-256-A" to "P-277-A", CD (Exhibit "P-289").

and *Monthly Remittance Return of Value-Added Tax and Other Percentage Taxes Withheld* (BIR Forms No. 1600) with payment confirmation from EFPS,⁵² which were all examined by the ICPA.

Based on the ICPA's findings, out of the total input VAT claim of ₱186,802,326.96 for the 3rd quarter of 2014, only ₱137,663,355.11 represents valid and properly substantiated input VAT, while ₱49,138,971.85 are exceptions, summarized as follows:⁵³

Particulars	Reference	Amount	Total
A. Properly substantiated input VAT			
<i>Domestic purchase of goods and services</i>			
a) Input VAT on purchases of goods supported by original sales invoices	Annex D-3	₱ 416,414.83	
b) Input VAT on purchases of services supported with original ORs	Annex D-1	269,303.83	
c) Input VAT on purchases of services supported by original ORs with erasures countersigned by authorized representative/s of supplier and with notarized sworn statements of correction	Annex D-2	128,671,294.68	₱129,357,013.34
<i>Importation of non-capital goods</i>			
a) Input VAT on importation of non-capital goods supported by certified true copies of IEIRD, E2M, and bank settlement advice ⁵⁴	Annex F-1		3,208,666.00
<i>Purchase of services from non-residents</i>			
a) Input VAT on purchases of services from non-residents supported by BIR Form 1600 and alphalist of payees.	Annexes G-1 and G-2		5,097,675.77
Total properly substantiated input VAT			₱137,663,355.11
B. Input VAT with exceptions			
a) Input VAT on domestic purchases of goods and services	Annexes E-1 to E-11	₱48,030,773.98	
b) Input VAT on importations	Annexes F-2 to F-4	1,023,621.92	
c) Input VAT on purchases of services from non-residents		84,575.95	₱49,138,971.85
Total unutilized excess input VAT per VAT return for the 3rd quarter ended September 30, 2014			₱186,802,326.96

⁵² Exhibits "P-72" to "P-74-A", CD (Exhibit "P-289").

⁵³ Exhibit "P-36", Docket – Vol. 3, at p. 1034.

⁵⁴ Bank Settlement Advices were validated by Bank of the Philippine Island (BPI), refer to the *Certification* from BPI on Remittance of Customs Duties and VAT to *Bangko Sentral ng Pilipinas* for the account of Bureau of Customs (BOC), Exhibit "P-130", CD (Exhibit "P-289").

The total exceptions amounting to ₱49,138,971.85 noted by the ICPA are detailed as follows:⁵⁵

Details	Reference	Input VAT
<i>Domestic purchase of goods and services</i>		
a) Purchase of services supported by original ORs with incorrect or no name indicated	Annex E-1	₱71,214.24
b) Purchase of services supported by original ORs where the TIN and/or address is incorrect or not indicated	Annex E-2	22,960.68
c) Purchase of services supported by original OR with no nature of services or payment indicated	Annex E-3	2,114.13
d) Purchase of services supported by certified true copy of ORs with no nature of services or payment indicated	Annex E-4	4,482,795.14
e) Purchase of services supported by original ORs where VAT base and/or VAT amount is incorrect or not separately indicated	Annex E-5	630,772.13
f) Purchase of services supported by certified true copy of OR where VAT base and/or VAT amount is incorrect or not separately indicated	Annex E-6	2,666,628.00
g) Purchase of services supported by original ORs dated outside the period of claim	Annex E-7	150,374.30
h) Purchase of services supported by certified true copy of ORs dated outside the period of claim	Annex E-8	764,441.90
i) Domestic purchases of services not properly supported by VAT ORs	Annex E-9	4,426,326.85
j) Unsupported purchases of services	Annex E-10	34,813,123.38
k) Unsupported purchase of goods	Annex E-11	23.23
Subtotal - Domestic purchase of goods and services		₱48,030,773.98
<i>Importation of non-capital goods</i>		
a) Importation of goods supported by certified true copies of IEIRD but were not supported with bank settlement advice and other proof of payment	Annex F-2	₱7,014.00
b) Importation of goods supported by certified true copies of IEIRD with blank IEIRD number and no proof of VAT payment	Annex F-3	211,235.00
c) Unsupported importation of non-capital goods	Annex F-4	805,372.92
Subtotal - Importation of non-capital goods		₱1,023,621.92
<i>Purchase of services from non-residents</i>		
Per 3 rd Quarter VAT Return	Exhibit "P-9"	₱5,182,251.72
Less: Per BIR Form 1600 and MAP	Annexes G-1 and G-2	5,097,675.77
Subtotal - Purchase of services from non-residents (unaccounted/unsupported)		₱84,575.95

⁵⁵ Exhibit "P-36", Docket – Vol. 3, at pp. 1032 to 1034.

Details	Reference	Input VAT
Total Exceptions		₱49,138,971.85

The above exceptions found by the ICPA in the aggregate amount of ₱49,138,971.85, should be disallowed for failure to meet the substantiation and invoicing requirements under the VAT law and regulations.

In addition, the input VAT from purchases of services in the amount of ₱14,571.42 shall also be disallowed for the supporting official receipts were denied admission by the Court for failure to present the originals for comparison,⁵⁶ detailed as follows:

Annex Reference	Exhibit	Name of Supplier	OR No.	Input VAT
D-1	"P-131"	G & J Uni-Global Car Rental Inc.	1040	₱ 7,285.71
D-1	"P-132"	G & J Uni-Global Car Rental Inc.	1046	7,285.71
Total				₱14,571.42

Based on the foregoing, relative to petitioner's compliance with the *seventh* requisite, out of the ₱186,802,326.96 total reported input VAT, only the amount of ₱137,648,783.69 represents petitioner's valid input VAT due or paid for the 3rd quarter of 2014, computed as follows:

Total Reported Input VAT		₱186,802,326.96
Less: Disallowances		
Per ICPA Report	₱49,138,971.85	
Per Court's further verification	14,571.42	49,153,543.27
Valid Input VAT		₱137,648,783.69

A portion of the valid input VAT of ₱137,648,783.69 is attributable to petitioner's zero-rated sales/receipts for 3rd quarter of 2014.

To reiterate, the *eighth* requisite is to the effect that 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

⁵⁶ Resolution dated March 15, 2019, Docket – Vol. 3, at p. 1213.

any of these sales, the input taxes shall be proportionately allocated based on sales volume.

In the present case, there being no reported sales subject to 12% VAT or exempt sales, but only zero-rated sales, the entire amount of ₱137,648,783.69 properly substantiated input VAT is attributable to the ₱1,494,848,562.00 entire declared zero-rated sales/receipts for the 3rd quarter of 2014.

However, as stated earlier, petitioner was able to properly substantiate only the amount of ₱1,434,016,649.13 out of its total declared zero-rated sales/receipts of ₱1,494,848,562.00. Thus, regarding petitioner's compliance with the *eighth* requisite, only the amount of ₱132,047,253.86 represents its valid input VAT attributable to its valid zero-rated sales/receipts of ₱1,434,016,649.13, as computed below:

Valid input VAT attributable to total zero-rated sales/receipts	₱ 137,648,783.69
Multiplied by: Valid zero-rated sales/receipts	1,434,016,649.13
Divided by: Total declared zero-rated sales/receipts	1,494,848,562.00
Valid input VAT attributable to valid zero-rated sales/receipts	₱132,047,253.86

The subject input taxes have not been applied against output taxes during and in the succeeding quarters.

As already pointed out, petitioner had no reported output tax for the 3rd quarter of 2014 since its reported sales/receipts were all zero-rated sales/receipts. Thus, it had no output VAT against which the input VAT claim of ₱186,802,326.96 may be applied or credited. It was ascertained that petitioner did not carry-over the claimed input VAT of ₱186,802,326.96 to the *Quarterly Value-Added Tax Return* for the 4th quarter of 2014,⁵⁷ thus preventing the carry-over or application of such input taxes in the next taxable quarter/s.⁵⁸ Hence, petitioner is deemed to have fulfilled the *ninth* requisite for the refund of input VAT under Section 112(A) of the NIRC of 1997, as amended.

In sum, petitioner has sufficiently proven its entitlement to the refund in the amount of **₱132,047,253.86**, representing excess and unutilized input VAT attributable to its zero-rated sales for the 3rd quarter of 2014.

⁵⁷ Exhibit "P-14", Docket – Vol. 2, pp. 581 to 582.

⁵⁸ Exhibits "P-15" to "P-17-C", Docket – Vol. 2, pp. 583 to 606.

ACCORDINGLY, the present *Petition for Review* is **PARTIALLY GRANTED**.

Accordingly, respondent is **ORDERED TO REFUND** in the reduced amount of **₱132,047,253.86** in favor of petitioner representing its excess and/or unutilized input VAT attributable to its zero-rated sales/receipts for the 3rd quarter of CY 2014.

SO ORDERED.



MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

WE CONCUR:



MARIA ROWENA MODESTO-SAN PEDRO
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.



MA. BELEN M. RINGPIS-LIBAN
Presiding Justice