REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

HALLIBURTON WORLDWIDE LIMITED – PHILIPPINE BRANCH,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9670

Members:

CASTAÑEDA, JR., *Chairperson, and*
BACORRO-VILLENA, ***JJ.***

Promulgated:
JAN 11 2021 3:40 p.m.

x - x

DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by Halliburton Worldwide Limited – Philippine Branch (**petitioner/HWL**) pursuant to Section 3(a)[2], Rule 8 in relation to Section 3(a)(2)[3], Rule 4 of the Revised Rules

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[1] Filed on 25 August 2017, Division Docket, Volume I, pp. 10-25.

[2] **SEC. 3**. *Who may appeal; period to file petition.* — (a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

of the Court of Tax Appeals (**RRCTA**). It seeks the refund or issuance of tax credit certificate (**TCC**) in the total amount of ₱11,259,584.34, representing excess and unutilized input Value-Added Tax (**VAT**) on purchases of goods and services attributable to zero-rated sales for the first (1^{st}) to fourth (4^{th}) quarters of calendar year (**CY**) 2015.

Petitioner is the Philippine branch office of Halliburton Worldwide Limited, a corporation duly organized and existing under the laws of the Cayman Islands.[4] On 08 August 2013, the Securities and Exchange Commission (**SEC**) issued an amended license to petitioner to do business in the Philippines; to engage in the business of providing oilfield services and products, such as well completion, drilling, cementing, logging, well testing, perforating, production testing and workover, stimulation services and licensing of software and consulting services, and importation and provision of oilfield equipment and technology to the oil and gas industries.[5] Petitioner is also registered with the Bureau of Internal Revenue (**BIR**) as a VAT taxpayer with Taxpayer's Identification No. (**TIN**) 266-369-565-000.[6]

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue (**respondent/CIR**) vested with authority to carry out the functions and duties of said office, among which, is to decide and grant claims of tax refund and execute and implement tax laws, rules and regulations.

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3 **SEC. 3.** *Cases within the jurisdiction of the Court in Divisions.* – The Court in Divisions shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
...
(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action...*Provided, still further*, that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code[.]

4 Paragraph 1, Joint Stipulation of Facts and Issues (JSFI) dated 13 December 2017, Division Docket, Volume II, p. 395.

5 Exhibit "P-1", id., p. 531.

6 Paragraph 3, JSFI, id., p. 395.

FACTS OF THE CASE

For CY 2015, petitioner filed its Quarterly VAT Returns (BIR Form No. 2550-Q) through the BIR's Electronic Filing and Payment System (**eFPS**) on the following dates:

Return	Date filed
VAT Return for the First Quarter	27 April 2015
VAT Return for the Second Quarter	27 July 2015
VAT Return for the Third Quarter	22 October 2015
VAT Return for the Fourth Quarter	25 January 2016

During the 1st to 4th quarters of CY 2015, petitioner claims that it rendered services to duly registered Renewable Energy (**RE**) Developers and sold goods to its non-resident affiliates doing business outside the Philippines.

Petitioner avers that it incurred input VAT in the aggregate amount of ₱11,849,046.57 for the four (4) quarters of CY 2015, out of which amount, the amount of ₱11,259,584.34 is attributable to its zero-rated sales to duly registered RE Developers and export sales to its non-resident affiliates. Likewise, it alleges that the said input VAT for the four (4) quarters of CY 2015 were not applied against its output VAT during and in the succeeding quarters.

On 30 March 2017, petitioner filed with BIR Revenue District Office (**RDO**) No. 050 its Application for Tax Credits or Refunds (BIR Form No. 1914) for its excess and unutilized input VAT for CY 2015 in the total amount of ₱11,259,584.34.[7]

Claiming inaction on the part of respondent and the expiration of the 120-day period within which he could decide on petitioner's claim, petitioner filed the instant Petition for Review on 25 August 2017. On 02 October 2017, respondent filed his Answer.[8]

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7 Exhibit "P-28", id., p. 768.
8 Id., Volume I, pp. 83-85.

Thereafter, on 18 October 2017, the Court issued a Notice of Pre-Trial Conference.[9] Accordingly, respondent filed his Pre-trial Brief (**PTB**) on 16 November 2017[10], while petitioner filed its PTB on 17 November 2017.[11]

During the pre-trial held on 23 November 2017, the Court granted both parties fifteen (15) days within which to file their Joint Stipulation of Facts and Issues (**JSFI**).[12] On 12 December 2017, the parties submitted their JSFI.[13] Approving the same, the Court issued its Pre-Trial Order dated 09 January 2018.[14]

Trial thereafter ensued where petitioner offered the testimonies of (1) Moon Lin Loh (**Loh**), petitioner's Tax Supervisor; and, (2) Neil U. Sison (**Sison**), the Court-commissioned Independent Certified Public Accountant (**ICPA**).

On the witness stand, Loh identified her Sworn Statement, deemed as her Judicial Affidavit[15], where she declared essentially that: (1) as petitioner's Tax Supervisor, she is responsible for handling and overseeing tax matters; (2) petitioner filed an administrative claim for refund of or issuance of TCC for the total amount of ₱11,259,584.34 and that respondent did not act upon the same; (3) petitioner incurred input VAT credits subject of the claim for refund in the course of rendering services to duly registered RE Developers and selling goods and services to its non-resident affiliates engaged in business conducted outside the Philippines; and, (4) petitioner's excess and unutilized input VAT for the four (4) quarters of CY 2015 were not applied against its output VAT and remained unutilized until the amount was deducted as "VAT Refund/TCC Claimed" from the total input VAT in its Quarterly VAT Return for the 1st quarter of CY 2017.

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9 Id., pp. 86-87.
10 Id., pp. 88-91.
11 Id., pp. 359-373.
12 Order dated 23 November 2017, id., Volume II, p. 375.
13 Id., pp. 395-408.
14 Id., pp. 410-415.
15 Exhibit "P-29", id., Volume I, pp. 95-112.

As for ICPA Sison, he identified his Sworn Statement dated 11 April 2018[16] and ICPA Report dated 19 March 2018[17] which he prepared in connection with the subject claim for refund/TCC.[18]

After completing the presentation of its testimonial evidence, petitioner filed its Formal Offer of Evidence[19] (**FOE**), consisting of Exhibits "P-1" to "P-40-AK", inclusive of sub-markings. Respondent did not file a comment thereto.[20]

In its FOE, petitioner also asked for a Commissioner's Hearing and for CTA Case No. 9449's docket for the examination, comparison and marking of Exhibits "P-14" to "P-19". Acting favorably on petitioner's motion, the Court set the Commissioner's Hearing on 24 September 2018 and thereby held in abeyance the resolution of petitioner's FOE.[21]

Respondent, on the other hand, filed an Urgent Ex-Parte Omnibus Motion, praying for the resetting of the hearing for the presentation of his evidence and for the setting of a Commissioner's Hearing for the comparison and pre-marking of his documentary evidence.[22] The Court then cancelled the initial presentation of respondent's evidence previously set on 05 September 2018.[23]

Having failed to attend the scheduled Commissioner's Hearing due to inadvertence, petitioner later on filed a Manifestation (with Motion to Set the Case for Commissioner's Hearing), praying for another Commissioner's Hearing and for the further deferral of the resolution of its FOE.[24] Pending resolution of the said motion, on 10 January 2019, petitioner filed a Motion for Leave of Court to Present Supplemental Evidence.[25]

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16 Exhibit "P-30", id., Volume II, pp. 458-466.
17 Exhibit "P-31", id., pp. 435-453.
18 See TSN dated 09 July 2018.
19 Filed on 08 August 2018, Division Docket, Volume II, pp. 496-530.
20 *Per* Records Verification dated 23 August 2018, id., p. 769.
21 Resolution dated 05 September 2018, id., pp. 775-777.
22 Filed on 29 August 2018, id., 770-772.
23 Order dated 03 September 2018, id., p. 773.
24 Id., pp. 779-783.
25 Id., pp. 784-791.

In a Resolution dated 21 January 2019[26], the Court granted the parties' then pending motions and, accordingly, set the Commissioner's Hearing on 04 February 2019 for the comparison and pre-marking of evidence for petitioner and respondent.

On 15 July 2019, petitioner filed its Supplemental FOE[27], consisting of Exhibits "P-40-AA-1-a" to "P-40-AA-12-a" (*i.e.*, the payment confirmation receipts corresponding to BIR Forms No. 1600 on the input VAT withheld and paid by petitioner for its non-resident affiliates) which ICPA Sison duly identified.[28] Respondent likewise failed to file his comment on petitioner's Supplemental FOE.[29]

In the Resolution dated 23 August 2019[30], the Court granted petitioner's FOE and Supplemental FOE. All the exhibits in both offers of evidence were admitted.[31]

During the hearing held on 21 October 2019, respondent presented his lone witness, Revenue Officer (**RO**) Christine C. Virtudes (**Virtudes**), who testified that: (1) she evaluated petitioner's records in support of its claimed input VAT refund/TCC for the four (4) quarters of CY 2015; (2) she found that petitioner is not entitled to its claimed input VAT refund/TCC due to certain discrepancies explained in the Memorandum Report dated 03 July 2017[32]; and, (3) based on her findings, she recommended the denial of petitioner's claim for input VAT refund/TCC for lack of merit.[33] On even date, the Court granted respondent's oral offer of evidence, admitting Exhibits "R-1" to "R-4".[34] Petitioner interposed no objection to the admission of the said exhibits.

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26 Id., pp. 801-803.
27 Id., pp. 854-858.
28 See TSN dated 01 July 2019.
29 *Per* Records Verification dated 05 August 2019, Division Docket, Volume II, p. 867.
30 Id., pp. 869-871.
31 Exhibits "P-1" to "P-41", inclusive of sub-markings, id., pp. 531-768, 813-818 and 825-837.
32 Exhibit "R-4", id., pp. 884-889.
33 See TSN dated 21 October 2019; See also Judicial Affidavit of Revenue Officer Christine Virtudes, Exhibit "R-5", Division Docket, Volume II, pp. 876-881; See also Minutes of the Hearing held on 21 October 2019, id., p. 890.
34 Order dated 21 October 2019, id., p. 891.

Subsequently, petitioner filed its Memorandum[35] on 10 December 2019 which was within the extended period granted by the Court.[36] Respondent, however, did not file his Memorandum.[37] Accordingly, on 10 January 2020, the Court considered the case submitted for decision.[38]

ISSUE

As the parties so stipulated[39], the main issue for this Court's determination is -

> WHETHER PETITIONER HALLIBURTON WORLDWIDE LIMITED - PHILIPPINE BRANCH IS ENTITLED TO A REFUND OR ISSUANCE OF A TAX CREDIT CERTIFICATE IN THE AGGREGATE AMOUNT OF ₱11,259,584.34, REPRESENTING ITS EXCESS AND UNUTILIZED INPUT VALUE-ADDED TAX (VAT) FOR THE FIRST TO FOURTH QUARTERS OF CALENDAR YEAR 2015 ATTRIBUTABLE TO ZERO-RATED SALES.

ARGUMENTS

Petitioner anchors its claim for refund of input VAT on the following, to wit: (1) Section 15(g)[40] of Republic Act (**RA**) No. 9513 or the *Renewable Energy Act of 2008*, in relation to Sections 110(B)[41] and 112(A) and (C)[42] of the National Internal Revenue Code (**NIRC**) of 1997, as amended; and, (2) Section 106(A)(2)(a)(1) in relation to Sections 110(B) and Section 112 (A) and (C)[43] of the NIRC of 1997, as amended.

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35 Id., pp. 896-922.
36 Order dated 21 November 2019, id., p. 895.
37 *Per* Records Verification dated 07 January 2020, id., p. 923.
38 Resolution dated 10 January 2020, id., p. 924.
39 JSFI, id., p. 396.
40 **Sec. 15.** *Incentives for Renewable Energy Projects and Activities.* – ...
...
(g) Zero Percent Value-Added Tax Rate – ...
41 **Sec. 110.** *Tax Credits.* –
...
(B) *Excess Output or Input Tax.* – ...
42 **Sec. 112.** *Refunds or Tax Credits of Input Tax.* –
(A) *Zero-Rated or Effectively Zero-Rated Sales.* – ...
...
(C) *Period within which Refund of Input Taxes shall be Made.* – ...
43 **Sec. 106.** *Value-added Tax on Sale of Goods or Properties.* –
(A) *Rate and Base of Tax.* – ...
...
Sec. 110. *Tax Credits.* –

Petitioner submits that RA 9513 provides that sales by suppliers of goods and service to RE Developers are subject to VAT at the rate of zero percent (0%) and alleges that its sales to Energy Development Corporation (**EDC**) and Maibarara Geothermal Incorporated (**MGI**) are zero-rated, hence, entitling it to the refund of input VAT attributable to the said sales.

With respect to its export sales to non-resident affiliates, petitioner likewise claims that such are all zero-rated sales as these were fully supported by commercial invoices, paid for in acceptable foreign currencies and accounted for in accordance with Revenue Memorandum Circular (**RMC**) No. 42-2003.[44]

Citing the case of *San Roque Power Corporation v. Commissioner of Internal Revenue*[45] (**San Roque**) as decided by the Supreme Court, petitioner enumerates the following requirements for a claim for input VAT refund/TCC (attributable to zero-rated sales) to prosper, thus:

> ...
>
> 1. The taxpayer is VAT registered;
> 2. The taxpayer is engaged in zero-rated or effectively zero-rated sales;
> 3. The input taxes are due or paid;
> 4. The input taxes are not transitional input taxes;
> 5. The input taxes have not been applied against output taxes during and in the succeeding quarters;
> 6. The input taxes are attributable to zero-rated or effectively zero-rated sales;
> 7. For zero-rated sales under Sections 106(A)(2)(1) and (2); 106(B) and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations;

...
(B) *Excess Output or Input Tax.* – ...
...
Sec. 112. *Refunds or Tax Credits of Input Tax.* –
(A) *Zero-Rated or Effectively Zero-Rated Sales.* – ...
...
(C) *Period within which Refund of Input Taxes shall be Made.* – ...

[44] Clarifying Certain Issues Raised Relative to the Processing Of Claims for Value-Added Tax (VAT) Credit/Refund, Including those Filed With The Tax and Revenue Group, One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center, Department of Finance (OSS) by Direct Exporters.

[45] G.R. No. 180345, 25 November 2009; Citation omitted.

> 8. If 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; and,
> 9. The claim is filed within two (2) years after the close of the taxable quarter when such sales were made.
>
> ...

Petitioner insists that it complied with all the aforementioned conditions as shown by the evidence and testimonies of its witnesses.

Petitioner also alleges that the administrative and judicial claims for refund have been timely filed. It was filed within the two-year period pursuant to Section 112(A) of the NIRC of 1997, as amended. We quote the relevant portion of petitioner's statements in its Memorandum:

> ...
>
> 68. Since Petitioner filed its administrative claim for refund on March 30, 2017, Respondent had until July 28, 2017 within which to act on it. Since there was no action on Respondent's part within the 120-day period, Petitioner had thirty (30) days from the expiry thereof, or until August 27, 2017, to file its judicial claim for refund with this Court. Considering that Petitioner filed its judicial claim for refund on August 25, 2017, Petitioner complied with the prescriptive periods provided by the Tax Code.[46]
>
> ...

In his Answer[47] to the Petition for Review, respondent mainly avers that the claim for refund or issuance of TCC has not been fully substantiated by proper documents such as sales invoices, official receipts, among others. According to respondent, in an action for tax refund/credit, the claimant must prove not only entitlement to the claim but also compliance with all the documentary and evidentiary requirements therefore. Furthermore, respondent points out that claims for refund are construed strictly against the taxpayer since the same partake the nature of exemption from taxation and as such, they are looked upon with disfavor.

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46 Supra at note 35, p. 920.
47 Supra at note 8.

RULING OF THE COURT

After a careful and thorough evaluation of the applicable laws, rules and regulations and the evidence presented by petitioner, the Court finds the instant petition partly meritorious.

Petitioner anchors its claim on Sections 110(B), 112(A) and (C) of the NIRC of 1997, as amended, which are all quoted hereunder:

> ...
> **SEC. 110.** *Tax Credits.* —
>
> ...
> (B) *Excess Output or Input Tax.* — If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters: *Provided, however,* That any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.
>
> **SEC. 112.** *Refunds or Tax Credits of Input Tax.* —
>
> (A) *Zero-Rated* or *Effectively Zero-Rated Sales.* — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided,* however, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
> ...

(C) *Period within which Refund 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.[48]

...

Pursuant to the above-quoted provisions and as laid down by the Supreme Court in a number of cases[49], the requisites for claiming excess and unutilized input VAT, except transitional input VAT, are as follows:

...

1. the taxpayer-claimant is VAT-registered;
2. the taxpayer-claimant is engaged in zero-rated or effectively zero-rated sales;
3. there are creditable input taxes due or paid attributable to zero-rated or effectively zero-rated sales;
4. the input taxes have not been applied against output taxes during and in the succeeding quarters; and,
5. the application and the claim for refund have been filed within the prescribed period both in the administrative and judicial levels.

...

Considering that claims filed beyond the reglementary period will not prosper and that compliance with the prescriptive period in filing claims for refund is determinative of this Court's jurisdiction to take cognizance of the instant petition, the Court shall first determine

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48 Italics in the original text.

49 *CIR v. Toledo Power Company*, G.R. No. 195175, 10 August 2015; *Luzon Hydro Corporation v. CIR*, G.R. No. 188260, 13 November 2013; *Southern Philippines Power Corporation v. CIR*, G.R. No. 179632, 19 October 2011; *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) v. CIR*, G.R. No. 172378, 17 January 2011; *AT&T Communications Services Philippines, Inc. v. CIR*, G.R. No. 182364, 03 August 2010; *San Roque Power Corporation v. CIR*, G.R. No. 180345, 25 November 2009; *Intel Technology Philippines, Inc. v. CIR*, G.R. No. 166732, 27 April 2007.

petitioner's compliance with the last requisite, which is the timeliness of the filing of the instant claim.

I. PETITIONER'S ADMINISTRATIVE AND JUDICIAL CLAIMS WERE TIMELY FILED.

In accordance with Section 112(A) of the NIRC of 1997, as amended, the administrative claim for the issuance of a TCC or refund of input VAT must be filed with the BIR within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim covers the 1st to 4th quarters of CY 2015. Thus, petitioner's last day for the filing of its administrative claim for the four (4) taxable quarters of CY 2015 fell on the following dates:

Period Covered	Last day of the two (2)-year period
January to March 2015 (First Quarter)	March 31, 2017
April to June 2015 (Second Quarter)	June 30, 2017
July to September 2015 (Third Quarter)	September 30, 2017
October to December 2015 (Fourth Quarter)	December 31, 2017

Petitioner filed its administrative claim for refund and Application for Tax Credits or Refunds (BIR Form No. 1914), together with the supporting documents, in the amount of ₱11,259,584.34 on 30 March 2017.[50] Clearly, petitioner's administrative claim was filed well within the two-year prescriptive period.

On the other hand, Section 112(C) of the NIRC of 1997, as amended, states the prescriptive period for filing a judicial claim for the refund or tax credit of alleged excess or unutilized input VAT. It speaks of two (2) periods: (1) the period of 120 days, which serves as a waiting period to give time for the CIR to act on the administrative claim for a refund or credit; and, (2) the period of 30 days, which refers to the period for filing a judicial claim with the CTA.[51]

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[50] Supra at note 7; BIR Records, p. 76.

[51] *Rohm Apollo Semiconductor Philippines v. CIR*, G.R. No. 168950, 14 January 2015.

Significant to the reckoning of the 120-day period is the declaration of the Supreme Court that the application for VAT refund/TCC must be accompanied by complete supporting documents with a statement under oath, attesting to the completeness of said supporting documents pursuant to RMC 54-2014.[52] The affidavit shall also state that these documents are sufficient to support the claim, and no other documents shall be accepted from the taxpayer in order for the CIR to render his decision. Below is the pertinent portion of the Supreme Court's ruling in the case of *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*[53] (**Total**):

> ...
>
> ... As it now stands, RMC 54-2014 dated June 11, 2014 mandates that:
>
>> The application for VAT refund/tax credit **must be accompanied by complete supporting documents** as enumerated in Annex 'A' hereof. In addition, the taxpayer shall attach **a statement under oath** attesting to the completeness of the submitted documents (Annex B). The affidavit shall further state that the said documents are the only documents which the taxpayer will present to support the claim. If the taxpayer is a juridical person, there should be a sworn statement that the officer signing the affidavit (i.e., at the very least, the Chief Financial Officer) has been authorized by the Board of Directors of the company.
>>
>> Upon submission of the administrative claim and its supporting documents, the claim shall be processed and no other documents shall be accepted/required from the taxpayer in the course of its evaluation. A decision shall be rendered by the Commissioner based only on the documents submitted by the taxpayer. The application for tax refund/tax credit shall be denied where the taxpayer/claimant failed to submit the complete supporting documents. For this purpose, the concerned processing/investigating office shall prepare and issue the corresponding Denial Letter to the taxpayer/claimant.
>
> Thus, under the current rule, the reckoning of the 120-day period has been withdrawn from the taxpayer by RMC 54-2014, since it requires him at the time he files his claim to complete his supporting

[52] Clarifying Issues Relative to the Application for Value Added Tax (VAT) Refund/Credit Under Section 112 of the Tax Code, as Amended.

[53] G.R. No. 207112, 08 December 2015; Emphasis in the original text.

> documents and attest that he will no longer submit any other document to prove his claim. Further, the taxpayer is barred from submitting additional documents after he has filed his administrative claim.
>
> ...

Applying the foregoing, the 120-day period shall be reckoned from 30 March 2017 on which date petitioner was already obliged to submit complete supporting documents.

The records show that petitioner submitted supporting documents *per* the Checklist of Mandatory Requirements for Claims for VAT Credit/Refund labeled as Annex "A"[54] upon the filing of its administrative claim on 30 March 2017 and executed an Affidavit of Completeness[55] attesting to the completeness of the submitted documents.

Accordingly, respondent had 120 days from 30 March 2017, or until 28 July 2017 to decide on petitioner's claim. However, respondent failed to act on the claim within the allowable period of 120 days. Thus, petitioner had thirty (30) days or until 27 August 2017, to appeal such inaction to the Court. Evidently, petitioner's judicial claim for refund/TCC was timely filed on 25 August 2017.

The Court shall now proceed with its discussion of the other four (4) requisites.

II. PETITIONER IS A VALUE-ADDED TAX - REGISTERED ENTITY AND HAD ZERO-RATED SALES DURING THE SUBJECT PERIOD.

Petitioner complied with the *first* requisite as it is registered with the BIR as a VAT taxpayer with TIN 266-369-565-000, as evidenced by its Certificate of Registration No. OCN 9RC0000274116 dated 23 October 2008.[56]

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[54] BIR Records, p. 2.
[55] BIR Records, p. 4.
[56] Exhibit "P-2", BIR Records, p. 155.

As regards the *second* requisite, petitioner reflected an amount of ₱175,221,818.06 zero-rated sales or receipts in its Quarterly VAT Returns for the four (4) quarters of CY 2015, broken down as follows:

Exhibit No.	CY 2015	Zero-Rated Sales/Receipts
"P-3"	First Quarter	₱19,485,112.80
"P-4"	Second Quarter	45,129,130.16
"P-5"	Third Quarter	43,954,833.11
"P-6"	Fourth Quarter	66,652,741.99
	Total	**₱175,221,818.06**

The amount of ₱175,221,818.06 which petitioner treated as zero-rated sales or receipts allegedly consisted of sales of services to duly registered RE Developers and export sales to non-resident foreign affiliates, detailed as follows:

CY 2015	Sales of Services to RE Developers		Export Sales to Non-resident Foreign Affiliates			Total
	Energy Development Corporation	*Maibarara Geothermal, Inc.*	*Halliburton Energy Services (Malaysia)*	*Halliburton Far East Pte.*	*Halliburton Business Services SDN BHD*	
First Quarter	₱54,650.96	₱19,119,697.56	₱-	₱-	₱310,764.28	₱19,485,112.80
Second Quarter	45,129,130.16	-	-	-	-	45,129,130.16
Third Quarter	37,431,542.01	-	5,629,746.84	893,544.26	-	43,954,833.11
Fourth Quarter	65,602,253.83	1,050,488.16	-	-	-	66,652,741.99
Total	**₱148,217,576.96**	**₱20,170,185.72**	**₱5,629,746.84**	**₱893,544.26**	**₱310,764.28**	**₱175,221,818.06**

With regard to its declared zero-rated sales of services to RE Developers, petitioner invokes Section 15(g) of RA 9513, in relation to Part III, Rule 5, Section 13(G)(b) of Department Circular No. DC2009-05-0008, the Implementing Rules and Regulations (**IRR**) of RA 9513, issued by the Department of Energy (**DOE**), both are hereby quoted, to wit:

...

CHAPTER VII
GENERAL INCENTIVES

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

...

(g) Zero Percent Value-Added Tax Rate. — The sale of fuel or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337.

All RE Developers shall be entitled to zero-rated value added tax on its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities.

This provision shall **also apply to the whole process of exploring and developing renewable energy sources up to its conversion into power**, including but not limited to the services performed by subcontractors and/or contractors.

...

PART III. INCENTIVES FOR RENEWABLE ENERGY PROJECTS AND ACTIVITIES

RULE 5. GENERAL INCENTIVES AND PRIVILEGES FOR RENEWABLE ENERGY DEVELOPMENT

Section. 13. ***Fiscal Incentives for Renewable Energy Projects and Activities.***

DOE-certified existing and new RE Developers of RE facilities, including Hybrid Systems, in proportion to and to the extent of the RE component, for both Power and Non-Power Applications, shall be entitled to the following incentives:

...

G. ***Zero Percent Value-Added Tax Rate.***

> The following transactions/activities shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337:
> ...
>
> (b) Purchase of local goods, properties and services **needed for the development, construction, and installation of the plant facilities** of RE Developers; and
>
> (c) **Whole process of exploration and development of RE sources up to its conversion into power**, including, but not limited to, the services performed by subcontractors and/or contractors.[57]
> ...

Based on the foregoing provisions, RE Developers are entitled to VAT zero-rating on its purchases of local goods, properties and services needed for the development, construction and installation of its plant facilities. Furthermore, RA 9513 declares that the VAT zero-rating privilege applies to the whole process of exploring and developing renewable energy sources up to its conversion into power, including, but not limited to the services performed by subcontractors and/or contractors.

Records disclose that petitioner is registered with the SEC and was granted a license to do business in the Philippines to provide oilfield services and products, such as well completion, drilling, cementing, logging, well testing, perforating, production testing and workover, stimulation services and licensing of software and consulting services, and importation and provision of oilfield equipment and technology to the oil and gas industries.[58]

Among petitioner's clients during CY 2015 were RE Developers of geothermal energy resources, namely, EDC and MGI, which are registered with the DOE; hence, are entitled to the incentives granted under RA 9513, as evidenced by the following:

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57 Emphasis supplied.
58 Supra at note 5.

	DOE Certificate of Registration No.	Date of Issuance	Exhibit No.
Energy Development Corporation:			
1) Tonongan, Leyte	GRESC 2009-10-001	23 October 2009	"P-14"
2) Palinpinon, Negros Oriental	GRESC 2009-10-002	23 October 2009	"P-15"
3) Bacon-Manito, Sorsogon/Albay	GRESC 2009-10-003	23 October 2009	"P-16"
4) Kidapawan City, North Cotabato	GRESC 2009-10-004	23 October 2009	"P-17"
5) Northern Negros, Negros Occidental	GRESC 2009-10-005	23 October 2009	"P-18"
Maibarara Geothermal Incorporated	GRESC 2011-01-025	05 January 2011	"P-19"

As such, all their purchases of goods and services from petitioner which are needed for the development, construction, and installation of plant facilities and those pertaining to the whole process of exploration and development of RE sources up to its conversion into power are entitled to VAT zero-rating.

A perusal of petitioner's and EDC's Contract for Directional Drilling Works[59] shows that petitioner undertook to provide EDC with directional drilling services in connection with the implementation of EDC's Drilling Operations Program (*i.e.*, a program for the drilling or workover of geothermal wells) in the Philippines. Similarly, petitioner's Contract Agreement[60] with MGI indicates that petitioner agreed to provide directional drilling services to MGI. Considering that such directional drilling services were necessary in the production of geothermal energy by EDC and MGI, petitioner's sales or receipts derived therefrom in 2015 may qualify for VAT zero-rating.

Moreover, in order for an RE Developer to avail of a VAT zero-rating, among other incentives, Section 26[61] of RA 9513 imposes on the

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59 Exhibit "P-24", Division Docket, Volume II, pp. 684-738.
60 Exhibit "P-25", id., p. 739.
61 **SEC. 26.** ***Certification from the Department of Energy (DOE).*** — All certifications required to qualify RE developers to avail of the incentives provided for under this Act shall be issued by the DOE through the Renewable Energy Management Bureau.

The Department of Energy, through the Renewable Energy Management Bureau shall issue said certification fifteen (15) days upon request of the renewable energy developer or manufacturer, fabricator or supplier.

RE Developer the obligation to secure a certification from the DOE, and other requirements to be imposed by the concerned agencies of the government charged with the administration of the fiscal incentives.

Section 18 of the IRR of RA 9513 provides that an RE Developer must comply with the following:

> ...
> Section 18. ***Conditions for Availment of Incentives and Other Privileges.*** —
>
> *A.* ***Registration/Accreditation with the DOE***
>
> For purposes of entitlement to the incentives and privileges under the Act, **existing and new RE Developers**, and manufacturers, fabricators, and suppliers of locally-produced RE equipment **shall register with the DOE**, through the Renewable Energy Management Bureau (REMB). The following certifications shall be issued:
>
> *(1)* ***DOE Certificate of Registration*** – issued to an RE Developer holding a valid RE Service/Operating Contract.
>
> ...
> ***B. Registration with the Board of Investments (BOI)***
>
> ...
> **To qualify for the availment of the incentives under Sections 13 and 15 of this IRR, RE Developers, and manufacturers, fabricators, and suppliers of locally-produced RE equipment, shall register with the BOI.**
> ...
>
> *C.* ***Certificate of Endorsement by the DOE***
>
> RE Developers, and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall be qualified to avail of the incentives provided for in the Act only after securing a Certificate of Endorsement from the DOE, through the REMB, on a per transaction basis.[62]
> ...

Provided, That the certification issued by the Department of Energy shall be without prejudice to any further requirements that may be imposed by the concerned agencies of the government charged with the administration of the fiscal incentives abovementioned.

62 Emphasis supplied.

Thus, for a sale transaction to an RE Developer to qualify for VAT zero-rating as contemplated under RA 9513 and the IRR, the taxpayer must be able to present the following documents of the RE Developer:

1. DOE Certificate of Registration;
2. Registration with the Board of Investments (**BOI**); and,
3. DOE Certificate of Endorsement.

Here, petitioner was only able to present EDC's and MGI's DOE Certificates of Registration. There is no showing that EDC and MGI were both registered with the BOI and were issued DOE Certificates of Endorsement. In this regard, petitioner failed to prove that its reported zero-rated sales of services to EDC and MGI in the respective amounts of ₱148,217,576.96 and ₱20,170,185.72 totalling ₱168,387,762.68 for CY 2015 qualify for VAT zero-rating under Section 15(g) of RA 9513 and the IRR.

With reference to its reported zero-rated export sales to non-resident foreign affiliates, petitioner relies on Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, which provides that:

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

Based on the aforequoted provisions of Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, in order for an export sale to qualify as zero-rated, the following conditions must be present:

1. there was a sale and actual shipment of goods from the Philippines to a foreign country;
2. the sale was made by a VAT registered person;
3. the sale was paid for in acceptable foreign currency or its equivalent in goods or services; and,
4. the payment was accounted for in accordance with the rules and regulations of the BSP.

Corollary to the first requisite, Section 113(A)(1), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended, as implemented by Section 4.113-1 (A)(1), B(1) and (2)(c) of Revenue Regulations (**RR**) No. 16-05[63], as amended, provides that a VAT taxpayer, like herein petitioner, shall for every sale, barter or exchange of goods or properties, issue a VAT invoice which must contain the following information:

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

---

63 Consolidated Value-Added Tax Regulations of 2005.

(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;

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

...

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

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

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

...

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:**

...

(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[.][64]

...

In addition to the above requirements, the invoices must be duly registered with the BIR as prescribed under Section 237 in relation to Section 238 of the NIRC of 1997, as amended, to wit:

[64] Emphasis in the original text.

> ...
>
> **SEC. 237.** *Issuance of Receipts or Sales or Commercial Invoices.* — All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service.
>
> ...
>
> **SEC. 238.** *Printing of Receipts or Sales or Commercial Invoices.* — All persons who are engaged in business shall secure from the Bureau of Internal Revenue an authority to print receipts or sales or commercial invoices before a printer can print the same.
>
> No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.
>
> ...

Pursuant to the foregoing provisions of Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, in relation to Section 113(A)(1), (B)(1), (2)(c) and (3) of the same Code and Section 4.113-1(A)(1), B(1) and (2)(c) of RR 16-05, any VAT registered person claiming VAT zero-rated direct export sales must present at least three (3) types of documents, to wit: (**a**) the sales invoice as proof of sale of goods; (**b**) bill of lading or airway bill as proof of actual shipment of goods from the Philippines to a foreign country; and, (**c**) bank credit advice, certificate of bank remittance or any other document proving payment for the goods in acceptable foreign currency or its equivalent in goods and services. In other words, only export sales supported by these documents shall qualify for VAT zero-rating under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended.

In support of its export sales to Halliburton Energy Services [Malaysia] (**HES**), Halliburton Far East Pte. (**HFE**) and Halliburton Business Services SDN BHD (**HBS**), petitioner submitted before this

Court documents such as commercial invoices[65], Schedule of Intercompany Transaction[66] and In House Cash and Intercompany Settlement Agreement.[67]

The Court finds petitioner's commercial invoices compliant with the invoicing requirements under the law and regulations. However, *per* ICPA's report, petitioner's sales in the aggregate amount of ₱5,940,511.12 cannot qualify for VAT zero-rating for the following reasons: (1) sales to HBS amounting to ₱310,764.28 refer to a credit adjustment received and posted to the intercompany support cost billing account and, as such, were incorrectly treated as sales; and, (2) sales to HES amounting to ₱5,629,746.84 refer to an internal manual asset entry adjustment to correct recorded assets in petitioner's books for which no actual export of goods occurred and, thereby, petitioner issued no bill of lading.

Therefore, of the ₱175,221,818.06 reported zero-rated sales or receipts, only that which petitioner derived from export sales to its non-resident foreign affiliate (*i.e.*, HFE) amounting to ₱893,544.26 qualify for VAT zero-rating, computed as follows:

	First Quarter	**Second Quarter**	**Third Quarter**	**Fourth Quarter**	**CY 2015**
Zero-Rated Sales/Receipts per VAT Returns	₱19,485,112.80	₱45,129,130.16	₱43,954,833.11	₱66,652,741.99	₱175,221,818.06
Less: EDC	54,650.96	45,129,130.16	37,431,542.01	65,602,253.83	148,217,576.96
MGI	19,119,697.56	-	-	1,050,488.16	20,170,185.72
HBS	310,764.28	-	-	-	310,764.28
HES	-	-	5,629,746.84	-	5,629,746.84
Valid Zero-Rated Sales/Receipts	₱0.00	₱0.00	₱893,544.26	₱0.00	₱893,544.26

[65] Exhibits "P-40-R-1" to "P-40-R-38", CD.
[66] Exhibit "P-40-AB", CD.
[67] Exhibit "P-26", Division Docket, Volume II, pp. 741-754.

III. PETITIONER INCURRED OR PAID INPUT TAXES ATTRIBUTABLE TO ZERO-RATED SALES OR RECEIPTS AND SAID INPUT TAXES WERE NOT APPLIED AGAINST ANY OUTPUT VAT LIABILITY.

Having resolved that petitioner had valid zero-rated sales or receipts for CY 2015 in the amount of ₱893,544.26, we shall proceed to the determination of whether petitioner incurred input taxes in connection therewith and if said input taxes were not applied against any output VAT of petitioner.

In its 2015 Quarterly VAT Returns, petitioner reported the following input taxes totaling ₱11,849,046.57 arising from its amortization of input VAT on purchases of capital goods exceeding ₱1 Million, domestic purchase and importation of goods other than capital goods, domestic purchase of services and services rendered by non-residents, broken down as follows:

	First Quarter *Exh. "P-40-G-1"*	**Second Quarter** *Exh. "P-40-G-2"*	**Third Quarter** *Exh. "P-40-G-3"*	**Fourth Quarter** *Exh. "P-40-G-4"*	**CY 2015**
Input Tax Deferred on Capital Goods exceeding ₱1 Million from Previous Quarter	₱229,094.64	₱209,889.29	₱190,683.93	₱171,478.57	₱801,146.43
Less: Input Tax on Purchases of Capital Goods exceeding ₱1 Million deferred for the succeeding period	209,889.29	190,683.93	171,478.57	152,273.21	724,325
Amortization of Input Tax on Capital Goods exceeding ₱1 Million	19,205.35	19,205.36	19,205.36	19,205.36	76,821.43
Add: Input Tax on —					

	First Quarter *Exh. "P-40-G-1"*	Second Quarter *Exh. "P-40-G-2"*	Third Quarter *Exh. "P-40-G-3"*	Fourth Quarter *Exh. "P-40-G-4"*	CY 2015
Domestic Purchase of Goods other than Capital Goods	184.70	7,691.42	6,827.37	19,820.75	34,524.24
Importation of Goods other than Capital Goods	-	486,700.00	654,071.00	617,445.00	1,758,216
Domestic Purchase of Services	244,159.44	447,092.75	376,891.24	135,236.49	1,203,379.92
Services Rendered by Non-residents	2,430,465.58	2,172,052.71	1,992,887.65	2,180,699.04	8,776,104.98
Total Allowable Input Tax	**₱2,694,015.07**	**₱3,132,742.24**	**₱3,049,882.62**	**₱2,972,406.64**	**₱11,849,046.57**

In support of these input taxes, petitioner presented among others, its Schedule of Purchases[68], Schedule of Importations[69], Schedule of Input Tax Pertaining to Purchases of Capital Goods Exceeding ₱1 Million[70], and the related suppliers' official receipts, sales invoices[71], importation documents[72], which were all examined by the Court-commissioned ICPA.

The ICPA's report, together with petitioner's supporting documents, reveals that the following input VAT in the amount of ₱420,142.52 must be disallowed from petitioner's claim for failure to meet the substantiation requirements prescribed under Sections 110(A), 113(A) and (B), 237, and 238 of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-8, and 4.113-1 of RR 16-05, as amended:

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[68] Exhibit "P-40-M", CD.
[69] Exhibit "P-40-N", CD.
[70] Exhibit "P-40-O", CD.
[71] Exhibits "P-40-S", "P-40-T", "P-40-U", "P-40-V" and "P-40-W", inclusive of sub-markings, CD.
[72] Exhibit "P-40-AE", inclusive of sub-markings, CD.

Findings	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	CY 2015	Exh. No.
Domestic purchase of goods and services supported by an invalid document	₱184.70	₱4,680.55	₱6,890.86	₱16,221.32	₱27,977.43	"P-40-AG"
Domestic purchase of goods supported by a VAT invoice and OR but not within CY 2015	-	2,556.00	-	-	2,556.00	"P-40-Y"
Domestic purchase of goods and services supported by VAT invoices and ORs but without petitioner's TIN	-	-	11,681.80	-	11,681.80	"P-40-AH"
Domestic purchase of services without supporting VAT invoices and ORs	1,922.33	-	619.00	-	2,541.33	"P-40-Z"
Excess VAT claimed *per* schedule compared to actual document	15.60	140.43	140.43	90.50	386.96	"P-40-X"
Importation of goods other than capital goods not fully supported by the required import documents	-	-	15,429.00	359,570.00	374,999.00	"P-40-AJ"
Total	**₱2,122.63**	**₱7,376.98**	**₱34,761.09**	**₱375,881.82**	**₱420,142.52**	

Aside from the ICPA recommended disallowance of ₱420,142.52, the following input VAT in the amount of ₱76,821.44 should likewise be disallowed for similarly failing to meet the substantiation requirements prescribed under the aforementioned VAT law and regulations:

Findings	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	CY 2015	Exh. No.
Amortization of input VAT on capital goods exceeding ₱1 Million:						
Not supported by a VAT registered sales invoice but with Vehicle Sales Proposal, Collection Receipt and an e-mail correspondence	₱7,805.36	₱7,805.36	₱7,805.36	₱7,805.36	₱31,221.44	"P-40-AF-1"

Findings	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	CY 2015	Exh. No.
Supported by a sales invoice without ATP, petitioner's TIN and address and the VAT component was not separately indicated	11,400.00	11,400.00	11,400.00	11,400.00	45,600.00	"P-40-AF-2"
Total	**₱19,205.36**	**₱19,205.36**	**₱19,205.36**	**₱19,205.36**	**₱76,821.44**	

Therefore, out of petitioner's reported allowable input VAT for the four (4) quarters of CY 2015 in the total amount of ₱11,849,046.57, only the amount of ₱11,352,082.61 represents valid input VAT, as computed below:

	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	CY 2015
Total Allowable Input VAT per Returns	₱2,694,015.07	₱3,132,742.24	₱3,049,882.62	₱2,972,406.64	₱11,849,046.57
Less: Disallowances					
Per ICPA's findings	2,122.63	7,376.98	34,761.09	375,881.82	420,142.52
Per this Court's further verification	19,205.36	19,205.36	19,205.36	19,205.36	76,821.44
	------------	------------	------------	------------	------------
Total Disallowances	21,327.99	26,582.34	53,966.45	395,087.18	496,963.96
	------------	------------	------------	------------	------------
Valid Input VAT	**₱2,672,687.08**	**₱3,106,159.90**	**₱2,995,916.17**	**₱2,577,319.46**	**₱11,352,082.61**
	============	============	============	============	============

However, considering that petitioner had other kinds of sales, *i.e.*, VATable sales or receipts to private entities and exempt sales and its input VAT cannot be directly identified with specific sales, we shall allocate the valid input VAT proportionately on the basis of the volume of petitioner's sales, as follows:

	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	CY 2015
Sales per VAT return					
VATable Sales/Receipts	₱-	₱-	₱1,048,631.94	₱-	₱1,048,631.94

	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	CY 2015
Zero-Rated Sales/Receipts	19,485,112.80	45,129,130.16	43,954,833.11	66,652,741.99	175,221,818.06
Exempt Sales/Receipts	-	-	2,115,815.51	4,742,203.57	6,858,019.08
	------------	------------	------------	------------	------------
Total	₱19,485,112.80	₱45,129,130.16	₱47,119,280.56	₱71,394,945.56	₱183,128,469.08
	===========	===========	===========	===========	===========
Allocation Factor (Percentage of each type of sales to total sales):					
VATable Sales/Receipts	0.0000000%	0.0000000%	2.2254838%	0.0000000%	0.5726209%
Zero-Rated Sales/Receipts	100.0000000%	100.0000000%	93.2841771%	93.3577881%	95.6824567%
Exempt Sales/Receipts	0.0000000%	0.0000000%	4.4903392%	6.6422119%	3.7449224%
	------------	------------	------------	------------	
Total	100.00%	100.00%	100.00%	100.00%	100.00%
	===========	===========	===========	===========	===========
Valid Input VAT	₱2,672,687.08	₱3,106,159.90	₱2,995,916.17	₱2,577,319.46	₱11,352,082.61
	===========	===========	===========	===========	===========
Input VAT Allocation Per Each Type of Sales (Allocation Factor multiplied by Valid Input VAT):					
VATable Sales/Receipts — Private	**₱-**	**₱-**	**₱66,673.63**	**₱-**	**₱66,673.63**
Zero-Rated Sales/Receipts	**2,672,687.08**	**3,106,159.90**	**2,794,715.74**	**2,406,128.44**	**10,979,691.16**
Exempt Sales/Receipts	-	-	134,526.80	171,191.02	305,717.82
	------------	------------	------------	------------	------------
Total	₱2,672,687.08	₱3,106,159.9	₱2,995,916.17	₱2,577,319.46	₱11,352,082.61
	===========	===========	===========	===========	===========

Since the input VAT allocated to VATable sales or receipts-private entities is not enough to cover petitioner's output tax due, the input VAT allocated to zero-rated sales or receipts shall be utilized to pay for the remaining output tax, as shown below:

	First Quarter	**Second Quarter**	**Third Quarter**	**Fourth Quarter**	**CY 2015**
Output VAT Due	₱-	₱-	₱125,835.83	₱-	₱125,835.83
Less: Input VAT allocated to VATable sales/receipts	-	-	66,673.63	-	66,673.63
Balance of Output VAT Due	-	-	59,162.20	-	59,162.20
Less: Input VAT allocated to Zero-Rated Sales/Receipts	2,672,687.08	3,106,159.90	2,794,715.74	2,406,128.44	10,979,691.16
Excess Input VAT Allocated to Zero-Rated Sales/Receipts	**₱2,672,687.08**	**₱3,106,159.90**	**₱2,735,553.54**	**₱2,406,128.44**	**₱10,920,528.96**
	===========	===========	===========	===========	===========

Based on the foregoing, petitioner had excess input VAT for CY 2015 in the amount of ₱10,920,528.96, which can be attributed to its entire declared zero-rated sales or receipts in the amount of ₱175,221,818.06.

However, as stated earlier, petitioner was only able to properly substantiate the amount of ₱893,544.26 out of its total declared zero-rated sales or receipts of ₱175,221,818.06. Thus, the input VAT attributable to petitioner's valid zero-rated sales or receipts of ₱893,544.26 amounts only to ₱55,610.23, as computed below:

	First Quarter	**Second Quarter**	**Third Quarter**	**Fourth Quarter**	**CY 2015**
Excess Input VAT Attributable to Declared Zero-Rated Sales/Receipts	₱2,672,687.08	₱3,106,159.90	₱2,735,553.54	₱2,406,128.44	₱10,920,528.96
Divided by Declared Zero-Rated Sales/Receipts	19,485,112.80	45,129,130.16	43,954,833.11	66,652,741.99	175,221,818.06
Multiplied by Valid Zero-Rated Sales/Receipts	-	-	893,544.26	-	893,544.26
	-----------	-----------	-----------	-----------	-----------
Excess Input VAT Attributable to Valid Zero-Rated Sales/Receipts	**₱0.00**	**₱0.00**	**₱55,610.23**	**₱0.00**	**₱55,610.23**
	===========	===========	===========	===========	===========

Although the claimed input VAT was carried-over by petitioner in its succeeding Quarterly VAT Returns, the same remained unutilized until it was deducted in its Quarterly VAT Return for the first quarter of 2017[73], as "VAT Refund/TCC claimed" from the total available input tax of ₱30,671,294.00, thus, preventing the carry-over or application of the claimed input VAT in the next taxable periods.

In conclusion, petitioner has sufficiently proven its entitlement to a refund or issuance of TCC in the amount of ₱55,610.23, representing its unutilized excess input VAT for the four (4) taxable quarters of CY 2015 which is attributable to its zero-rated sales or receipts for the same period.

WHEREFORE, premises considered, the instant Petition for Review filed on 25 August 2017 by Halliburton Worldwide Limited – Philippine Branch is hereby **PARTIALLY GRANTED.**

Accordingly, respondent Commissioner of Internal Revenue is **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in the amount of **FIFTY FIVE THOUSAND SIX HUNDRED TEN PESOS and TWENTY THREE CENTAVOS** (₱55,610.23), representing its unutilized excess input VAT for the four (4) taxable quarters of CY 2015 which is attributable to its zero-rated sales or receipts for the same period.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[73] Exhibit "P-11", Division Docket, Volume II, pp. 145-147.

I CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ATTESTATION

I attest 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.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
2nd Division Chairperson

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.

ROMAN G. DEL ROSARIO
Presiding Justice