REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

IBEX PHILIPPINES, INC.,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9802

Members:

DEL ROSARIO, *P.J., Chairperson*, *and*
MANAHAN, *JJ*.

Promulgated:
NOV 18 2020 1:15 pm

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D E C I S I O N

MANAHAN, *J.*:

This is a *Petition for Review* filed by petitioner Ibex Philippines Inc. against respondent Commissioner of Internal Revenue on April 10, 2018 for the refund of ₱9,138,100.67, representing its alleged unutilized input value-added tax (VAT) attributable or allocated to zero-rated sales for the period October 1, 2015 to June 30, 2016.[1]

THE FACTS

Petitioner Ibex Philippines Inc. is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines.[2] It is registered with the Bureau of Internal Revenue (BIR) since August 4, 2005, with address at 8/F Hanston Bldg., Don Francisco Ortigas, Jr. Road, Ortigas Center, San Antonio, Pasig City 1605.[3]

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[1] Statement of the Case, Pre-Trial Order dated April 29, 2019, Docket, p. 192.
[2] Exhibit "P-2", Docket, pp. 366 to 376.
[3] Exhibits "P-3" and "P-4", Docket, p. 377 to 378. *am*

Respondent is the duly appointed Commissioner of Internal Revenue with office address at BIR Building, Diliman, Quezon City.[4]

On December 29, 2017, petitioner filed an administrative claim for refund under Section 112(A), in relation to Section 112(C) of the Tax Code, covering the period from October 1, 2015 to June 30, 2016.[5]

Respondent then issued the Letter of Authority (SN: eLA201600002526; LOA-043-2018-00000003) dated February 6, 2018 for the mandatory audit of petitioner.[6]

Thereafter, in the letter dated February 23, 2018 issued by Revenue District Officer Rufo B. Ranario of Revenue District Office (RDO) No. 043, Revenue Region No. 7 of the BIR, petitioner's administrative claim was denied.[7] The said letter was received by petitioner on March 9, 2018.[8]

As already stated, petitioner filed this *Petition for Review* on April 10, 2018.[9] The instant case was originally raffled to this Court's Third Division.

Respondent filed his *Answer* filed on May 18, 2018.[10]

The Pre-Trial Conference was initially set on October 23, 2018.[11] However, pursuant to the Order dated September 25, 2018,[12] the case was transferred to this Court's First Division, and the pre-trial conference was cancelled and reset until further notice.

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[4] Par. 1, Statement of Facts and Issues, Pre-Trial Order dated April 29, 2019, Docket, p. 193.
[5] Exhibit "P-12", Docket, p. 401.
[6] Par. 2, Statement of Facts and Issues, Pre-Trial Order dated April 29, 2019, Docket, p. 193; Exhibit "P-13", Docket, p. 402.
[7] Exhibit "P-14", Docket, p. 403.
[8] Exhibit "P-15", Docket, p. 405.
[9] Docket, pp. 10 to 20.
[10] Docket, pp. 34 to 43.
[11] *Notice of Pre-Trial Conference* dated July 27, 2018, Docket, pp. 63 to 64.
[12] Docket, p. 69.

The Pre-Trial Conference was then set anew on November 22, 2018.[13] For lack of quorum, however, the Pre-Trial Conference was reset again to, and was held on, February 7, 2019.[14] Petitioner's *Pre-Trial Brief* was filed on November 19, 2018;[15] while *Respondent's Pre-Trial Brief* was submitted on March 12, 2019.[16]

In the meantime, on December 6, 2018, the *BIR Records* for this case were submitted to this Court.[17]

The Court issued the Pre-Trial Order dated April 29, 2019, and deemed the termination of the Pre-Trial.[18]

During trial, petitioner presented its documentary and testimonial evidence. It offered the testimonies of the following individuals, namely: (1) Mr. John Michael Arceo,[19] petitioner's Tax and Corporate Compliance Manager; and (2) Mr. Neil U. Sison,[20] the Court duly-commissioned Independent Certified Public Accountant (ICPA).[21]

On April 15, 2019, the *Report* of the ICPA was submitted.[22]

Petitioner filed its *Formal Offer of Evidence* on June 26, 2019.[23] Respondent, however, failed to submit his comment/opposition thereto.[24] In the Resolution dated

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[13] Resolution dated October 26, 2018, Docket, pp. 72 to 73.
[14] *Notice of Resetting* dated November 20, 2018, Docket, p. 146; Minutes of the hearing held on, and Order dated, February 7, 2019, Docket, pp. 152 to 154.
[15] Docket, pp. 74 to 81.
[16] Docket, pp. 172 to 174.
[17] Respondent's *Explanation, Submission, and Compliance*, Docket, pp. 148 to 149.
[18] Docket, pp. 192 to 199.
[19] Exhibit "P-1", Docket, pp. 205 to 218; Minutes of the hearing held on, and Order dated, June 11, 2019, Docket, pp. 334 to 340.
[20] Exhibit "P-16", Docket, pp. 320 to 330; Minutes of the hearing held on, and Order dated, June 11, 2019, Docket, pp. 334 to 340.
[21] *Oath of Commission* dated March 14, 2019; Exhibit "P-16", Docket, pp. 159 to 163; Minutes of the hearing held on, and Order dated March 14, 2019, Docket, pp. 177 to 180, and 182 to 183, respectively.
[22] Docket, p. 263; Exhibit "P-17", Docket, pp. 266 to 280.
[23] Docket, pp. 355 to 365.
[24] Records Verification dated July 31, 2019 issued by the Judicial Records Division of this Court, Docket, p. 410.

September 13, 2019,[25] the Court admitted petitioner's Exhibits, *except* for Exhibit "P-18-L-12", for not being found in the records.

Respondent's counsel, on the other hand, manifested that he would not present any evidence for respondent.[26]

Thereafter, petitioner filed its *Memorandum* on November 18, 2019.[27] Respondent, however, did not file his memorandum.[28]

On December 19, 2019, this case was submitted for decision.[29]

THE ISSUE

The issue to be resolved by the Court is as follows:

> "Whether petitioner is entitled to the refund of its alleged input VAT attributable to its zero-rated sales made during the period October 1, 2015 to June 30, 2016, in the aggregate amount of Nine Million One Hundred Thirty-Eight Thousand One Hundred Pesos and 67/100 Centavos (Php9,138,100.67).[30]

Petitioner's arguments:

Petitioner argues that its sale of business process and contact center services to its sole client, a non-resident foreign corporation, is VAT zero-rated; that during the claim period, petitioner performed business process, contact center services and other facilities for its sole and non-resident client, which is engaged in business conducted outside the Philippines; that the payment for petitioner's services are in acceptable foreign currency accounted for in accordance with the rules and

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[25] Docket, pp. 422 to 424.
[26] Refer to the Minutes of the hearing held on, and Order dated, June 11, 2019, Docket, pp. 334 to 340.
[27] Docket, pp. 435 to 458.
[28] Records Verification dated December 5, 2019 issued by the Judicial Records Division of this Court, Docket, p. 463.
[29] Resolution dated December 19, 2019, Docket, p. 465.
[30] Par. II, Issue, Pre-Trial Order dated April 29, 2019, Docket, p. 193.

regulations of the *Bangko Sentral ng Pilipinas* (BSP); that the input VAT incurred by petitioner in the course of its business are duly paid, are attributable to zero-rated or effectively zero-rated sales, and have not been applied against output taxes during and in the succeeding quarters; and that petitioner timely filed with this Court the instant *Petition for Review*.

Respondent's counter-arguments:

Respondent contends that in an action for refund, the burden of proof is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund/credit; that petitioner must show that it has complied with the provisions of Section 112 of the National Internal Revenue Code (NIRC) of 1997 on the prescriptive period for claiming tax refund/credit; that in a claim for tax refund or tax credit, the applicant must prove not only entitlement to the claim but also compliance with all the documentary and evidentiary requirements therefor; that the instant judicial claim should be denied for petitioner's failure to substantiate the claim for refund at the administrative level; that the Court is confined to a limited issue whether there is insufficiency of substantiation requirement to warrant the denial of the claim; that the claim for refund should be denied for failure to submit complete supporting documents; and that partaking of the nature of exemptions, claims for refund are strictly construed against the claimant and cannot be allowed unless granted in the most explicit and categorical language.

RULING OF THE COURT

The instant *Petition for Review* must be denied.

Section 112 (A) and (C) of the NIRC of 1997, as amended by Republic Act (RA) No. 9337,[31] provides as follows:

> SEC. 112. *Refunds or Tax Credits of Input Tax.* —

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[31] 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. *cm*

> (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 or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally*, That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
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> (C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* — In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.
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> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty-day period, appeal the decision or the unacted claim with the Court of Tax Appeals.

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

Timeliness of the filing of the administrative and judicial claims:

1. the claim is filed with the BIR within two (2) years after the close of the taxable quarter when the sales were made;[32]

2. in case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act on the said claim within a period of 120 days from the date of submission of complete documents in support of the application, the judicial claim must be filed with this Court, within 30 days from receipt of the decision or after the expiration of the said 120-day period;[33]

Taxpayer's registration with the BIR:

3. the taxpayer is a VAT-registered person;[34]

Taxpayer's output VAT:

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

5. for zero-rated sales under Sections 106(A)(2)(a)(1), (2) and (b); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with *Bangko Sentral ng Pilipinas* (BSP) rules and regulations;[36]

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

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

[34] *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue,* supra; *San Roque Power Corporation v. Commissioner of Internal Revenue,* supra; and *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue,* supra.

[35] *Id.*

[36] *Id.*

Taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[37]

7. the input taxes are due or paid;[38]

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;[39]

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[40]

Relative thereto, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove every minute aspect of their case.[41] Thus, it behooves petitioner to show compliance with each of the foregoing requisites.

Petitioner's administrative and judicial claims were timely filed.

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[37] *Id.*
[38] *Id.*
[39] *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue,* supra; and *San Roque Power Corporation v. Commissioner of Internal Revenue,* supra.
[40] *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue,* supra; *San Roque Power Corporation v. Commissioner of Internal Revenue,* supra; and *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue,* supra.
[41] *Edison (Bataan) Cogeneration Corporation v. Commissioner of Internal Revenue, etseq.*, G.R. Nos. 201665 and 201668, August 30, 2017; *Commissioner of Internal Revenue v. Philippine National Bank*, G.R. No. 180290, September 29, 2014; *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014; *Dizon v. Court of Tax Appeals, et al.*, G.R. No. 140944, April 30, 2008; *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue,* G.R. No. 145526, March 16, 2007; and *Commissioner of Internal Revenue v. Manila Mining Corporation,* G.R. No. 153204, August 31, 2005.

The *first* requisite pertains to the filing of the refund claim for tax credit or refund of input VAT before the BIR, which should be within two (2) years from the close of the quarter when the sales were made.

The instant claims cover the 2nd, 3rd, and 4th quarters of fiscal year (FY) 2016 ending June 30, 2016. Counting two (2) years from the respective close of the said quarters, the following table indicates the pertinent last days for the filing of an administrative claim for the said two (2) quarters, to wit:

FY 2016	**Period**	**Close of the Taxable Quarter**	**Last Day to File Administrative Claim**
2nd Quarter	October 1, 2015 to December 31, 2015	December 31, 2015	December 31, 2017
3rd Quarter	January 1, 2016 to March 31, 2016	March 31, 2016	March 31, 2018
4th Quarter	April 1, 2016 to June 30, 2016	June 30, 2016	June 30, 2018

Since the administrative claim for refund covering the periods from October 1, 2015 to June 30, 2016 was filed by petitioner on December 29, 2017,[42] the same was seasonably filed.

The *second* requisite is to the effect that the judicial claim must have been filed within thirty (30) days from receipt of respondent's decision or after the expiration of the 120-day period under the afore-quoted Section 112(C). Considering that the BIR came up with a decision within the said 120-day period, and the same was received by petitioner on March 9, 2018,[43] the counting of the said 30-day period should commence on the said date, and shall end on April 8, 2018. However, since April 8, 2018 fell on a Sunday and April 9, 2018 was a legal holiday, petitioner had until April 10, 2018, the next working day to file its judicial claim, in accordance with Section 1, Rule 22 of the Rules of Court.[44] Thus, the

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[42] Exhibit "P-12", Docket, p. 401.
[43] Exhibit "P-15", Docket, p. 405.
[44] Section 1. *How to Compute Time.* — In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day or the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period as thus computed, **falls on a Saturday**, a Sunday, or a legal holiday in the place where the court sits, **the time shall not run until the next working day**." *(Emphases added)*

filing of the instant *Petition for Review* on April 10, 2018[45] was likewise seasonably made.

Such being the case, petitioner complied with the above-stated *first* and *second* requisites.

Petitioner is a VAT-registered entity.

Petitioner also complied with the *third* requisite considering that it is a VAT registered taxpayer, with TIN 239-838-099-000, as evidenced by its BIR Certificate of Registration Nos. OCN 3RC0000779136 and OCN 3RC0000633222 issued on January 29, 2014[46] and February 14, 2017, respectively.[47]

Petitioner failed to establish that it was engaged in zero-rated sales or effectively zero-rated sales during the subject period of claim.

The *fourth* and *fifth* requisites require that the taxpayer is engaged in zero-rated or effectively zero-rated sales. It is also required that 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 been duly accounted for in accordance with the BSP rules and regulations.

Petitioner submits that its sales of contact center services and facilities to its sole client, IBEX Global Bermuda Ltd., a non-resident foreign corporation doing business outside the Philippines, and the consideration for which was paid in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP), are subject to VAT at zero rate (0%) pursuant to Section 108(B)(2) of the NIRC of 1997, as amended, which provides:

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[45] Docket, pp. 10 to 20.
[46] Exhibit "P-3", Docket, p. 377
[47] Exhibit "P-4", Docket, p. 378.

> Sec. 108. *Value-Added Tax on Sale of Services and Use or Lease of Properties.* –
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> xxx xxx xxx
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> (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:**
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> (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);
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> (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).** (Emphasis 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 recipient of the services is a foreign corporation, and the said corporation is doing business *outside* the Philippines, or is a non-resident person not engaged in business who is outside the Philippines when the services are performed;[48]

2) The services fall under any of the categories under Section 108(B)(2),[49] or simply, the services

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[48] *Sitel Philippines Corporation (Formerly Clientlogic Phils. Inc.) v. Commissioner of Internal Revenue,* G.R. No. 201326, February 08, 2017; *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.,* G.R. No. 153205, January 22, 2007; *Accenture, Inc. v. Commissioner of Internal Revenue,* G.R. No. 190102, July 11,2012.

[49] *Commissioner of Internal Revenue v. American Express International, Inc. (Philippine Branch),* G.R. No. 152609, June 29, 2005.

rendered should be other than *"processing, manufacturing or repacking goods"*;[50]

3) The service must be performed in the Philippines[51] 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.[52]

Petitioner was able to establish compliance with the *first* essential element by presenting: (1) the *Certification of Non-Registration of Company* [53] issued by the Securities and Exchange Commission (SEC) that the records of the SEC do not show the registration of IBEX Global Bermuda Ltd. as a corporation or as a partnership; and (2) the Authenticated copy of IBEX Global Bermuda Ltd.'s *Certificate of Incorporation.*[54] The former document proves that IBEX Global Bermuda Ltd. is not doing business in the Philippines while the latter document shows that IBEX Global Bermuda Ltd. is doing business outside the Philippines. Taken together, the said documents establish that IBEX Global Bermuda Ltd. is a non-resident foreign corporation not engaged in business in the Philippines.

With regard to the *second* essential element, other than the bare allegation of petitioner's witness that it provided BPO services, particularly, contact center services and facilities to a foreign client, IBEX Global Bermuda Ltd., no other documentary evidence was provided by petitioner to support such allegation. Petitioner ought to know that mere allegation is not evidence. Mere allegations without adducing documentary evidence are not sufficient. Allegation is not synonymous with proof.[55] As such, petitioner failed to comply

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[50] *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007.

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

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

[53] Exhibit "P-10", Docket, p. 399.

[54] Exhibit "P-9", Docket, pp. 395 to 398.

[55] *Martin v. Court of Appeals, et al.*, G.R. No. 82248, January 30, 1992.

with the *second* essential element as it was not able to establish that the services it provided to IBEX Global Bermuda Ltd. are not in the same category as *"processing, manufacturing or repacking of goods".*

Neither did petitioner show proof that the purported services rendered to IBEX Global Bermuda Ltd. were performed in the Philippines. Such being the case, the *third* essential element was also not complied with.

Verily, petitioner fell short in establishing that its sales of services qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended. 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.[56] Considering petitioner's failure to establish its zero-rated or effectively zero-rated sales for the subject period, the instant *Petition for Review* must necessarily fail.

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

In sum, petitioner failed to show full compliance with the requisites under the law to successfully obtain a credit/refund of input VAT.

It must be emphasized that actions for tax refund or credit, as in the instant case, are in the nature of tax exemptions. As such, they are regarded as derogation of sovereign authority and to be construed *strictissimi juris* against the person or entity claiming the refund[57]. The pieces of evidence presented entitling a taxpayer to an exemption are also *strictissimi* scrutinized and must be duly proven.[58] Hence, an applicant for a claim for tax refund or tax credit

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

[57] *Commissioner of Internal Revenue v. S.C. Johnson & Son, Inc.*, G.R. No. 127105, June 25, 1999.

[58] *Kepco Philippines Corporation v. Commissioner of Internal Revenue*, G.R. No. 179961, January 31, 2011 citing *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 159490, February 18, 2008.

must not only prove entitlement to the claim but also compliance with all the documentary and evidentiary requirements.[59] Having failed to do so, the instant judicial claim must perforce fail.

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

I CONCUR:

ROMAN G. DEL ROSARIO
Presiding 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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[59] *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015 citing *J.R.A. Philippines, Inc. v. CIR*, G.R. No. 171307, August 28, 2013.