REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

SAN ROQUE POWER CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11012

Members:

RINGPIS-LIBAN, *P.J., Chairperson,*
MODESTO-SAN PEDRO, and
FERRER-FLORES, *JJ.*

Promulgated:
APR 07 2026

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DECISION

RINGPIS-LIBAN, *P.J.*:

THE CASE

In this *Petition for Review* filed on October 27, 2022, petitioner San Roque Power Corporation prays for the refund of the amount of [₱27,921,381.31],[1] allegedly representing petitioner's excess and unutilized value-added tax (VAT) input taxes attributable to its VAT zero-rated sales for the period from April 1, 2020 to March 31, 2021.[2]

THE PARTIES

Petitioner San Roque Power Corporation is a corporation duly organized and existing under and by virtue of Philippine laws.[3] It is registered with the Bureau of Internal Revenue (BIR) - Revenue District Office No. 121 - Excise

[1] The amount of refund originally prayed for in the *Petition for Review* was ₱30,149,602.19, but the same was reduced to ₱27,921,381.31, which is the amount of refund recommended by the Independent Certified Public Accountant (ICPA) (Refer to par. 80 and Prayer, petitioner's *Memorandum*, Docket – Vol. II, pp. 1024 to 1025).
[2] Summary of the Case, Pre-Trial Order dated January 10, 2024, Docket – Vol. I, p. 423.
[3] Exhibits "P-1" and "P-2", Docket – Vol. II, pp. 532 to 547.

LT Division I, under Taxpayer Identification Number (TIN) 005-017-501-00000, with address at San Roque, San Manuel Pangasinan.[4]

Respondent Commissioner of Internal Revenue (CIR) is empowered to perform the duties of his office, including acting upon on protests cases and approval of claims for refund or tax credit as provided by law and implementing regulations.[5]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On June 27, 2022, petitioner filed with the BIR-Excise LT Audit Division I its *Application for Tax Credits/ Refunds* (BIR Form No. 1914),[6] and letter of even date,[7] requesting for the refund or issuance of tax credits in the total amount of ₱30,149,602.19, representing excess or unutilized input taxes for the period April 1, 2020 to March 31, 2021.

The *Tax Verification Notice* No. TVN201900037071 dated June 30, 2022,[8] was issued to petitioner, authorizing Revenue Officer (RO) Kenon Dionisio to verify petitioner's supporting documents and/or pertinent records relative to the claim for VAT refund covering the period April 1, 2020 to March 31, 2021.[9]

Thereafter, on September 27, 2022, petitioner received the–*Notice of Denial for VAT Refund* dated August 22, 2022,[10] signed by Ms. Maridur V. Rosario, OIC-Assistant Commissioner – Large Taxpayers Service, denying petitioner's application for VAT refund for the period April 1, 2020 to March 31, 2021, for lack of legal basis and for failure to comply with Section 112 (A) of the National Internal Revenue Code (NIRC) of 1997.

PROCEEDINGS BEFORE THIS COURT

As earlier stated, on October 27, 2022, petitioner filed the present *Petition for Review*.[11]

On March 10, 2023, respondent filed his *Answer*,[12] interposing the following special and affirmative defenses, to wit: (1) the *Petition* must be

[4] Exhibit "P-3", Docket – Vol. II, pp. 548 to 549.
[5] Par. 1, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. I, p. 383.
[6] Exhibit "P-20", Docket – Vol. II, p. 863.
[7] Exhibit "P-21", Docket – Vol. II, pp. 864 to 869.
[8] Exhibit "P-24", Docket – Vol. II, p. 872; Exhibit "R-2", BIR Records (Exhibit "R-6"), p. 444.
[9] Par. 35, *Petition for Review*, vis-à-vis par. 1, *Answer*, Docket – Vol. I, pp. 15 and 115, respectively.
[10] Exhibit "P-9", Docket – Vol. II, pp. 568 to 569; Exhibit "R-5", BIR Records (Exhibit "R-6"), pp. 530 to 531.
[11] Docket – Vol. I, pp. 6 to 70.
[12] Docket – Vol. I, pp. 115 to 123.

dismissed for failure of petitioner to substantiate its administrative claim for refund; and (2) petitioner is not entitled to refund of alleged unutilized input VAT in the amount of ₱30,149,602.19 covering the period April 1, 2021 to March 31, 2021.

On March 22, 2023, respondent transmitted the *BIR Records* of the present case, consisting of 538 pages in one (1) folder.[13]

The Pre-Trial Conference was initially set on April 13, 2023,[14] but was reset to August 17, 2023,[15] and later reset to, and held on October 12, 2023.[16] Prior thereto, *Respondent's Pre-Trial Brief* was filed on March 21, 2023,[17] while the petitioner's *Pre-Trial Brief*[18] and *Supplemental Pre-Trial Brief*[19] were submitted on March 28, 2023 and April 4, 2023, respectively.

On October 27, 2023, the parties filed their *Joint Stipulation of Facts and Issues*,[20] which was admitted and approved by the Court in its Resolution dated November 15, 2023,[21] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order dated January 10, 2024 was then issued.[22]

As trial ensued, the parties presented their respective testimonial and documentary evidence.

Petitioner offered the testimonies of the following individuals, namely: (1) Ms. Lalaine A. Estayo,[23] petitioner's Assistant Manager for Finance and Accounting; (2) Mr. Rubentheo P. Cuta,[24] petitioner's Operations Manager; (3) Atty. Jose M. Layug, Jr.,[25] expert witness in the field of energy law and on the power industry in the Philippines; and (4) Atty. Maria Myla S. Maralit,[26] the Court-commissioned Independent Certified Public Accountant (ICPA).[27]

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[13] *Compliance* dated March 22, 2023, Docket – Vol. I, pp. 155 to 157.
[14] Notice of Pre-Trial Conference dated March 17, 2023, Docket – Vol. I, pp. 125 to 126.
[15] Minute Resolution dated April 20, 2023, Docket – Vol. I, p. 368.
[16] Notice of Resetting dated July 17, 2023, Docket – Vol I, p. 370; Minutes of the hearing held on, and Order dated, October 12, 2023, Docket – Vol. I, pp. 371 to 372 and 375 to 376, respectively.
[17] Docket – Vol. I, pp. 125 to 129.
[18] Docket – Vol. I, pp. 131 to 153.
[19] Docket – Vol. I, pp. 190 to 193.
[20] Docket – Vol. I, pp. 383 to 402.
[21] Docket – Vol. I, p. 415.
[22] Docket – Vol. I, pp. 423 to 429.
[23] Exhibit "P-33", Docket – Vol. I, pp. 89 to 111; Minutes of the hearing held on, and Order dated, February 6, 2024, Docket – Vol. I, pp. 431 to 433.
[24] Exhibit "P-35", Docket – Vol. I, pp. 75 to 86; Minutes of the hearing held on, and Order dated, March 7, 2024, Docket – Vol. I, pp. 464 to 465.
[25] Exhibit "P-4929", Docket – Vol. I, pp. 198 to 218, and 365 (for the *Attestation*); Minutes of the hearing held on, and Order dated, April 11, 2024, Docket – Vol. I, pp. 466 to 467.
[26] Exhibit "P-4928", Docket – Vol. I, pp. 470 to 501; Minutes of the hearing held on, and Order, dated May 14, 2024, Docket – Vol. I, pp. 504 and 506 to 507, respectively.
[27] *Oath of Commission* dated February 6, 2024, Docket – Vol. I, p. 430; Minutes of the hearing held on, and Order dated, February 6, 2024, Docket – Vol. I, pp. 431 to 433.

The *Report* of the ICPA was submitted to the Court on March 7, 2024.[28]

On June 4, 2024, petitioner filed its *Formal Offer of Evidence*,[29] to which respondent filed his *Comment (Re: Formal Offer of Evidence)* on June 7, 2024.[30] In the Resolution dated September 9, 2024,[31] the Court admitted petitioner's offered exhibits, *except* Exhibit "P-22", for not being found in the records; and Exhibits "P-460 to P-534" and "P-1253 to P-1356", for not being accessible.

Thus, petitioner filed a *Motion for Partial Reconsideration to the Resolution dated September 9, 2024* on September 25, 2024.[32] Respondent failed to file his comment thereon.[33] In the Resolution dated February 13, 2025,[34] the Court granted the said *Motion*, and admitted Exhibits "P-22", "P-460 to P-534" and "P-1253 to P-1356".

For his part, respondent offered the testimony of RO Kennon B. Dionisio.[35]

On October 4, 2024, respondent filed his *Formal Offer of Evidence*,[36] to which petitioner filed its *Comment/Opposition (To the Respondent's Formal Offer of Evidence)* on October 10, 2024.[37] In the Resolution dated December 4, 2024,[38] the Court admitted all of respondent's offered exhibits.

Respondent's *Memorandum* was filed on March 10, 2025,[39] while petitioner's *Memorandum* was submitted on March 14, 2025.[40]

The case was considered submitted for decision on March 20, 2025.[41]

THE STIPULATED ISSUE

As stipulated by the parties, the issue for this Court's resolution is:

[28] Exhibit "P-4927", Docket – Vol. I, pp. 435 to 463.
[29] Docket – Vol. II, pp. 511 to 530.
[30] Docket – Vol. II, pp. 873 to 875.
[31] Docket – Vol. II, pp. 880 to 881.
[32] Docket – Vol. II, pp. 884 to 885.
[33] Records Verification dated January 7, 2025 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 913.
[34] Docket – Vol. II, pp. 916 to 917.
[35] Exhibit "R-7", Docket – Vol. I, pp. 163 to 172; Minutes of the hearing held on, and Order, dated October 1, 2024, Docket – Vol. II, pp. 894 to 896.
[36] Docket – Vol. II, pp. 898 to 901.
[37] Docket – Vol. II, pp. 904 to 907.
[38] Docket – Vol. II, pp. 911 to 912.
[39] Docket – Vol. II, pp. 919 to 931.
[40] Docket – Vol. II, pp. 935 to 1026.
[41] Minute Resolution dated March 20, 2025, Docket – Vol. II, p. 1029.

"WHETHER OR NOT PETITIONER IS ENTITLED TO REFUND OF ALLEGED UNUTILIZED INPUT TAXES AMOUNTING TO P30,149,602.19 FOR THE PERIOD 1 APRIL 2020 TO 31 MARCH 2021."[42]

Petitioner's arguments

Petitioner argues that its claim for tax refund should be granted because all the elements necessary are present; that it should have been granted the refund of ₱30,149,602.19 for the period from April 1, 2020 to March 31, 2021; and that the ICPA recommended the refund of ₱27,921,381.31 for the period from April 1, 2020 to March 31, 2021.

Respondent's counter-arguments

Respondent contends that the petition must be dismissed for failure of petitioner to substantiate its administrative claim for refund; and that petitioner is not entitled to refund of alleged unutilized input VAT in the amount of ₱30,149,602.19 covering the period April 1, 2020 to March 31, 2021.

THE COURT'S RULING

The present *Petition for Review* has partial merit.

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

Section 112 of the NIRC of 1997, as last amended by Republic Act (RA) No. 10963,[43] provides, in part, 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-

[42] Par. B., JSFI, Docket – Vol. I, p. 384.
[43] AN ACT AMENDING SECTIONS 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35, 62, AND 89; ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

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.

xxx xxx xxx

(C) *Period within which Refund of Input Taxes shall be Made.* — In proper cases, the Commissioner shall grant a refund for creditable input taxes within ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof: *Provided*, That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.

In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals: *Provided, however*, That failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code."

Based on the foregoing provision, jurisprudence has laid down certain requisites which the taxpayer-applicant must comply with 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. the refund claim is filed with the BIR within two (2) years after the close of the taxable quarter when the sales were made;[44]

2. in case of full or partial denial of the refund claim rendered within a period of ninety (90) days from the date of submission of the official receipts (ORs) or invoices and other documents in support of the application, the judicial claim shall be filed with this Court within thirty (30) days from receipt of the decision;[45]

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

3. the taxpayer is a VAT-registered person;[46]

In relation to the taxpayer's output VAT:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[47]

5. for zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2),[48] the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the BSP rules and regulations;[49]

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[50]

7. the input taxes are due or paid;[51]

8. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both

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[44] *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.

[45] Refer to *Energy Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 203367, March 17, 2021; *Commissioner of Internal Revenue v. CE Casecnan Water and Energy Company, Inc.*, G.R. No. 212727, February 1, 2023; and *Commissioner of Internal Revenue v. Vestas Services Philippines, Inc.*, G.R. No. 255085, March 29, 2023.

[46] *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.

[47] *Id.*

[48] Under RA No. 10963, Section 106(A)(2)(a)**(2)** was renumbered to Section 106(A)(2)(a)**(3)** while Section 106(A)(2)**(b)** was deleted. However, there was no corresponding amendment to the subsections cited in Section 112(A) of the National Internal Revenue Code of 1997, as amended.

[49] *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.

[50] *Id.*

[51] *Id.*

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;[52] and

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[53]

In addition, in claims for VAT refund/credit, applicants must satisfy the substantiation and invoicing requirements under the NIRC and other implementing rules and regulations.[54] Thus, petitioner's compliance with all the VAT invoicing requirements is required to be able to file a claim for input taxes attributable to zero-rated sales.[55] The invoicing and substantiation requirements should be followed because it is the only way to determine the veracity of the taxpayer's claims.[56] Moreover, it must be pointed out that compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.[57]

Strict compliance with substantiation and invoicing requirements is necessary considering VAT's nature and VAT system's tax credit method, where tax payments are based on output and input taxes and where the seller's output tax becomes the buyer's input tax that is available as tax credit or refund in the same transaction. It ensures the proper collection of taxes at all stages of distribution, facilitates computation of tax credits, and provides accurate audit trail or evidence for BIR monitoring purposes.[58]

Furthermore, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove <u>every minute aspect</u> of their case.[59] Thus, it behooves petitioner to show compliance with each of the

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

53 *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.

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

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

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

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

58 *Team Energy Corporation v. Commissioner of Internal Revenue, et seq.*, supra.

59 *Edison (Bataan) Cogeneration Corporation v. Commissioner of Internal Revenue, et seq.*, 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.

foregoing requisites and invoicing requirements. As a corollary, the absence of *any* of the said requisites is already a valid ground to deny the refund claim.

Petitioner's administrative and judicial claims for refund/credit were timely filed

The *first* requisite provided in Section 112(A) of the NIRC of 1997, as amended, commands the taxpayer to file an administrative claim for input VAT refund 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 fiscal year (FY) ended March 31, 2021. Counting two (2) years from the close of the subject taxable quarters, petitioner had until the following dates to file its administrative claim, to wit:

Period Covered	Close of Taxable Quarter	Last Day to File Administrative Claim
1st Quarter	June 30, 2020	June 30, 2022
2nd Quarter	September 30, 2020	September 30, 2022
3rd Quarter	December 31, 2020	December 31, 2022
4th Quarter	March 31, 2021	March 31, 2023

Hence, petitioner timely filed its administrative claim for VAT refund in the amount of ₱30,149,602.19, for the period April 1, 2020 to March 31, 2021, with the BIR-Excise LT Audit Division I on June 27, 2022.[60]

As regards the *second* requisite, the same necessitates that the judicial claim must have been filed within thirty (30) days from receipt of respondent's decision or after the expiration of the ninety (90)-day period under Section 112(C) of the NIRC of 1997, as amended.

Thus, from the filing of petitioner's administrative claim on June 27, 2022, respondent had ninety (90) days or until September 26, 2022,[61] to act on the said claim.

Petitioner received the *Notice of Denial for VAT Refund* dated August 22, 2022 on September 27, 2022.[62] Counting thirty (30) days from September 27, 2022, petitioner had until October 27, 2022, within which to file its judicial

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[60] Exhibits "P-20" and "P-21", Docket – Vol. II, pp. 863 to 869.
[61] September 25, 2022 (the 90th day) fell on a Sunday; Work in Government Offices was suspended on September 26, 2022, as per Memorandum Circular No. 6 dated September 25, 2022.
[62] Exhibit "P-9", Docket – Vol. II, pp. 568 to 569; Exhibit "R-5", BIR Records (Exhibit "R-6"), pp. 530 to 531.

claim for refund. Considering that petitioner filed the present *Petition for Review* on October 27, 2022,[63] the judicial claim was timely filed.

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

Petitioner is a VAT-registered entity

It is undisputed that petitioner also satisfied the *third* requisite, since it is duly registered with the BIR as a VAT taxpayer with TIN 005-017-501-00000.[64]

The sale of power or fuel generated through renewable sources of energy by petitioner is subject to the zero percent (0%) VAT, but not its sales of ancillary services

The *fourth* requisite requires that the taxpayer be engaged in zero-rated or effectively zero-rated sales.

In its *Memorandum*, petitioner asserts that it is engaged in zero-rated sales of power generated through renewable sources of energy, *i.e.*, hydropower. It alleges that it operates a hydroelectric power generating plant in Pangasinan and that during the FY ended March 31, 2021, it sold power to the National Power Corporation (NPC) under its *Power Purchase Agreement* dated October 11, 1997.[65] Likewise, in the same FY, it sold ancillary service capacity or reserve power to the National Grid Corporation of the Philippines (NGCP) under the *Ancillary Services Procurement Agreement for San Roque Hydro Electric Power Plant* with NGCP dated November 29, 2017.[66] Petitioner claims that the ancillary service capacity sold by petitioner to NGCP is also sourced from its hydroelectric power plant, a renewable energy source.

Petitioner further contends that its sale of ancillary services to NGCP is qualified for zero-rating under Section 108(B)(7) of the Tax Code. Moreover, petitioner asserts that Section 4.108-5 of Revenue Regulations (RR) No. 13-2018 provides that the sale of power generated through renewable sources of energy, such as hydropower, is a zero-rated sale of service and that Energy Regulatory Commission (ERC) Resolution No. 20, Series of 2005 provides that the gross receipts of generation companies, such as petitioner, which

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[63] Docket – Vol. I, pp. 6 to 70.
[64] Exhibit "P-3", Docket – Vol. II, pp. 548 to 549.
[65] Exhibit "P-16", Docket – Vol. II, pp. 668 to 774.
[66] Exhibit "P-17", Docket – Vol. II, pp. 775 to 842.

generates/sources its power purely from renewable sources shall be VAT zero-rated.

On the other hand, respondent argues that petitioner's ancillary services to NGCP dispatched no energy which is contrary to the provision of Section 15(g) of RA No. 9513 (Renewable Energy Act of 2008), as implemented by RR No. 07-2022.

This Court partly agrees with petitioner.

Section 108(B)(7) of the NIRC of 1997, as amended, provides that sale of power generated through renewable sources of energy is among the transactions subject to zero percent (0%) VAT, to wit:

> "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:**
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> xxx xxx xxx
>
> (7) **Sale of power or fuel generated through 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." *(Emphases added)*

Based on the foregoing, the sale of power or fuel generated through renewable sources of energy such as hydropower is subject to zero percent (0%) VAT rate.

Implementing the foregoing Section 108(B)(7), Section 4.108-5(b)(7) of RR No. 16-2005,[67] as amended, reads as follows:

> "SEC. 4.108-5. *Zero-Rated Sale of Services.* –
>
> xxx xxx xxx

[67] SUBJECT: Consolidated Value-Added Tax Regulations of 2005.

(b) *Transactions Subject to Zero Percent (0%) VAT Rate.* – The following services performed in the Philippines by a **VAT-registered person shall be subject to zero percent (0%) VAT rate:**

xxx xxx xxx

(7) **Sale of power or fuel generated through renewable sources of energy such as**, but not limited to, biomass, solar, wind, **hydropower**, geothermal and steam, ocean energy, and other emerging sources using technologies such as fuel cells and hydrogen fuels; ***Provided*, however, that <u>zero-rating shall apply strictly to the sale of power or fuel generated through renewable sources of energy</u>**, and shall not extend to the sale of services related to the maintenance or operation of plants generating said power." *(Emphases and underscoring added)*

Such being the case, while the sale of power or fuel generated through renewable sources of energy, such as hydropower, is subject to the zero percent (0%) VAT, such tax treatment shall strictly apply to such sale. In other words, the VAT zero-rating on the sale of power or fuel generated through renewable sources of energy shall not extend to other services involved or connected to such sale, such as the present ancillary services rendered by petitioner to NGCP.

A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application. As the statute is clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is what is known as the plain-meaning rule or *verba legis.* It is expressed in the maxim, *index animi sermo*, or "speech is the index of intention." Furthermore, there is the maxim *verba legis non est recedendum*, or "from the words of a statute there should be no departure."[68] Had the legislature intended to extend the VAT zero-rating to ancillary services rendered vis-à-vis the sale of power or fuel generated through renewable sources of energy under Section 108(B)(7) of the NIRC of 1997, as amended, it could have easily done so.

As a corollary, the NIRC of 1997, as amended, is explicit in imposing the 12% VAT on all kinds of services. Section 108(A) thereof provides as follows:

"SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* –

[68] *National Grid Corporation of the Philippines v. Manila Electric Company,* G.R. No. 239829, May 29, 2024.

(A) *Rate and Base of Tax.* – **There shall be levied, assessed and collected, a value-added tax equivalent to twelve percent (12%) of gross receipts derived from the sale or exchange of services**, including the use or lease of properties.

The phrase 'sale or exchange of services' means the performance of <u>all kinds of services in the Philippines</u> for others for a fee, remuneration or consideration, xxx; **sales of electricity by generation companies, transmission by any entity, and distribution companies, including electric cooperatives**; xxx.

xxx xxx xxx

The term 'gross receipts' means the total amount of money or its equivalent representing the contract price, compensation, service fee, rental or royalty, including the amount charged for materials supplied with the services and deposits and advanced payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person, excluding value-added tax." *(Emphases and underscoring added)*

Based on the foregoing provision, the imposition of the VAT on the sale of services at the rate of 12% is clear, and the coverage of the services contemplates *"all kinds of services"*, which include the subject ancillary services.

Relative thereto, Section 4.108-3 of RR No. 16-2005, as amended, provides as follows:

"SEC. 4.108-3. *Definitions and Specific Rules on Selected Services.*
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xxx xxx xxx

(f) **Sale of electricity by generation, transmission by any entity including the National Grid Corporation of the Philippines (NGCP), and distribution companies including electric cooperatives shall be subject to twelve percent (12%) VAT on their gross receipts.**

xxx xxx xxx

***'Gross receipts'* under this Subsection (f) shall refer to the following:**

> (a) Total amount charged by generation companies for the sale of electricity and **<u>related ancillary services</u>**;" *(Emphases and underscoring added)*

Pertinently, the definition of "ancillary services" is provided under Section 4(b) of Republic Act No. 9136,[69] or the Electric Power Industry Reform Act of 2001, to wit:

> "SEC. 4. *Definition of Terms.* –
>
> xxx xxx xxx
>
> (b) 'Ancillary Services' refer to those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the transmission system in accordance with good utility practice and the Grid code to be adopted in accordance with this Act;"

Had Congress really intended to exclude from the coverage of the aforequoted Section 108(A) of the NIRC of 1997, as amended, ancillary services, as above defined by law, vis-à-vis the sale of power or fuel generated through renewable sources of energy under Section 108(B)(7) of the NIRC of 1997, as amended, it could have provided the words in the law which are necessary to express such an intent. Considering that it did not, it is reasonable to conclude that the gross receipts relative to the sale of the said ancillary services are not subject to the zero-rated VAT, but instead are subject to the 12% VAT.

Correspondingly, under the law, petitioner's sale of power or fuel generated through renewable sources of energy to NPC is subject to the zero percent (0%) VAT; but petitioner's sale of ancillary services to NGCP is subject to the twelve percent (12%) VAT, even when such ancillary services are also sourced from the San Roque Hydroelectric Power Plant.

Petitioner had zero-rated or effectively zero-rated sales during the 1st to 4th quarters of FY ended March 31, 2021 but only in the amount of ₱2,212,629,752.44

As mentioned earlier, the *fourth* requisite requires that the taxpayer is engaged in zero-rated or effectively zero-rated sales.

[69] AN ACT ORDAINING REFORMS IN THE ELECTRIC POWER INDUSTRY, AMENDING FOR THE PURPOSE CERTAIN LAWS AND FOR OTHER PURPOSES.

In its *Quarterly Value-Added Tax Returns* (BIR Forms No. 2550-Q) for the four (4) quarters of FY ended March 31, 2021, (FY 2021), petitioner reported total sales amounting to ₱2,404,750,155.44, which included zero-rated sales of ₱2,398,637,008.42, as shown below:

Exhibit No.	Period Covered (FY 2021)	Vatable Sales	Zero-Rated Sales	Total Sales
"P-11"[70]	1st Quarter	₱ 415,178.57	₱ 747,294,610.52	₱ 747,709,789.09
"P-12"[71]	2nd Quarter	214,098.21	636,378,648.20	636,592,746.41
"P-13"[72]	3rd Quarter	5,372,857.14	493,297,491.78	498,670,348.92
"P-14"[73]	4th Quarter	111,013.10	521,666,257.92	521,777,271.02
	Total	**₱6,113,147.02**	**₱2,398,637,008.42**	**₱2,404,750,155.44**

To substantiate its reported zero-rated sales for the 1st to 4th quarters of FY 2021 totaling ₱2,398,637,008.42, petitioner submitted its *Schedule of Zero-Rated Sale of Services*,[74] together with the corresponding ORs and *Statements of Accounts*[75] issued to its clients, the NPC and NGCP. These documents were examined by the Court-commissioned ICPA, Atty. Maria Myla S. Maralit.

As correctly noted by the ICPA,[76] the amount of ₱2,398,637,008.42 treated by petitioner as zero-rated sales pertains to power generation and supply to NPC in the amount of ₱2,212,629,752.44 and the provision of ancillary services to NGCP in the amount of ₱186,007,254.75, detailed as follows:

Official Receipt[77]		**Amount of Sales**		
Exhibit No.	**Date**	**Exch. Rate**[78]	**In USD**	**In PhP**
Sales to NPC				
"P-80"	Apr. 8, 2020			24,880,841.11
"P-81"	Apr. 8, 2020	51.014	1,238,105.22	63,160,699.69
"P-83"	May 15, 2020			24,880,841.12
"P-84"	May 15, 2020			24,880,841.10
"P-85"	May 15, 2020	51.014	1,238,105.22	63,160,699.69
"P-86"	May 15, 2020	51.048	1,224,338.04	62,500,008.27
"P-87"	May 27, 2020			46,313,461.16
"P-88"	May 27, 2020	50.751	2,419,891.03	122,811,889.66
"P-89"	May 29, 2020			6,220,210.28

70 Docket – Vol. II, at p. 585.
71 Docket – Vol. II, at p. 599.
72 Docket – Vol. II, at p. 618.
73 Docket – Vol. II, at p. 635.
74 Exhibit "P-59", USB (Exhibit "P-4927-2).
75 Exhibits "P-80" to "P-120", USB (Exhibit "P-4927-2").
76 Letter C, Summary of Findings, ICPA Report (Exhibit "P-4927"), Docket -Vol. I, p. 444.
77 USB (Exhibit "P-4927-2).
78 Annex C, ICPA Report, USB (Exhibit "P-4927-2).

"P-90"	May 29, 2020	51.048	306,084.51	15,625,002.07
"P-92"	June 25, 2020			47,909,859.81
"P-93"	June 25, 2020	50.740	2,469,149.14	125,284,627.36
"P-94"	June 30, 2020			6,220,210.15
"P-95"	June 30, 2020	51.048	306,084.50	15,625,001.56
			Subtotal – 1st Quarter	**649,474,193.03**
"P-97"	July 27, 2020	50.013	2,406,949.48	120,378,764.34
"P-98"	July 27, 2020			47,909,859.81
"P-99"	July 30, 2020			6,220,210.28
"P-100"	July 30, 2020	51.048	306,084.51	15,625,002.07
"P-102"	Aug. 13, 2020	49.350	2,450,777.90	120,945,889.37
"P-103"	Aug. 26, 2020			47,909,859.81
"P-104"	Aug. 27, 2020	51.048	306,084.52	15,625,002.58
"P-105"	Aug. 28, 2020			6,220,210.29
"P-107"	Aug. 28, 2020	48.504	2,462,624.76	119,447,151.36
"P-108"	Sept. 25, 2020			47,909,859.81
			Subtotal – 2nd Quarter	**548,191,809.72**
"P-109"	Sept. 25, 2020	48.472	2,457,360.31	119,113,168.95
"P-110"	Nov. 23, 2020			47,909,859.81
"P-111"	Nov. 25, 2020	48.587	2,391,607.87	116,201,051.58
"P-112"	Nov. 25, 2020			47,909,859.81
"P-113"	Dec. 28, 2020	48.110	2,369,952.65	114,018,421.99
"P-114"	Dec. 28, 2020			48,145,129.64
			Subtotal – 3rd Quarter	**493,297,491.78**
"P-115"	Jan. 27, 2021	48.062	2,462,539.71	118,354,583.54
"P-116"	Jan. 27, 2021			47,993,691.59
"P-117"	Feb. 26, 2021	48.067	2,705,891.68	130,064,095.38
"P-118"	Feb. 26, 2021			47,993,691.59
"P-119"	Mar. 29, 2021	48.637	2,657,781.20	129,266,504.22
"P-120"	Mar. 29, 2021			47,993,691.59
			Subtotal – 4th Quarter	**521,666,257.91**
			Total Sales to NPC - FY 2021	**2,212,629,752.44**
Sales to NGCP				
"P-82"	Apr. 30, 2020			9,633,578.93
"P-91"	May 29, 2020			44,093,418.96
"P-96"	June 30, 2020			44,093,418.96
			Subtotal – 1st Quarter	**97,820,416.85**
"P-101"	July 30, 2020			44,093,418.95
"P-106"	Aug. 28, 2020			44,093,418.95
			Subtotal – 2nd Quarter	**88,186,837.90**
			Total Sales to NGCP – FY 2021	**186,007,254.75**
			Grand Total – Sales to NPC and NGCP FY 2021	**2,398,637,007.19**[79]

[79] With a minimal discrepancy of ₱1.23 compared to the ₱2,398,637,008.42 zero-rated sales reported in petitioner's FY 2021 VAT returns.

As discussed earlier, petitioner's sales of ancillary services to NGCP do not qualify for VAT zero-rating. Hence, petitioner's claimed zero-rated sales to NGCP in the amount of ₱186,007,254.75 shall be disallowed.

Correspondingly, only the sales to NPC amounting to ₱2,212,629,752.44 derived from power generation through renewable source, *i.e.*, hydropower, qualifies for VAT zero-rating under Section 108(B)(7) of the NIRC of 1997, as amended.

Moreover, the ORs supporting the said sales are compliant with the invoicing requirements under Sections 113(A) and (B), 237 and 238 of the NIRC of 1997, as amended, as well as Section 4.113-1(A) and (B) of RR No. 16-2005, as amended.

Accordingly, petitioner was able to show partial compliance with the *fourth* requisite.

There is no need to comply with the fifth requisite

The *fifth* requisite is to the effect that petitioner must prove that the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations, but only for zero-rated sales under **Section 106(A)(2)(a)(1), (2) and (b)**, and **108(B)(1) and (2)**, all of the NIRC of 1997, as amended. Since the legal basis for petitioner's zero-rated sales is Section 108(B)(7) of the NIRC of 1997, as amended, the present case need not comply with the said *fifth* requisite.

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

The claimed input VAT does *not* appear to be transitional input VAT, as understood under Section 111(A) of the NIRC of 1997, as amended, to wit:

> "SEC. 111. *Transitional/Presumptive Input Tax Credits.* –
>
> (A) *Transitional Input Tax Credits.* – A person who becomes liable to value-added tax or any person who elects to be a VAT-registered person shall, subject to the filing of an inventory according to rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, be allowed input tax on his beginning inventory of goods, materials and supplies equivalent to two percent (2%) of the value of such

inventory or the actual value-added tax paid on such goods, materials and supplies, whichever is higher, which shall be creditable against the output tax."

Transitional input tax credit operates to benefit newly VAT-registered persons, whether they previously paid taxes in the acquisitions of their beginning inventory of goods, materials, and supplies. During the period of transition from non-VAT to VAT status, the transitional input tax credit serves to alleviate the impact of the VAT on the taxpayer.[80]

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

Not all of petitioner's input VAT being claimed for refund were duly substantiated

Anent this *seventh requisite* in claiming VAT refund, it is of fatal importance for petitioner to provide supporting documents to prove that the input taxes claimed for FY 2021 were actually due or paid, in accordance with Section 110(A) of the NIRC of 1997, as amended, which provides that:

"SEC. 110. *Tax Credits.* —

(A) *Creditable Input Tax.* —

(1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax:

(a) Purchase or importation of goods:

(i) For sale; or

(ii) For conversion into or intended to form part of a finished product for sale including packaging materials; or

(iii) For use as supplies in the course of business; or

(iv) For use as materials supplied in the sale of service; or

[80] *Fort Bonifacio Development Corporation v. Commissioner of Internal Revenue, et al., et seq.*, G.R. Nos. 158885 and 170680, April 2, 2009.

(v) For use in trade or business for which deduction for depreciation or amortization is allowed under this Code.

(b) Purchase of services on which a value-added tax has actually been paid.

(2) The input tax on domestic purchase or importation of goods or properties by a VAT-registered person shall be creditable:

(a) To the purchaser upon consummation of sale and on importation of goods or properties; and

(b) To the importer upon payment of the value-added tax prior to the release of the goods from the custody of the Bureau of Customs.

Provided, That the input tax on goods purchased or imported in a calendar month for use in trade or business for which deduction for depreciation is allowed under this Code, shall be spread evenly over the month of acquisition and the fifty-nine (59) succeeding months if the aggregate acquisition cost for such goods, excluding the VAT component thereof, exceeds One Million pesos (P1,000,000): *Provided, however*, That if the estimated useful life of the capital good is less than five (5) years, as used for depreciation purposes, then the input VAT shall be spread over such a shorter period: *Provided, further*, That the amortization of the input VAT shall only be allowed until December 31, 2021 after which taxpayers with unutilized input VAT on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized: *Provided, finally*, That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or fee."

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

"SECTION 4.110-1. *Credits For Input Tax.* — 'Input tax' means the VAT due on or paid by a VAT-registered person on importation of goods or local purchases of goods, properties, or services, including lease or use of properties, in the course of his trade or business. It shall also include the transitional input tax and the presumptive input tax determined in accordance with Sec. 111 of the Tax Code.

It includes input taxes which can be directly attributed to transactions subject to the VAT plus a ratable portion of any input tax which cannot be directly attributed to either the taxable or exempt activity.

Any input tax on the following transactions evidenced by a VAT invoice or official receipt issued by a VAT-registered person in accordance with Secs. 113 and 237 of the Tax Code shall be creditable against the output tax:

(a) Purchase or importation of goods

(1) For sale; or

(2) For conversion into or intended to form part of a finished product for sale, including packaging materials; or

(3) For use as supplies in the course of business; or

(4) For use as raw materials supplied in the sale of services; or

(5) For use in trade or business for which deduction for depreciation or amortization is allowed under the Tax Code,

(b) Purchase of real properties for which a VAT has actually been paid;

(c) Purchase of services in which a VAT has actually been paid;

(d) Transactions 'deemed sale' under Sec. 106 (B) of the Tax Code;

(e) Transitional input tax allowed under Sec. 4.111-1 (a) of these Regulations;

(f) Presumptive input tax allowed under Sec. 4.111-1 (b) of these Regulations;

(g) Transitional input tax credits allowed under the transitory and other provisions of these Regulations.

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

(a) To the importer upon payment of VAT prior to the release of goods from customs custody;

(b) To the purchaser of the domestic goods or properties upon consummation of the sale; or

(c) To the purchaser of services or the lessee or licensee upon payment of the compensation, rental, royalty or fee.

SECTION 4.110-3. *Claim for Input Tax on Depreciable Goods.* — Where a VAT-registered person purchases or imports capital goods, which are depreciable assets for income tax purposes, the aggregate acquisition cost of which (exclusive of VAT) in a calendar month exceeds One Million pesos (P1,000,000.00), regardless of the acquisition cost of each capital good, shall be claimed as credit against output tax in the following manner:

(a) If the estimated useful life of a capital good is five (5) years or more — The input tax shall be spread evenly over a period of sixty (60) months and the claim for input tax credit will commence in the calendar month when the capital good is acquired. The total input taxes on purchases or importations of this type of capital goods shall be divided by 60 and the quotient will be the amount to be claimed monthly.

(b) If the estimated useful life of a capital good is less than five (5) years — The input tax shall be spread evenly on a monthly basis by dividing the input tax by the actual number of months comprising the estimated useful life of the capital good. The claim for input tax credit shall commence in the calendar month that the capital goods were acquired.

Where the aggregate acquisition cost (exclusive of VAT) of the existing or finished depreciable capital goods purchased or imported during any calendar month does not exceed One Million pesos (P1,000,000.00), the total input taxes will be allowable as credit against output tax in the month of acquisition.

Capital goods or properties refers to goods or properties with estimated useful life greater than one (1) year and which are treated as depreciable assets under Sec. 34(F) of the Tax Code, used directly or indirectly in the production or sale of taxable goods or services.

The aggregate acquisition cost of depreciable assets in any calendar month refers to the total price, excluding the VAT, agreed upon for one or more assets acquired and not on the payments actually made during the calendar month. Thus, an asset acquired on installment for an acquisition cost of more than P1,000,000.00, excluding the VAT, will be subject to the amortization of input tax despite the fact that the monthly payments/installments may not exceed P1,000,000.00.

xxx xxx xxx

If the depreciable capital good is sold/transferred within a period of five (5) years or prior to the exhaustion of the amortizable input tax thereon, the entire unamortized input tax on the capital goods sold/transferred can be claimed as input tax credit during the month/quarter when the sale or transfer was made."

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

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

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

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

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

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

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

A cash register machine tape issued to a registered buyer shall constitute valid proof of substantiation of tax credit only if it shows the information required under Secs. 113 and 237 of the Tax Code.

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

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

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

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

Verily, in order to prove entitlement to credits for input VAT due or paid, petitioner must not only present the supporting documents prescribed under Section 4.110-8 of RR No. 16-2005, but also, these documents must comply with the invoicing requirements under Sections 113(A) and (B), 237 and 238 of the NIRC of 1997, as amended, as implemented by Section 4.113-1(A) and (B) of RR No. 16-2005.

In its *Quarterly Value-Added Tax Returns* (BIR Forms No. 2550Q) for the four (4) quarters of FY 2021, petitioner declared total allowable input VAT amounting to ₱30,883,179.89 derived from the amortization of input VAT on purchases of capital goods exceeding ₱1Million, purchases of capital goods not exceeding ₱1Million, domestic purchases of goods other than capital goods, domestic purchases of services, importation of goods other than capital goods and purchase of services rendered by non-residents. Of this amount, ₱30,149,602.19 is the subject of the present claim for refund, as shown below:

Particulars	**1st Quarter**	**2nd Quarter**	**3rd Quarter**	**4th Quarter**	**FY 2021**
	Exhibit "P-11"[81]	Exhibit "P-12" [82]	Exhibit "P-13" [83]	Exhibit "P-14" [84]	
Input VAT deferred on capital goods exceeding ₱1Million from previous quarter	₱ 5,391,830.51	₱ 4,886,597.96	₱ 4,550,101.57	₱3,970,297.03[85]	₱ 5,391,830.51
Add: Input VAT on purchases of capital goods exceeding ₱1Million this quarter	262,788.47	405,265.29	177,508.92	227,998.08	1,073,560.76
Less: Input VAT on purchases of capital goods exceeding ₱1Million deferred	4,886,597.96	4,550,101.57	3,970,297.03	3,529,440.59	3,529,440.59

[81] Docket – Vol. II, at p. 585.
[82] Docket – Vol. II, at p. 599.
[83] Docket – Vol. II, at p. 618.
[84] Docket – Vol. II, at p. 635.
[85] Erroneously indicated as ₱3,970,296.96 (Line 20B, Exhibit "P-14", Docket – Vol. II, p. 635).

for the succeeding period					
Amortization of input VAT on capital goods purchases exceeding ₱1Million	₱ 768,021.02	₱ 741,761.68	₱ 757,313.46	₱ 668,854.52	₱ 2,935,950.68
Input VAT on purchases of capital goods not exceeding ₱1Million	93,385.71	83,808.48	57,373.71	7,625.36	242,193.26
Input VAT on domestic purchases of goods other than capital goods	1,853,436.44	1,189,284.49	1,527,083.05	1,061,426.75	5,631,230.73
Input VAT on domestic purchase of services	3,324,976.07	7,168,295.63	3,226,193.82	3,307,542.72	17,027,008.24
Input VAT on importation of goods other than capital goods	2,947,857.88	1,602,533.75	134,598.95	249,938.02	4,934,928.60
Input VAT on services rendered by non-residents		56,519.75[86]		55,348.63	111,868.38
Total allowable input VAT	₱ 8,987,677.12	₱ 10,842,203.78	₱ 5,702,562.99	₱ 5,350,736.00	**₱ 30,883,179.89**
Less: Output VAT	49,821.43	25,691.79	644,742.86	13,321.57	733,577.65
Claim for Refund	**₱8,937,855.69**	**₱10,816,511.99**	**₱5,057,820.13**	**₱5,337,414.43**	**₱30,149,602.24**[87]

Based on the review and validation conducted by the Court-commissioned ICPA on petitioner's input VAT claim, the amount of ₱2,228,220.88 must be disallowed for failure to comply with the substantiation and invoicing requirements under the VAT law and its implementing regulations, as quoted earlier. Below is the detailed breakdown of the ₱2,228,220.88 disallowed input VAT:

Reason for Disallowance	**Summary Reference**[88]	**1st Quarter**	**2nd Quarter**	**3rd Quarter**	**4th Quarter**	**FY 2021**
		(Amounts are in Philippine Pesos)				
Input VAT from domestic purchases of goods other than capital goods						
No supporting VAT sales invoices	Annexes "U", "AA", "AG" and "AM"	5,474.55	1,524.47	-	8,672.12	15,671.14
No original sales invoices		4,387.50	-	-	-	4,387.50
Supported by VAT sales invoice with invalid ATP		13,781.25	527.14	-	-	14,308.39
No transaction date indicated in the VAT sales		109.61	-	2,211.43	-	2,321.04

[86] Net of the ₱3,000.00 adjustment reflected under "Others" in petitioner's FY 2021 4th *Quarterly Value-Added Tax Return* (Line 23E, Exhibit "P-14", Docket – Vol. II, p. 636); Refer to pp. 27 to 28 of ICPA Report (Exhibit "P-4927"), Docket – Vol. I, pp. 460 to 461.

[87] With a minimal discrepancy of ₱.05 compared with the ₱30,149,602.19 claim as prayed for in the *Petition for Review* and as reflected in the FY 2021 4th *Quarterly Value-Added Tax Return* (Line 29, Exhibit "P-14", Docket – Vol. II, p. 636).

[88] Annexes, ICPA Report, USB (Exhibit "P-4927-2").

invoices						
Supported by unreadable sales invoices		-	1,523.73	7,464.64	867.64	9,856.01
VAT sales invoices with incorrect information		-	1,973.25	3,808.19	336.36	6,117.80
Computed generated VAT sales invoices with manual alterations		-	309.54		123.11	432.65
VAT sales invoices with alterations without countersignature		-	36,506.93	24,700.51	17,491.47	78,698.91
The breakdown of transaction in the VAT sales invoices is improperly accomplished		-	1,071.43	-	-	1,071.43
VAT not separately indicated in the VAT sales invoices		-	-	456.17	1,850.14	2,306.31
Out of period purchases		-	-	-	31,071.43	31,071.43
Subtotal		**23,752.91**	**43,436.49**	**38,640.94**	**60,412.27**	**166,242.61**
Input VAT from domestic purchases of services						
No supporting VAT ORs		13,549.07	29,283.68	80,800.78	50,507.22	174,140.75
Supported by VAT ORs with invalid ATP		-	-	-	402.95	402.95
Supported by unreadable VAT ORs			11,571.42	160.61	5,785.71	17,517.74
VAT ORs with incorrect information		52,233.01	148,801.41	82,108.06	78,925.96	362,068.44
Computer generated VAT ORs with manual alterations		343,082.36	276,895.77	257,311.77	171,541.18	1,048,831.08
VAT ORs with alterations without countersignature	Annexes "X", "AD", "AJ" and "AP"	-	428.57	24,074.35	3,736.60	28,239.52
The breakdown of transaction in the VAT ORs is improperly accomplished		3,996.43	55,466.67	32,276.06	74,151.18	165,890.34
VAT not separately indicated in the VAT ORs		-	300.00	-	-	300.00
Supported with non-VAT ORs		964.29	-	-	-	964.29
Company TIN is not indicated in the VAT ORs		-	85.93	-	-	85.93
Supported with manual VAT ORs without signature of the issuer		-	13,200.00	-	-	13,200.00
Overclaimed input				-		

VAT		-	7.85		102.94	110.79
Subtotal		**413,825.16**	**536,041.30**	**476,731.63**	**385,153.74**	**1,811,751.83**
Input VAT from domestic purchases of capital goods not exceeding ₱1Million						
Supported by billing statement only	Annex "I"	49,553.57				49,553.57
Subtotal		**49,553.57**				**49,553.57**
Amortization of input VAT on domestic purchases of capital goods exceeding ₱1Million						
Overclaimed amortization of input VAT from local purchases of capital goods exceeding ₱1Million	"Annex L"	1,994.18	5,982.55	5,982.55	6,428.98	20,388.26
Unsupported amortization of input VAT from local purchases of capital goods exceeding ₱1Million *in prior years*	Annex "N"	63,257.83	48,771.90	48,133.57	47,383.59	207,546.89
Overclaimed amortization of input VAT from local purchases of capital goods ₱1Million *in prior years*	Annex "O"	20.02	20.01	13.35		53.38
Excess of the total input tax from the amortization of capital goods exceeding ₱1Million per amortization schedules over the total input tax from the amortization of capital goods exceeding ₱1Million reported in the filed VAT returns for FY 2021	Exhibit "P-4927"[89]				(27,315.66)	(27,315.66)
Subtotal		**65,272.03**	**54,774.46**	**54,129.47**	**26,496.91**	**200,672.87**
Total Input VAT Disallowances Per ICPA's Report		**552,403.67**	**634,252.25**	**569,502.04**	**472,062.92**	**2,228,220.88**

However, the Court finds that an additional input VAT amounting to ₱6,683,975.83 must likewise be disallowed on the following grounds:

[89] Docket – Vol. I, at pp. 455 to 456.

SUPPLIER	Summary Reference[90]	OR Exhibit No.[91]	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	FY 2021
Domestic purchases of services supported by VAT ORs where the nature of the services is not indicated therein, and/or where the billing statements, invoices, or statements of accounts referenced in the ORs were not presented as evidence, or where the description is insufficient to determine the nature of the services rendered							
ACTSTECH INC	Annex "V"	"P-460"	₱ 3,749.99				₱ 3,749.99
PLUMAS TRANSPORT CORP	Annex "V"	"P-466"	47,086.05				47,086.05
PLUMAS TRANSPORT CORP	Annex "V"	"P-467"	41,491.34				41,491.34
PLUMAS TRANSPORT CORP	Annex "V"	"P-468"	33,970.60				33,970.60
PROPLE BPO INC	Annex "V"	"P-469"	6,240.00				6,240.00
SHOWA MANPOWER SERVICES	Annex "V"	"P-470"	36,338.18				36,338.18
SHOWA TRANSPORT SERVICE CORP	Annex "V"	"P-472"	43,218.04				43,218.04
SHOWA TRANSPORT SERVICE CORP	Annex "V"	"P-473"	34,694.55				34,694.55
SHOWA TRANSPORT SERVICE CORP	Annex "V"	"P-474"	34,956.45				34,956.45
SOURCE TELECOMMUNICATIONS INC	Annex "V"	"P-475"	6,428.58				6,428.58
ANA LAW CO	Annex "V"	"P-476", "P-477"	64,800.00				64,800.00
PLUMAS TRANSPORT CORP	Annex "V"	"P-484"	49,002.04				49,002.04
PLUMAS TRANSPORT CORP	Annex "V"	"P-485"	130,050.07				130,050.07
PROPLE BPO INC	Annex "V"	"P-486"	11,088.00				11,088.00
SDB INDUSTRIAL SUPPLY AND SERVICES	Annex "V"	"P-488"	45,000.00				45,000.00
SGV AND CO	Annex "V"	"P-489"	23,278.20				23,278.20
SGV AND CO	Annex "V"	"P-490"	294,000.00				294,000.00
ABM GLOBAL SOLUTIONS INC	Annex "V"	"P-491"	41,205.96				41,205.96
DHL GLOBAL FORWARDING PHIL INC	Annex "V"	"P-496"	3,227.27				3,227.27
EMMANUEL C ALCANTARA AND ASSOCIATES	Annex "V"	"P-497"	18,000.00				18,000.00
EMMANUEL C ALCANTARA AND ASSOCIATES	Annex "V"	"P-498"	36,000.00				36,000.00
FIL CHIN ENGINEERING EQUIPMENT INC	Annex "V"	"P-503"	117,420.00				117,420.00
MULTI FOLD LINKS INC	Annex "V"	"P-508"	98,181.81				98,181.81
PLUMAS TRANSPORT CORP	Annex "V"	"P-513"	31,505.55				31,505.55
PLUMAS TRANSPORT CORP	Annex "V"	"P-514"	1,853.55				1,853.55
PLUMAS TRANSPORT CORP	Annex "V"	"P-515"	10,810.71				10,810.71
PLUMAS TRANSPORT CORP	Annex "V"	"P-516"	46,726.05				46,726.05
PLUMAS TRANSPORT CORP	Annex "V"	"P-517"	29,835.57				29,835.57
PLUMAS TRANSPORT CORP	Annex "V"	"P-518"	73,193.84				73,193.84
PLUMAS TRANSPORT CORP	Annex "V"	"P-519"	27,557.11				27,557.11
PREVHEALTH INC	Annex "V"	"P-520"	27,561.29				27,561.29
PREVHEALTH INC	Annex "V"	"P-521"	27,561.29				27,561.29
PREVHEALTH INC	Annex "V"	"P-522"	27,561.29				27,561.29
PREVHEALTH INC	Annex "V"	"P-523"	27,561.29				27,561.29

[90] USB (Exhibit "P-4927-2).
[91] USB (Exhibit "P-4927-2) and USB (Submitted on September 24, 2024).

PREVHEALTH INC	Annex "V"	"P-524"	27,561.29				27,561.29
SGV AND CO	Annex "V"	"P-527"	6,600.00				6,600.00
SHOWA MANPOWER SERVICES	Annex "V"	"P-528"	43,900.04				43,900.04
SHOWA TRANSPORT SERVICE CORP	Annex "V"	"P-529"	32,447.33				32,447.33
ALPHATEC CHEMICAL CORP	Annex "AB"	"P-1253"		₱ 58,546.50			58,546.50
AVEGA MANAGED CARE INC	Annex "AB"	"P-1254"		33,840.31			33,840.31
EMMANUEL C ALCANTARA AND ASSOCIATES	Annex "AB"	"P-1256"		36,000.00			36,000.00
HO NOVELOSO SURVEYING	Annex "AB"	"P-1270"		8,528.57			8,528.57
INSAFETY INC	Annex "AB"	"P-1271"		10,285.71			10,285.71
MULTI FOLD LINKS INC	Annex "AB"	"P-1272"		32,727.27			32,727.27
MULTI FOLD LINKS INC	Annex "AB"	"P-1273"		32,727.27			32,727.27
SGV AND CO	Annex "AB"	"P-1286"		21,000.00			21,000.00
STA ELENA GOLF CLUB INC	Annex "AB"	"P-1287"		3,375.00			3,375.00
STAMM BROKERAGE INC	Annex "AB"	"P-1288"		1,920.00			1,920.00
TOYOTA DAGUPAN CITY INC	Annex "AB"	"P-1289"		15,591.04			15,591.04
ACTSTECH INC	Annex "AB"	"P-1290"		2,678.57			2,678.57
ACTSTECH INC	Annex "AB"	"P-1291"		1,607.14			1,607.14
ANA LAW CO	Annex "AB"	"P-1292"		32,400.00			32,400.00
ANA LAW CO	Annex "AB"	"P-1293"		32,400.00			32,400.00
ANA LAW CO	Annex "AB"	"P-1294"		32,400.00			32,400.00
AVEGA MANAGED CARE INC	Annex "AB"	"P-1295"		28,620.69			28,620.69
CRIF D-B PHILIPPINES INC	Annex "AB"	"P-1299"		6,480.00			6,480.00
EMMANUEL C ALCANTARA AND ASSOCIATES	Annex "AB"	"P-1300"		18,000.00			18,000.00
IP CONVERGE DATA SERVICES INC	Annex "AB"	"P-1306"		1,800.47			1,800.47
MULTI FOLD LINKS INC	Annex "AB"	"P-1309"		32,727.27			32,727.27
MY CHUA LAW OFFICE	Annex "AB"	"P-1310"		568,838.40			568,838.40
NORTH QUADRANT VENTURES AND RESOURCES INC	Annex "AB"	"P-1311"		263.07			263.07
PLUMAS TRANSPORT CORP	Annex "AB"	"P-1316"		35,713.89			35,713.89
PLUMAS TRANSPORT CORP	Annex "AB"	"P-1317"		46,726.05			46,726.05
PLUMAS TRANSPORT CORP	Annex "AB"	"P-1318"		50,999.12			50,999.12
PROPLE BPO INC	Annex "AB"	"P-1319"		9,600.00			9,600.00
PT CERNA CORP	Annex "AB"	"P-1320"		9,246.43			9,246.43
SHOWA TRANSPORT SERVICE CORP	Annex "AB"	"P-1322"		2,301.83			2,301.83
SOURCE TELECOMMUNICATIONS INC	Annex "AB"	"P-1323"		9,642.86			9,642.86
ST FRANCIS SQUARE DEVELOPMENT CORP	Annex "AB"	"P-1324"		2,250.00			2,250.00
STA ELENA GOLF CLUB INC	Annex "AB"	"P-1325"		1,125.00			1,125.00
STEP ASIA INC	Annex "AB"	"P-1326"		400,248.66			400,248.66
TOYOTA DAGUPAN CITY INC	Annex "AB"	"P-1329"		12,123.54			12,123.54
ANA LAW CO	Annex "AB"	"P-1330"		32,400.00			32,400.00
CRIF D-B PHILIPPINES INC	Annex "AB"	"P-1333"		2,160.00			2,160.00
EMMANUEL C ALCANTARA AND ASSOCIATES	Annex "AB"	"P-1335"		18,000.00			18,000.00

INSAFETY INC	Annex "AB"	"P-1338"		6,857.14			6,857.14
MULTI FOLD LINKS INC	Annex "AB"	"P-1340"		32,727.27			32,727.27
NO KA OI PHILIPPINES INTERNATIONAL INC	Annex "AB"	"P-1341"		672.00			672.00
PLUMAS TRANSPORT CORP	Annex "AB"	"P-1342"		189,183.92			189,183.92
PREVHEALTH INC	Annex "AB"	"P-1343"		27,561.29			27,561.29
PREVHEALTH INC	Annex "AB"	"P-1344"		1,131.81			1,131.81
PREVHEALTH INC	Annex "AB"	"P-1345"		27,561.29			27,561.29
PROPLE BPO INC	Annex "AB"	"P-1346"		4,812.00			4,812.00
SHOWA MANPOWER SERVICES	Annex "AB"	"P-1347"		46,699.37			46,699.37
SHOWA MANPOWER SERVICES	Annex "AB"	"P-1348"		12,453.63			12,453.63
SHOWA TRANSPORT SERVICE CORP	Annex "AB"	"P-1349"		99,710.42			99,710.42
TOYOTA DAGUPAN CITY INC	Annex "AB"	"P-1350"		1,770.26			1,770.26
TRI AMP CORPORATION	Annex "AB"	"P-1351"		42,590.36			42,590.36
CANLUBANG GOLF AND COUNTRY CLUB INC	Annex "AC"	"P-1352"		3,042.85			3,042.85
CANLUBANG GOLF AND COUNTRY CLUB INC	Annex "AC"	"P-1353"		3,629.99			3,629.99
TIGER MACHINERY AND INDUSTRIAL CORP	Annex "AI"	"P-3073"			₱ 173,592.00		173,592.00
GLOBE TELECOM INC	Annex "AI"	"P-3074"			163.42		163.42
BITSTOP NETWORK SERVICES INC	Annex "AI"	"P-3075"			5,368.29		5,368.29
HO NOVELOSO SURVEYING	Annex "AI"	"P-3078"			19,553.57		19,553.57
MARUBENI PHILIPPINES CORPORATION	Annex "AI"	"P-3079"			127,107.57		127,107.57
PLUMAS TRANSPORT CORP	Annex "AO"	"P-4118"			174,507.51		174,507.51
HO NOVELOSO SURVEYING	Annex "AO"	"P-4119"			30,117.85		30,117.85
ACTSTECH INC	Annex "AH"	"P-2971"			2,678.57		2,678.57
ANA LAW CO	Annex "AH"	"P-2972"			32,400.00		32,400.00
EMMANUEL C ALCANTARA AND ASSOCIATES	Annex "AH"	"P-2976"			18,000.00		18,000.00
INSAFETY INC	Annex "AH"	"P-2983"			6,857.14		6,857.14
MULTI FOLD LINKS INC	Annex "AH"	"P-2984"			32,727.27		32,727.27
PLUMAS TRANSPORT CORP	Annex "AH"	"P-2989"			10,810.71		10,810.71
PLUMAS TRANSPORT CORP	Annex "AH"	"P-2990"			36,945.45		36,945.45
PREVHEALTH INC	Annex "AH"	"P-2991"			27,561.29		27,561.29
PREVHEALTH INC	Annex "AH"	"P-2992"			27,561.29		27,561.29
SGV AND CO	Annex "AH"	"P-2994"			19,800.00		19,800.00
SHOWA MANPOWER SERVICES	Annex "AH"	"P-2995"			20,622.11		20,622.11
SHOWA TRANSPORT SERVICE CORP	Annex "AH"	"P-2996"			6,733.20		6,733.20
SOURCE TELECOMMUNICATIONS INC	Annex "AH"	"P-2997"			3,214.29		3,214.29
SOURCE TELECOMMUNICATIONS INC	Annex "AH"	"P-2998"			3,214.29		3,214.29
STAMM BROKERAGE INC	Annex "AH"	"P-2999"			1,920.00		1,920.00
TOYOTA DAGUPAN CITY INC	Annex "AH"	"P-3001"			6,098.50		6,098.50
A HARTRODT PHILIPPINES INC	Annex "AH"	"P-3002"			2,147.53		2,147.53
ACTSTECH INC	Annex "AH"	"P-3003"			5,892.85		5,892.85
ANA LAW CO	Annex "AH"	"P-3004"			32,400.00		32,400.00

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AVEGA MANAGED CARE INC	Annex "AH"	"P-3005"			28,549.85		28,549.85
BIG ELEPHANT INLAND RESORT INC	Annex "AH"	"P-3007"			28,179.66		28,179.66
DE GUZMAN MACHINE WORKS	Annex "AH"	"P-3012"			3,000.00		3,000.00
EMMANUEL C ALCANTARA AND ASSOCIATES	Annex "AH"	"P-3014"			18,000.00		18,000.00
FUCHIGAMI CONSTRUCTION AND BORING PTY	Annex "AH"	"P-3015"			107,868.86		107,868.86
INSAFETY INC	Annex "AH"	"P-3016"			6,857.14		6,857.14
MULTI FOLD LINKS INC	Annex "AH"	"P-3018"			32,727.27		32,727.27
NO KA OI PHILIPPINES INTERNATIONAL INC	Annex "AH"	"P-3019"			336.00		336.00
PHILIPPINE PIONEER FORWARDING CORP	Annex "AH"	"P-3020"			3,564.00		3,564.00
PLUMAS TRANSPORT CORP	Annex "AH"	"P-3028"			30,104.73		30,104.73
PLUMAS TRANSPORT CORP	Annex "AH"	"P-3029"			13,073.57		13,073.57
PLUMAS TRANSPORT CORP	Annex "AH"	"P-3030"			26,776.73		26,776.73
PLUMAS TRANSPORT CORP	Annex "AH"	"P-3031"			4,404.67		4,404.67
PREVHEALTH INC	Annex "AH"	"P-3032"			28,098.89		28,098.89
PROPLE BPO INC	Annex "AH"	"P-3033"			15,864.00		15,864.00
SHOWA TRANSPORT SERVICE CORP	Annex "AH"	"P-3034"			97,341.99		97,341.99
TAN DELTA ELECTRIC CORPORATION	Annex "AH"	"P-3037"			428.57		428.57
TRI AMP CORPORATION	Annex "AH"	"P-3038"			54,187.15		54,187.15
ACTSTECH INC	Annex "AH"	"P-3039"			4,285.71		4,285.71
ANA LAW CO	Annex "AH"	"P-3040"			32,400.00		32,400.00
AVEGA MANAGED CARE INC	Annex "AH"	"P-3041"			68,509.09		68,509.09
EMMANUEL C ALCANTARA AND ASSOCIATES	Annex "AH"	"P-3044"			18,000.00		18,000.00
MULTI FOLD LINKS INC	Annex "AH"	"P-3051"			32,727.27		32,727.27
NEWTON ELECTRICAL EQUIPMENT CO INC	Annex "AH"	"P-3052"			3,060.00		3,060.00
PLUMAS TRANSPORT CORP	Annex "AH"	"P-3065"			112,095.49		112,095.49
SGV AND CO	Annex "AH"	"P-3066"			20,688.00		20,688.00
SHOWA MANPOWER SERVICES	Annex "AH"	"P-3067"			22,858.51		22,858.51
SHOWA MANPOWER SERVICES	Annex "AH"	"P-3068"			37,595.90		37,595.90
SOURCE TELECOMMUNICATIONS INC	Annex "AH"	"P-3070"			6,428.58		6,428.58
TIGER MACHINERY AND INDUSTRIAL CORP	Annex "AH"	"P-3071"			81,480.00		81,480.00
ACTSTECH INC	Annex "AN"	"P-4024"				₱ 4,285.71	4,285.71
ANA LAW CO	Annex "AN"	"P-4025"				32,400.00	32,400.00
EMMANUEL C ALCANTARA AND ASSOCIATES	Annex "AN"	"P-4032"				18,000.00	18,000.00
FIL CHIN ENGINEERING EQUIPMENT INC	Annex "AN"	"P-4036"				123,696.11	123,696.11
MARUBENI PHILIPPINES CORPORATION	Annex "AN"	"P-4039"				61,962.57	61,962.57
MULTI FOLD LINKS INC	Annex "AN"	"P-4040"				32,727.27	32,727.27
NO KA OI PHILIPPINES INTERNATIONAL INC	Annex "AN"	"P-4041"				480.64	480.64
PLUMAS TRANSPORT CORP	Annex "AN"	"P-4049"				77,256.14	77,256.14
PREVHEALTH INC	Annex "AN"	"P-4050"				27,561.29	27,561.29

PROPLE BPO INC	Annex "AN"	"P-4051"					4,920.00	4,920.00
ROTATING MACHINES REWINDING INC	Annex "AN"	"P-4052"					8,220.00	8,220.00
SOURCE TELECOMMUNICATIONS INC	Annex "AN"	"P-4056"					3,214.29	3,214.29
ACTSTECH INC	Annex "AN"	"P-4059"					4,285.71	4,285.71
AVEGA MANAGED CARE INC	Annex "AN"	"P-4061"					28,549.85	28,549.85
AVEGA MANAGED CARE INC	Annex "AN"	"P-4062"					57,368.42	57,368.42
EMMANUEL C ALCANTARA AND ASSOCIATES	Annex "AN"	"P-4065"					18,600.00	18,600.00
MECHA FABRIK INC	Annex "AN"	"P-4071"					2,748.00	2,748.00
PLUMAS TRANSPORT CORP	Annex "AN"	"P-4077"					4,299.04	4,299.04
PLUMAS TRANSPORT CORP	Annex "AN"	"P-4078"					116,522.64	116,522.64
PROPLE BPO INC	Annex "AN"	"P-4079"					4,800.00	4,800.00
SHOWA MANPOWER SERVICES	Annex "AN"	"P-4080"					24,717.89	24,717.89
TOYOTA DAGUPAN CITY INC	Annex "AN"	"P-4083"					11,229.50	11,229.50
TOYOTA DAGUPAN CITY INC	Annex "AN"	"P-4084"					704.02	704.02
ACTSTECH INC	Annex "AN"	"P-4087"					4,285.71	4,285.71
ACTSTECH INC	Annex "AN"	"P-4088"					655.71	655.71
ANA LAW CO	Annex "AN"	"P-4089"					32,400.00	32,400.00
CRIF D-B PHILIPPINES INC	Annex "AN"	"P-4092"					9,060.00	9,060.00
EEC COATING WATERPROOFING AND GENERAL SERVICES INC	Annex "AN"	"P-4093"					868.04	868.04
EMMANUEL C ALCANTARA AND ASSOCIATES	Annex "AN"	"P-4094"					18,600.00	18,600.00
LE PRICE INTERNATIONAL CORP	Annex "AN"	"P-4099"					1,353.60	1,353.60
MARUBENI PHILIPPINES CORPORATION	Annex "AN"	"P-4100"					61,974.18	61,974.18
MULTI FOLD LINKS INC	Annex "AN"	"P-4101"					32,727.27	32,727.27
PINNACLE PARTS CO INC	Annex "AN"	"P-4102"					19,339.29	19,339.29
PLUMAS TRANSPORT CORP	Annex "AN"	"P-4110"					24,139.49	24,139.49
PLUMAS TRANSPORT CORP	Annex "AN"	"P-4111"					61,654.89	61,654.89
PREVHEALTH INC	Annex "AN"	"P-4112"					27,561.29	27,561.29
SHOWA MANPOWER SERVICES	Annex "AN"	"P-4114"					70,298.95	70,298.95
SHOWA TRANSPORT SERVICE CORP	Annex "AN"	"P-4115"					36,999.44	36,999.44
SOURCE TELECOMMUNICATIONS INC	Annex "AN"	"P-4116"					6,428.58	6,428.58
Domestic purchase of services supported by VAT sales invoice instead of VAT OR								
CHROMAR UNI-TRADE	Annex "AH"	"P-3009"			1,607.14			1,607.14
Domestic purchases of services where the input VAT shown on each VAT OR exceeds the amount reflected in petitioner's schedule of input VAT claim								
PLDT INC.								
Per OR ₱5,418.47	Annex "AH"	"P-3022"						
Per Claim 5,514.61					96.14			96.14
PLDT INC.								
Per OR ₱44,170.06	Annex "AH"	"P-3023"						
Per Claim 44,466.92					296.86			296.86

FPG Insurance Co. Inc.							
Per OR ₱1,564.21	Annex "AH"	"P-3048"					
Per Claim 1,592.65					28.44		28.44
Domestic purchases of goods supported by VAT sales invoices without BIR Authority to Print							
Pilipinas Shell Petroleum Corporation	Annex "Z"	"P-1116"		10,476.74			10,476.74
Pilipinas Shell Petroleum Corporation	Annex "AF"	"P-2812"			11,776.05		11,776.05
Pilipinas Shell Petroleum Corporation	Annex "AF"	"P-2814"			7,951.01		7,951.01
TOTAL INPUT VAT DISALLOWANCES PER THE COURT'S FURTHER VERIFICATION			**₱1,661,663.33**	**₱2,156,175.00**	**₱1,789,241.97**	**₱1,076,895.53**	**₱6,683,975.83**

Summarizing the above findings relative to petitioner's compliance with the *seventh* requisite, the Court finds that out of the ₱30,883,179.89 total allowable input VAT claim, only the amount of ₱21,970,983.18 represents petitioner's valid and allowable input VAT, computed as follows:

FY 2021	Input VAT Claim	Disallowances			Valid/ Allowable Input VAT
		Per ICPA Report	Per this Court's Further Verification	Total	
1st Quarter	₱ 8,987,677.12	₱ 552,403.67	₱ 1,661,663.33	₱ 2,214,067.00	₱ 6,773,610.12
2nd Quarter	10,842,203.78	634,252.25	2,156,175.00	2,790,427.25	8,051,776.53
3rd Quarter	5,702,562.99	569,502.04	1,789,241.97	2,358,744.01	3,343,818.98
4th Quarter	5,350,736.00	472,062.92	1,076,895.53	1,548,958.45	3,801,777.55
Total	**₱30,883,179.89**	**₱2,228,220.88**	**₱6,683,975.83**	**₱8,912,196.71**	**₱21,970,983.18**

A portion of the valid input VAT of ₱21,970,983.18 is attributable to petitioner's zero-rated sales for FY 2021

The *eighth* requisite is to the effect that the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume.

As stated earlier, for the four quarters of FY 2021, petitioner reported total sales of ₱2,404,750,155.44, which consisted of ₱6,113,147.02 sales subject to twelve percent (12%) VAT and ₱2,398,637,008.42 zero-rated sales. However, considering that petitioner's input VAT cannot be directly identified with specific sales, this Court shall allocate the valid input VAT of ₱21,970,983.18 proportionately based on the volume of its sales, as follows:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	FY 2021
Sales per VAT return					
Vatable Sales	₱ 415,178.57	₱ 214,098.21	₱ 5,372,857.14	₱ 111,013.10	₱ 6,113,147.02
Zero-Rated Sales	747,294,610.52	636,378,648.20	493,297,491.78	521,666,257.92	2,398,637,008.42
Total	₱747,709,789.09	₱636,592,746.41	₱498,670,348.92	₱521,777,271.02	₱2,404,750,155.44
Allocation Factor (Percentage of each type of sales to total sales)					
Vatable Sales	0.0555267%	0.0336319%	1.0774367%	0.0212760%	
Zero-Rated Sales	99.9444733%	99.9663681%	98.9225633%	99.9787240%	
Total	100.0000000%	100.0000000%	100.0000000%	100.0000000%	
Valid Input VAT	₱ 6,773,610.12	₱ 8,051,776.53	₱ 3,343,818.98	₱ 3,801,777.55	₱ 21,970,983.18
Input VAT Allocation Per Each Type of Sales (Allocation factor multiplied by valid input VAT)					
Vatable Sales	**₱ 3,761.16**	**₱ 2,707.97**	**₱ 36,027.53**	**₱ 808.86**	**₱ 43,305.52**
Zero-Rated Sales	**6,769,848.96**	**8,049,068.56**	**3,307,791.45**	**3,800,968.69**	**21,927,677.66**
Total	₱ 6,773,610.12	₱ 8,051,776.53	₱ 3,343,818.98	₱ 3,801,777.55	₱ 21,970,983.18

Thus, for purposes of petitioner's compliance with the *eighth* requisite, only the amount of ₱21,927,677.66 represents petitioner's valid input VAT attributable to its total reported zero-rated sales.

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

In *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue* (Chevron),[92] the Supreme Court held that:

> "...the input tax attributable to zero-rated sales may, at the option of the VAT-registered taxpayer, be: (1) **charged against output tax from regular 12% VAT-able sales, and any unutilized or 'excess' input tax may be claimed for refund or the issuance of tax credit certificate; or (2) claimed for refund or tax credit in its entirety.** It must be stressed that the remedies of charging the input tax against the output tax and applying for a refund or tax credit are alternative and cumulative. Furthermore, **the option is vested with the taxpayer-claimant. It goes without saying that the CTA, and even the Court may not, on its own, deduct the input tax attributable to zero-rated sales from the output tax derived from the regular twelve percent (12%) VAT-able sales first and use the**

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[92] G.R. No. 215159, July 5, 2022.

> **resultant amount as the basis in computing the allowable amount for refund.** The courts cannot condition the refund of input taxes allocable to zero-rated sales on the existence of 'excess' creditable input taxes, which includes the input taxes carried over from the previous periods, from the output taxes. These procedures find no basis in law and jurisprudence."

Clearly, with respect to its input taxes attributable to zero-rated sales, it is the taxpayer (and not the Court) who is given the option to either:

1. Charge a portion of its input taxes attributable to zero-rated sales to the output taxes, and refund the balance, if any; or
2. Refund all of the input taxes attributable to zero-rated sales.

Applying the foregoing, records show that petitioner chose the *first* option, *i.e.*, its total input VAT incurred for the FY 2021 was applied against its output VAT for the same period, and the remaining unutilized excess input VAT of ₱30,149,602.19 is the subject of the present claim for refund. Hence, the refundable input VAT shall be computed net of output tax liability.

The Court notes that while the sales to NGCP did not qualify for VAT zero-rating, *i.e.*, the transaction with NGCP involves the sale of ancillary services and not the sale of power or fuel generated from renewable resources, the same cannot be imputed with the output VAT of 12%. The pronouncement of the Supreme Court in the *Chevron* case is instructive:

> "Fourth, that the taxpayer failed to prove that it had sufficient creditable input taxes to cover or 'pay' its output tax liability in a given period, hence, there is no refundable 'excess' input tax, which is an issue distinct, separate, and independent from a claim for refund or issuance of tax credit certificate of unutilized input VAT attributable to zero-rated sales. For one, the taxpayer-claimant is not asking to refund the 'excess' creditable input taxes from the output tax. To be sure, the 'excess' input tax may only be carried over to the succeeding period and cannot be refunded. But, on the other hand, the taxpayer is asking to refund the unutilized or unused input tax from zero-rated sales."

Pursuant to *Chevron*, the power of this Court, in refund cases covered by Section 112 of the NIRC of 1997, as amended, merely involves the ***determination of unutilized or unused input tax from zero-rated sales, and not the determination of "excess" creditable input taxes from the output tax***. In the latter case, the determination of the proper output tax would be relevant so that the Court may verify whether there is an excess creditable input tax that may be carried over to the succeeding period, pursuant to Section 110(B) of the NIRC of 1997, as amended.

Furthermore, the above-discussion is consistent with the pronouncement of the Supreme Court in the old consolidated cases of *Commissioner of Internal Revenue v. Toledo Power Company and Toledo Power Company v. Commissioner of Internal Revenue*,[93] where the Supreme Court ruled that:

> "In this case, TPC filed a claim for tax refund or credit under Section 112 of the NIRC, where the issue to be resolved is whether TPC is entitled to a refund or credit of its unutilized input VAT for the taxable year 2002. And since it is not a claim for refund under Section 229 of the NIRC, the correctness of TPC s VAT returns is not an issue. Thus, there is no need for the court to determine whether TPC is liable for deficiency VAT.
>
> Besides, it would be unfair to allow the CIR to use a claim for refund under Section 112 of the NIRC as a means to assess a taxpayer for any deficiency VAT, especially if the period to assess had already prescribed. As we have said, the courts have no assessment powers, and therefore, cannot issue assessments against taxpayers. The courts can only review the assessments issued by the CIR, who under the law is vested with the powers to assess and collect taxes and the duty to issue tax assessments within the prescribed period."

Thus, it is not within the power of the Court to make assessments, or to allow this refund case to be used by respondent to assess a taxpayer for any deficiency VAT. Hence, the corresponding output VAT of 12% on the sales to NGCP shall not be considered for the purpose of computing the amount of refund claim in the present case.

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

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	FY 2021
Output VAT Due[94]	₱ 49,821.43	₱ 25,691.79	₱ 644,742.86	₱ 13,321.57	₱ 733,577.65
Less: Input VAT Attributable to Declared Vatable Sales	3,761.16	2,707.97	36,027.53	₱808.86	43,305.52
Output VAT Still Due	₱ 46,060.27	₱ 22,983.82	₱ 608,715.33	₱ 12,512.71	₱ 690,272.13
Less: Input VAT Attributable to Declared Zero-Rated Sales	6,769,848.96	8,049,068.56	3,307,791.45	3,800,968.69	21,927,677.66

[93] G.R. Nos. 196415 & 196451, December 2, 2015.
[94] Line 15B, Exhibits "P-11" to "P-14", Docket – Vol. II, pp. 585, 599, 618 and 635, respectively.

Excess Input VAT Attributable to Declared Zero-Rated Sales	**₱6,723,788.69**	**₱8,026,084.74**	**₱2,699,076.12**	**₱3,788,455.98**	**₱21,237,405.53**

Based on the foregoing, petitioner had excess input VAT for the FY 2021 in the amount of ₱21,237,405.53, which can be attributed to its entire declared zero-rated sales in the amount of ₱2,398,637,008.42.

However, as already determined, out of the total zero-rated sales declared by petitioner amounting to ₱2,398,637,008.42, only the amount of ₱2,212,629,752.44 qualifies as valid zero-rated sales. Thus, the excess input VAT attributable to petitioner's valid zero-rated sales of ₱2,212,629,752.44 amounts only to ₱19,245,042.50, as computed below:

	1st Quarter	**2nd Quarter**	**3rd Quarter**	**4th Quarter**	**FY 2021**
Excess Input VAT Attributable to Declared Zero-Rated Sales	₱ 6,723,788.69	₱ 8,026,084.74	₱ 2,699,076.12	₱ 3,788,455.98	₱ 21,237,405.53
Divided by Declared Zero-Rated Sales	747,294,610.52	636,378,648.20	493,297,491.78	521,666,257.92	
Multiplied by Valid Zero-Rated Sales	649,474,193.03	548,191,809.71	493,297,491.78	521,666,257.92	
Excess Input VAT Attributable to Valid Zero-Rated Sales	**₱5,843,648.77**	**₱6,913,861.63**	**₱2,699,076.12**	**₱3,788,455.98**	**₱19,245,042.50**

Finally, it was established that the subject claim amounting to ₱30,149,602.19 was deducted as VAT Refund/TCC Claimed (Line 23D) in its 2nd *Quarterly Value-Added Tax Return* for FY 2022,[95] preventing the carry-over of the said amount in the succeeding taxable quarters. Hence, petitioner is deemed to have fulfilled the *ninth* requisite for the refund/tax credit of input VAT under Section 112(A) of the NIRC of 1997, as amended.

In sum, petitioner has sufficiently proven its entitlement to the refund in the amount of ₱19,245,042.50, representing petitioner's excess and unutilized input VAT attributable to its zero-rated sales for the four (4) quarters of FY 2021.

FOR THESE REASONS, the present *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** to petitioner the amount of **₱19,245,042.50**, representing petitioner's excess and unutilized input VAT attributable to its zero-rated sales for the April 1, 2020 to March 31, 2021.

[95] Exhibit "P-15", Docket – Vol. II, p. 655.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice