REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

TETRA PAK PHILIPPINES, INC., *Petitioner,*	**CTA CASE NO. 10546**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: MAR 2 5 2025

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2:05 p.m

AMENDED DECISION

RINGPIS-LIBAN, J.:

Submitted before this Court are the following:

1. Respondent's **Motion for Partial Reconsideration (Re: Decision dated 20 August 2024)** filed through registered mail on September 10, 2024, with petitioner's **Comment/Opposition (to the Motion for Partial Reconsideration dated 10 September 2024)** filed through a licensed courier service on September 23, 2024, and received by the Court on September 25, 2024; and,

2. Petitioner's **Motion for Partial Reconsideration (of the Decision dated 20 August 2024)** filed through a licensed courier service on September 19, 2024, and received by the Court on September 20, 2024, without respondent's comment as per Records Verification Report dated December 11, 2024.

On August 20, 2024, the Court promulgated a Decision partially granting petitioner's claim for refund of unutilized input value-added tax (VAT) attributable to its zero-rated sales for the fourth quarter of calendar year 2018 in a reduced amount as duly supported and proven by supporting documents, the dispositive portion of which reads as follows:

"**WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND**, in favor of petitioner, the amount of **₱9,171,869.74**, representing the latter's excess and unutilized input VAT attributable to its zero-rated sales for the 4th quarter of CY 2018.

SO ORDERED."

Undaunted, both parties implore the Court to take a second and hard look on the conclusions reached in the above Decision and prays that the same be partially reconsidered based on their respective Motions.

Respondent's Motion for Partial Reconsideration

In his Motion, respondent asserts that the Court erred in ruling that petitioner is entitled to refund the amount of ₱9,171,869.74, considering that petitioner failed to substantiate its administrative claim for refund. Respondent insists that since what was appealed herein was the Decision of respondent, the jurisdiction of the Court should have shifted from a trial court to an appellate tribunal. As such, respondent submits that the Court should have confined itself to whether the findings of respondent are consistent with law.

On the other hand, in its Comment, petitioner points out that the arguments proffered in respondent's Motion are rehash of the same arguments he previously raised in his *Answer* posted on January 31, 2022. As such, petitioner prays that respondent's Motion be declared *pro forma* as it does not contain the required contents provided under Section 2, Rule 37 of the Rules of Court.

The Court finds respondent's Motion for Partial Reconsideration bereft of merit.

As correctly pointed out by petitioner, the grounds raised by respondent in his Motion are mere restatements of the matters that he previously raised in his *Answer*,[1] which all have already been considered and resolved by the Court in the Decision he assails.

In the case of *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*,[2] the Supreme denied a Motion for Reconsideration for being mere reiteration of previous arguments and for

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[1] Docket – Vol. II, pp. 509 to 521.

[2] G.R. No. 159938, January 22, 2007, citing *Guerra Enterprises Company, Inc. v. Court of First Instance of Lanao del Sur, et al.*, G.R. No. L-28310, April 17, 1970.

failing to raise matters substantially plausible or compellingly persuasive to warrant the reversal of the Decision being assailed, to wit:

> "The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
>
> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought."

This judicial pronouncement was similarly echoed in the case of *Harry L. Roque, Jr., et. al. v. Commission on Elections, represented by Hon. Chairman Jose Melo, et al.,*[3] where the Supreme Court *En Banc* ruled that whenever the Motion for Reconsideration fails to raise matters which are substantially plausible or compellingly persuasive enough to lead the Court to rule in favor of the desired course of action, then the same must be denied by the Court, thus:

> "Petitioner's above contention, as well as the arguments, citations and premises holding it together, is a rehash of their previous position articulated in their memorandum in support of their petition. They have been considered, squarely addressed, and found to be without merit in the Decision subject hereof. The Court is not inclined to embark on another extended discussion of the same issue again x x x.
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> While a motion for reconsideration may tend to dwell on issues already resolved in the decision sought to be reconsidered – and this should not be an obstacle for a reconsideration – the hard reality is that petitioners have failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action."

Correspondingly, this Court is constrained to deny respondent's Motion as it is a mere rehash of arguments that have already been previously pleaded, submitted, and resolved by this Court, and the arguments therein are too unsubstantial to warrant reconsideration of the assailed Decision.[4] Accordingly, nothing is left for this Court but to deny respondent's Motion for Partial Reconsideration.

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[3] G.R. No. 188456 (Resolution), February 10, 2010.

[4] *Eduardo M. Cojuangco, Jr. v. Republic of the Philippines,* G.R. No. 180705, July 9, 2013.

Petitioner's Motion for Partial Reconsideration

In its Motion, petitioner prays for the reexamination of the Court's finding that: petitioner had zero-rated sales during the fourth (4th) quarter of calendar year (CY) 2018 but only in the amount of ₱113, 339,416.38; only a portion of the input taxes being claimed are due or paid; and, only a portion of the valid input VAT of ₱15,913,366.10 is attributable to petitioner's zero-rated sales for the 4th quarter of CY 2018. For said reasons, petitioner raises that following grounds for the Court's consideration, *viz.*:

I. The official receipts (ORs) presented in support of petitioner's 'considered export sales' to Philippine Economic Zone Authority (PEZA) - registered entities in the amount of ₱7,992,755.00 complied with the invoicing requirements under Sec.113(B)(3) of the Tax Code.

II. Petitioner's sales to Peter Paul Coconut Water Corp. (PPCWC) and Superstar Coconut Products Co. Inc. (SCPCI) in the amount of ₱37,406,203.66 were properly classified as VAT zero-rated sales and these were duly supported by evidence.

III. Petitioner duly supported that a portion of input taxes claimed are due or paid in accordance with Sec. 110(A) of the Tax Code.

IV. With due respect, the Court erroneously held that a portion of VAT on importations are not directly attributable to zero-rated sales.

After careful evaluation, the Court finds partial merit in petitioner's Motion for Partial Reconsideration.

The ORs presented in the amount of ₱7,992,755.00 still failed to comply with the invoicing requirements.

In the Decision, the Court disallowed the aggregate amount of ₱7,992,755.00, representing the sales of services to PEZA-registered entities, namely, Cardinal Agri Products, Inc. (CAPI) and Del Monte Philippines, Inc. (DMPI), for failure to indicate the nature of services paid and for being unsigned by the authorized signatory indicated therein.

Petitioner contends that as may be seen from the pertinent ORs, and as confirmed in the Independent Certified Public Accountant (ICPA) Report, the said sales to CAPI and DMPI were duly supported with valid VAT zero-rated official receipts (ORs) where the nature of services as "downpayment" and "others" are duly indicated. Petitioner continues that the National Internal Revenue Code (NIRC) does not require that the signature of the authorized signatory be reflected in the OR, and that while Section 113 thereof enumerates invoicing requirements, the provision does not state that the failure to comply will result in its immediate disallowance. Simply put, petitioner argues that there is no law that results in the disallowance of the input VAT by mere reason that the invoicing document is not complete or contains minor errors.

The Court finds petitioner's argument untenable.

Verily, the invoicing requirements under Section 113(A) and (B) of the NIRC of 1997, as amended, explicitly requires that the "nature of the service" shall be among those indicated on the VAT OR for sales of services, as follows:

> "**SEC. 113.** Invoicing and Accounting Requirements for VAT-registered Persons.
>
> *(A) Invoicing Requirements.* — A VAT-registered person shall issue:
>
> x x x
>
> (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:
>
> x x x
>
> (3) The date of transaction, quantity, unit cost and description of the goods or properties or **nature of the service**;" *(Emphasis supplied)*

Upon rechecking of the subject ORs,[5] it is evident that the nature of the services rendered was not indicated. The words "downpayment" and "others" written in some of the ORs do not suggest the nature of services being rendered and paid for. Incidentally, *downpayment* pertains to initial or partial payment for the service while *others* may pertain to various things, both of which do not show the actual nature of the services that was paid for. Hence, the said supporting ORs indeed failed to comply with one of the invoicing requirements that lead to the denial of zero-rating of the sales to CAPI and DMPI.

With emphasis, compliance with the substantiation and invoicing requirements under the NIRC of 1997, as amended, as well as related implementing regulations, was already intimated in the Decision, to which the Court reiterates that:

[5] Exhibits "P-53-117" to "P-53-120".

> "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. 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. The invoicing and substantiation requirements should be followed because it is the only way to determine the veracity of the taxpayer's claims. Moreover, it must be pointed out that compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.
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> 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.
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> Furthermore, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove <u>every minute aspect</u> of their case. 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."[6] *(Citations omitted)*

Moreover, as can be observed on the face of the subject ORs, the notation *"[t]he receipt is not valid unless contained authorized signature and the cheque is cleared by the bank"* was stated at the lower portion thereof. Clearly, petitioner knew the requirement of the signature of the authorized signatory in its ORs to prove the validity of the same. Petitioner cannot now do away with the required authorized signature when the latter itself attests the validity of its own ORs through such signatures. Hence, since the portion for the signature of cashier in the said ORs was left blank, such ORs cannot therefore be considered valid.

Accordingly, the disallowance from VAT zero-rating of the sales of services to PEZA-registered entities in the amount of ₱7,992,755.00 stands.

Petitioner's sales to PPCWC and SCPCI in the amount of ₱37,406,203.66 still failed to qualify as zero-rated sales.

In the Decision, the sales of goods to Department of Trade and Industry (DTI) Export Marketing Bureau (EMB)–registered entities, Peter Paul Coconut Water Corp. (PPCWC) and Superstar Coconut Products Co. Inc. (SCPCI), in the total amount of ₱37,406,203.66, were denied of VAT zero-rating for failure

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6 *Decision*, pp. 7-8, Docket (Vol. 4), pp. 1774-1775.

to prove that the said entities are considered export-oriented enterprise qualified for VAT zero-rating under Section 106(A)(2)(a)(3) of the NIRC of 1997, as amended, *[now 106(A)(2)(a)(4) under the TRAIN Law]* since the Court held that mere accreditation under Republic Act (RA) No. 7844 or the Export Development Act (EDA) of 1994,[7] is not sufficient proof of entitlement thereof.

Petitioner now seeks reconsideration of the above finding, insisting that the Certificates of Accreditation from the DTI-EMB confirm that both PPCWC and SCPCI are eligible exporters satisfying the requirements of RA No. 7844,[8] as further proven by the letter from the DTI confirming that PPCWC's export sales accounted for more than seventy percent (70%) of its total sales.

The Court is not swayed.

Under Section 4.106-5 of RR No. 16-2005,[9] as amended by RR No. 13-2018,[10] which implements Section 106(A)(2)(a)(3) of the NIRC of 1997, as amended by RA No. 10963 (TRAIN Law),[11] the sale of raw materials or packaging materials to an export-oriented enterprise is considered export sales subject to zero percent (0%) VAT. Furthermore, any enterprise whose export sales exceed 70% of the total annual production of the **preceding taxable year** shall likewise be considered an export-oriented enterprise.

Herein, a review of the supporting Certificates of Accreditation of SCPCI and PPCWC shows that the same included letters issued by the DTI-EMB to the Bureau of Internal Revenue (BIR) furnishing it with a list of EDA-accredited firms qualified under E-VAT zero-rating for a certain period together with the percentage of such exporters' export sales.[12]

However, the list provided for SCPCI[13] indicates that the same is for the period of July 2018, which is outside the period of the subject claim (4th quarter of CY 2018), and the percentage of SCPCI's export sales to its total annual

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[7] AN ACT TO DEVELOP EXPORTS AS A KEY TOWARDS THE ACHIEVEMENT OF THE NATIONAL GOALS TOWARDS THE YEAR 2000, approved on December 21, 1994.

[8] Accreditation Nos. EMB-1829 (valid until July 1, 2019) and EMB-1802 (valid until February 19, 2019), respectively.

[9] "SUBJECT: Consolidated Value-Added Tax Regulations of 2005", took effect on November 1, 2005.

[10] "SUBJECT: Regulations Implementing the Value-Added Tax Provisions under the Republic Act (RA) No. 10963, or the "Tax Reform for Acceleration and Inclusion (TRAIN)," Further Amending Revenue Regulations (RR) No. 16-2005 (Consolidated Value-Added Tax Regulations of 2005), as amended", took effect January 1, 2018.

[11] 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, 12S, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35, 62, AND 89; ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES, approved on December 19, 2017.

[12] Exhibits "P-16" and "P-17".

[13] Exhibit "P-16" (Page 3).

production for the preceding taxable year 2017 was not shown. Hence, it cannot be confirmed therefrom whether SCPCI is considered an export-oriented enterprise qualified for VAT zero-rating for CY 2018.

Likewise, it cannot be verified in the list provided for PPCWC,[14] whether the latter is considered an export-oriented enterprise qualified for VAT zero-rating for CY 2018 considering that the period indicated thereon is for January to February 2018, which is also outside the period of the subject claim, and that while the "Export %" reflected is 92%, the data of sales and export sales thereon pertains to 2016, and not the preceding taxable year 2017.

Accordingly, the denial of VAT zero-rating to the sales of goods to PPCWC and SCPCI in the total amount of ₱37,406,203.66 still remains.

Petitioner's input VAT on purchases of service from SGS PHILIPPINES, INC. amounting to ₱19,238.99 are duly supported ORs.

Again in the Decision, petitioner's input VAT on domestic purchases of goods and services in the total amount of ₱342,300.13 were disallowed as follows:

SUPPLIER NAME	EXHIBIT NO.	INPUT VAT
Purchase of goods		
Supported by VAT sales invoices (SIs) but without the phrase "THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE PERMIT TO USE", as required under RR 10-2015, as amended by RR 16-2018, and/or lacking the signature of the authorized signatory.		
HENKEL PHILIPPINES, INC.	"P-65-1"	₱ 34,994.40
HENKEL PHILIPPINES, INC.	"P-65-2"	30,419.25
HENKEL PHILIPPINES, INC.	"P-65-3"	30,419.25
HENKEL PHILIPPINES, INC.	"P-65-4"	30,419.25
HENKEL PHILIPPINES, INC.	"P-65-5"	30,419.25
HENKEL PHILIPPINES, INC.	"P-65-6"	30,419.25
HENKEL PHILIPPINES, INC.	"P-65-7"	30,419.25
HENKEL PHILIPPINES, INC.	"P-65-8"	15,209.63
HENKEL PHILIPPINES, INC.	"P-65-9"	15,209.63
HENKEL PHILIPPINES, INC.	"P-65-10"	15,209.63
MINOX VALVES AND FITTINGS PHILS., INC.	"P-65-11"	40,030.79
subtotal		*₱ 303,169.58*
Purchase of services		
Supported by VAT ORs but the nature of service was not indicated therein.		
SGS PHILIPPINES, INC.	"P-66-43"	₱ 13,874.64
SGS PHILIPPINES, INC.	"P-66-44"	5,364.35
subtotal		*₱ 19,238.99*

[14] Exhibit "P-17" (Page 3).

Supported by VAT SIs but without the phrase "THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE PERMIT TO USE" as required under RR 10-2015, as amended by RR 16-2018.		
SGV & CO.	"P-66-22"	19,891.56
Total		**₱342,300.13**

Petitioner contends that the input VAT on purchases of goods amounting to ₱303,169.58 and the input VAT on purchase of services from SGV & Co. amounting to ₱19,891.56 were properly supported by VAT sales invoices (SIs) and ORs, respectively, in compliance with the NIRC and its implementing regulations. Petitioner further asserts that the requirements of reflecting the phrase *"[t]his invoice/receipt shall be valid for five (5) years from the date of Permit to Use (PTU)"* under RR No. 16-2018,[15] is not applicable in this case since it pertains to information to be shown in tape receipts/invoices while the supporting VAT SIs in this case were under a computerized accounting system (CAS). Lastly, petitioner submits that the input VAT on purchases of services amounting to ₱19,238.99 were supported by VAT ORs with reference numbers corresponding to the nature of payments.

The Court finds partial merit in petitioner's assertions.

As to the requirement that the phrase "THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE PERMIT TO USE" shall appear in the SI/OR, Sections 5 and 6 of RR No. 10-2015,[16] are instructive on the matter, to wit:

> "**SECTION 5.** *Information that shall appear at the Official Receipts/Sales Invoices/ Other commercial invoices (ORs/SIs/CIs) generated from CRM/POS/Other similar machines/software.* – The ORs for sales of services or SIs/CIs for sales of goods generated from CRM/POS/other similar machines/software, shall be printed showing among others the following:
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> x x x
>
> The following information shall be printed at the bottom portion of the OR/SI/CI:
>
> x x x

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15 "SUBJECT: Amending Revenue Regulations (RR) No. 10-2015 as Amended by RR Nos. 12-2015, 14-2015 and 6-2016 on the Use of Non-Thermal Paper for All Cash Register Machines (CRMs)/Point of Sales (POS) Machines and Other Invoice/Receipt Generating Machine/Software", took effect on June 12, 2018.

16 "SUBJECT: Use of Non-Thermal Paper for All Cash Register Machines (CRMs)/Point-of-Sales (POS) Machines and Other Invoice/Receipt Generating Machine/Software", took effect on October 7, 2015

4. The phrase '**THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE PERMIT TO USE.**'

x x x

SECTION 6. *Taxpayers using CRM/POS linked to computerized accounting system (CAS) with option to send electronic mail to client-taxpayers.* – All existing taxpayers issuing receipts/invoices generated thru CRM/POS/other similar machine/software (using thermal paper or otherwise), including those connected to a network or linked to CAS or component(s) thereof, generating electronic receipts, shall be covered by the requirements set forth under Section 4 and 5 hereof." *(Emphasis supplied)*

Based above, the SI/OR generated through CRM/POS or other similar machine/software, including those linked to CAS or components thereof, generating electronic receipts, shall be covered by the requirements set forth under Section 5 of the same, which includes the phrase "THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE PERMIT TO USE" as one of the pieces of information that shall be printed in the SI/OR even those SIs/ORs generated under the CAS.

More so, when the BIR issued RR No. 6-2022,[17] which later on removed the five (5)-year validity period on receipts/invoices, it contains a portion under the Transitory Provisions, which specifically pertain to receipts/invoices generated from CAS, component of CAS with PTU, or Acknowledgement Certificate (AC), to wit:

"**SECTION 4. TRANSITORY PROVISIONS**

x x x

For Receipts/Invoices Generated from CAS, Component of CAS with PTU or AC

All system-generated receipts/invoices that were issued with the aforementioned phrases previously required under RR No. 10-2015 as amended by RR No. 16-2018 and RMO No. 9-2021, and RMC No. 107-2019 based on the previously approved system/software with corresponding PTU/AC shall be disregarded; however, the said system/software generating such receipts/invoices must be reconfigured to omit the said phrases."

Apparently, the removal of the phrase "THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE

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[17] "SUBJECT: Removal of the Five (5)-year Validity Period on Receipts/Invoices", took effect on July 16, 2022.

PERMIT TO USE" similarly applies to receipts/invoices generated from CAS. This further confirms that the receipts/invoices generated from CAS were indeed required to reflect the said phrase prior to the effectivity of RR No. 6-2022. As such, it can be gathered thereon that the requirement of reflecting the said phrase under RR No. 10-2015, as amended by RR No. 16-2018, is also applicable to receipts/invoices generated from CAS. Thus, the disallowance of input VAT on purchases of goods in the amount of ₱303,169.58 is in order.

As to the input VAT on purchases of services from SGS PHILIPPINES, INC. in the amounts of ₱13,874.64 and ₱5,364.35, a second look on the supporting VAT ORs reveals that the same have invoice references and the corresponding service invoices therefor indicated the services being paid for.[18] Therefore, the input VAT on purchases of services to SGS PHILIPPINES, INC. in the total amount of ₱19,238.99 shall be given proper reconsideration.

Accordingly, the valid input VAT on domestic purchases of services shall be adjusted to ₱5,395,058.38, as shown below:

Input VAT on domestic purchase of services per assailed Decision[19]	₱ 5,375,819.39
Add: Reconsidered input VAT on purchases from SGS Philippines, Inc	19,238.99
***Adjusted* Input VAT on domestic purchases of services**	**₱5,395,058.38**

A portion of petitioner's VAT on importations are considered directly attributable to zero-rated sales.

Lastly, petitioner seeks for the reconsideration of the disallowances of input VAT on importations related to zero-rated sales amounting to ₱1,571,474.51, broken down as follows:

SAD/SSDT/IIDE/BOC OR/Invoices (importations)					Related SIs (zero-rated sales) per schedule		
Exhibit Nos.	Customs/ IIDE Reference No.	Referenced Invoice No. (per SAD)/ Airway Bill No. (per IIDE and BOC OR)	VAT Amount (per SSDT/ BOC OR)	Invoice No. (importation)	Exhibit No.	Document No.	Client Name
The details per the importation invoices do not match with the details per the related zero-rated SIs							
"P-69-12", "P-70-12", "P-71-12"	C160132	1940422099	11,039.00	1940422099	"P-53-49"	2110036710	FBI
"P-69-17", "P-70-17",	C188708	1940430485	61,048.78	1940430485	"P-53-89"	2110037375	CAPI

[18] Exhibits "P-66-43" and "P-66-44".
[19] Docket (Vol. 4), p. 1799.

"P-71-17"							
		Subtotal	***₱ 72,087.78***				
The details per the importation invoices matched with the details per the related zero-rated SIs but the related zero-rated sales were not made during the 4th quarter of CY 2018							
"P-69-17", "P-70-17", "P-71-17"	C188708	1940430485	₱ 704.22	1940430485	"P-74-1"	2110038875	CAPI
"P-69-29", "P-70-29", "P-71-29"	C4129	1209197335 1209197336	177,788.00	1209197335 1209197336	"P-74-2" "P-74-3"	2110037939 2110037940	CPAVI
"P-69-30", "P-70-30", "P-71-30"	C4130	1909197278	193,478.00	1909197278	"P-74-4"	2110037938	CPAVI
		Subtotal	***₱ 371,970.22***				
Input VAT directly related to the invalid zero-rated sales to EMB-registered entities, PPCWC and SCPCI							
"P-69-41", "P-70-41", "P-71-51"	C305785	1209187063	₱ 43,321.67	1209187063	"P-53-61"	2110036963	PPCWC
"P-69-41", "P-70-41", "P-71-54"		1209187067	183,013.91	1209187067	"P-53-62"	2110036964	PPCWC
"P-69-41", "P-70-41", "P-71-57"		1209187092	70,888.03	1209187092	"P-53-63"	2110036965	SCPCI
"P-69-42", "P-70-42", "P-71-69"	C14491	1209194252	71,412.57	1209194252	"P-53-99"	2110037537	SCPCI
"P-69-43", "P-70-43", "P-71-73"	C324577	1209191103	312,865.86	1209191103	"P-53-83"	2110037230	PPCWC
"P-69-44", "P-70-44", "P-71-82"	C324626	1209191114	66,817.20	1209191114	"P-53-84"	2110037267	PPCWC
"P-69-45", "P-70-45", "P-71-88"	15260	1209197618	328,160.63	1209197618	"P-53-106"	2110037603	PPCWC
"P-69-45", "P-70-45", "P-71-89"		1209197619	50,936.64	1209197619	"P-53-105"	2110037602	PPCWC
		subtotal	***₱1,127,416.51***				
		Total	**₱1,571,474.51**				

Petitioner insists that the ICPA Report was able to verify that the details per the importation invoices for Franklin Baker, Incorporated (FBI) with reference no. C160132 and CAPI with reference no. C188708 both matched the details of the related zero-rated SIs. Petitioner further maintains that the period to file a claim for refund on input VAT on importation should be counted from the date of payment of taxes to the Bureau of Customs since the declaration of input VAT is based on when the importation charges/taxes were paid; and that, the period when the imported goods are sold should be irrelevant. As such, petitioner continues that it properly claimed the input VAT pertaining to importations with reference nos. C188708, C4129, and C4130 considering that the ICPA Report confirmed that they were paid during the 4[th] quarter of 2018.

The Court agrees in part with petitioner.

As to the zero-rated sales to FBI per reference no. C160132 with input VAT of ₱11,039.00, further review of the importation invoice[20] and the related zero-rated SI[21] shows that the details of the items reflected therein are not the same. The description of the items purchased per said importation invoice is "Kl'beroil 4 UH1-460N, 20L Can" while the description of the items sold per zero-rated SI is "Hydraulic H1-0500, PAO HLP32, 20 L Can". Since the said amount of ₱11,039.00 was not proven as directly related to zero-rated sales, the same was properly included in the input VAT for allocation.

With regard to the zero-rated sales to CAPI per reference no. C188708 with input VAT of ₱61,048.78, verification of the importation invoice[22] and the related zero-rated SI[23] reveals that only the item with description "Gasket 35,4x49,1x5,2 1"1/2 FDA, 3-A" were matched and found in both invoices, though only 13 pcs (total of 3pcs, 6pcs, and 4pcs) items purchased, with a net value of US$19.63 (total of US$4.53, US$9.06, and US$6.04), per importation invoice is related to the 20pcs items sold per zero-rated SI. As such, out of the input VAT of ₱61,048.78, only the amount of ₱125.25[24] shall be reconsidered as directly attributable to valid zero-rated sales and shall be excluded from the valid input VAT on importations for allocation.

As to petitioner's argument as to the period to be considered for refund claims of input VAT on importation, the same has already long been settled. The reckoning of the period to file a claim for refund based on the date of payment of tax is covered by Section 204(C) of the NIRC of 1997, as amended, but however refers only those refunds of erroneously or illegally paid taxes, which is not applicable in this case. It is to be noted that refunds or tax credits of input VAT can only be claimed under two instances: (1) when there is zero-rated or effectively zero-rated sales to which the input VAT is attributable and (2) upon cancellation of VAT registration due to retirement or cessation of business, as provided for under Section 112(A) of the NIRC of 1997, as amended. Here, the input VAT paid on importations was legally due and that the claim for refund is based on the input VAT's attributability to zero-rated sales.

Indeed, there is no question that the input VAT on importation of goods shall be creditable to the importer upon payment of the VAT and that the basis for the declaration of the said input VAT is when it was paid. However, contrary to petitioner's notion, claims for refund of input VAT on

20 Exhibit "P-71-12" (Page 3).
21 Exhibit "P-53-49" (Page 2).
22 Exhibit "P-71-17", (Page 6).
23 Exhibit "P-53-89", (Page 2).
24 Corresponding input VAT of the US$19.63 purchase per importation invoice:

Net Value per importation invoice (in USD)	19.63
Input VAT (in USD) [19.63 x 12%]	2.36
Conversion rate for 12/20/2018 per Annex A	53.07
Input VAT (in PhP) directly attributable to zero-rated sale per SI No. 2110037375	**125.25**

importations attributable to zero-rated sales under Section 112 (A) of the NIRC of 1997, as amended, it is the date when the related zero-rated sales were made that matters and not the date when the input VAT was paid since the entitlement to the refund of input VAT thereof is premised on the existence of zero-rated sales.

On this note, albeit the input VAT on importations in the amount of ₱371,970.22 was proven as directly related to certain zero-rated sales, the said related zero-rated sales however were not yet made during the 4th quarter of CY 2018, hence, the input VAT directly attributable to such sales is not yet entitled to refund for the said period of claim. For said reason, the input VAT of ₱371,970.22 was properly disallowed.

In sum, the input VAT directly attributable to valid zero-rated sales and the valid input VAT on importations shall be adjusted to ₱8,470,656.45 and ₱567,503.53, as shown below:

	Input VAT directly attributable to valid zero-rated sales	**Valid input VAT on importations for allocation**
Per the Court's Decision	₱8,470,531.20	₱567,628.78
Add/(Less): Reconsidered Input VAT related to zero-rated sales to CAPI	125.25	(125.25)
As adjusted per Motion for Partial Reconsideration	**₱8,470,656.45**	**₱567,503.53**

The adjusted amounts herein computed shall be incorporated in the computation of the refundable input VAT per the Court's Decision.[25] Correspondingly, as to the remaining valid input VAT on domestic purchases of services amounting to ₱5,395,058.38 and the valid input VAT on importations found as not directly related to zero-rated sales amounting to ₱567,503.53, the said amounts shall be allocated proportionately on the basis of petitioner's volume of sales considering that said amounts cannot be directly identified with specific sales, to wit:

Valid input VAT on importations	₱ 567,503.53
Valid input Vat on domestic purchase of services	5,395,058.38
Total input VAT for allocation	**₱5,962,561.91**
Divided by total sales per amended VAT return	960,487,569.57
Multiplied by valid zero-rated sales	113,339,416.38
Input VAT allocated to valid zero-rated sales	**₱ 703,594.00**

As a result, only the input VAT of ₱703,594.00 is allocable to petitioner's valid zero-rated sales of ₱113,339,416.38.

[25] *Decision*, pp. 35-36, Docket (Vol. 4), pp. 1802 to 1803.

Consequently, with regard to petitioner's compliance with the *eighth* requisite, only the amount of ₱9,174,250.45 represents its valid input VAT directly attributable and allocable to its valid zero-rated sales, as summarized below:

Input VAT on importations directly attributable to valid zero-rated sales	₱ 8,470,656.45
Input VAT on domestic purchase of services and importations allocated to valid zero-rated sales	703,594.00
Total Valid input VAT attributable to valid zero-rated sales	**₱9,174,250.45**

WHEREFORE, premises considered, respondent's Motion for Partial Reconsideration (Re: Decision dated 20 August 2024) is **DENIED** for lack of merit.

On the other hand, petitioner's Motion for Partial Reconsideration (of the Decision dated 20 August 2024) is **PARTIALLY GRANTED**. Accordingly, the dispositive portion of the Decision dated August 20, 2024, is hereby amended to read as follows:

> "**WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED.** Accordingly, respondent is **ORDERED TO REFUND**, in favor of petitioner, the amount of **₱9,174,250.45** representing the latter's excess and unutilized input VAT attributable to its zero-rated sales for the 4th quarter of CY 2018."
>
> **SO ORDERED.**"

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

ATTESTATION

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

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice