REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

I-REMIT, INC.,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9733

Members:

DEL ROSARIO, *P.J.*, *Chairperson*
FABON-VICTORINO, *and*
MANAHAN, *JJ.*

Promulgated:

JUL 24 2020; 9:15 A.M.

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DECISION

MANAHAN, *J.*:

This *Petition for Review* pertains to the claim for tax refund/credit of petitioner's alleged unutilized input (value-added tax) VAT from January 1 to December 31, 2015, amounting to ₱10,582,022.34.[1]

THE PARTIES

Petitioner I-Remit, Inc. is a remittance corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office at 26th Floor Discovery Centre, 25 ADB Avenue, Ortigas Center, Pasig City 1605.[2]

Respondent Commissioner of Internal Revenue is herein impleaded in his official capacity, having been duly appointed and empowered to perform the duties of his office, including, among others, the duty to act on and approve claims for

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[1] Docket, CTA Case No. 9733, Vol. 1, Summary of the Case, Pre-Trial Order dated May 23, 2018, p. 173.

[2] *Id.*, Vol. 1, Par. 1, The Parties, *Petition for Review*, p. 11, vis-à-vis Par. 1, *Answer*, Docket, Vol. 1, p. 64; Docket, Vol. 1, Part II(A)(1), Pre-Trial Order dated May 23, 2018, p. 173; Docket, Vol. 1, Exhibit "P-2", p. 104.

refund as provided by law.[3] He is the head of the Bureau of Internal Revenue (BIR), the government agency tasked to, among others, assess and collect all national internal revenue taxes with the power to decide disputed assessments, refunds of international revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the Tax Code or other laws or portions thereof administered by the BIR.[4]

THE FACTS

On July 18, 2017, petitioner filed with the BIR its administrative claim for refund, embodied in the letter dated July 17, 2017,[5] accompanied by an *Application for Tax Credits/Refunds (BIR Form No. 1914)*,[6] requesting for the refund of input VAT paid by petitioner from January 1 to December 31, 2015 in the total amount of ₱10,582,022.34.

However, the said administrative claim of petitioner was denied by Ms. Teresita M. Angeles, OIC-Assistant Commissioner for Large Taxpayers Service of the BIR, in her letter dated November 9, 2017, which was received by petitioner on November 16, 2017,[7] pertinent portions of which read:

> "Based on our evaluation of the documents submitted, it merely substantiated the existence of the sales/revenue, receipt of foreign currency payments and inward remittance of the proceeds of the sale/revenue. Nothing in the documents presented would support that your clients were doing business outside the Philippines which is an essential condition under the above provisions of the NIRC. This specific condition for zero-rating was affirmed in the case of Commissioner of Internal Revenue vs. Accenture, Inc. under G.R. No. 190102 dated July 11, 2012.
>
> In this regard, we regret to inform you that your Application for Tax Credit for the period January 1, 2015 to December 31, 2015 is hereby DENIED."

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[3] Docket, Vol. 1, Par. 2, The Parties, *Petition for Review*, p. 11, vis-à-vis Par. 1, *Answer*, Docket, Vol. 1, p. 64; Docket, Vol. 1, Part II(A)(2), Pre-Trial Order dated May 23, 2018, p. 173.
[4] *Id.*, Vol. 1, Part II(A)(3), Pre-trial Order dated May 23, 2018, pp. 173 to 174.
[5] *Id.*, Vol. 1, Exhibit "P-5", pp. 107 to 109.
[6] *Id.*, Vol. 1, Exhibit "P-4", p. 106.
[7] *Id.*, Vol. 1, Exhibit "P-8", pp. 19 to 20; Exhibit "R-3", BIR Records, pp. 323 to 324. *an*

Petitioner filed the instant *Petition for Review* on December 14, 2017.[8] The case was initially raffled to the Third Division of this Court.

On February 12, 2018, respondent filed his *Answer*,[9] interposing the following special and affirmative defenses, to wit:

> **"SPECIAL AND AFFIRMATIVE DEFENSES**
>
> 4. Respondent reiterates and re-pleads the preceding paragraphs of this Answer as part of his Special and Affirmative Defenses.
>
> **Petitioner is not entitled to refund of its alleged unutilized Input VAT**
>
> 5. Petitioner is claiming for its excess input VAT from zero-rated revenues pursuant to Section 108 B (2) of the NIRC of 1997, as amended, which provides:
>
>> 'Section. 108. Value-Added Tax on Sale of Services and Use or Lease of Properties.-
>>
>> (A) x x x
>> (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:
>> (1) x x x
>> (2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);'
>
> 6. However, evaluation of the documents submitted by petitioner related to its zero-rated sales show that it merely substantiated the existence of the sales/revenue, receipt of foreign currency payments and inward remittance of the proceeds of the sale/revenue. Nothing in the documents would support petitioner's claim that its clients were doing business outside the Philippines which is an

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[8] Docket, Vol. 1, pp. 10 to 18.
[9] *Id.*, Vol. 1, pp. 64 to 69.

essential requirement under the above-mentioned provision of the NIRC. Hence, petitioner

7. The requirements for zero-rating, including the essential condition that the recipient of service is doing business outside the Philippines must be clearly established to treat the transaction as zero-rated and to allow any excess input taxes attributable thereto as eligible for tax refund or TCC application.

8. Likewise, in the recent case of Deutsche Knowledge Services Pte Ltd vs. Commissioner of Internal Revenue, CTA Case Nos. 8623, 8656 and 8685 dated April 4, 2017, additional documents such as SEC Certificate of Non-Registration of Corporation/Partnership and Certificate/Articles of Incorporation/ Association/ Registration for the sixty-nine (69) foreign affiliates/ customers are required to substantiate that the recipient of the service is engaged in business conducted outside the Philippines.

9. In this light, as petitioner failed to show proof that the recipients of its services are doing business outside the Philippines, which is a mandatory requirement in order to treat its transactions as zero-rated, it is unquestionably not entitled to any refund.

It is incumbent upon petitioner to prove that it is entitled to the refund sought because a claim for refund is not ipso facto granted upon filing of the claim.

10. The power of taxation is an inherent attribute of sovereignty; the government chiefly relies on taxation to obtain the means to carry on its operations. Taxes are essential to its very existence; hence, the dictum that taxes are the lifeblood of the government. For this reason, the right of taxation cannot easily be surrendered.

11. Since taxes are what we pay for civilized society, or are the lifeblood of the nation, the law frowns against exemptions from taxation and statutes granting tax exemptions are thus construed strictissimi juris against the taxpayers and liberally in favor of the taxing authority.

12. Tax refunds partake of the nature of tax exemptions which are a derogation of the power of taxation of the State. Consequently, they are construed strictly against a taxpayer and liberally in favor of the State.

13. Thus, petitioner is charged with the heavy burden of proving that it has complied with and satisfied all the statutory and administrative requirements to be entitled to the tax refund.

14. Likewise, not only should petitioner establish that it is entitled to tax refund, it is also imperative that petitioner prove its compliance with the following:

a. The registration requirement of a VAT taxpayer in compliance with Revenue Regulations No. 7-2012 in relation to Section 236 (A), (B), (C) and (D) of the Tax Code;

b. The invoicing and accounting requirements for VAT registered persons, as well as the filing and payment of VAT in compliance with the provisions of Sections 113 and 114 of the Tax Code;

c. Proof of compliance with the prescribed checklist of requirements to be submitted in cases involving a claim for VAT refund pursuant to Revenue Memorandum Order No. 53-1998 and Revenue Memorandum Circular No. 54-2014. Otherwise, there would be no sufficient compliance with the filing of an administrative application for tax refund which is a condition sine qua non prior to the filing of a judicial claim in accordance with Section 112 of the Tax Code. This requires the submission of complete documents in support of the application filed with the Bureau of Internal Revenue before the 120-day audit period shall apply and before the taxpayer could avail of the judicial remedies as provided for in the law. Hence, petitioner's failure to submit proof of compliance with the above-stated requirements warrants immediate dismissal of the Petition for Review;

d. That the petitioner's alleged zero rated sales complied with the requirements set forth in Section 108 of the Tax Code;

e. That the input taxes in the amount of Thirty Seven Million Three Hundred Ninety Three Thousand One Hundred Ninety Five Pesos (P37,393,195.00) allegedly representing unutilized Input VAT were directly attributable to its zero rated sales and such have not been applied against any Output VAT and were not carried over to the succeeding taxable quarter or quarters;

f. That petitioner's administrative and judicial claims for tax refund was filed within the periods provided in Section 112 (A) and (C) of the Tax Code;

g. That petitioner's local purchases and importation of goods and services were made in the course of its trade or business, properly supported by VAT invoices and/or official receipts under Sections 110 (A) (2) and 113 of the Tax Code; and

h. The requirements as enumerated under Section 4-110-7 of Revenue Regulations No. 14-2005.

15. In the case at hand, for failure of petitioner to show that it has strictly complied with the conditions for the grant of the VAT refund/credit, petitioner is not entitled to claim for tax refund/credit.

16. Based on the foregoing, petitioner's claim for refund in the total amount of P10,582,022.34 has no bases in fact and in law. Thus, the instant petition should be denied for lack of merit."

The Pre-Trial Conference was set and held on May 8, 2018.[10]

In the meantime, *Respondent's Pre-Trial Brief* was filed on April 30, 2018,[11] while petitioner's *Pre-Trial Brief* was submitted through private courier on May 4, 2018.[12]

On May 23, 2018, the Pre-Trial Order was issued,[13] thereby deeming the termination the Pre-Trial Conference.

Thereafter, respondent filed the *BIR Records* for the instant case on May 25, 2018.[14]

The trial of the case proceeded.

During trial, petitioner presented its documentary and testimonial evidence. It offered the testimony of its sole

[10] Docket, Vol. 1, *Notice of Pre-Trial Conference* dated February 14, 2018, pp. 71 to 72; Docket, Vol. 1, Minutes of the hearing held on May 8, 2018, p. 169.
[11] *Id.*, Vol. 1, pp. 83 to 86.
[12] *Id.*, Vol. 1, pp. 88 to 91.
[13] *Id.*, Vol. 1, pp. 173 to 177.
[14] *Id.*, Vol. 1, *Compliance* dated May 18, 2019, pp. 178 to 180.

witness, Ms. Analie M. Angeles,[15] former Vice President and Comptroller of petitioner.

On September 18, 2018, petitioner filed its *Formal Offer of Evidence.*[16] Respondent filed his *Comment (Re: Petitioner's Formal Offer of Evidence)* on September 20, 2018.[17] Thus, in the Resolution dated January 7, 2019,[18] the Court admitted petitioner's Exhibits.

Meanwhile, in the Order dated September 20, 2018,[19] the instant case was transferred to this Court's First Division.

For his part, respondent likewise presented his documentary and testimonial evidence. He offered the testimony of Ms. Catherine Obias,[20] a Revenue Officer 1 of the BIR.

Respondent filed his *Formal Offer of Evidence* through private courier on March 7, 2019.[21] Petitioner filed its *Comment* thereon on March 15, 2019.[22] Thus, in the Resolution dated May 2, 2019,[23] the Court admitted respondent's Exhibits, *except* for Exhibit "R-1-a", for being unmarked.

On June 3, 2019, petitioner filed a *Manifestation,*[24] through private courier, stating that it no longer intends to present its rebuttal evidence. Thus, in the Resolution dated June 4, 2019,[25] the Court admitted petitioner's *Manifestation*; cancelled the supposed hearing for the presentation of petitioner's rebuttal evidence; and ordered both parties to submit their respective memoranda.

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[15] Docket, Vol. 1, Exhibit "P-111", pp. 209 to 219; Docket, Vol. 2, Minutes of the hearing held on, and Order dated, September 4, 2018, pp. 909 to 910.
[16] *Id.*, Vol. 2, pp. 911 to 916.
[17] *Id.*, Vol. 2, pp. 917 to 920.
[18] *Id.*, Vol. 2, pp. 926 to 927.
[19] *Id.*, Vol. 2, p. 921.
[20] *Id.*, Vol. 2, Exhibit "R-4", pp. 932 to 935; Docket, Vol. 2, Minutes of the hearing held on, and Order dated, March 5, 2019, pp. 949 to 950.
[21] *Id.*, Vol. 2, pp. 952 to 955.
[22] *Id.*, Vol. 2, pp. 957 to 958.
[23] *Id.*, Vol. 2, pp. 963 to 964.
[24] *Id.*, Vol. 2, pp. 965 to 967.
[25] *Id.*, Vol. 2, p. 971.

Respondent filed his *Memorandum* on July 8, 2019,[26] while petitioner failed to file its memorandum.[27]

The case was submitted for decision on July 29, 2019.[28]

ISSUES

The sole issue for the Court's resolution is as follows, to wit:

> "Whether petitioner is entitled to refund of its unutilized Input VAT paid from January 1, 2015 to December 31, 2015 in the total amount of ₱10,582,022.34 consequential to its alleged zero-rated sales." [29]

Petitioner's Arguments

Petitioner argues that it has submitted all the required documents in support of its claim for tax refund, pursuant to Revenue Memorandum Circular (RMC) No. 54-2014; and that petitioner has fully complied with the provision of Section 108(B)(2) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Respondent's Arguments

Respondent counter-argues that the petition must be dismissed for failure of petitioner to substantiate its administrative claim for refund; and that petitioner is not entitled to the claim for refund of alleged excess and unutilized input taxes.

RULING OF THE COURT

This Court shall determine first whether it has jurisdiction on the instant petition. Sections 7(a) and 11 of

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[26] Docket, Vol. 2, pp. 972 to 981.
[27] *Id.*, Vol. 2, Records Verification dated July 18, 2019 issued by the Judicial Records Division of this Court, p. 983.
[28] *Id.*, Vol. 2, Resolution dated July 29, 2019, p. 985.
[29] *Id.*, Vol. 1, Issue, Pre-Trial Order dated May 23, 2018, p. 174.

Republic Act (RA) No. 1125[30], as amended by RA No. 9282[31], provides as follows:

> "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 relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
>
> xxx xxx xxx
>
> "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 xxx 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 actions as referred to in Section 7(a)(2) herein.
>
> Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA **within thirty (30) days from receipt of the decision or ruling** or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon. xxx." *(Emphasis supplied)*

Based on the foregoing provisions, this Court has exclusive appellate jurisdiction, *inter alia*, to take cognizance of decisions involving claims for refund of any internal revenue taxes and the concerned taxpayer or party adversely affected by said decision of respondent may file an appeal with this Court within thirty (30) days after the receipt of such decision.

In the instant case, petitioner filed the instant Petition for Review on the letter of denial of its claim for input VAT refund dated November 9, 2017 issued by Ms. Teresita M. Angeles,

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

[31] 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 OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

OIC-Assistant Commissioner for Large Taxpayers Service of the BIR which it received on November 16, 2017. Such is the final decision of the respondent on said claim for refund, hence, the instant case is within the jurisdiction of this Court.

Requisites for the grant of refund under the law.

Section 112 of the NIRC of 1997, as amended by Republic Act (RA) No. 9337,[32] provides as follows:

> "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: xxx.
>
> xxx xxx xxx
>
> (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 a 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

[32] 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.

(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."

Based on the foregoing provision, jurisprudence has laid down certain requisites which the taxpayer-applicant must comply with in order to successfully obtain a credit/refund of input VAT. Said requisites are classified into certain categories, to wit:

<u>As to the timeliness of the filing of the administrative and judicial claims:</u>

1. that the claim is filed with the BIR within two years after the close of the taxable quarter when the sales were made;[33]

2. that 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 from the submission of complete documents, the judicial claim has been filed with this Court, within 30 days from receipt of the decision or after the expiration of the said 120-day period;[34]

<u>In relation to the taxpayer's output VAT:</u>

3. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[35]

4. for zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b), and Section 108(B)(1) and (2), the

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[33] *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.

[34] *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.

[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.

acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations;[36]

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

5. the taxpayer is a VAT-registered person;[37]

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[38]

7. the input taxes are due or paid;[39]

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;[40] and

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[41]

In cases filed before this Court, which are litigated *de novo*, party-litigants must prove every minute aspect of their case.[42] Thus, it behooves petitioner to show compliance with each of the foregoing requisites.

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36 *Id.*
37 *Id.*
38 *Id.*
39 *Id.*
40 *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.
41 *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.
42 *Edison (Bataan) Cogeneration Corporation vs. Commissioner of Internal Revenue, etseq.*, G.R. Nos. 201665 and 201668, August 30, 2017; *Commissioner of Internal*

Petitioner's administrative claim pertaining to the 1st and 2nd quarters of 2015 has prescribed.

The *first* requisite pertains to the filing of a claim for tax refund or tax credit of input VAT before the BIR, within two (2) years from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim covers the four (4) quarters of taxable year 2015, which closed on: (1) March 31, 2015 for the 1st quarter thereof; (2) June 30, 2015 for the 2nd quarter; (3) September 30, 2015 for the 3rd quarter; and (4) December 31, 2015 for the 4th quarter. Counting two (2) years from the said dates, petitioner had until March 31, 2017, June 30, 2017, September 30, 2017, and December 31, 2017, respectively, within which to file its administrative claim for refund.

Considering that petitioner's administrative claim for refund, covering the four (4) quarters of 2015, was filed with the BIR only on July 18, 2017,[43] petitioner's right to claim for tax refund/credit of its alleged input VAT for the 1st and 2nd quarters of 2015 has already prescribed. As a corollary, the refund claim pertaining to the 3rd and 4th quarters of 2015 was filed within the prescriptive period.

Anent the prescribed portion of the instant refund claim, petitioner's sole witness, Ms. Angeles, testified, in effect, that petitioner attempted to file its administrative claim on March 24, 2017, but respondent refused to accept the same on the ground that it failed to submit complete documents as required in Annex "A", Section II of RMC No. 54-2014.[44]

The Court, however, finds that even granting that the said testimony is true, the fact still remains that petitioner belatedly filed its administrative claim insofar as the 1st and

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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.

[43] Docket, Vol. 1, Exhibits "P-5" and "P-4", pp. 107 to 109, and 106, respectively.

[44] *Id.*, Vol. 1, Par. 4, Statement of Facts, Petition for Review, p. 11; Docket, Vol. 1, Par. 20, Exhibit "P-111", p. 212.

2nd quarters of 2015 are concerned. After all, petitioner is indeed required to submit the complete documents in support of its refund application.

To be clear, petitioner's compliance with the *first* requisite pertains only to the the 3rd and 4th quarters of 2015. Correspondingly, this Court shall confine its further determination on whether petitioner complied with the other requisites only to these unprescribed periods.

Petitioner's judicial claim was timely filed.

The *second* requisite is to the effect that the judicial claim must have been filed within thirty (30) days from the receipt of respondent's decision or after the expiration of the 120-day period, as enunciated in Section 112(C) of the NIRC of 1997, as amended.

Records reveal that the letter dated November 9, 2017, denying its administrative claim for tax refund/credit, was received by petitioner on November 16, 2017.[45] Counting thirty (30) days from November 16, 2017, petitioner had until December 16, 2017, within which to file its judicial claim for refund.

Since the instant *Petition for Review* was filed on December 14, 2017,[46] petitioner's judicial claim was seasonably filed. Such being the case, petitioner fulfilled the above-stated *second* requisite.

Petitioner failed to establish that it was engaged in zero-rated or effectively zero-rated sales during the 3rd and 4th quarters of 2015.

The *third* and *fourth* requisites require that the taxpayer is engaged in zero-rated or effectively zero-rated sales, and 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 by RA No. 9337, the acceptable foreign currency exchange proceeds have

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[45] Docket, Vol. 1, Exhibit "P-8", pp. 19 to 20; Exhibit "R-3", BIR Records, pp. 323-324.
[46] *Id.*, Vol. 1, pp. 10 to 18.

been duly accounted for in accordance with the BSP rules and regulations.

Section 108(B) of the NIRC of 1997, as amended, provides, in part, as follows:

> "SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* –
>
> xxx xxx xxx
>
> (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**:
>
> (1) Processing, manufacturing or repacking of goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
>
> (2) **Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)**;" *(Emphases supplied)*

Based on the foregoing provision, certain *essential elements* must be present for a sale or supply of services to be subject to the VAT rate of zero percent (0%), under Section 108(B)(2) of the NIRC of 1997, as amended, to wit:

1) The services fall under any of the categories under Section 108(B)(2),[47] or simply, the services rendered should be other than *"processing, manufacturing or repacking goods"*;[48]

2) The recipient of the services is a foreign corporation, and the said corporation is doing business *outside* the Philippines, or is a nonresident person not engaged in

[47] *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, G.R. No. 152609, June 29, 2005.
[48] *Commissioner of Internal Reve nue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007.

business who is *outside* the Philippines when the services were performed;[49]

3) The service must be performed in the Philippines[50] by a VAT-registered person; and

4) The payment for such services should be in acceptable foreign currency accounted for in accordance with BSP rules.[51]

As for the *first* essential element, records reveal that based on the Certificate of Registration (MSB Registration No. 60-00106-0-00000) dated October 13, 2017, issued by the BSP, petitioner is authorized to operate as a "**REMITTANCE and TRANSFER COMPANY (RTC)** with a Type **'A' REMITTANCE AGENT (RA) with MONEY CHANGING (MC)/FOREIGN EXCHANGE DEALING (FXD)** registration in the Philippines."[52] Relative thereto, pursuant to the Memoranda of Agreement between petitioner and its clients, petitioner was required to perform "Distribution Fulfillment Services" or one that involves money remittance services to local beneficiaries in the Philippines for foreign-based customers.[53]

The services rendered by petitioner are certainly not in the same category as *"processing, manufacturing or repacking of goods"*. Thus, petitioner satisfied the *first* essential element.

Anent the *second* essential element, in order to be considered as a non-resident foreign corporation doing business outside the Philippines, each entity must be supported, at the very least, by **both** a *Certification of Non-Registration of Corporation/Partnership* issued by the Philippine Securities and Exchange Commission (SEC), **and**

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[49] *Sitel Philippines Corporation (Formerly Clientlogic Phils. Inc.) vs. Commissioner of Internal Revenue,* G.R. No. 201326, February 8, 2017; *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007; *Accenture, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 190102, July 11, 2012.

[50] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra; *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch),* G.R. No. 152609, June 29, 2005.

[51] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra; *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch),* supra.

[52] Docket, Vol. 1, Exhibit "P-2", p. 104.

[53] *Id.*, Vol. 1, Pars. 50 to 52, Exhibit "P-111", p. 216.

proof of incorporation/registration in a foreign country (*e.g.*, Articles/Certificate of Incorporation/Registration and/or Tax Residence Certificate). As a corollary, there must be no other indication which would disqualify said entity from` being classified as a non-resident foreign corporation.

The Philippine SEC's *Certification of Non-Registration of Corporation* establishes that the recipient of the service has no registered business in the Philippines, and that it is not engaged in trade or business within the Philippines; while the certificate/articles of incorporation/association will prove that the said recipient of the service is indeed foreign.

In this case, petitioner's witness, Ms. Angeles, testified that during the year 2015, petitioner rendered services to forty-seven (47) foreign corporations doing business outside the Philippines.[54]

However, the Court notes certain discrepancies in the names of the corporations stated in the supporting documents vis-à-vis the names of the entities as identified by petitioner's witness. Furthermore, not all corporations mentioned by petitioner's witness were duly supported with both SEC *Certification of Non-Registration of Corporation/Partnership* and proof of incorporation/registration in a foreign country. Thus, the Court did not consider the said corporations as non-resident foreign corporations doing business outside the Philippines, as shown in the table below:

Name of the Entity as Identified by Ms. Angeles	**SEC Certificate of Non-Registration**	**Articles of Association/ Certificate of Registration/ Incorporation and/or other similar documents**		**Whether with Memorandum of Agreement (MOA) or not**	**Reason/s for Denial**[55]
		Exhibit No.	**Document**		
1. Al Bader Exchange	P-64[56]	P-17[57]	Commercial License	With MOA	The registered name in the Commercial License is "Al Bader **Money** Exchange"; while the same was identified by the witness as "Al Bader Exchange".

[54] Docket, Vol. I, Par. 52, Exhibit "P-111", pp. 216 to 217.
[55] Inconsistency in the name of the entity or no SEC Certificate of Non-Registration or Certificate of Registration/Incorporation and/or other similar documents.
[56] *Id.*, Vol. 1, p. 122.
[57] *Id.*, Vol. 1, pp. 223 to 239.

2. Al Ahalia Money Exchange	P-65[58]	P-18[59]	Commercial License	With MOA	The registered name in the Certificate of Non-Registration and Commercial License is "Alhalia Money Exchange **Bureau**"; while the same was identified by the witness as "Al Ahalia Money Exchange".
3. Alfa Exchange	P-66[60]	P-19[61]	Commercial License	With MOA	
4. Alfalah Exchange	P-67[62]	P-20[63]	Commercial License Memorandum of Incorporation	With MOA	The registered name in the Certificate of Non-Registration, Commercial License and Memorandum of Incorporation is "Alfalah Exchange **Company**"; while the same was identified by the witness as "Alfalah Exchange".
5. Al Ghurair Exchange	P-68[64]	P-21[65]	Commercial License	With MOA	The registered name in the Commercial License is "Al Ghurair **International** Exchange"; while the same was identified by the witness "Al Ghurair Exchange".
6. Arab Exchange Co.	P-69[66]	P-22[67]	Registration Certificate Of With Limited Liability Company	—	The registered name in the Certificate of Non-Registration and Registration Certificate Of With Limited Liability Company is "Arab Exchange Co. **W.L.L.**"; while the same was identified by the witness as "Arab Exchange Co."
7. National Finance & Exchange Co.	P-70[68]	P-23[69]	Registration Certificate Of With Limited Liability Company	—	The registered name in the Registration Certificate Of With Limited Liability Company is "National Finance & Exchange Co. **W.L.L.**," while the same was identified by the witness as

[58] Docket, Vol. 1, p. 123.
[59] *Id.*, Vol. 1, pp. 240 to 249.
[60] *Id.*, Vol. 1, p. 124.
[61] *Id.*, Vol. 1, pp. 250 to 276.
[62] *Id.*, Vol. 1, p. 125.
[63] *Id.*, Vol. 1, pp. 277 to 324.
[64] *Id.*, Vol. 1, p. 126.
[65] *Id.*, Vol. 1, pp. 325 to 343.
[66] *Id.*, Vol. 1, p. 127.
[67] *Id.*, Vol. 1, pp. 344 to 345.
[68] *Id.*, Vol. 1, p. 128.
[69] *Id.*, Vol. 1, pp. 346 to 347.

					"National Finance & Exchange Co."
8. Al Neel Exchange	P-71[70]	P-24[71]	Commercial License	With MOA	
9. Al Ansari Exchange	P-72[72]	—	—	—	No Articles of Association/Certificate of Registration/ Incorporation and/or other similar documents
10. Arab Link Money Transfer	P-73[73]	—	—	—	No Articles of Association/Certificate of Registration/ Incorporation and/or other similar documents
11. Day Exchange LLC	P-74[74]	P-25[75]	Commercial License	With MOA	
12. Delma Exchange	P-75[76]	P-26[77]	Commercial License	With MOA	
13. Deniba International Exchange	P-76[78]	P-27[79]	Commercial License	With MOA	
14. Economic Exchange Centre	P-77[80]	P-28[81]	Commercial License	With MOA	
15. Al Fardan Exchange	P-78[82]	P-29[83]	Commercial License	With MOA	The registered name in the Commercial License is "Al Fardan Exchange **LLC**"; while the same was identified by the witness as "Al Fardan Exchange".
16. Federal Exchange	P-79[84]	—	—	—	No Articles of Association/Certificate of Registration/ Incorporation and/or other similar documents
17. GCC Exchange	P-80[85]	P-30[86]	Certificate of Incorporation of Private	—	The registered name in the Certificate of Incorporation of

[70] Docket, Vol. 1, p. 129.
[71] *Id.*, Vol. 1, pp. 348 to 373.
[72] *Id.*, Vol. 1, p. 130.
[73] *Id.*, Vol. 1, p. 131.
[74] *Id.*, Vol. 1, p. 132.
[75] *Id.*, Vol. 1, pp. 374 to 401.
[76] *Id.*, Vol. 1, p. 133.
[77] *Id.*, Vol. 1, pp. 402 to 417.
[78] *Id.*, Vol. 1, p. 134.
[79] *Id.*, Vol. 1, pp. 418 to 440.
[80] *Id.*, Vol. 1, p. 135.
[81] *Id.*, Vol. 1, pp. 441 to 455.
[82] *Id.*, Vol. 1, p. 136.
[83] *Id.*, Vol. 1, pp. 456 to 478.
[84] *Id.*, Vol. 1, p. 137.
[85] Docket, Vol. 1, p. 138.
[86] *Id.*, Vol. 1, pp. 479 to 499.

			Limited Company Memorandum and Articles of Association		Private Limited Company and Memorandum and Articles of Association is "GCC Exchange **Private Limited**"; while the same was identified by the witness as "GCC Exchange".
18. Hawl Al Khaleej Exchange	P-81[87]	P-31[88]	Trading License	With MOA	The registered name in the Certificate of Non-Registration is "Hawl Al Khalee**i** Exhange"; while the same was identified by the witness as "Hawl Al Khaleej Exchange".
19. Lari Exchange Establishment	P-82[89]	P-32[90]	Commercial License	With MOA	
20. Orient Exchange Co.	P-83[91]	—	—	—	The registered name in the Certificate of Non-Registration is "Orient Exchange Co. **LLC**"; while the same was identified by the witness as "Orient Exchange Co." No Articles of Association/Certificate of Registration/ Incorporation and/or other similar documents
21. Premier International Exchange	P-84[92]	—	—	—	The registered name in the Certificate of Non-Registration is "Premier International Exchange **Est.**"; while the same was identified by the witness as "Premier International Exchange". No Articles of Association/Certificate of Registration/ Incorporation and/or other similar documents
22. Sultan Althabab Exchange	P-85[93]	P-33[94]	Commercial License	With MOA	

[87] *Id.*, Vol. 1, p. 139.
[88] *Id.*, Vol. 1, p. 500; Docket – Vol. 2, pp. 501 to 520.
[89] *Id.*, Vol. 1, p. 140.
[90] *Id.*, Vol. 2, pp. 521 to 534.
[91] *Id.*, Vol. 1, p. 141.
[92] *Id.*, Vol. 1, p. 142.
[93] Docket, Vol. 1, p. 143.
[94] *Id.*, Vol. 2, pp. 535 to 553.

23. Smart Exchange	P-86[95]	—	—	—	No Articles of Association/ Certificate of Registration/ Incorporation and/or other similar documents
24. Gulf Express Exchange	P-87[96]	P-34[97]	Commercial License	With MOA	
25. Intel Express Giorgia	P-88[98]	—	—	—	No Articles of Association/Certificate of Registration/ Incorporation and/or other similar documents
26. Universal Exchange Center	P-89[99]	P-35[100]	Commercial License	With MOA	
27. Filipino Television	P-90[101]	—	—	—	No Articles of Association/Certificate of Registration/ Incorporation and/or other similar documents
28. Leela Megh Exchange LLC	P-91[102]	P-36[103]	Commercial License	With MOA	
29. International Trade Agency Dela Cruz	P-92[104]	P-37[105]	Certificate of Membership of the Chamber of Commerce of the District of Bonn/Rhine-Sieg	—	
30. Small World Financial Services Group	P-93[106]	P-38[107]	Certificate of Incorporation of a Private Limited Company Certificate of Incorporation on Change of Name Articles of Association	—	The registered name in the Certificate of Non-Registration is "Small World Financial Services Group **Ltd**"; the registered name in the Certificate of Incorporation of a Private Limited Company is "Small World Financial Services Group **Limited**"; while the same was identified by

[95] *Id.*, Vol. 1, p. 144.
[96] *Id.*, Vol. 1, p. 145
[97] *Id.*, Vol. 2, pp. 554 to 573.
[98] *Id.*, Vol. 1, p. 146.
[99] *Id.*, Vol. 1, p. 147.
[100] *Id.*, Vol. 2, pp. 574 to 596.
[101] *Id.*, Vol. 1, p. 148.
[102] *Id.*, Vol. 1, p. 149.
[103] *Id.*, Vol. 2, pp. 597 to 616.
[104] *Id.*, Vol. 1, p. 150.
[105] *Id.*, Vol. 2, pp. 617 to 623.
[106] *Id.*, Vol. 1, p. 151.
[107] *Id.*, Vol. 2, pp. 624 to 731.

					the witness as "Small World Financial Services Group".
31. Joyalukkas Exchange	P-94[108]	—	—	—	The registered name in the Certificate of Non-Registration is "Joyalukkas Exchange **Co. WLL**"; while the same was identified by the witness as "Joyalukkas Exchange". No Articles of Association/Certificate of Registration/ Incorporation and/or other similar documents
32. Al-Sadd Exchange	P-95[109]	P-39[110]	Commercial Registration Data	—	The registered name in the Certificate of Non-Registration is "Al-Sadd Exchange **Company**"; the registered name in the Commercial Registration Data is "**Alsad Money-exchange**"; while the same was identified by the witness as "Al-Sadd Exchange".
33. Al-Jazeera Exchange	P-96[111]	P-40[112]	Memorandum of Association	—	The registered name in the Memorandum of Association is "Al-Jazeera Exchange **Company**"; while the same was identified by the witness as "Al-Jazeera Exchange".
34. Habib Qatar International Exchange	P-97[113]	P-41[114]	Commercial Registration Data	—	The registered name in the Commercial Registration Data is "Habib Qatar **AlDowaliya for Exchange**"; the registered name in the Certificate of Non-Registration is "Habib Qatar International Exchange **Ltd.**"; while the same was identified by the witness as Habib Qatar International Exchange".

[108] Docket, Vol. 1, p. 152.
[109] *Id.*, Vol. 1, p. 153.
[110] *Id.*, Vol. 2, pp. 732 to 734.
[111] *Id.*, Vol. 1, p. 154.
[112] *Id.*, Vol. 2, pp. 735 to 760.
[113] *Id.*, Vol. 1, p. 155.
[114] *Id.*, Vol. 2, pp. 761 to 763.

35. Union Exchange Company	P-98[115]	—	—	—	The registered name in the Certificate of Non-Registration is "Union Exchange Company **WLL**"; while the same was identified by the witness as "Union Exchange Company". No Articles of Association/Certificate of Registration/ Incorporation and/or other similar documents
36. Al Dar For Exchange Works	P-99[116]	P-42[117]	Articles of Association	—	The registered name in the Articles of Association is **"ALDAR Exchange Company"**; while the same was identified by the witness as "Al Dar For Exchange Works".
37. I-Remit Global Remittance Ltd.	P-100[118]	P-43[119]	Certificate of Incorporation on Change of Name	—	The registered name in the Certificate of Incorporation on Change of Name is "**Iremit** Global Remittance **Limited**"; while the same was identified by the witness as "I-Remit Global Remittance Ltd."
38. Lucky Star Management	P-101[120]	P-44[121]	Memorandum and Articles of Association	—	The registered name in the Certificate of Non-Registration is "Lucky Star Management **Ltd**"; the registered name in the Articles of Association "Lucky Star Management **Limited**"; while the same was identified by the witness as "Lucky Star Management".

[115] Docket, Vol. 1, p. 156.
[116] *Id.*, Vol. 1, p. 157.
[117] *Id.*, Vol. 2, pp. 764 to 795.
[118] *Id.*, Vol. 1, p. 158.
[119] *Id.*, Vol. 2, pp. 796 to 816.
[120] *Id.*, Vol. 1, p. 159.
[121] *Id.*, Vol. 2, pp. 817 to 826.

39. Hwa Kung Hong and Company	P-102[122]	P-45[123]	Articles of Incorporation	—	The registered name in the Certificate of Non-Registration is "Hwa Kung Hong and Company **Limited**"; the registered name in the Articles of Incorporation is "Hwa Kung Hong **& Co., Ltd.**"; while the same was identified by the witness as "Hwa Kung Hong and Company".
40. Iremit Global Remittance Italy	P-103[124]	—	—	—	The registered name in the Certificate of Non-Registration is Iremit Global Remittance **Limited (Italy)**, while the same was identified by the witness as Iremit Global Remittance Italy No Articles of Association/Certificate of Registration/ Incorporation and/or other similar documents
41. Laxmidas Tharia Ved Exchange	P-104[125]	—	—	—	The registered name in the Certificate of Non-Registration is "Laxmidas Tharia Ved Exchange **Co LLC**"; while the same was identified by the witness as "Laxmidas Tharia Ved Exchange". No Articles of Association/Certificate of Registration/ Incorporation and/or other similar documents
42. Worlwide Exchange Pty. Ltd.	P-105[126]	—	—	—	No Articles of Association/Certificate of Registration/ Incorporation and/or other similar documents
43. International Remittance (Canada)	P-106[127]	P-46[128]	Certificate of Incorporation	—	The registered name in the Certificate of Non-Registration is "International

[122] Docket. Vol. 1, p. 160.
[123] *Id.*, Vol. 2, pp. 827 to 837.
[124] *Id.*, Vol. 1, p. 161.
[125] *Id.*, Vol. 1, p. 162.
[126] *Id.*, Vol. 1, p. 163.
[127] *Id.*, Vol. 1, p. 164.
[128] *Id.*, Vol. 2, pp. 838 to 850.

					Remittance (Canada) **Ltd.**"; while the same was identified by the witness as "International Remittance (Canada)"
44. I-Remittance Singapore Pte. Ltd.	P-107[129]	P-47[130]	Memorandum and Articles of Association	—	The registered name in the Memorandum and Articles of Association is "**Iremit** Singapore Pte Ltd"; while the same was identified by the witness as "International Remittance (Canada)".
45. KK I-Remit Japan	P-108[131]	P-48[132]	No English translation of the attached document.	—	The registered name in the Authentication is "I-Remit Japan"; while the same was identified by the witness as "**KK** I-Remit Japan". No English translation of the attached document.
46. GCC Exchange UK	P-109[133]	P-49[134]	Certificate of Incorporation on Change of Name	With MOA	The registered name in the Certificate of Non-Registration is "GCC Exchange UK **Ltd.**"; the registered name in the Certificate of Incorporation on Change of Name is "GCC Exchange UK **Limited**"; while the same was identified by the witness as "GCC Exchange UK".
47. Luck Travel Ltd.	P-110[135]	—	—	—	

As a result, the Court finds that out of petitioner's 47 foreign clients, only the following twelve (12) entities shall be considered as non-resident foreign corporations doing business outside the Philippines:

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[129] Docket, Vol. 1, p. 165.
[130] *Id.*, Vol. 2, pp. 851 to 879.
[131] *Id.*, Vol. 1, p. 166.
[132] *Id.*, Vol. 2, pp. 880 to 890.
[133] *Id.*, Vol. 1, p. 167.
[134] *Id.*, Vol. 2, pp. 903 to 905.
[135] *Id.*, Vol. 1, p. 168.

Name of the Entity	SEC Certificate of Non-Registration	Articles of Association/Certificate of Registration/Incorporation and/or other similar documents	
		Exhibit No.	Document/s
1. Alfa Exchange	"P-66"	"P-19"	Commercial License
2. Al Neel Exchange	"P-71"	"P-24"	Commercial License
3. Day Exchange LLC	"P-74"	"P-25"	Commercial License
4. Delma Exchange	"P-75"	"P-26"	Commercial License
5. Deniba International Exchange	"P-76"	"P-27"	Commercial License
6. Economic Exchange Centre	"P-77"	"P-28"	Commercial License
7. Lari Exchange Establishment	"P-82"	"P-32"	Commercial License
8. Sultan Althabab Exchange	"P-85"	"P-33"	Commercial License
9. Gulf Express Exchange	"P-87"	"P-34"	Commercial License
10. Universal Exchange Center	"P-89"	"P-35"	Commercial License
11. Leela Megh Exchange LLC	"P-91"	"P-36"	Commercial License
12. International Trade Agency Dela Cruz	"P-92"	"P-37"	Certificate of Membership of the Chamber of Commerce of the District of Bonn/Rhine-Sieg

Petitioner complied with the above-stated *second* essential element with respect to the foregoing enumerated twelve (12) foreign entities.

As for the *third* essential element, *i.e.*, that the subject services were performed in the Philippines, except for the *International Trade Agency Dela Cruz*, petitioner was able to show its compliance with the said essential element with reference to the said enumerated foreign entities. This is so because petitioner has shown that it has individually entered into a Memorandum of Agreement with the remaining eleven

(11) foreign entities,[136] wherein petitioner obligated itself to perform "Distribution Fulfillment Services" or one that involves money remittance services to local beneficiaries **in the Philippines** for foreign based customers.

In any event, the *fourth* essential element was not complied with because petitioner did not submit any proof that the services rendered to foreign clients were paid for *"in acceptable foreign currency ... and accounted for in accordance with the rules and regulations of the BSP"*.[137]

Such being the case, petitioner failed to fulfill the *fourth* requisite for the successful prosecution of the instant refund claim. Needless to state, it is only when the sales of a VAT-registered person are zero-rated or effectively zero-rated that he/she/it may have the option of applying for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales.[138] Considering petitioner's failure to establish its zero-rated or effectively zero-rated sales for the subject periods, the instant *Petition for Review* must already be denied.

Consequently, it becomes unnecessary to look into petitioner's compliance with the other remaining requisites.

Finally, it must be emphasized that actions for tax refund or credit, as in the instant case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption are *strictissimi* scrutinized and duly proven.[139] Thus, the burden is on the

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[136] Docket, Vol. 1, Exhibit "P-19", Docket – Vol. 1, pp. 251 to 263; Exhibit "P-24", pp. 349 to 362; Docket, Vol. 1, Exhibit "P-25", pp. 375 to 387; Docket, Vol. 1, Exhibit "P-26", pp. 403 to 413; Docket, Vol. 1, Exhibit "P-27", pp. 419 to 431; Docket, Vol. 1, Exhibit "P-28", pp. 442 to 451; Docket, Vol. 2, Exhibit "P-32", pp. 522 to 529; Docket, Vol. 2, Exhibit "P-33", pp. 536 to 547; Docket, Vol. 2, Exhibit "P-34", pp. 555 to 566; Docket, Vol. 2, Exhibit "P-35", pp. 575 to 584; and, Docket, Vol. 2, Exhibit "P-36", pp. 598 to 608.

[137] Refer to *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007.

[138] *Coca-Cola Bottlers Philippines, Inc. vs Commissioner of Internal Revenue*, G.R. No. 222428, July 19, 2018.

[139] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 159490, February 18, 2008.

taxpayer to show that he/she/it has strictly complied with the conditions for the grant of the tax refund or credit.[140]

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ESPERANZA R. FABON-VICTORINO
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

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[140] *Commissioner of Internal Revenue vs. San Roque Power Corporation*, G.R. Nos. 187485, 196113, and 197156, February 12, 2013.