CTA Form No. 8

22-000153-0087

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10830

DOLE PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St., Legazpi Village
Makati City

ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. BRYAN ANTHONY C. DIEGO
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

EMMANUEL C. ALCANTARA AND ASSOCIATES LAW OFFICES
5th Floor, SGV I Building
6760 Ayala Avenue
1226 Makati City

GREETINGS:

You are hereby notified by these presents that on **January 20, 2026,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **January 27, 2026.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
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SPECIAL FIRST DIVISION

DOLE PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. **10830**

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:
JAN 20 2026; 4:30PM

x - x

DECISION

BACORRO-VILLENA, J.:

Before the Court is a Petition for Review[1] filed by petitioner Dole Philippines, Inc. (**petitioner/DPI**) pursuant to Section 3(a),[2] Rule 8 in relation to Section 3(a)(1),[3] Rule 4 of the Revised Rules of the Court of

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1 Filed on 07 April 2022, Division Docket, Volume I, pp. 6-336, with attached exhibits.

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

3 **SEC. 3.** *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

Tax Appeals (**RRCTA**), seeking to appeal respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) total denial of its administrative claim for refund in the amount of **₱934,651,906.85**. The amount claimed represents excess and unutilized input Value-Added Tax (**VAT**) on purchases of goods and services attributable to zero-rated sales for the period from 01 April 2019 to 31 March 2020, or the fiscal year (**FY**) ended 31 March 2020.

PARTIES TO THE CASE

Petitioner is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal address at Cannery Site, Polomolok, 9504 South Cotabato, Sarangani Economic Development Zone (**SEDZ**).[4] It is also a VAT registered entity with Taxpayer Identification Number (**TIN**) 000-428-573-000, as evidenced by the Bureau of Internal Revenue (**BIR**)-issued Certificate of Registration (**COR**).[5]

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue (**respondent/CIR**), vested by law to enforce and implement the provisions of the National Internal Revenue Code (**NIRC**) of 1997, as amended, as well as the related statutes and their implementing rules and regulations. He or she holds office at the BIR National Office Building, BIR Road (now Senator Miriam P. Defensor-Santiago Avenue), Diliman, Quezon City.[6]

FACTS OF THE CASE

For the FY ended 31 March 2018, petitioner filed Amended Quarterly VAT Returns (BIR Forms No. 2550-Q).[7] There, it declared a

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(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue[.]

4 See Petitioner's Securities and Exchange Commission (**SEC**)-issued Certificate of Filing of Amended Articles of Incorporation (**AOI**) dated 09 January 2015 and Amended AOI, Exhibits "P-1" and "P-2", respectively, Division Docket, Volume II, pp. 739 and 741-755, respectively.

5 See Petitioner's Bureau of Internal Revenue (**BIR**)-issued Certificate of Registration (**COR**) dated 30 September 2022 for its Head Office, Exhibit "P-3", id., pp. 756-758.

6 Paragraph A, Joint Stipulation of Facts & Issues (**JSFI**), id., Volume I, p. 430.

7 Exhibits "P-9" (1st Quarter), "P-12" (2nd Quarter), "P-14" (3rd Quarter) and "P-16" (4th Quarter), id., Volume II, pp. 874-875, 880-881, 884-885 and 888-889, respectively.

total sales amount of ₱39,487,739,145.01, which included zero-rated sales/receipts in the aggregate amount of ₱36,071,523,649.66.

For the same period, petitioner claimed to have accumulated excess input tax in the total amount of ₱1,276,291,422.42 from its current domestic purchases of goods and services and amortized input VAT on purchases of capital goods from previous quarters, out of which the amount of ₱934,651,906.85 is the subject of the present petition.

On 29 June 2021, petitioner filed a letter-application for refund or tax credit dated 15 June 2021[8], together with the corresponding Application for Tax Credit/Refund (BIR Form No. 1914)[9] (**administrative claim**), with the BIR's VAT Credit Audit Division (**VCAD**). Petitioner sought the refund of excess and unutilized input VAT attributable to zero-rated sales for FY ended 31 March 2020 in the total amount of ₱934,651,906.85.

Respondent, on the other hand, issued a Tax Verification Notice (**TVN**) with TVN No. 201800143163 dated 29 June 2021[10] authorizing Revenue Officers (**ROs**) Marvin K. Villarama (**Villarama**), Rochelle May P. Leonor, Marjorie C. Dioso, Michele J. Alonzo-Bucayu, Kristine M. Albano, Mary Ann B. Estacio, Faye Armie S. Arroyo, Aubrey M. Pepito-Collado, Kevin L. Fernandez, Fei Ann Marie S. Nazar And Denise R. Dayanan, all from the BIR'S VCAD, to verify the supporting documents to petitioner's claim for VAT refund.[11]

On 08 March 2022, petitioner received a Letter dated 15 November 2021[12] (**Denial Letter**) from the BIR, issued by then CIR, Caesar R. Dulay (**Commissioner Dulay**). In the Denial Letter, Commissioner Dulay denied petitioner's claim for refund on the ground that the total deductions applied to the claim exceeded the total amount being claimed, detailed as follows:

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8 Exhibit "P-43", Division Docket, Volume II, pp. 930-946.

9 Exhibit "P-42", id., p. 929.

10 Exhibit "P-46", id., p. 954.

11 Q&A No. 11, Judicial Affidavit of Revenue Officer (**RO**) Marvin K. Villarama dated 27 June 2022, Exhibit "R-7", id., Volume I, p. 377.

12 Exhibit "P-45", id., Volume II, pp. 951-953, with annex; Exhibit "R-5", BIR Records (Exhibit "R-6"), pp. 958-960, with annex.

	Local	Importations	Total
Amount of Claim	**₱800,865,576.42**	**₱133,786,330.43**	**₱934,651,906.85**
Deductions from Claim			
Input tax on sale to the Philippine Economic Zone Authority (**PEZA**) zone	(48,572,777.65)	-	(48,572,777.65)
Disallowed input tax on local purchases	(513,724,300.08)	-	(513,724,300.08)
Disallowed input tax on Big Ticket purchases	(1,236,442.65)	-	(1,236,442.65)
Disallowed input tax on importations	-	(1,832,634.00)	(1,832,634.00)
Disallowed input tax as *per* BIR Integrated Tax System (**BIR-ITS**) verification	(4,183,056.75)	-	(4,183,056.75)
Creditable Withholding VAT on sales to Government	(71,331.80)	-	(71,331.80)
Disallowed ripened input tax from prior period purchases	(7,566,649.16)	(25,219,731.17)	(32,786,380.33)
Deferred input tax on capital goods which exceeded the ₱1 million threshold	(2,709,867.63)	-	(2,709,867.63)
Output tax on undeclared VATable sales not reported in the schedule of sales	(5,508,131.35)	-	(5,508,131.35)
Output tax on undeclared VATable sales *per* Summary Alphalist of Withholding Agents of Income Payments Subjected to Withholding Tax (**SAWT**)	-	(71,561,842.91)	(71,561,842.91)
Output tax on deemed sale transaction subject to VAT	-	(871,320.00)	(871,320.00)
Input tax allocable to zero-rated sales with insufficient documentation and exempt sales	(217,312,142.61)	(36,302,464.45)	(253,614,607.06)
Compromise penalty	(25,000.00)	-	(25,000.00)
Total Deductions from Claim	**(₱800,909,699.68)**	**(₱135,787,992.53)**	**(₱936,697,692.21)**
Excess Deductions Against the Claim for Refund	**(₱44,123.26)**	**(₱2,001,662.10)**	**(₱2,045,785.36)**

PROCEEDINGS BEFORE THE COURT

Aggrieved, on 07 April 2022, petitioner filed the present Petition for Review.[13] The same was raffled to the Second Division and docketed as CTA Case No. 10830.[14]

On 11 April 2022, the Second Division issued Summons[15] ordering respondent to file an Answer within thirty (30) days from service. Respondent received the said Summons on 20 April 2022.[16]

13 Supra at note 1.

14 The Second Division is composed of Associate Justice Juanito C. Castañeda, Jr. (Ret.), as Chairperson, Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as Members.

15 Division Docket, Volume I, p. 337.

16 Id.

After the Second Division granted an extension of time to respondent[17], the Answer[18] was filed on 10 June 2022. There, respondent cited the following special and affirmative defenses: (1) the instant refund claim should be denied for petitioner's failure to substantiate it at the administrative level; (2) it is incumbent upon petitioner to prove that it is entitled to the refund sought because a refund claim is not *ipso facto* granted upon the filing thereof; (3) tax refunds are subject to administrative routinary investigation; and (4) tax refunds are strictly construed against the taxpayer and in favor of the government.

On 16 June 2022, the Second Division issued a Notice of Pre-Trial Conference[19] and set the case for pre-trial on 19 September 2022 (later rescheduled to 22 September 2022[20]). Accordingly, on 28 June 2022, respondent filed his or her Pre-Trial Brief[21], while petitioner filed its Pre-Trial Brief[22] on 06 September 2022. Meanwhile, on 28 June 2022, respondent transmitted to the Second Division the present case's BIR Records, consisting of 963 pages in one (1) folder.[23] The Second Division noted the same in the Minute Resolution dated 07 September 2022.[24]

At the scheduled Pre-Trial Conference on 22 September 2022, the Second Division granted the parties a 30-day period, or until 24 October 2022, to file their Joint Stipulation of Facts and Issues (**JSFI**).[25] Within the deadline set, on 24 October 2022, the parties filed their JSFI.[26]

On 21 October 2022, petitioner filed a "Motion to Commission (An Independent Certified Public Accountant [**ICPA**])"[27] (**Motion to Commission**), requesting the appointment of Myra Celeste O. Dabalos (**Dabalos**), as the ICPA.

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17 See Order dated 24 May 2022, id., p. 344.
18 Id., pp. 345-356.
19 Id., pp. 358-359.
20 See Notice of Hearing dated 31 August 2022, id., p. 391.
21 Id., pp. 382-385.
22 Id., pp. 392-416.
23 See Compliance dated 27 January 2022, id., pp. 388-389.
24 Id., p. 418.
25 See Minutes of the Hearing and Order, both dated 22 September 2022, id., pp. 419 and 420-421, respectively.
26 Id., pp. 430-453.
27 Id., pp. 422-428, with annex.

In the Resolution dated 27 October 2022,[28] the Second Division approved the parties' JSFI, declared the pre-trial terminated, and set both the possible commissioning of petitioner's ICPA and the initial presentation of petitioner's evidence on 09 February 2023. Thereafter, on 05 December 2022, the Second Division issued a Pre-Trial Order,[29] again confirming its approval of the JSFI and formally declaring the pre-trial proceedings terminated.

In the trial that ensued subsequently, petitioner presented the following witnesses who all testified *via* their respective judicial affidavits, namely: (1) Rhodora U. Cagampan (**Cagampan**), Tax Director of Dole Asia Company Ltd. (**DACL**); and (2) ICPA Dabalos.

During the 09 February 2023 hearing, the Second Division granted petitioner's Motion to Commission, ICPA Dabalos took her oath in open court, and petitioner presented the testimony of its witness, Cagampan.[30]

On the witness stand, Cagampan, DACL's Tax Director, declared that: (1) she has been assisting petitioner in its tax-related matters since 17 March 2014; (2) as Tax Director, her functions include, among others, general supervision of the tax compliance of Dole entities in the Philippines; (3) petitioner is a VAT registered entity; (4) petitioner is engaged in zero-rated sale of goods; (5) the input taxes subject of the instant petition are duly paid; (6) the input taxes subject of the instant petition are not transitional input tax; (7) the input taxes claimed are attributable to zero-rated sale of goods; (8) the refund claim was filed within two (2) years from the close of the taxable quarters when such sales were made; and (9) petitioner is entitled to the refund of excess and unutilized input VAT for FY ended 31 March 2020 in the total amount of ₱934,651,906.85.[31]

On cross-examination, Cagampan confirmed that petitioner submitted the same set of documents to the BIR in support of the administrative claim and to this Court during judicial proceedings.[32]

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28 Id., p. 455.
29 Id., pp. 457-466.
30 See Minutes of the Hearing and Order, both dated 09 February 2023, id., pp. 496 and 498-499.
31 See Judicial Affidavit of Rhodora U. Cagampan dated 07 April 2022, Exhibit "P-49", id., pp. 71-335, with attached exhibits.
32 TSN dated 09 February 2023, p. 7.

Petitioner did not conduct any redirect examination.[33]

After the Second Division twice granted extensions of time[34], petitioner filed Dabalos' Interim ICPA Report[35] on 26 May 2023. Petitioner subsequently filed Dabalos' Amended ICPA Report on 27 June 2023, which consisted of one (1) binder[36] and one (1) USB[37] containing the supporting documents. Subsequently, on 30 June 2023, petitioner filed a "Motion to Admit Amended ICPA Report"[38] (**Motion to Admit**).

Meanwhile, on 22 May 2023, petitioner filed a "Motion to Require the BIR-VCAD to Transmit Documents"[39] (**Motion to Require**). Respondent failed to file a comment thereto despite due notice.[40]

Subsequently, in view of the reorganization of the three (3) Divisions of the Court effective 29 May 2023,[41] the present case was transferred to the First Division.[42]

On 27 June 2023, respondent filed his or her Compliance dated 26 June 2023,[43] transmitting the present case's BIR Records, consisting of twelve (12) folders.[44]

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33 Id.

34 See Resolutions dated 29 March 2023 and 20 April 2023, Division Docket, Volume I, pp. 506 and 512, respectively.

35 Exhibit "P-52", id., pp. 534-584.

36 Exhibit "P-147", id., pp. 591-666.

37 Exhibit "P-147-B".

38 Division Docket, Volume I, pp. 671-673.

39 Id., pp. 513-531, with annexes.

40 See Records Verification dated 03 July 2023, id., p. 695.

41 See Notice dated 29 May 2023, id., p. 585.

42 The First Division is composed of Presiding Justice Roman G. Del Rosario (Ret.), as Chairperson, and Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as Members.

43 Division Docket, Volume I, pp. 667-669.

44

Folder 2	Pages 1-283
Folder A	Pages 1-829
Folder B	Pages 1-882
Folder C	Pages 1-759
Folder D	Pages 1-500
Folder E	Pages 1-780
Folder F	Pages 1-570
Folder G	Pages 1-953
Folder H	Pages 1-909
Folder I	Pages 1-970

In Resolution dated 12 July 2023,[45] the First Division noted respondent's Compliance, granted petitioner's Motion to Admit, admitted the Amended ICPA Report,[46] and submitted petitioner's Motion to Require for resolution.

Thereafter, in the Resolution dated 04 August 2023,[47] the First Division (1) granted petitioner's Motion to Require, (2) ordered respondent to transmit the documents enumerated in the said Motion to Require within ten (10) days from notice, and (3) directed respondent to file the necessary manifestation if the subject documents already form part of the BIR Records submitted to the First Division on 27 June 2023.

In compliance with the Court's directive, respondent filed his or her Manifestation[48] on 16 August 2023. The First Division subsequently noted the filing in open court.[49]

On 17 August 2023, petitioner presented the testimony of its last witness, ICPA Dabalos.[50] She testified on the following: (1) performance of her duties and responsibilities as an ICPA (2) confirmation that she verified and examined petitioner's voluminous documents, including various receipts, invoices, and other accounting records, submitted in support of the instant refund claim; (3) the findings and conclusions in her Amended ICPA Report, particularly that — (**a**) petitioner's VAT refund claim amounting to ₱934,651,906.85, included input VAT allocable to exempt sales in the amount of ₱18,397,862.75, (**b**) petitioner did not utilize in subsequent periods the remaining input VAT amounting to ₱916,254,044.10, net of input VAT allocable to exempt sales, (**c**) petitioner's zero-rated sales arising from export sales are supported by VAT-registered invoices marked as zero-rated and corroborated by bills of lading (**BLs**), airway bills (**AWBs**), and export declarations, except for items specifically identified under Exhibit

Folder J	Pages 1-586
Folder K	Pages 1-642

45 Division Docket, Volume I, pp. 700-701.
46 Exhibit "P-147", supra at note 36.
47 Id., pp. 703-704.
48 Id., pp. 705-707.
49 See Minutes of the Hearing and Order, both dated 17 August 2023, id., Volume II, pp. 709-709-B and 710-711.
50 Id.

"P-116-A",[51] (**d**) petitioner received payment for these export sales in foreign currency and accounted for the proceeds in accordance with Bangko Sentral ng Pilipinas (**BSP**) rules and regulations, (**e**) as regards petitioner's zero-rated sales arising from sale of services to nonresidents, she verified that (**i**) petitioner's customers are not engaged in trade or business in the Philippines and (**ii**) petitioner received payments through credits to its Foreign Currency Deposit Unit (**FCDU**) Savings Account with Rizal Commercial Banking Corporation (**RCBC**), and (**f**) based on the results of her review, the allowable amount for refund is only ₱738,206,835.13.[52]

Respondent did not conduct any cross-examination.[53]

On 29 August 2023, after completing the presentation of its testimonial evidence, petitioner filed its Formal Offer of Evidence[54] (**FOE**) consisting of Exhibits "P-1" to "P-151-1", inclusive of sub-markings. On 30 August 2023, respondent filed his or her Comment[55] thereto.

While petitioner's FOE remained pending resolution, petitioner filed a "Motion to Submit Supplemental ICPA Report and to Recall the ICPA to Testify"[56] (**Motion to Submit**) on 31 October 2023, seeking the setting of a hearing for the continuation of ICPA Dabalos' testimony on official receipts (**ORs**) and invoices and the grant of a 30-day period within which to submit a Supplemental ICPA Report. Respondent failed to file a comment thereto despite due notice.[57] Subsequently, in a Minute Resolution dated 25 January 2024,[58] the First Division granted petitioner's Motion to Submit, directed ICPA Dabalos to submit her Supplemental ICPA Report within 30 days from notice, and set the hearing for her testimony on 03 April 2024.

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51 Results of Review for Input Tax Allocable to Zero-Rated Sales Insufficient Documentation and Exempt Sales.

52 See Judicial Affidavit of Myra Celeste O. Dabalos dated 29 June 2023, Exhibit "P-151", id., Volume I, pp. 677-693.

53 TSN dated 17 August 2023, p. 6.

54 Division Docket, Volume II, pp. 713-737.

55 Id., pp. 989-991.

56 Id., pp. 996-1009, with annex.

57 See Records Verification dated 18 December 2023, id., p. 1019.

58 Id., p. 1038.

Thereafter, In the Resolution dated 01 December 2023[59] (**First FOE Resolution**), the First Division admitted petitioner's exhibits, *except* the following: (1) Exhibit "P-6",[60] for failure to submit the duly marked exhibit; (2) Exhibits "P-110-288A", "P-110-438A", "P-110-753A", "P-110-1099A", "P-110-1140A", "P-110-1323A", "P-110-1495A", "P-110-1502A", "P-110-1518A", "P-110-1578A", "P-110- 1585A", "P-110-1596A", "P-110-1601A" to "P-110-1603A", "P-110-1615A", "P-110-1618A" to "P-110-1619A", "P-110-1623A", "P-110-1627A", "P-110-1662A", "P-110-1836A", "P-110-1887A", "P-110-14822B", "P-116-1749B" to "P-116-1753B", "P-140" and "P-143-391",[61] for not being found in the records of the case; and (3) Exhibits "P-110-49A", "P-110-896A" to "P-110-899A", "P-110-1860A", "P-110-1915A" and "P-110-1950A",[62] for being totally blurred or unreadable (collectively, "**First Set of Denied Exhibits**"). In the same Resolution, the First

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59 Id., pp. 1015-1018.

60 BIR Authority to Print/Permit to Use Computerized Accounting System issued by the Large Taxpayer District Office with Permit No. LTDO-CAS-0111-122-00058.

61

Exhibit No.	Description
"P-110-288A", "P-110-438A", "P-110-753A", "P-110-1099A", "P-110-1140A", "P-110-1323A", "P-110-1495A", "P-110-1502A", "P-110-1518A", "P-110-1578A", "P-110- 1585A", "P-110-1596A", "P-110-1601A" to "P-110-1603A", "P-110-1615A", "P-110-1618A" to "P-110-1619A", "P-110-1623A", "P-110-1627A", "P-110-1662A", "P-110-1836A" and "P-110-1887A"	Part of the batch of documents described as "Suppliers' Invoices, Official Receipts, and Other Supporting Documents in relation to Exhibit "P-110" for Dolefil Division."
"P-110-14822B"	Part of the batch of documents described as "Suppliers' Invoices, Official Receipts, and Other Supporting Documents in relation to Exhibit "P-110" for Stanfilco Division."
"P-116-1749B" to "P-116-1753B"	Part of the batch of documents described as "Petitioner's Invoices, Bills of Lading, Airway Bill[s], Export Declaration[s], Debit Notes, Credit Notes, and Other Supporting Documents in relation to Exhibit "P-116" for Stanfilco Division."
"P-140"	Part of the batch of documents described as "Certified True Copies of the Account Statement for Petitioner's US Dollar Saving[s] Account with J.P. Morgan."
"P-143-391"	Part of the batch of documents described as "Certifications Issued by Petitioner's Suppliers who issued Certifications as to corrections made in their respective invoices and official receipts."

62

Exhibit No.	Description
"P-110-49A", "P-110-896A" to "P-110-899A", "P-110-1860A", "P-110-1915A" and "P-110-1950A"	Part of the batch of documents described as "Suppliers' Invoices, Official Receipts, and Other Supporting Documents in relation to Exhibit "P-110" for Dolefil Division."

Division set the initial presentation of respondent's evidence on 18 January 2024.

On 27 December 2023, petitioner filed a "Motion for Partial Reconsideration to the [First FOE Resolution] with Motion for Remarking"[63] (**First MPR**). Respondent filed his or her "Comment and Opposition"[64] thereto on 24 January 2024.

On 29 February 2024, petitioner filed ICPA Dabalos' Supplemental ICPA Report,[65] along with a USB[66] containing scanned copies of the supporting documents.

In the Resolution dated 03 April 2024,[67] the First Division partially granted petitioner's First MPR. It admitted several of the First Set of Denied Exhibits but still denied admission of the following: (1) Exhibits "P-110-1099A", "P-110-14822B", "P-116-1749B" to "P-116-1753B" and "P-140",[68] for not being found in the records of the case; and (2) Exhibits "P-110-49A", "P-110-896A" to "P-110-899A", "P-110-1950A" and "P-110-1232A",[69] for being totally blurred or unreadable. In the same Resolution, the First Division reset the initial presentation of respondent's evidence to 30 May 2024. The First Division later rescheduled this initial presentation to 30 July 2024.[70]

During the 03 April 2024 hearing, ICPA Dabalos testified anew on her Supplemental ICPA Report after petitioner recalled her as a witness.[71] Petitioner offered her testimony to address the remaining disallowance of ₱148,734,852.57 relating to input taxes on local purchases, as reflected in her Amended ICPA Report, and to establish that the exhibits identified in her Supplemental ICPA Report were submitted to the Court through a USB and faithful reproductions of the

63 Division Docket, Volume II, pp. 1020-1025.
64 Id., pp. 1033-1036.
65 Exhibit "P-152", id., pp. 1043-1081.
66 Exhibit "P-152-B".
67 Division Docket, Volume II, pp. 1103-1108.
68 Supra at note 61.
69 Supra at note 62; Exhibit "P-110-1232A" also forms part of the batch of documents described as "Suppliers' Invoices, Official Receipts, and Other Supporting Documents in relation to Exhibit "P-110" for Dolefil Division."
70 See Notice of Resetting dated 09 May 2024, Division Docket, Volume II, p. 1126.
71 See Order dated 03 April 2024, id., pp. 1110-1111.

original documents that she examined and relied upon in preparing her Supplemental ICPA Report.[72]

Respondent did not conduct any cross-examination.[73]

On 05 April 2024, petitioner filed a Supplemental FOE[74] consisting of Exhibits "P-152" to "P-160-1", inclusive of sub-markings. Respondent filed his or her Comment[75] thereto on 08 April 2024.

In the Resolution dated 17 July 2024[76] (**Second FOE Resolution**), the First Division admitted petitioner's exhibits, *except* the following: (1) Exhibits "P-153-887B", "P-110-49A", "P-110-896A" to "P-110-899A", "P-110-1099A", "P-110-1198A", "P-110-1323A", "P-110-1947A" to "P-110-1948A", "P-110-1950A", "P-110-15778B" and "P-110-15785B",[77] for being unreadable; (2) Exhibits "P-110-1945A" to "P-110-1946A" and "P-110-22238B" to "P-110-22245B",[78] for failure to present originals for comparison; and (3) Exhibits "P-153-824B", "P-153-826-B", "P-153-829-B", "P-153-909B", "P-110-1051A", "P-110-1291A", "P-110-1397A", "P-110-1427A",

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72 See Supplemental Judicial Affidavit of Myra Celeste O. Dabalos dated 27 March 2024, Exhibit "P-60", id., pp. 1086-1098.

73 TSN dated 03 April 2024, p. 11.

74 Division Docket, Volume II, pp. 1113-1118.

75 Id., pp. 1120-1122.

76 Id., pp. 1130-1133.

77

Exhibit No.	Description
"P-153-887B"	Part of the batch of documents described as "Supporting Documents of the Supplemental ICPA Report."
"P-110-49A", "P-110-896A" to "P-110-899A", "P-110-1099A", "P-110-1198A", "P-110-1323A", "P-110-1947A" to "P-110-1948A" and "P-110-1950A"	Part of the batch of documents described as "Suppliers' Invoices, Official Receipts, and Other Supporting Documents in relation to Exhibit "P-110" for Dolefil Division."
"P-110-15778B" and "P-110-15785B"	Part of the batch of documents described as "Suppliers' Invoices, Official Receipts, and Other Supporting Documents in relation to Exhibit "P-110" for Stanfilco Division."

78

Exhibit No.	Description
"P-110-1945A" to "P-110-1946A"	Part of the batch of documents described as "Suppliers' Invoices, Official Receipts, and Other Supporting Documents in relation to Exhibit "P-110" for Dolefil Division."
"P-110-22238B" to "P-110-22245B"	Part of the batch of documents described as "Suppliers' Invoices, Official Receipts, and Other Supporting Documents in relation to Exhibit "P-110" for Stanfilco Division."

"P-110-1504A", "P-110-1534A", "P-110-1552A", "P-110-1554A", "P-110-1557A", "P-110-1562A", "P-110-1565A" to "P-110-1566A", "P-110-1572A", "P-110-1589A", "P-110-1877A", "P-110-14822B", "P-110-90D" to "P-110-91D", "P-143-495", "P-143-498" and "P-143-503",[79] for not being found in the records of the case (collectively, "**Second Set of Denied Exhibits**"). In the same Resolution, the First Division reiterated the setting of the initial presentation of respondent's evidence on 30 July 2024.

At the 30 July 2024 hearing, respondent presented his or her witnesses, ROs Villarama and Jelly Anne T. Mateo (**Mateo**).[80]

On the witness stand, RO Villarama declared that he holds the position of RO II and was then assigned to the BIR's VCAD. He testified that his duties include the verification of VAT refund claims of direct exporters and the preparation of evaluation reports, including narrative memorandum reports on the results of verifications conducted. He further stated that he processed and evaluated petitioner's claim for refund of excess and unutilized input VAT covering the FY ended 31 March 2020 in the aggregate amount of ₱934,651,906.85. He testified that the BIR issued TVN No. 201800143163 dated 29 June 2021[81] to him and assigned ROs Dioso, Albano, Arroyo, Fernandez, Dayanan, Leonor, Alonzo-Bucayu, Estacio, Pepito-Collado, and Nazar, all from VCAD, to conduct the verification and audit. He added that BIR duly served this TVN, together with Revised Checklist of Mandatory Requirements on

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Exhibit No.	Description
"P-153-824B", "P-153-826-B", "P-153-829-B", "P-153-909B", "P-143-495", "P-143-498" and "P-143-503"	Part of the batch of documents described as "Supporting Documents of the Supplemental ICPA Report."
"P-110-1051A", "P-110-1291A", "P-110-1397A", "P-110-1427A", "P-110-1504A", "P-110-1534A", "P-110-1552A", "P-110-1554A", "P-110-1557A", "P-110-1562A", "P-110-1565A" to "P-110-1566A", "P-110-1572A", "P-110-1589A" and "P-110-1877A"	Part of the batch of documents described as "Suppliers' Invoices, Official Receipts, and Other Supporting Documents in relation to Exhibit "P-110" for Dolefil Division."
"P-110-14822B"	Part of the batch of documents described as "Suppliers' Invoices, Official Receipts, and Other Supporting Documents in relation to Exhibit "P-110" for Stanfilco Division."
"P-110-90D" to "P-110-91D"	Part of the batch of documents described as "Suppliers' Invoices, Official Receipts, and Other Supporting Documents in relation to Exhibit "P-110" for Philippine Marketing Fresh (PMF) Division."

80 See Minutes of the Hearing and Order, both dated 30 July 2024, Division Docket, Volume II, pp. 1134-1136 and 1137-1139, respectively.

81 Exhibit "R-1", BIR Records (Exhibit "R-6"), p. 562.

Claims for VAT Refund,[82] on petitioner. He further testified that on 28 October 2021, his team recommended denial of petitioner's refund claim through a Memorandum[83] for lack of factual and legal basis, particularly because deductions on both sales and purchases exceeded the amount sought to be refunded. Finally, he declared that his office forwarded the case to the BIR's Tax Audit Review Division (**TARD**) on 05 November 2021 for final review to pursuant to Section II(II)(D)[84] of Revenue Administrative Order (**RAO**) No. 6-17,[85] providing that the findings of the VCAD examiners is automatically subject to review by the TARD.[86]

Petitioner did not conduct any cross-examination.[87]

Respondent then presented his or her last witness, RO Mateo, who testified that she holds the position of RO III and was then assigned to BIR's TARD. She stated that her duties include the review and evaluation of tax credit or refund cases forwarded by the BIR's VCAD and Regional Offices. She further testified that she reviewed and evaluated petitioner's claim for refund of alleged excess and unutilized input VAT covering period from 01 April 2019 to 31 March 2020 in the aggregate amount of ₱934,651,906.85 pursuant to Section 112(A)[88] of the

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82 Exhibit "R-2", id., p. 560.

83 Exhibit "R-3", id., pp. 936-945.

84 **II. AMENDMENTS:**

...

II. Assessment Service

...

D. Tax Audit Review Division (Emphasis in the original text and supplied)

85 Amendment of Revenue Administrative Order (RAO) No. 2-2014 dated August 7, 2014 Relative to the Organization and Functions of the Operations Group, Including the Services, Divisions and Sections under It.

86 See Judicial Affidavit of Revenue Officer Marvin K. Villarama dated 27 June 2022, Exhibit "R-7", Division Docket, Volume I, pp. 375-381.

87 TSN dated 30 July 2024, p. 5.

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

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

NIRC of 1997, as amended. She declared that her team conducted the review based on documents petitioner submitted and the Revised Checklist of Mandatory Requirements and that her team upheld VCAD's recommendation through a Memorandum dated 18 November 2021.[89] As stated in this Memorandum, petitioner's refund claim warranted denial because deductions exceeded amount sought to be refunded. She further testified that BIR TARD noted additional findings, namely, that petitioner wrote off inventories worth ₱7,261,000.00 without supporting documents to explain the write-off, which BIR treated as a deemed sale under Section 106(B)(1)[90] of the NIRC of 1997, as amended, resulting in the deduction of the corresponding output VAT amounting to ₱871,320.00 from the claim, and that petitioner should be imposed a compromise penalty of ₱25,000.00 for failure to supply correct and accurate sales information in its Quarterly VAT Returns pursuant to Revenue Memorandum Order (**RMO**) No. 7-15,[91] in relation to Section 255[92] of the NIRC of 1997, as amended. She finally testified that respondent thereafter issued a Denial Letter[93] informing petitioner of the denial of its refund claim.[94]

Petitioner likewise did not conduct any cross-examination.[95]

On 30 July 2024, respondent filed his or her FOE[96] consisting of Exhibits "R-1" to "R-8-1", inclusive of sub-markings. Petitioner filed its Comment[97] thereto on 05 August 2024.

On 12 August 2024, petitioner filed a "[MPR] to the [Second FOE Resolution]"[98] (**Second MPR**). Respondent filed his or her Comment[99]

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89 Exhibit "R-4", BIR Records (Exhibit "R-6"), pp. 953-956.

90 **SEC. 106**. *Value-Added Tax on Sale of Goods or Properties.* —

. . .

(B) *Transactions Deemed Sale.* — The following transactions shall be deemed sale:

(1) Transfer, use or consumption not in the course of business of goods or properties originally intended for sale or for use in the course of business[.]

91 The Revised Consolidated Schedule of Compromise Penalties for Violations of the National Internal Revenue Code.

92 **SEC. 255**. *Failure to File Return, Supply Correct and Accurate Information, Pay Tax, Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation.*

93 Exhibit "R-5", supra at note 12.

94 See Judicial Affidavit of Revenue Officer Jelly Anne T. Mateo dated 27 June 2022, Exhibit "R-8", Division Docket, Volume I, pp. 364-370.

95 TSN dated 30 July 2024, p. 10.

96 Division Docket, Volume II, pp. 1141-1144.

97 Id., pp. 1147-1148.

98 Id., pp. 1151-1157.

99 Id., pp. 1163-1165.

thereto on 29 August 2024. The First Division later admitted respondent's exhibits in its Resolution dated 23 September 2024.[100]

In the Resolution dated 15 November 2024,[101] the First Division partially granted petitioner's Second MPR. It admitted several of the Second Set of Denied Exhibits but still denied admission of the following: (1) Exhibits "P-110-1945A" to "P-110-1946A" and "P-110-22238B" to "P-110-22245B",[102] for failure to present the originals for comparison; (2) Exhibits "P-110-1051A" and "P-110-90D" to "P-110-91D",[103] for not being found in the records of the case; and (3) Exhibits "P-110-49A", "P-110-896A" to "P-110-899A", "P-110-1099A", "P-110-1198A", "P-110-1323A", "P-110-1947A" to "P-110-1948A", "P-110-1950A", "P-110-15778B" and "P-110-15785B",[104] for being unreadable. In the same Resolution, the First Division granted the parties a period of 30 days within which to file their respective memoranda.

In compliance with the Court's directive, on 17 December 2024, petitioner filed its Memorandum,[105] while respondent filed a Manifestation[106] on 19 December 2024 stating that he or she adopts arguments raised in his or her Answer[107] as his or her Memorandum.

In a Minute Resolution dated 20 January 2025, the First Division considered the instant case submitted for decision.[108]

ISSUE

As can be gleaned from the parties' JSFI,[109] the sole issue for this Court's resolution is —

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100 Id., pp. 1169-1170.
101 Id., pp. 1175-1181.
102 Supra at note 78.
103 Supra at note 79.
104 Supra at note 77.
105 Division Docket, Volume II, pp. 1182-1245.
106 Id., pp. 1248-1250.
107 Supra at note 18.
108 Division Docket, Volume II, p. 1254.
109 See supra at note 26.

WHETHER PETITIONER DOLE PHILIPPINES, INC. IS ENTITLED TO A REFUND OF ITS ALLEGED EXCESS AND UNUTILIZED INPUT VALUE-ADDED TAX (VAT) DIRECTLY ATTRIBUTABLE AND ALLOCABLE TO ITS VALUE-ADDED TAX (VAT) ZERO-RATED SALES FOR THE PERIOD FROM 01 APRIL 2019 TO 31 MARCH 2020 IN THE AMOUNT OF ₱934,651,906.85.

ARGUMENTS

In the instant Petition for Review,[110] petitioner argues that its claim for refund of excess and unutilized input VAT amounting to ₱934,651,906.85 should be granted because it has established the presence of all required legal and factual elements.

Conversely, in his or her Answer,[111] respondent contends that the present claim warrants denial because petitioner failed to substantiate its refund claim at the administrative level. Respondent further argues that petitioner bears burden of proving entitlement to refund, as a claim for refund does not arise *ipso facto* upon filing. Respondent likewise asserts that tax refunds remain subject to routine administrative investigation and that tax refund laws are strictly construed against the taxpayer and in favor of the government.

RULING OF THE COURT

After a careful and thorough evaluation of the parties' respective evidence and the applicable laws, rules and regulations, the Court finds the instant petition unmeritorious.

Petitioner anchors its claim on Sections 110(B),[112] 112(A) and (C) of the NIRC of 1997, as amended by Republic Act (**RA**) No. 10963 or Tax Reform for Acceleration and Inclusion (**TRAIN**), which are quoted hereunder:

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110 Supra at note 1.
111 Supra at note 18.
112 As amended by Republic Act No. 9361, "AN ACT AMENDING SECTION 110(B) OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES".

...

SEC. 110. *Tax Credits.* —

...

(B) *Excess Output or Input Tax.* — If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters: *Provided, however,* That any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.

...

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

(A) *Zero-Rated or Effectively Zero-Rated Sales.* — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods 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.

...

(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.[113]
>
> ...

In *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*[114] (**Deutsche Knowledge Services**), the Supreme Court laid down the requisites for the entitlement to tax refund or credit of excess input VAT attributable to zero-rated sales, to wit:

> ...
>
> Under Section 4.112-1(a) of Revenue Regulations No. (RR) 16-05, otherwise known as the Consolidated VAT Regulations of 2005, in relation to Section 112 of the Tax Code, a claimant's entitlement to a tax refund or credit of excess input VAT attributable to zero-rated sales hinges upon the following requisites: "(1) the taxpayer must be VAT-registered; (2) the taxpayer must be engaged in sales which are zero-rated or effectively zero-rated; (3) the claim must be filed within two years after the close of the taxable quarter when such sales were made; and (4) the creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax."
>
> ...

Applying the foregoing principle, the Court will proceed to determine whether petitioner complied with the aforementioned requisites. For an orderly discussion, We shall start with the third (3rd) requisite, followed by the first (1st) and second (2nd) requisites, then the fourth (4th) requisite.

<u>THIRD (3RD) REQUISITE:</u>
THE CLAIM MUST BE FILED WITHIN TWO (2) YEARS AFTER THE CLOSE OF THE TAXABLE QUARTER WHEN SUCH SALES ARE MADE.

In accordance with Section 112(A) and (C)[115] of the NIRC of 1997, as amended by TRAIN, the administrative claim for refund of unutilized

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113 Emphasis supplied and italics in the original text.
114 G.R. No. 234445, 15 July 2020; Citations omitted.
115 Supra at p. 18.

input VAT must be filed with the BIR within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales are made.

Petitioner's present claim covers the 1st to 4th quarters of the FY ended 31 March 2020. 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 the Taxable Quarter	Last Day to File Administrative Claim
1st quarter (01 April to 30 June 2019)	30 June 2019	**30 June 2021**
2nd quarter (01 July to 30 September 2019)	30 September 2019	**30 September 2021**
3rd quarter (01 October to 31 December 2019)	31 December 2019	**31 December 2021**
4th quarter (01 January to 31 March 2020)	31 March 2020	**31 March 2022**

Hence, petitioner's administrative claim for refund covering the aforesaid quarters filed on **29 June 2021**[116] was timely made within the two (2)-year prescriptive period.

As to the timeliness of petitioner's judicial claim, respondent had ninety (90) days, or until 27 September 2021, within which to act on petitioner's administrative claim. However, considering that during the said period, enhanced community quarantine (**ECQ**) and modified enhanced community quarantine (**MECQ**) were imposed due to corona virus disease 2019 (**COVID-19**) pandemic,"[117] thereby further extending

116 Exhibits "P-43" and "P-42", supra at notes 8 and 9, respectively.

117

Dates	Imposed Quarantine Restriction	Number of days	COVID-19-related Issuances
06 August 2021 to 20 August 2021	ECQ	15	IATF-EID Resolution No. 130-A, 29 July 2021
21 August 2021 to 31 August 2021	MECQ	11	IATF-EID Resolution No. 134, 19 August 2021
01 September 2021 to 07 September 2021	MECQ	7	IATF-EID Resolution No. 135-A, 26 August 2021
Total		**33**	

the 90-day period to act, and taking into account the additional 30 days after the lifting thereof *per* Revenue Regulations (**RR**) No. 27-20,[118] the 90-day to act now fell on **29 November 2021**. Considering that respondent issued the Denial Letter[119] on **<u>15 November 2021</u>**, respondent acted well within the extended 90-day period.

Notably, petitioner received respondent's Denial Letter on 08 March 2022. Counting thirty (30) days therefrom, petitioner had until **07 April 2022**, within which to file a judicial claim before this Court. Thus, the instant Petition for Review[120] was also seasonably filed on **<u>07 April 2022</u>**. Such being the case, the Court finds that petitioner satisfied the above-stated 3^{rd} *requisite*.

<u>FIRST (1^{ST}) REQUISITE:</u>
PETITIONER MUST BE VALUE-ADDED TAX (VAT)-REGISTERED.

Undeniably, petitioner is a VAT-registered taxpayer with TIN 000-428-573-000, as shown in its BIR COR Number OCN 127RC20220000000302.[121] Thus, petitioner complied with the 1^{st} *requisite*.

<u>SECOND (2^{ND}) REQUISITE:</u>
PETITIONER MUST BE ENGAGED IN SALES WHICH ARE ZERO-RATED OR EFFECTIVELY ZERO-RATED.

The 2^{nd} *requisite* requires that the taxpayer-claimant be engaged in zero-rated or effectively zero-rated sales.

In its Amended Quarterly VAT Returns[122] for the FY ended 31 March 2020 (*i.e.*, 01 April 2019 to 31 March 2020), petitioner reported

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118 Regulations Suspending the Filing and Ninety (90)-Day Processing of Value-Added Tax (VAT) Refund Claims Anchored Under Section 112 of the Tax Code of 1997, as Amended, in Relation to Section 4(tt) of Republic Act (R.A.) No. 11494, Otherwise Known as the "Bayanihan to Recover as One Act".

119 Exhibit "P-45"/Exhibit "R-5", supra at note 12.

120 Supra at note 1.

121 Exhibit "P-3", supra at note 5.

122 Exhibits "P-9" (1^{st} Quarter), "P-12" (2^{nd} Quarter), "P-14" (3^{rd} Quarter) and "P-16" (4^{th} Quarter), supra at note 7.

total sales/receipts of ₱39,487,739,145.01, which included zero-rated sales/receipts of ₱36,071,523,649.66, as shown below:

FY ended 31 March 2020	Vatable Sales/Receipts	Zero-Rated Sales/Receipts	Exempt Sales/Receipts	Total
1st Quarter (01 April 2019 to 30 June 2019)	₱436,041,168.21	₱8,497,940,989.66	₱123,232,791.94	₱9,057,214,949.81
2nd Quarter (01 July 2019 to 30 Sept. 2019)	647,441,279.41	8,638,231,500.95	100,062,997.03	9,385,735,777.39
3rd Quarter (01 October 2019 to 31 Dec. 2019)	1,039,831,660.62	9,587,191,611.94	196,619,345.48	10,823,642,618.04
4th Quarter (01 January 2020 to 31 Mar. 2020)	723,681,854.71	9,348,159,547.11	149,304,397.95	10,221,145,799.77
Total	**₱2,846,995,962.95**	**₱36,071,523,649.66**	**₱569,219,532.40**	**₱39,487,739,145.01**

Respondent's verification of the documents submitted by petitioner at the administrative level disclosed the following findings:[123]

...

<u>II. SALES AND OTHER INCOME</u>

...

- The basis for the claim of tax refund were anchored with the provisions of Section 106(A)(2)(a)(1)(5) and Section 108(B)(2) of the NIRC of 1997, as amended. The same were also verified as properly recorded and accounted for in the books of accounts and correctly reflected in the company's audited financial statements. Also, the term "Zero-Rated Sale" was indicated on the sales invoices and official receipts issued by the claimant for export sale of goods and services, respectively.

- However, verification of documents disclosed that certain zero-rated sales of goods and services were found not to be supported with sales invoices, official receipts, bill of ladings, proof of inward remittances and delivery receipts. Of the ₱36,071,523,649.66 zero-rated sales of goods and services, **₱14,319,506,896.70** lack sufficient documentation for zero-rating.

- Verification of its export sale of goods and services disclosed that only certain export sales were paid in acceptable foreign currency,

123 Part II, Memorandum dated 28 October 2021, Exhibit "R-3", supra at note 83, p. 943; Underscoring in the original text and emphasis supplied.

generally accounted for and inwardly remitted in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP).

- Moreover, detailed verification of inward remittances disclosed that there were unaccounted remittances from Dole Asia Holdings Pte. Ltd. Amounting to **₱442,130,205.11**, please refer on pages 574.

  Hence, input tax amounting to **<u>₱253,614,607.06</u>** was allocated together with VAT exempt sales, and deducted from the herein claim.

...

From the foregoing, out of the ₱36,071,523,649.66 total zero-rated sales reported by petitioner for FY ended 31 March 2020, respondent found that the amount of ₱14,319,506,896.70 lacked sufficient documentation to support VAT zero-rating. Respondent likewise determined that petitioner failed to declare or underdeclared zero-rated sales amounting to ₱442,130,205.11, representing unaccounted foreign currency inward remittances from Dole Asia Holdings Pte. Ltd. (**DAHPL**).[124]

We now proceed to determine whether respondent's findings are correct.

The Court-commissioned ICPA examined petitioner's supporting documents relating to disallowed zero-rated sales amounting to ₱14,319,506,896.70 and reported the following findings:

EXHIBIT REFERENCE[125]	PARTICULARS	AMOUNT OF SALES
A. DIRECT EXPORT SALES OF GOODS		
"P-116-A-1"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. ORIGINAL COPY OF BILLS OF LADING (BL) WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE; C. PROOF OF INWARD REMITTANCE	₱382,736,624.67
"P-116-A-2"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI);	42,404,289.74

[124] See Summary of Zero-Rated Sales with Insufficient Documentations, BIR Records (Exhibit "R-6"), p. 574.

[125] USB (Exhibit "P-147-B").

EXHIBIT REFERENCE[125]	PARTICULARS	AMOUNT OF SALES
	B. ORIGINAL COPY OF BILLS OF LADING (BL) WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE; C. PROOF OF INWARD REMITTANCE; D. EXPORT DECLARATION	
"P-116-A-3"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: E. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); F. CERTIFIED TRUE COPY OF BILLS OF LADING (BL) SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI; G. PROOF OF INWARD REMITTANCE	961,039,069.57
"P-116-A-4"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. CERTIFIED TRUE COPY OF BILLS OF LADING (BL) WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI; C. PROOF OF INWARD REMITTANCE	551,361,694.60
"P-116-A-5"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. CERTIFIED TRUE COPY OF BILLS OF LADING (BL) WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE; C. PROOF OF INWARD REMITTANCE; D. EXPORT DECLARATION	19,335,738.28
"P-116-A-6"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. ORIGINAL COPY OF BILLS OF LADING (BL) WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE; C. PROOF OF INWARD REMITTANCE	342,316,356.61
"P-116-A-7"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. ORIGINAL COPY OF BILLS OF LADING (BL) WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE; C. PROOF OF INWARD REMITTANCE; D. EXPORT DECLARATION	3,804,754.17
"P-116-A-8"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. CERTIFIED TRUE COPY OF BILLS OF LADING (BL) WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE; C. PROOF OF INWARD REMITTANCE	149,791,075.38
"P-116-A-9"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. CERTIFIED TRUE COPY OF BILLS OF LADING (BL) WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE; C. PROOF OF INWARD REMITTANCE; D. EXPORT DECLARATION	4,168,347.40
"P-116-A-10"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI);	468,883.57

EXHIBIT REFERENCE[125]	PARTICULARS	AMOUNT OF SALES
	B. CERTIFIED TRUE COPY OF BILLS OF LADING (BL) SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE; C. PROOF OF INWARD REMITTANCE	
"P-116-A-11"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. CERTIFIED TRUE COPY OF BILLS OF LADING (BL) SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE; C. PROOF OF INWARD REMITTANCE; D. EXPORT DECLARATION	2,158,655.30
"P-116-A-12"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE; C. PROOF OF INWARD REMITTANCE	3,935,170,818.29
"P-116-A-13"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE; C. PROOF OF INWARD REMITTANCE; D. EXPORT DECLARATION	25,174,941.15
"P-116-A-14"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. CERTIFIED TRUE COPY OF BILLS OF LADING (BL) SUPPORTED BY DULY NOTARIZED SHIPPING LINE CERTIFICATION SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE; C. PROOF OF INWARD REMITTANCE D. EXPORT DECLARATION	5,443,009.46
"P-116-A-15"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. ORIGINAL COPY OF BILLS OF LADING (BL) WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI AND DATED ON OR AFTER THE SI DATE BUT WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO BL NUMBER INDICATED PER VAT ZERO-RATED SI; C. PROOF OF INWARD REMITTANCE	1,286,738.16
"P-116-A-16"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE BUT WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO BL NUMBER INDICATED PER VAT ZERO-RATED SI;	62,670,083.48

EXHIBIT REFERENCE[125]	PARTICULARS	AMOUNT OF SALES
	C. PROOF OF INWARD REMITTANCE	
"P-116-A-17"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE BUT WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO BL NUMBER INDICATED PER VAT ZERO-RATED SI; C. PROOF OF INWARD REMITTANCE; D. EXPORT DECLARATION	1,124,078.65
"P-116-A-18"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE; C. PROOF OF INWARD REMITTANCE	3,896,031,080.83
"P-116-A-19"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE; C. PROOF OF INWARD REMITTANCE; D. EXPORT DECLARATION	54,169,459.96
"P-116-A-20"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE; C. PROOF OF INWARD REMITTANCE	18,079,529.96
"P-116-A-21"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE; C. PROOF OF INWARD REMITTANCE; D. EXPORT DECLARATION	21,297,962.50
"P-116-A-22"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) WHICH MATCHES THE BL REFERENCE NUMBER INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE BUT WITH DIFFERENCE ON THE QUANTITY COMPARED TO THE VAT ZERO-RATED SI; C. PROOF OF INWARD REMITTANCE	4,188,109.14
"P-116-A-23"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE; C. PROOF OF INWARD REMITTANCE	4,237,166.56

EXHIBIT REFERENCE[125]	PARTICULARS	AMOUNT OF SALES
"P-116-A-24"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE; C. PROOF OF INWARD REMITTANCE; D. EXPORT DECLARATION	327,997.49
"P-116-A-25"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE BUT WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO BL NUMBER INDICATED PER VAT ZERO-RATED SI; C. PROOF OF INWARD REMITTANCE	2,321,664.93
"P-116-A-26"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI BUT WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO THE VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE; C. PROOF OF INWARD REMITTANCE	56,964,652.96
"P-116-A-27"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI BUT WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO THE VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE; C. PROOF OF INWARD REMITTANCE D. EXPORT DECLARATION	4,579,093.13
"P-116-A-28"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS DATED WITHIN THE COVERED PERIOD WITHOUT BIR-REGISTERED VAT ZERO-RATED SALES INVOICES, BILLS OF LADING, DEBIT/CREDIT MEMO, PROOF OF INWARD REMITTANCE AND EXPORT DECLARATION.	1,151.07
"P-116-A-29"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PROOF OF INWARD REMITTANCE	11,142,935.94
"P-116-A-30"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PROOF OF INWARD REMITTANCE; C. EXPORT DECLARATION	15,584,130.50
"P-116-A-31"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. UNREADABLE COPY OF BILLS OF LADING (BL); C. PROOF OF INWARD REMITTANCE	10,453,472.55
"P-116-A-32"	TRANSFER PRICING ADJUSTMENTS SUPPORTED BY BIR-REGISTERED DEBIT/CREDIT MEMO	3,596,511,672.92
"P-116-A-33"	VAT ZERO-RATED SALES OF GOODS TO SBMA-REGISTERED ENTERPRISES CUSTOMERS ENJOYING VAT ZERO-RATING INCENTIVE ON THEIR PURCHASES DATED OUTSIDE THE COVERED PERIOD SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. COPY OF CERTIFICATE OF VAT ZERO RATING FROM BOI	355,831.20

EXHIBIT REFERENCE[125]	PARTICULARS	AMOUNT OF SALES
	WITHOUT DELIVERY RECEIPTS	
"P-116-A-34"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHERE THE AMOUNT BEING CLAIMED IS HIGHER THAN THE AMOUNT PER DOCUMENT SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. BILLS OF LADING (BL) WHEREIN DETAILS SUCH AS BL REFERENCE NUMBER AND QUANTITY CANNOT BE ASCERTAINED; C. PROOF OF INWARD REMITTANCE	958,301.36
"P-116-A-35"	TRANSFER PRICING ADJUSTMENTS WITHOUT SUPPORTING DOCUMENT (I.E., BIR-REGISTERED DEBIT/CREDIT MEMO)	6,994.17
"P-116-A-36"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS SUPPORTED BY BIR-REGISTERED DEBIT/CREDIT MEMO CERTIFIED AS TRUE COPY BY THE PETITIONER	8,861.87
"P-116-A-37"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) CERTIFIED AS TRUE COPY AND SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE IN WET INK WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE BUT WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO BL NUMBER INDICATED PER VAT ZERO-RATED SI; C. PROOF OF INWARD REMITTANCE; D. SHIPPING LINE CERTIFICATION	1,956,869.30
"P-116-A-38"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. CERTIFIED TRUE COPY OF BILLS OF LADING (BL) WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI AND DATED ON OR AFTER THE SI DATE BUT WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO BL NUMBER INDICATED PER VAT ZERO-RATED SI; C. PROOF OF INWARD REMITTANCE D. SHIPPING LINE CERTIFICATION	9,403,025.53
"P-116-A-39"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) CERTIFIED AS TRUE COPY AND SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE IN WET INK WHICH MATCHES THE BL REFERENCE NUMBER INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE BUT WITH DIFFERENCE ON THE QUANTITY COMPARED TO TE VAT ZERO-RATED SI; C. PROOF OF INWARD REMITTANCE	978,100.66
"P-116-A-40"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) CERTIFIED AS TRUE COPY SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI BUT WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO THE VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE; C. PROOF OF INWARD REMITTANCE	1,113,577.69
"P-116-A-41"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) WHICH MATCHES THE BL REFERENCE NUMBER BUT WITH DIFFERENT QUANTITY INDICATED PER VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE; C. PROOF OF INWARD REMITTANCE D. EXPORT DECLARATION	86,842.13

EXHIBIT REFERENCE[125]	PARTICULARS	AMOUNT OF SALES
"P-116-A-42"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. CERTIFIED TRUE COPY OF BILLS OF LADING (BL) SUPPORTED BY CERTIFICATION FROM THE SHIPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI; C. PROOF OF INWARD REMITTANCE	7,720,410.43
"P-116-A-43"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) SUPPORTED BY CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE; C. PROOF OF INWARD REMITTANCE	19,176,847.42
"P-116-A-44"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) SUPPORTED BY CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE; C. PROOF OF INWARD REMITTANCE; D. EXPORT DECLARATION	1,381,273.59
"P-116-A-45"	VAT ZERO-RATED SALES OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) SUPPORTED BY CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE BUT WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO BL NUMBER INDICATED PER VAT ZERO-RATED SI; C. PROOF OF INWARD REMITTANCE	2,112,313.03
"P-116-A-46"	VAT ZERO-RATED SALES OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE BL REFERENCE NUMBER AND QUANTITY INDICATED PER VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE; C. PROOF OF INWARD REMITTANCE	728,294.43
	Subtotal	₱14,232,332,781.73
B. INDIRECT EXPORT SALES OF GOODS AND SERVICES		
"P-116-A-47"	VAT ZERO-RATED SALES OF GOODS TO DOMESTIC CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. DELIVERY RECEIPTS; C. VAT ZERO-RATING CERTIFICATES WHICH I VIEWED IN THE BIR ORIGINAL ADMIN CLAIM DOCKET	₱628,134.84
"P-116-A-48"	VAT ZERO-RATED SALES OF GOODS TO DOMESTIC CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. VAT ZERO-RATING CERTIFICATES WHICH I VIEWED IN THE BIR ORIGINAL ADMIN CLAIM DOCKET	7,189,336.50
"P-116-A-49"	VAT ZERO-RATED SALES OF GOODS TO DOMESTIC CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. DELIVERY RECEIPTS;	473,707.00

EXHIBIT REFERENCE[125]	PARTICULARS	AMOUNT OF SALES
	C. VAT ZERO-RATING CERTIFICATES	
"P-116-A-50"	VAT ZERO-RATED SALES OF GOODS TO DOMESTIC CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. VAT ZERO-RATING CERTIFICATES	6,043,893.06
"P-116-A-51"	VAT ZERO-RATED SALES OF SERVICES TO A DOMESTIC CORPORATION WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED OFFICIAL RECEIPTS (OR); B. BOI CERTIFICATION	808,842.70
	Subtotal	***₱15,143,914.10***
C. SERVICES RENDERED TO NON-RESIDENT FOREIGN CORPORATIONS		
"P-116-A-51"	VAT ZERO-RATED SALE OF SERVICES TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED OFFICIAL RECEIPTS (OR); B. PHOTOCOPIES OF CERTIFICATE OF NON-REGISTRATION OF CORPORATION/ PARTNERSHIP ISSUED BY SEC DULY CERTIFIED BY AMELITA A. ESCOBER, VAT CREDIT AUDIT DIVISION CHIEF; C. PROOF OF INWARD REMITTANCE	₱6,748,806.59
"P-116-A-52"	VAT ZERO-RATED SALE OF SERVICES TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. SALES INVOICE BUT WITH NO ZERO-RATED STAMP B. PRINTED BILL OF LADING C. VAT ZERO-RATED OFFICIAL RECEIPT OR COLLECTION RECEIPT D. PROOF OF INWARD REMITTANCE	58,876,063.93
	Subtotal	***₱65,624,870.52***
"P-116-A-52" and "P-116-A-54"	No supporting documents presented	6,405,330.37
	Total	₱14,319,506,896.72

a. Disallowed Unsupported Zero-Rated Sales

The Court sustains respondent's disallowance of petitioner's claimed zero-rated sales amounting to ₱6,405,330.37 because petitioner failed to present any supporting documents for these transactions.

b. Disallowed Direct Export Sales of Goods

With respect to the disallowed direct export sales of goods amounting to ₱14,232,332,781.73, Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, provides as follows:

> ...
>
> SEC. **106**. *Value-Added Tax on Sale of Goods or Properties.* —
>
> (A) *Rate and Base of Tax.* — ...
>
> ...

(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

(a) *Export Sales*. — The term '*export sales*' means:

(1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)[.]

...

Based on the foregoing, for an export sale to qualify as VAT zero-rated, the following conditions must be complied with:

1. There was sale and actual shipment of goods from the Philippines to a foreign country;

2. The sale was made by a VAT-registered person;

3. The sale was paid for in acceptable foreign currency or its equivalent in goods and services, accounted for in accordance with the rules and regulations of the BSP.

Corollary to the *1st requisite*, Section 113 of the NIRC of 1997, as amended, requires a VAT-registered taxpayer, such as petitioner, to issue a VAT sales invoice (**SI**) for every sale, barter, or exchange of goods or properties, which must contain the following information:

...

SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* —

(A) *Invoicing Requirements.* — A VAT-registered person shall issue:

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

(2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.

(B) *Information Contained in the VAT Invoice or VAT Official Receipt.* — The following information shall be indicated in the VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided,* That:

(a) The amount of the tax shall be shown as a separate item in the invoice or receipt;

(b) If the sale is exempt from value-added tax, the term '**VAT-exempt sale**' shall be written or printed prominently on the invoice or receipt;

(c) If the sale is subject to zero percent (0%) value-added tax, the term '**zero-rated sale**' shall be written or printed prominently on the invoice or receipt;

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: *Provided,* That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

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

(4) In the case of sales in the amount of One thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client.[126]

...

Implementing the foregoing provision, Section 4.113-1 of RR No. 16-2005[127] provides as follows:

[126] Emphasis supplied and italics in the original text.

[127] Consolidated Value-Added Tax Regulations of 2005.

...

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

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

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

(2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.

Only VAT-registered persons are required to print their TIN followed by the word "VAT" in their invoice or official receipts. Said documents shall be considered as a "VAT Invoice" or "VAT official receipt". All purchases covered by invoices/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

VAT invoice/official receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records.

(B) *Information contained in VAT invoice or VAT official receipt.* — The following information shall be indicated in VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his TIN;

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; *Provided*, That:

(a) The amount of tax shall be shown as a separate item in the invoice or receipt;

(b) If the sale is exempt from VAT, the term "VAT-exempt sale" shall be written or printed prominently on the invoice or receipt;

(c) If the sale is subject to zero percent (0%) VAT, the term "zero-rated sale" shall be written or printed prominently on the invoice or receipt;

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or

> receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.
>
> (3) In the case of sales in the amount of one thousand peso (₱1,000.00) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and TIN of the purchaser, customer or client, shall be indicated in addition to the information required in (1) and (2) of this Section.
>
> ...

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

> ...
>
> SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* — All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, <u>issue duly registered</u> receipts or <u>sales</u> or <u>commercial</u> <u>invoices</u>, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service.
>
> ...
>
> SEC. 238. *Printing of Receipts or Sales or Commercial Invoices.* — All persons who are engaged in business shall secure from the Bureau of Internal Revenue an authority to print receipts or sales or commercial invoices before a printer can print the same
>
> No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.[128]
>
> ...

Applying the foregoing provisions, a VAT-registered person, such as petitioner, who claims VAT zero-rated direct export sales must present at least three (3) types of documents:

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128 Italics in the original text and underscoring supplied.

1. the SI as proof of sale of goods;

2. the bill of lading (**BL**) or airway bill (**AWB**) as proof of actual shipment of goods from the Philippines to a foreign country; and

3. the bank credit advice, certificate of bank remittance, or any other document proving payment of goods in acceptable foreign currency or its equivalent in goods and services, duly accounted for in accordance with BSP rules and regulations. Consequently, only the direct export sales supported by these documents shall qualify for VAT zero-rating under Section 106(A)(2)(a)(1)[129] of the NIRC of 1997, as amended.

Upon a review of the ICPA report, out of the ₱14,232,332,781.73 direct export sales disallowed by respondent, the amount of ₱10,448,880,112.56[130] is properly substantiated and qualifies for VAT zero-rating under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended. Only the remaining amount of ₱3,783,452,669.17 should be denied VAT zero-rating, as detailed below:

EXHIBIT REFERENCE	PARTICULARS	AMOUNT OF SALES
"P-116-A-15"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. ORIGINAL COPY OF BILLS OF LADING (BL) WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI AND DATED ON OR AFTER THE SI DATE BUT **WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO BL NUMBER INDICATED PER VAT ZERO-RATED SI**; C. PROOF OF INWARD REMITTANCE	₱1,286,738.16
"P-116-A-16"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR- REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE BUT **WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO BL NUMBER INDICATED PER VAT ZERO-RATED SI**; C. PROOF OF INWARD REMITTANCE	62,670,083.48
"P-116-A-17"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED	1,124,078.65

[129] Supra at pp. 30-31.

[130] Sum total of Exhibits "P-116-A-1" to "P-116-A-14", "P-116-A-18" to "P-116-A-21", "P-116-A-23", "P-116-A-24", "P-116-A-33", "P-116-A-42" to "P-116-A-44", and "P-116-A-46".

EXHIBIT REFERENCE	PARTICULARS	AMOUNT OF SALES
	REPRESENTATIVE WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE BUT **WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO BL NUMBER INDICATED PER VAT ZERO-RATED SI**; C. PROOF OF INWARD REMITTANCE; D. EXPORT DECLARATION	
"P-116-A-22"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) WHICH MATCHES THE BL REFERENCE NUMBER INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE BUT **WITH DIFFERENCE ON THE QUANTITY COMPARED TO THE VAT ZERO-RATED SI**; C. PROOF OF INWARD REMITTANCE	4,188,109.14
"P-116-A-25"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE BUT **WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO BL NUMBER INDICATED PER VAT ZERO-RATED SI**; C. PROOF OF INWARD REMITTANCE	2,321,664.93
"P-116-A-26"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI BUT **WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO THE VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE**; C. PROOF OF INWARD REMITTANCE	56,964,652.96
"P-116-A-27"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI BUT **WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO THE VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE**; C. PROOF OF INWARD REMITTANCE; D. EXPORT DECLARATION	4,579,093.13
"P-116-A-28"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS DATED WITHIN THE COVERED PERIOD **WITHOUT BIR-REGISTERED VAT ZERO-RATED SALES INVOICES, BILLS OF LADING, DEBIT/CREDIT MEMO, PROOF OF INWARD REMITTANCE AND EXPORT DECLARATION**.	1,151.07
"P-116-A-29"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PROOF OF INWARD REMITTANCE	11,142,935.94
"P-116-A-30"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PROOF OF INWARD REMITTANCE; C. EXPORT DECLARATION	15,584,130.50
"P-116-A-31"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. **UNREADABLE COPY OF BILLS OF LADING (BL)**; C. PROOF OF INWARD REMITTANCE	10,453,472.55
"P-116-A-32"	TRANSFER PRICING ADJUSTMENTS SUPPORTED BY BIR-REGISTERED DEBIT/CREDIT MEMO	3,596,511,672.92
"P-116-A-34"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHERE THE AMOUNT BEING CLAIMED IS HIGHER THAN THE AMOUNT PER DOCUMENT SUPPORTED BY:	958,301.36

EXHIBIT REFERENCE	PARTICULARS	AMOUNT OF SALES
	A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. **BILLS OF LADING (BL) WHEREIN DETAILS SUCH AS BL REFERENCE NUMBER AND QUANTITY CANNOT BE ASCERTAINED**; C. PROOF OF INWARD REMITTANCE	
"P-116-A-35"	TRANSFER PRICING ADJUSTMENTS WITHOUT SUPPORTING DOCUMENT (I.E., BIR-REGISTERED DEBIT/CREDIT MEMO)	6,994.17
"P-116-A-36"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS SUPPORTED BY BIR-REGISTERED DEBIT/CREDIT MEMO CERTIFIED AS TRUE COPY BY THE PETITIONER	8,861.87
"P-116-A-37"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR- REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) CERTIFIED AS TRUE COPY AND SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE IN WET INK WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE BUT **WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO BL NUMBER INDICATED PER VAT ZERO-RATED SI**; C. PROOF OF INWARD REMITTANCE; D. SHIPPING LINE CERTIFICATION	1,956,869.30
"P-116-A-38"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. CERTIFIED TRUE COPY OF BILLS OF LADING (BL) WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI AND DATED ON OR AFTER THE SI DATE BUT **WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO BL NUMBER INDICATED PER VAT ZERO-RATED SI**; C. PROOF OF INWARD REMITTANCE; D. SHIPPING LINE CERTIFICATION	9,403,025.53
"P-116-A-39"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR- REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) CERTIFIED AS TRUE COPY AND SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE IN WET INK WHICH MATCHES THE BL REFERENCE NUMBER INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE SI DATE BUT **WITH DIFFERENCE ON THE QUANTITY COMPARED TO TE VAT ZERO-RATED SI**; C. PROOF OF INWARD REMITTANCE	978,100.66
"P-116-A-40"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR- REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) CERTIFIED AS TRUE COPY SUPPORTED BY DULY NOTARIZED CERTIFICATION FROM THE SHIPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI BUT **WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO THE VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE**; C. PROOF OF INWARD REMITTANCE	1,113,577.69
"P-116-A-41"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR-REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) WHICH MATCHES THE BL REFERENCE NUMBER BUT **WITH DIFFERENT QUANTITY INDICATED PER VAT ZERO-RATED SI DATED EARLIER THAN THE SI DATE**; C. PROOF OF INWARD REMITTANCE; D. EXPORT DECLARATION	86,842.13
"P-116-A-45"	VAT ZERO-RATED SALE OF GOODS TO NON-RESIDENT FOREIGN CORPORATIONS WHICH ARE SUPPORTED BY: A. BIR- REGISTERED VAT ZERO-RATED SALES INVOICES (SI); B. PRINTED COPY OF BILLS OF LADING (BL) SUPPORTED BY CERTIFICATION FROM THE SHIPPPING LINE SIGNED BY THE SHIPPING LINE'S AUTHORIZED REPRESENTATIVE WHICH MATCHES THE QUANTITY INDICATED PER VAT ZERO-RATED SI DATED ON OR AFTER THE	2,112,313.03

EXHIBIT REFERENCE	PARTICULARS	AMOUNT OF SALES
	SI DATE BUT <u>WITH DIFFERENT OR MISSING BL REFERENCE NUMBER COMPARED TO BL NUMBER INDICATED PER VAT ZERO-RATED SI</u>; C. PROOF OF INWARD REMITTANCE	
Total		₱3,783,452,669.17

c. *Disallowed Indirect Export Sales of Goods and Services*

As regards the disallowed indirect export sales amounting to ₱15,143,914.10, records show that these transactions involve packaging materials sold to the following entities registered with the Board of Investments (**BOI**) and Subic Bay Metropolitan Authority (**SBMA**), as well as shipping services rendered to a BOI-registered entity:

Exhibit Reference	Customer	Amount of Sales
Sales of packaging materials to BOI-registered entities		
"P-116-47" and "P-116-48"	CENTURY PACIFIC AGRICULTURAL VENTURES, INC.	₱5,442,768.96
"P-116-48"	PHIL. BEST CANNING CORPORATION	2,374,702.38
"P-116-49" and "P-116-50"	GENERAL TUNA CORPORATION	3,477,435.88
"P-116-49" and "P-116-50"	WELL-DELIGHT NETWORK CORP	396,897.74
	Subtotal	***₱11,691,804.96***
Sales of packaging materials to an SBMA-registered entity		
"P-116-50"	GEM FOODS INTERNATIONAL INC.	₱2,643,266.44
	Subtotal	***₱2,643,266.44***
Sales of services to a BOI-registered 100% exporter		
"P-116-51"	DIAMOND STAR AGRO PRODUCTS, INC.	₱808,842.70
	Subtotal	***₱808,842.70***
	Total	**₱15,143,914.10**

i. *Disallowed Indirect Export Sales of Goods to BOI-registered Entities*

As to petitioner's claimed zero-rated sales of packaging materials to BOI-registered entities, Section 106(A)(2)(a)(3) of the NIRC of 1997, as amended, provides as follows:

...

SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* —

(A) *Rate and Base of Tax.* — ...

...

(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

(a) *Export Sales.* — The term '**export sales**' means:

...

(3) Sale of raw materials or packaging materials to export-oriented enterprise whose export sales exceed seventy percent (70%) of total annual production[.][131]

...

Based on the foregoing, a sale of goods to an export-oriented enterprise whose export sales exceed seventy percent (70%) of total annual production qualifies as a zero-rated sale only if following essential elements are present:

1. the sale was made by a VAT-registered person;

2. the buyer must be considered as an export-oriented enterprise; and,

3. the goods sold must be used as raw materials or packaging materials for the goods exported by the export-oriented enterprise.

As for the 1st essential element, it is settled that petitioner is a VAT-registered person as previously discussed.

In relation to the 2nd essential element, Section 4.106-5(a)(3) of RR No. 16-2005[132] provides that "[a]ny enterprise whose **export sales exceed 70% of the total annual production of the preceding taxable year** shall be considered an export-oriented enterprise."

Petitioner presented the respective BOI Certifications attesting that the above-mentioned customers are BOI-registered and maintain the following percentages of export sales relative to total sales:

[131] Emphasis supplied and italics in the original text.
[132] Supra at note 127.

Exhibit Reference	Export-Oriented Enterprise	Percentage of Export Sales to Total Sales	Period When Export Sales Were Made
"P-138-8", p. 2	CENTURY PACIFIC AGRICULTURAL VENTURES, INC.	80.89%	01 January 2018 to 31 December 2018
"P-138-8", p. 5		88.37%	01 January 2019 to 31 December 2019
"P-138-10", p. 9	GENERAL TUNA CORPORATION	100%	01 January 2018 to 31 December 2018
"P-138-10", p. 13		100%	01 January 2019 to 31 December 2019
"P-138-11", p. 2	PHIL. BEST CANNING CORPORATION	95.70%	01 January 2018 to 31 December 2018
"P-138-11", p. 5		95.12%	01 January 2019 to 31 December 2019
"P-138-12", p. 2	WELL-DELIGHT NETWORK CORPORATION	100%	01 January 2018 to 31 December 2018

Based on the information reflected in the BOI Certifications, export sales of the aforementioned entities exceeded 70% of their total production in 2018 and 2019, which are **the taxable years preceding the FY ended 31 March 2020, the period covered by the instant refund claim**. These entities therefore qualify as export-oriented enterprises, thereby satisfying the 2nd essential element.

However, petitioner failed to present any BOI Certification for its customer, "Well-Delight Network Corp.", covering its export sales for the year 2019. Consequently, petitioner's claimed zero-rated sales to Well-Delight Network for the year 2020 amounting to ₱24,167.00[133] shall be disallowed.

Lastly, with respect to the 3rd essential element, a VAT-registered person claiming VAT zero-rated sales of goods to an export-oriented enterprise whose export sales exceed 70% of total annual production must present the following requirements:

1. the SI as proof of sale of goods; and,

2. proof that the goods sold are used as raw materials or packaging materials for the goods ultimately exported by the export-oriented enterprise.

[133] Exhibit "P-116-1367A", USB (Exhibit "P-147-B").

In the instant case, petitioner presented the related SIs,[134] which the Court found to be compliant with the invoicing requirements. Moreover, descriptions of the goods sold as indicated in the SIs show that the transactions involve packaging materials, thereby satisfying the 2nd requirement under the 3rd essential element.

In sum, out of the claimed amount of ₱11,691,804.96 representing sales of packaging materials to BOI-registered entities, only ₱11,667,637.76 *(₱11,691,804.96 less ₱24,167.00)* qualifies for VAT zero-rating under Section 106(A)(2)(a)(3)[135] of the NIRC of 1997, as amended.

i. Disallowed Indirect Export Sales of Goods to an SBMA-registered Entity

With respect to the disallowed indirect export sales of goods to an SBMA-registered entity amounting to ₱2,643,266.44, Section 106(A)(2)(a)(5)(c) of the NIRC of 1997, as amended, states:

> ...
>
> **SEC. 106.** *Value-Added Tax on Sale of Goods or Properties.* —.
>
> (A) *Rate and Base of Tax.* — ...
>
> ...
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (a) *Export Sales.* — The term '**export sales**' means:
>
> ...
>
> (5) Those **considered export sales** under Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, and **other special laws.**
>
> ...
>
> (c) Sales to persons or entities whose exemption **under special laws** or international agreements to which the Philippines is a signatory effectively subjects such sales to zero rate.[136]
>
> ...

134 Exhibits "P-116-1282A" to "P-116-1449A", id.
135 Supra at pp. 38-39.
136 Emphasis supplied and italics in the original text.

In connection therewith, the special law applicable to this case is RA 7227,[137] as amended by RA 9400,[138] otherwise known as the Bases Conversion and Development Act of 1992. Relevant portions of this law are quoted below for ready reference:

> ...
>
> SEC. 12. *Subic Special Economic Zone.* — ...
>
> (b) **The Subic Special Economic Zone shall be operated and managed as a separate customs territory** ensuring free flow or movement of goods and capital within, into and exported out of the Subic Special Economic Zone, as well as provide incentives such as tax and duty-free importations of raw materials, capital and equipment. However, exportation or removal of goods from the territory of the Subic Special Economic Zone to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Tariff and Customs Code of the Philippines, as amended, the National Internal Revenue Code of 1997, as amended, and other relevant tax laws of the Philippines.
>
> (c) **The provision of existing laws, rules and regulations to the contrary notwithstanding, no national and local taxes shall be imposed within the Subic Special Economic Zone.** In lieu of said taxes, a five percent (5%) tax on gross income earned shall be paid by all business enterprises within the Subic Special Economic Zone and shall be remitted as follows: three percent (3%) of the National Government, and two percent (2%) to the Subic Bay Metropolitan Authority (SBMA) for distribution to the local government units affected by the declaration of and contiguous to the zone[.][139]
>
> ...

Since the ecozone is viewed as a foreign territory by legal fiction, sales of goods and services made by a VAT-registered person in the Philippine customs territory to an entity registered and operating within the ecozone are considered exports to a foreign country subject to 0% VAT. In the case of *Commissioner of Internal Revenue v. Toshiba Information Equipment (Phils.), Inc.,*[140] the Supreme Court elucidated thusly —

---

137 AN ACT ACCELERATING THE CONVERSION OF MILITARY RESERVATIONS INTO OTHER PRODUCTIVE USES, CREATING THE BASES CONVERSION AND DEVELOPMENT AUTHORITY FOR THE PURPOSE, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES.

138 AN ACT AMENDING REPUBLIC ACT NO. 7227, AS AMENDED, OTHERWISE KNOWN AS THE BASES CONVERSION AND DEVELOPMENT ACT OF 1992, AND FOR OTHER PURPOSES.

139 Emphasis supplied and italics in the original text.

140 G.R. No. 150154, 09 August 2005; Citations omitted and emphasis supplied.

...

This Court agrees, however, **that PEZA-registered enterprises, which would necessarily be located within ECOZONES, are VAT-exempt entities**, not because of Section 24 of Rep. Act No. 7916, as amended, which imposes the five percent (5%) preferential tax rate on gross income of PEZA-registered enterprises, in lieu of all taxes; but, rather, **because of Section 8 of the same statute which establishes the fiction that ECOZONES are foreign territory**.

... An ECOZONE or a Special Economic Zone has been described as —

> ... [S]elected areas with highly developed or which have the potential to be developed into agro-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers whose metes and bounds are fixed or delimited by Presidential Proclamations. An ECOZONE may contain any or all of the following: industrial estates (IEs), export processing zones (EPZs), free trade zones and tourist/recreational centers.

The national territory of the Philippines outside of the proclaimed borders of the ECOZONE shall be referred to as the Customs Territory.

Section 8 of Rep. Act No. 7916, as amended, mandates that the PEZA shall manage and operate the ECOZONES as a separate customs territory; thus, creating the fiction that the ECOZONE is a foreign territory. As a result, sales made by a supplier in the Customs Territory to a purchaser in the ECOZONE shall be treated as an exportation from the Customs Territory. Conversely, sales made by a supplier from the ECOZONE to a purchaser in the Customs Territory shall be considered as an importation into the Customs Territory.

Given the preceding discussion, what would be the VAT implication of sales made by a supplier from the Customs Territory to an ECOZONE enterprise?

The Philippine VAT system adheres to the Cross Border Doctrine, according to which, no VAT shall be imposed to form part of the cost of goods destined for consumption outside of the territorial border of the taxing authority. Hence, actual export of goods and **services from the Philippines to a foreign country must be free of VAT**; while, those destined for use or consumption within the Philippines shall be imposed with ten percent (10%)[141] VAT.[142]

...

Evidently, sales of goods and services by a VAT-registered taxpayer, such as petitioner, to entities located in ecozones qualify as export sales subject to 0% VAT rate pursuant to Section 106(A)(2)(a)(5) and (c)[143] of the NIRC of 1997, as amended.

Here, petitioner presented the Certificate of Registration and Tax Exemption (**CRTE**) dated 09 October 2018[144] issued by the SBMA proving that "Gem Foods International Inc." (**GFII**), is duly registered as a Subic Bay Freeport Enterprise with Permit to Operate at Suite 26, West Gate Offices, Central Business District, Subic Bay Freeport Zone (**SBFZ**).

Thus, petitioner's sales to GFII for the subject period covered by the refund claim, amounting to ₱2,643,266.44, and duly supported by SIs[145] compliant with the invoicing requirements, qualify for VAT zero-rating under Section 106(A)(2)(a)(5) and (c)[146] of the NIRC of 1997, as amended.

ii. Disallowed Indirect Export Sales of Services to a BOI-registered 100% Exporter

With respect to petitioner's claimed sales of services to a BOI-registered 100% exporter amounting to ₱808,842.70, Section 4.106-5(a)(5) of RR No. 16-2005[147] provides that "sales of goods, properties or *services* made by a VAT-registered supplier to a BOI-registered manufacturer/producer **whose products are 100% exported** are *considered export sales*. A certification to this effect must be issued by

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141 Now at 12% VAT rate.
142 Emphasis supplied.
143 Supra at p. 41.
144 Exhibit "P-138-9", USB (Exhibit "P-147-B").
145 Exhibits "P-116-1370A" to "P-116-1372A", "P-116-1376A", "P-116-1379A", "P-116-1380A", P-116-1384A" to "P-116-1387A", "P-116-1393A", "P-116-1396A", "P-116-1411A" to "P-116-1449A", id.
146 Supra at p. 41.
147 Supra at note 127.

the [BOI] which shall be good for one year unless subsequently re-issued by the BOI."

In *Commissioner of Internal Revenue v. Filminera Resources Corporation*[148] (**Filminera**), the Supreme Court ruled that sales made to a BOI-registered buyer are export sales subject to the 0% rate if the following conditions are met:

1. the buyer is a BOI-registered manufacturer/producer;

2. the buyer's products are 100% exported; and

3. the BOI certified that the buyer exported 100% of its products. For this purpose, the BOI Certification is vital for the seller-taxpayer to avail of the benefits of zero-rating. The certification is evidence that the buyer exported its entire products and shall serve as authority for the seller to claim for refund or tax credit.

In this case, petitioner submitted a BOI Certification confirming that "Diamond Star Agro Products, Inc." is registered with the BOI and exported 100% of its products in the years 2018, 2019 and 2020.[149] Accordingly, petitioner's sales of services to the said entity for the subject period of claim, amounting to ₱808,842.70 and duly supported by VAT ORs compliant with invoicing requirements, qualify for VAT zero-rating.

j. Disallowed Zero-Rated Sales of Services to NRFCs

With regard to respondent's disallowance of petitioner's claimed zero-rated sales of services to nonresident foreign corporations (**NRFCs**) amounting to ₱65,624,870.52, Section 108(B)(2) of the NIRC of 1997, as amended, provides as follows:

...

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

[148] G.R. No. 236325, 16 September 2020.

[149] Exhibit "P-138-1", USB (Exhibit "P-147-B").

...

> (B) *Transactions Subject to Zero Percent (0%) Rate.* — **The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:**
>
> > (1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
> >
> > (2) **Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)**[.][150]

...

Based on the foregoing, in order for a sale or supply of services to qualify as zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the following *essential elements* must be present:

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;[151]

2. The services fall under any of the categories under Section 108 (B)(2),[152] or simply, the services rendered should be other than "processing, manufacturing or repacking goods";[153]

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150 Emphasis supplied and italics in the original text.

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

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

153 *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra at note 151.

3. The service must be performed in the Philippines by a VAT-registered person;[154] and,

4. The payment was accounted for in accordance with the rules and regulations of the BSP.[155]

Anent the 1st essential element, this Court has consistently ruled in a number of cases[156] that to be considered as an NRFC doing business outside the Philippines, such must be proven by presenting, for each corporation involved, at the very least, **both** the Securities and Exchange Commission (**SEC**)-issued "Certification of Non-Registration of Company" **and** the proof of incorporation or registration in a foreign country (*i.e.*, "Certificate/Articles of Incorporation/Association"), and that there is no other indication which would disqualify said entity in being classified as an NRFC.

In *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*,[157] the Supreme Court affirmed the necessity of presenting the said documents in this wise:

> ...
>
> **For purposes of zero-rating under Section 108(B)(2) of the Tax Code, the claimant must establish the two components of a client's NRFC status, *viz.*: (1) that their client was established under the laws of a country not the Philippines or, simply, is not a domestic corporation; and (2) that it is not engaged in trade or business in the Philippines. To be sure, there must be sufficient proof of *both* of these components: showing not only that the clients are foreign corporations, but also are not doing business in the Philippines.**

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154 Id.; *Commissioner of Internal Revenue v. American Express International, Inc. (Philippine Branch)*, supra at note 152.

155 Id.

156 *NCR Cebu Development Center, Inc. v. Commissioner of Internal Revenue*, CTA Case No. 9255, 04 April 2019; *Deutsche Knowledge Services Pte. Ltd. v. Commissioner of Internal Revenue*, CTA Case No. 9079, 09 January 2018; *Deutsche Knowledge Services Pte. Ltd. v. Commissioner of Internal Revenue*, CTA Case No. 8065, 20 September 2017; *Deutsche Knowledge Services Pte. Ltd. v. Commissioner of Internal Revenue*, CTA Case Nos. 8623, 8656, 8661 and 8685, 04 August 2017; *Emerson Electric (Asia) Limited-ROHQ v. Commissioner of Internal Revenue*, CTA Case No. 8657, 21 December 2016; *Procter & Gamble Asia, Pte. Ltd. v. Commissioner of Internal Revenue*, CTA Case No. 7820, 22 June 2016; *Deutsche Knowledge Services Pte. Ltd. v. Commissioner of Internal Revenue*, CTA Case No. 7808, 16 December 2014 affirmed *in toto* by the CTA *En Banc* on 16 August 2016 in CTA EB No. 1290.

157 G.R. No. 234445, 15 July 2020; Citations omitted, italics in the original text and emphasis supplied.

Such proof must be especially required from ROHQs such as DKS. That the law expressly authorizes ROHQs to render services to local and foreign affiliates alike only stresses the ROHQ's burden to distinguish among their clients' nationalities and actual places of business operations and establish that they are seeking refund or credit of input VAT only to the extent of their sales of services to foreign clients doing business outside the Philippines.

To recall, the CTA found that the SEC Certification of Non-Registration of Company and Authenticated Articles of Association and/or Certificates of Registration/Good Standing/Incorporation sufficiently established the NRFC status of 11 of DKS's affiliates clients.

The Court upholds these findings.

The Court accords the CTA's factual findings with utmost respect, if not finality, because the Court recognizes that it has necessarily developed an expertise on tax matters. Significantly, both the CTA Division and CTA *En Banc* gave credence to the aforementioned documents as sufficient proof of NRFC status. The Court shall not disturb its findings without any showing of grave abuse of discretion considering that the members of the tax court are in the best position to analyze the documents presented by the parties.

In any case, after a judicious review of the records, the Court still do not find any reason to deviate from the court *a quo's* findings. **To the Court's mind, the SEC Certifications of Non-Registration show that these affiliates are foreign corporations. On the other hand, the articles of association/certificates of incorporation stating that their affiliates are registered to operate in their respective home countries, outside the Philippines are *prima facie* evidence that their clients are not engaged in trade or business in the Philippines.**

...

Petitioner's claimed zero-rated ₱65,624,870.52 in zero-rated sales of services to NRFCs doing business outside the Philippines, which were disallowed by respondent, pertain to the following entities, for which petitioner submitted the following documents:

Name of Client	Amount of Sales[158]	SEC Certification of Non-Registration of Company	Proof of Incorporation/ Registration in a Foreign Country
DOLE JAPAN, INC.	₱3,063,106.62	None	None

158 Exhibits "P-116-A-51" and "P-116-A-52", USB (Exhibit "P-147-B").

DOLE LANKA (PRIVATE) LTD.	55,812,957.31	None	"P-138-7"
FARMIND CORPORATION	6,248,080.77	"P-138-4", p. 1	"P-138-4", pp. 2-30
ROYAL CO., LTD	500,725.82	"P-138-5"	None
Total	**₱65,624,870.52**		

Based on the foregoing, only Farmind Corporation qualifies as an NRFC doing business outside Philippines, as petitioner duly supported this status with both an SEC Certificate of Non-Registration of Company and proof of incorporation or registration in a foreign country. Accordingly, petitioner satisfied the 1st essential element only with respect to its sales to Farmind Corporation amounting to ₱6,248,080.77.

With respect to petitioner's compliance with the 2nd, 3rd and 4th essential elements for sales amounting to ₱6,248,080.77, petitioner submitted various billing invoices and Ors,[159] as well as a Certification of foreign currency remittances from RCBC.[160] Billing invoices show that services petitioner rendered to Farmind Corporation in the Philippines relate to shipping services, which do not fall within category of "*processing, manufacturing or repacking goods*" as required under the 2nd and 3rd essential elements. However, petitioner failed to satisfy the 4th essential element because none of the amounts reflected in the ORs correspond to the amounts included in the claimed total sales to Farmind Corporation amounting to ₱6,248,080.77 *per* sales schedule, as illustrated below.

SALES TO FARMIND CORPORATION										
OR		**Proof of Remittance**		**Amount (USD)**	**Invoice**		***Per* Schedule (Exhibit "P-116-A-51")**			
Exhibit No.	**Date**	**Exhibit No.**	**Date**		**Nos.**	**Total Amount (USD)**	**Sales (USD)**	**Conversion Rate**	**Sales (PHP)**	**Amount of Sales Disallowance (PHP)**
"P-116-1658B"	17 September 2019	"P-139" (p. 2 of 7)	13 September 2019	$30,345.24	2239, 2243, 2244, 2248, 2249, 2252, 2253, 2257, 2258, 2261, 2268	$30,332.52	$26,084.16	52.27	P1,363,497.30	P222,739.43
"P-116-1660B" and "P-116-1661B"	22 January 2020	"P-139" (p. 4 of 7)	16 January 2020	25,484.86	2554, 2555, 2561, 2562, 2565, 2566, 2568	25,209.60	20,901.60	50.80	1,061,847.56	1,061,847.56
"P-116-1662B"	07 February 2020	"P-139" (p. 4 of 7)	06 February 2020	27,095.62	2599, 2600, 2607, 2608, 2611, 2612, 2616, 2558	26,840.62	20,591.70	50.80	1,046,078.95	1,046,078.95
"P-116-1663B"	09 March 2020	"P-139" (p. 5 of 7)	06 March 2020	25,730.20	2683, 2688, 2689, 2694, 2700, 2701, 2710	25,730.20	22,404.86	50.72	1,136,424.38	1,136,424.38

159 Exhibits "P-116-1658B", "P-116-1660B" to "P-116-1663B", "P-116-1666B" to "P-116-1668B", id.

160 Exhibit "P-139", id.

SALES TO FARMIND CORPORATION											
OR		Proof of Remittance		Amount (USD)	Invoice		*Per* Schedule (Exhibit "P-116-A-51")				
Exhibit No.	Date	Exhibit No.	Date		Nos.	Total Amount (USD)	Sales (USD)	Conversion Rate	Sales (PHP)	Amount of Sales Disallowance (PHP)
"P-116-1666B"	21 February 2020	"P-139" (p. 4 of 7)	17 February 2020	-	-	-	6,106.68	50.80	310,225.45	310,225.45
"P-116-1667B"	21 February 2020	"P-139" (p. 4 of 7)	17 February 2020	48,112.94	2622, 2628, 2629, 2633, 2634, 2637, 2638, 2642, 2641, 2645, 2646, 2655	45,236.44	22,189.24	50.72	1,125,482.63	1,125,482.63
"P-116-1668B"	27 February 2020	"P-139" (p. 4 of 7)	26 February 2020	30,232.49	2577, 2578, 2572, 2652, 2653, 2660, 2668, 2669, 2673, 2679, 2680, 2566	30,449.35	26,522.66	50.72	1,345,282.36	1,345,282.36
Total				$187,001.35		$183,798.73	$144,800.90		₱7,388,838.64	₱6,248,080.77

Consequently, petitioner's sales to Farmind Corporation likewise fail to qualify for VAT zero-rating.

To summarize the foregoing discussion, out of the ₱14,319,506,896.72 in claimed zero-rated sales that respondent disallowed, petitioner sufficiently established that ₱14,060,511,532.58 constitutes valid zero-rated sales. Only the remaining amount of ₱3,855,507,037.06 fails to qualify for VAT zero-rating, as shown below:

Particulars	BIR Disallowances	Properly Substantiated *Per* the Court's Verification	Disallowances Upheld by the Court
Direct Export Sales of Goods	₱14,232,332,781.73	₱10,448,880,112.56	₱3,783,452,669.17
Indirect Export Sales of Goods and Services	15,143,914.10	15,119,747.10	24,167.00
Services Rendered to NRFCs	65,624,870.52	-	65,624,870.52
Without Supporting Documents	6,405,330.37	-	6,405,330.37
Total	**₱14,319,506,896.72**	**₱14,060,511,532.58**	**₱3,855,507,037.06**

Accordingly, out of the claimed zero-rated sales amounting to ₱36,071,523,649.66 for FY ended 31 March 2020, only ₱32,216,016,612.60 constitutes petitioner's valid zero-rated sales, computed as follows:

Zero-Rated Sales/Receipts	₱36,071,523,649.66
Less: Disallowances	3,855,507,037.06
Valid Zero-Rated Sales/Receipts	**₱32,216,016,612.60**

As regards the alleged unaccounted remittances from DAHPL amounting to ₱442,130,205.11, ICPA Dabalos noted that these figures resulted from a comparison between amounts billed *per* invoice and amounts remitted, as reflected in related credit memos appearing in the schedules petitioner submitted.[161] In instances where amounts remitted exceeded amounts billed, the BIR treated the difference as undeclared zero-rated sales.[162]

In view of petitioner's failure to explain the unaccounted remittances amounting to ₱442,130,205.11, the Court upholds respondent's treatment of this amount as petitioner's undeclared zero-rated sales.

<u>FOURTH (4TH) REQUISITE:</u>
THE CREDITABLE INPUT TAX DUE OR PAID MUST BE ATTRIBUTABLE TO SUCH SALES, EXCEPT THE TRANSITIONAL INPUT TAX, TO THE EXTENT THAT SUCH INPUT TAX HAS NOT BEEN APPLIED AGAINST THE OUTPUT TAX.

To satisfy the *4th requisite*, the following conditions must concur:

a. **1st condition**: the input taxes are due or paid;

b. **2nd condition**: the input taxes claimed are attributable to zero-rated or effectively zero-rated sales and 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;

c. **3rd condition**: the input taxes are not transitional input taxes; and,

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161 See Amended ICPA Report, Exhibit "P-147", supra at note 36, p. 610.
162 Id.

d. 4th **condition**: the input taxes have not been applied against output taxes during and in the succeeding quarters.

The input VAT being claimed does not appear to be transitional input VAT.

Petitioner complied with the ***3rd condition*** as 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 VAT Credits.* —
>
> (A) *Transitional Input VAT 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 the rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, be allowed input VAT 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 VAT credit operates to benefit newly VAT-registered persons, whether or not 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 VAT credit serves to alleviate the impact of the VAT on the taxpayer.[163] Since there is no showing that the claimed input VAT is transitional input VAT, petitioner has complied with the ***3rd condition***.

Petitioner did not duly substantiate all input VAT amounts claimed for refund.

163 *Fort Bonifacio Development Corporation v. Commissioner of Internal Revenue, et al.*, G.R. Nos. 158885 and 170680, 02 April 2008.

Based on the declarations in its Amended Quarterly VAT Returns,[164] petitioner computed its excess input VAT claim amounting to ₱934,651,906.85 as follows:[165]

FY ended 31 March 2020	1st Quarter (01 April 2019 to 30 June 2019)	2nd Quarter (01 July 2019 to 30 Sept. 2019)	3rd Quarter (01 October 2019 to 31 Dec. 2019)	4th Quarter (01 January 2020 to 31 March 2020)	Total
Domestic purchases of goods other than capital goods	₱805,446,703.83	₱686,237,933.14	₱1,185,105,720.75	₱1,392,053,172.64	₱4,068,843,530.36
Importation of goods other than capital goods	340,275,416.67	309,598,533.33	527,167,014.33	345,364,906.00	1,522,405,870.33
Domestic purchase of services	940,621,776.83	1,223,698,610.58	1,291,849,519.81	970,577,446.89	4,426,747,354.11
Services rendered by non-residents	146,423,570.88	149,695,116.90	192,597,964.95	105,871,784.02	594,588,436.75
Net Current Purchases	₱2,232,767,468.21	₱2,369,230,193.95	₱3,196,720,219.84	₱2,813,867,309.55	₱10,612,585,191.55
Current Available Input Tax - (12% of Current Purchases)	₱267,932,096.19	₱284,307,623.27	₱383,606,426.38	₱337,664,077.15	₱1,273,510,222.99
Add: Input tax deferred on capital goods from previous quarter	6,087,772.66	4,728,037.36	4,142,996.69	3,760,450.86	18,719,257.57[166]
Add: Other tax credits/payments	36,500.99	11,422.64	10,677.54	12,730.63	71,331.80
Less: Input tax on purchases of capital goods deferred for the succeeding period	4,728,037.38	4,142,996.69	3,760,450.86	3,377,905.03	16,009,389.96[167]
Less: Output VAT	52,324,940.19	77,692,953.53	124,779,799.27	86,841,822.57	341,639,515.55
Excess and Unutilized Input VAT	**₱217,003,392.27**	**₱207,211,133.05**	**₱259,219,850.48**	**₱251,217,531.04**	**₱934,651,906.87**[168]

As shown in the table above, petitioner's input VAT claim arose from the following transactions:

FY ended 31 March 2020	**Current Purchases**	**Amount of Input VAT (12%)**	
Domestic purchases			
Goods other than capital goods	₱4,068,843,530.36	₱488,261,223.64	
Services	4,426,747,354.11	531,209,682.49	₱1,019,470,906.14
Importation of goods other than capital goods	1,522,405,870.33		182,688,704.44
Services rendered by nonresidents	594,588,436.75		71,350,612.41
Current Available Input Tax			₱1,273,510,222.99

164 Exhibits "P-9" (1st Quarter), "P-12" (2nd Quarter), "P-14" (3rd Quarter) and "P-16" (4th Quarter), supra at note 7.

165 Exhibit "P-43", supra at note 8, p. 942.

166 Should be amount, as corrected from ₱6,087,772.66 *per* Letter-Application for Refund or Tax Credit dated 15 June 2021 (Exhibit "P-43").

167 Should be amount, as corrected from ₱3,377,905.03 *per* Letter-Application for Refund or Tax Credit dated 15 June 2021 (Exhibit "P-43").

168 With minimal difference of ₱0.02.

Add: Other tax credits/payments			71,331.80
Add: Amortized input VAT on previous period's capital goods purchases exceeding ₱1 million			2,709,867.63[169]
Total	**₱10,612,585,191.55**		**₱1,276,291,422.42**

Out of the aforesaid total input VAT of ₱1,276,291,422.42 (or ₱1,276,291,422.40), respondent recognized only ₱671,174,631.52 as petitioner's valid or allowable input VAT and disallowed the remaining amount of ₱605,116,790.88, as detailed below:[170]

Input VAT Disallowances	Local Purchases	Importations	Total
Disallowed input tax *per* vouching			
No Single Administrative Document (**SAD**)/Statement of Settlement of Duties and Taxes (**SSDT**)	₱-	₱1,714,902.00	₱1,714,902.00
No proof of payment	1,236,442.65	-	1,236,442.65
TIN not indicated	3,102,764.03	-	3,102,764.03
Address not indicated	600.00	-	600.00
VAT OR not attached	16,708,775.10	-	16,708,775.10
VAT SI not attached	1,377,539.21	-	1,377,539.21
Overclaim	509,355.68	-	509,355.68
Out of period supporting documents/no date	3,558,330.45	-	3,558,330.45
VAT not separately indicated	436,730.61	-	436,730.61
Supporting document not in the name of taxpayer-claimant	920,229.39	-	920,229.39
Not within Authority to Print (ATP) validity	791,637.24	-	791,637.24
Non-VAT OR/Invoice	132,933.60	-	132,933.60
ATP not indicated	291,569.99	-	291,569.99
VAT Exempt OR/SI	51,077.10	-	51,077.10
No business style/Incorrect business style	36,043,798.37	-	36,043,798.37
Unclear copy	1,553,997.47	-	1,553,997.47
Document not proper for claiming input VAT	52,445,242.41	-	52,445,242.41
Zero-rated sales *per* supporting document	20,900.52	-	20,900.52
Photocopy/not original document	3,921,532.20	-	3,921,532.20
TIN is different from taxpayer-claimant's	385,020.22	-	385,020.22
Alterations without countersignature/ Incomplete supplier certification	42,287,733.64	16,356.00	42,304,089.64
Supporting document does not indicate name of buyer	5,306.60	-	5,306.60
No supporting document	349,179,226.25	101,376.00	349,280,602.25

169 "Total Input Tax Deferred on Capital Goods from Previous Quarter" of ₱18,719,257.57 less "Total Input Tax on Purchases of Capital Goods Deferred for the Succeeding Period" of ₱16,009,389.96 (with minimal difference of ₱0.02).

170 See Working Papers - Sales and Dollar Remittances, BIR Records (Exhibit "R-6"), p. 932; Annex "A", Denial Letter dated 15 November 2021, Exhibit "P-45"/Exhibit "R-5", supra at note 12, p. 953.

Input VAT Disallowances	Local Purchases	Importations	Total
Per BIR-ITS	4,183,056.75	-	4,183,056.75
Subtotal	***₱519,143,799.48***	***₱1,832,634.00***	***₱520,976,433.48***
Input tax on sale to PEZA zone	48,572,777.65		48,572,777.65
Creditable Withholding VAT on Sales to Government	71,331.80		71,331.80
Disallowed ripened input tax on prior period purchases of capital goods exceeding ₱1 million	2,709,867.63		2,709,867.63
Deferred input tax on capital goods exceeding the ₱1 million threshold	7,566,649.16	25,219,731.17	32,786,380.33
Total	₱578,064,425.72	₱27,052,365.17	₱605,116,790.89

The foregoing findings resulted from respondent's verification of petitioner's sources of input VAT against both original and soft copies of VAT invoices and ORs, in accordance with the invoicing requirements under Section 113,[171] in relation to Section 110,[172] of the NIRC of 1997, as amended.[173]

Before determining whether petitioner complied with the substantiation and invoicing requirements with respect to its claimed total input VAT amounting to ₱1,276,291,422.42 (*i.e.*, the gross amount prior to deduction of ₱341,639,515.55 in output VAT), the Court shall first address whether petitioner is legally entitled to assert such a claim.

As found by respondent, petitioner is registered with the Philippine Economic Zone Authority (**PEZA**) under Registration Certificate No. 02-067 dated 25 November 2002 for four (4) economic zones, namely: (1) SEDZ; (2) Sarangani Resources Corporation Allah Valley Economic Development Zone (**SRC-AVEDZ**); (3) SRC Calumpang Economic Development Zone (**SRC-CEDZ**); and (4) SRC Upper Klinan Economic Development Zone (**SRC-UKEDZ**).[174]

As stated earlier, an ecozone is a foreign territory by legal fiction. As an ecozone enterprise, petitioner's local purchases of goods, properties, and services are subject to 0% VAT pursuant to the Cross-Border Doctrine and Destination Principle under the Philippine VAT

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171 Supra at pp. 31-32.
172 SEC. 110. *Tax Credits*.
173 Part III. Purchases and Input VAT, Memorandum dated 28 October 2021, Exhibit "R-3", supra at note 83, p. 942.
174 Part I. Company Background, Memorandum dated 28 October 2021, Exhibit "R-3", supra at note 83, p. 944.

system. The Cross-Border Doctrine mandates "that no VAT shall be imposed to form part of the cost of goods destined for consumption outside the territorial border of the taxing authority," while the Destination Principle requires that "goods and services are taxed only in the country where these are consumed".[175] Consequently, no input VAT may be passed on to petitioner for its local purchases destined for consumption within the PEZA ecozone. Accordingly, since petitioner cannot be charged input VAT on its local purchases of goods, properties, and services, petitioner cannot claim any input VAT for refund arising from such transactions.

However, in the recent case of *Coral Bay Nickel Corporation v. Commissioner of Internal Revenue*[176] (**2025 Coral Bay**), the Supreme Court clarified the territorial scope of tax incentives granted to PEZA-registered entities, particularly with respect to claims for input VAT refunds. The Supreme Court held that VAT exemption and zero-rating privileges apply only to goods and services *consumed or rendered within the geographical boundaries* of the ecozone. Accordingly, a PEZA-registered entity may still seek a refund of **input VAT on goods and services *consumed or rendered outside the ecozone***, provided that such purchases are attributable to its zero-rated sales.

In this case, petitioner failed to establish that its local purchases of goods and services corresponding to claimed input VAT amounting to ₱1,019,470,906.14 were consumed or rendered outside the ecozone.

Out of the claimed input VAT of ₱1,019,470,906.14, respondent disallowed ₱48,572,77.65, which allegedly represents big-ticket purchases delivered within the PEZA zone.[177]

Records show that input VAT amounting to ₱48,572,777.65 pertains to fuel purchases made by petitioner's Dolefil Division and Stanfilco Division from World Fuel Services (Singapore) Pte.[178] Petitioner asserts that these fuel purchases were delivered to sites located outside the ecozone. For the Dolefil Division's fuel purchases,

175 *Commissioner of Internal Revenue v. Filminera Resources Corporation*, supra at note 148; Citations omitted.
176 G.R. Nos. 251333-34, 05 March 2025.
177 Par. 15, Amended ICPA Report, Exhibit "P-147", supra at note 36, pp. 602-603.
178 Exhibit "P-109-A", USB (Exhibit "P-147-B").

petitioner claims delivery occurred at the Central Fuel Station located in Barangay Cannery Site, Polomolok, South Cotabato. For the Stanfilco Division's fuel purchases, petitioner claims delivery occurred at Panabo Wharf & Container Yard in Panabo City, Davao del Norte.[179]

As to petitioner's Stanfilco Division's fuel purchases, petitioner submitted a PEZA Certification dated 11 May 2023[180] confirming that the Wharf and Container Yard (owned by Pacific International Terminal Services, Inc.) leased by petitioner is neither registered with PEZA nor part of the SRC-CEDZ. For the Dolefil Division's fuel purchases, on the other hand, petitioner submitted a site map identifying the location where delivery occurred.[181] In addition, for fuel purchases of both the Dolefil Division and Stanfilco Division, petitioner submitted the corresponding invoices, collection receipts, paid checks, purchase orders, and remittance statements.[182]

The Court finds the documents petitioner submitted insufficient, for reasons discussed below.

As regards petitioner's Stanfilco Division's fuel purchases, the Court observed that the related invoices stated *"Delivered to: PANABO WHARF & CONTAINER YARD 8105 PANABO CITY, DAVAO DEL NORTE"*, followed by the corresponding Delivery Note (**DN**) numbers. However, petitioner did not present in evidence these DNs. As a result, the Court cannot ascertain the actual place of delivery of Stanfilco Division's fuel purchases.

Similarly, for petitioner's Dolefil's Division's fuel purchases, the Court noted that the invoices were addressed to petitioner's principal address, *"CANNERY SITE, POLOMOLOK, SOUTH COTABATO, 9504"*, and the purchase orders indicated the final destination of fuel as *"DOLE PHILIPPINES, INC., POLOMOLOK, SOUTH COTABATO, 9504 PHILIPPINES."* Accordingly, petitioner likewise failed to prove that Dolefil Division's fuel purchases were delivered outside the ecozone.

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179 Par. 15, Amended ICPA Report, Exhibit "P-147", supra at note 36, pp. 602-603.
180 Exhibit "P-141", USB (Exhibit "P-147-B").
181 Exhibit "P-142", id.
182 Exhibits "P-109-1A" to "P-109-12A", "P-109-1B" to "P-109-64B", id.

More importantly, petitioner failed to present evidence demonstrating actual consumption of the subject purchases outside the ecozone and failed to establish a link or nexus between these purchases and petitioner's zero-rated export sales.

In fine, petitioner's claimed input VAT amounting to ₱1,019,470,906.14 shall be denied for petitioner's failure to prove that the related domestic purchases of goods and services were consumed or rendered outside the ecozone.

Moreover, the Court must disallow portions of petitioner's input VAT claim amounting to ₱2,709,867.63 and ₱71,331.80, representing amortized input VAT on capital goods purchases exceeding ₱1 million and other tax credits/payments, respectively, because petitioner failed to provide supporting documents therefor.

Accordingly, only the input VAT pertaining to petitioner's importation of goods other than capital goods and services rendered by nonresidents in the total amount of ₱254,039,316.85, may be the subject of petitioner's claim for refund, broken down as follows:

Particulars	Input VAT Claim
Importation of goods other than capital goods	₱182,688,704.44
Services rendered by nonresidents	71,350,612.41
Total	**₱254,039,316.85**

Section 4.110-8(a)(1) of RR No. 16-2005 [183] provides for the substantiation requirement of input tax credits from importation of goods, as follows:

> ...
>
> SEC. 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

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[183] Supra at note 127.

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.[184]

...

As earlier noted, out of the input VAT claim on importation of goods amounting to ₱182,688,704.44, respondent denied the total amount of ₱27,052,365.17 for the following reasons:

Reason for Disallowance	**Amount of Input VAT Claim**	
No SAD/SSDT	₱1,714,902.00	
Alterations without countersignatures/Incomplete supplier certification	16,356.00	
No supporting document	101,376.00	₱1,832,634.00[185]
Deferred input tax on capital goods which exceeded ₱1 million threshold		25,219,731.17[186]
Total Disallowances		**₱27,052,365.17**

On the disallowance of ₱1,832,634.00, petitioner submitted, among others, the related Bureau of Customs (**BOC**) Statements of Settlement of Duties and Taxes (**SSDTs**) and Single Administrative Documents (**SADs**).[187]

A scrutiny of these documents shows that petitioner properly supported its input VAT claims amounting to ₱1,714,902.00 and ₱101,376.00, or a total of ₱1,816,278.00, through the corresponding SADs and SSDTs, as summarized by ICPA Dabalos in Exhibit "P-112-A-1".[188]

184 Emphasis supplied.

185 Part III. Purchases and Input VAT, Memorandum dated 28 October 2021, Exhibit "R-3", supra at note 83, p. 941.

186 Part of the ₱32,786,380.33 disallowance, with description erroneously interchanged by respondent with that of the ₱2,709,867.63 disallowance in Annex "A" of the VAT Refund Notice, Exhibit "P-45"/Exhibit "R-5", supra at note 12, p. 953; Working Papers – Input Tax, BIR Records (Exhibit "R-6"), p. 929 (with details on pp. 579-582).

187 Exhibits "P-112-1" to "P-112-6", USB (Exhibit "P-147-B").

188 Id.

However, the Court sustains the disallowance of the ₱16,356.00 input VAT claim for petitioner's failure to provide supporting SAD and SSDT.

On the disallowance of ₱25,219,731.17, respondent determined that certain fixed assets were recorded under petitioner's Construction In Progress (**CIP**) account but did not qualify as CIP for tax purposes. Consequently, respondent subjected these purchases to deferral of the related input VAT.[189] In computing the disallowed input VAT, respondent amortized the input VAT on these purchases over a period of sixty (60) months and allowed only the amortized portion allocable to the period from 01 April 2019 to 31 March 2020, or the FY ended 31 March 2020, as claimable input VAT. Respondent disallowed the amortized portion allocable to periods after FY ended 31 March 2020 amounting to ₱32,786,380.33, of which ₱25,219,731.17 pertains to petitioner's importations, as shown below:[190]

	Total Purchases	**Input VAT Claimed**	**Input VAT Subject to Amortization**
Local Purchases	₱73,118,458.31	₱8,774,215.00	₱7,566,649.16
Importations	236,504,641.67	28,380,557.00	**25,219,731.17**
Total	₱309,623,099.98	₱37,154,772.00	₱32,786,380.33

Section 4.110-3 of RR No. 16-2005,[191] as amended by RR No. 04-2007,[192] defines and differentiates capital goods or properties (**CGP**) from CIP, as follows:

> ...
>
> ***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

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189 Working Papers – Input Tax, BIR Records (Exhibit "R-6"), p. 929.

190 See Working Papers – Input Tax, BIR Records (Exhibit "R-6"), p. 929 (with details shown on pp. 579-583; Exhibit "P-114", USB (Exhibit "P-147-B").

191 Supra at note 127.

192 Amending Certain Provisions of Revenue Regulations No. 16-2005, As Amended, Otherwise Known as the Consolidated Value-Added Tax Regulations of 2005.

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.

...

Construction in progress (CIP) is the cost of construction work which is not yet completed. CIP is not depreciated until the asset is placed in service. Normally, upon completion, a CIP item is reclassified and the reclassified asset is capitalized and depreciated.

CIP is considered, for purposes of claiming input tax, as a purchase of service, the value of which shall be determined based on the progress billings. Until such time the construction has been completed, it will not qualify as capital goods as herein defined, in which case, input tax credit on such transaction can be recognized in the month the payment was made; Provided, that an official receipt of payment has been issued based on the progress billings.

In case of contract for the sale of service where only the labor will be supplied by the contractor and the materials will be purchased by the contractee from other suppliers, input tax credit on the labor contracted shall still be recognized on the month the payment was made based on a progress billings while input tax on the purchase of materials shall be recognized at the time the materials were purchased.

Once the input tax has already been claimed while the construction is still in progress, no additional input tax can be claimed upon completion of the asset when it has been reclassified as a depreciable capital asset and depreciated.[193]

...

The distinction between CGP and CIP is important since, under Section 4.110-3 of RR No. 16-2005,[194] as amended by RR No. 04-2007,[195] the input VAT on the purchase of CIP "can be recognized in the month the payment was made: Provided, that an [OR] of payment has been issued based on the progress billings."

In contrast, CGP is presumed ready for use or already in use by the taxpayer because it already constitutes a depreciable asset. Its

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193 Italics in the original text and emphasis supplied.
194 Supra at note 127.
195 Supra at note 192.

acquisition cost and the corresponding input VAT therefore become subject to amortization over the course of its useful life. From the time of acquisition, useful life begins to run and asset value correspondingly depreciates.

CIP, on the other hand, represents the cost of construction work that remains incomplete. It is not yet subjected to depreciation, and neither its acquisition cost nor the corresponding input VAT becomes subject to amortization. Depreciation and amortization apply only after completion of construction, at which point asset is reclassified as CGP.

Nevertheless, when materials and labor components are supplied by different suppliers, the same provision further states that:

> ...
> [I]nput tax credit on the labor contracted shall still be recognized on the month the payment was made based on a progress billing while **input tax on the purchase of materials shall be recognized at the time the materials were purchased.**[196]
> ...

Thus, Section 4.110-3 of RR No. 16-2005,[197] as amended by RR No. 04-2007,[198] allows a taxpayer to recognize and claim the entire amount of input VAT incurred and paid at the time of purchase, provided the following circumstances are present:

a. The asset has yet to be placed in service; and

b. The labor to place the asset in service will be supplied by a contractor/supplier different from that supplying the asset/materials.

Here, petitioner failed to present documentary evidence showing that purchases corresponding to the disallowed input VAT of ₱25,219,731.17 qualify as CIP, as contemplated under Section 4.110-3 of RR No. 16-2005, as amended by RR No. 04-2007. Thus, respondent's disallowance of ₱25,219,731.17 stands.

[196] See Revenue Regulations No. 04-2007, supra at note 193; Emphasis supplied.
[197] Supra at note 127.
[198] Supra at note 192.

With respect to petitioner's claimed input VAT on services rendered by non-residents, Sections 4.110-8(a) and (c) and 4.114-2 (b) of RR No. 16-2005, as amended, provide:

...

SEC. 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:

...

(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) <u>filed</u> by the resident payor in behalf of the non-resident <u>evidencing remittance</u> of VAT due which was withheld by the payor.**

...

SEC. 4.114-2. *Withholding of VAT on Government Money Payments and Payments to Non-Residents.* —

...

(b) The government or any of its political subdivisions, instrumentalities or agencies, including GOCCs, as well as private corporations, individuals, estates and trusts, whether large or non-large taxpayers, shall withhold ten percent (10%) VAT with respect to the following payments:

(1) Lease or use of properties or property rights owned by non-residents;

...

(3) Other services rendered in the Philippines by non-residents.

In remitting VAT withheld, the withholding agent shall use BIR Form No. 1600 Remittance Return of VAT and Other Percentage Taxes Withheld.

VAT withheld and paid for the non-resident recipient (remitted using BIR Form No. 1600), which VAT is passed on to the resident withholding agent by the non-resident recipient of the income, may be claimed as input tax by said VAT-registered withholding agent upon filing his own VAT Return, subject to the rule on allocation of input tax among taxable sales, zero-rated sales and exempt sales. **The duly filed BIR Form No. 1600 is the proof or documentary substantiation for the claimed input tax or input VAT.**[199]

...

As can be gleaned from the afore-quoted provisions, withholding VAT (**WVAT**) may be claimed as input tax credit in the month the taxpayer withholds and remits such WVAT to the BIR, provided that the taxpayer supports the claim with BIR Form No. 1600.

In this case, petitioner submitted the corresponding BIR Forms No. 1600 reflecting WVAT in the total amount of ₱71,417,444.51, detailed as follows:

Exhibit Reference[200]	Month Covered	Income Payment	WVAT	Exhibit Reference[201]	Date of Payment
"P-17"	Apr-19	₱40,554,827.83	₱4,866,579.34	"P-29"	07 May 2019
"P-18"	May-19	51,775,491.60	6,213,058.99	"P-30"	10 June 2019
"P-19"	Jun-19	54,650,201.70	6,558,024.20	"P-31"	08 July 2019
"P-20"	Jul-19	53,537,649.48	6,424,517.94	"P-32"	09 August 2019
"P-21"	Aug-19	47,868,618.39	5,744,234.21	"P-33"	10 September 2019
"P-22"	Sep-19	48,288,843.71	5,794,661.25	"P-34"	10 October 2019
"P-23"	Oct-19	83,600,021.63	10,032,002.60	"P-35"	11 November 2019
"P-24"	Nov-19	46,421,840.18	5,570,620.82	"P-36"	10 December 2019
"P-25"	Dec-19	62,576,096.42	7,509,131.57	"P-37"	09 January 2020
"P-26"	Jan-20	46,842,505.56	5,621,100.67	"P-38"	10 February 2020
"P-27"	Feb-20	38,368,130.37	4,604,175.64	"P-39"	09 March 2020
"P-28	Mar-20	20,661,143.99	2,479,337.28	"P-40"	15 April 2020
		₱595,145,370.86	**₱71,417,444.51**		

However, the WVAT amounting to ₱2,479,337.28 should be disallowed because it falls outside period of claim. Accordingly, petitioner properly substantiated its claimed WVAT only to the extent of ₱68,938,107.23 out of the reported amount of ₱71,350,612.41.

199 Italics in the original text, emphasis and underscoring supplied.
200 Division Docket, Volume II, pp. 890-913.
201 Id., pp. 914-926.

Summarizing the above findings on petitioner's compliance with the *1st* ***condition***, the Court finds that petitioner's claimed total allowable input VAT for FY ended 31 March 2020 amounting to ₱1,276,291,422.42 should be reduced by disallowances totaling ₱1,049,900,697.92, as detailed below:

	Allowable Input VAT *Per* VAT Return	Disallowances *Per* this Court's Verification	Valid Input VAT
Domestic Purchases			
Goods other than capital goods	₱488,261,223.64		
Services	531,209,682.49		
Subtotal	***₱1,019,470,906.14***	***₱1,019,470,906.14***	₱-
Importation of goods other than capital goods	₱182,688,704.44	₱16,356.00 25,219,731.17	₱157,452,617.27
Services rendered by nonresidents	71,350,612.41	2,412,505.18	68,938,107.23
Subtotal	***₱254,039,316.85***	***₱27,648,592.35***	***₱226,390,724.50***
Amortized input VAT on previous period's capital goods purchases exceeding ₱1 million	2,709,867.63	2,709,867.63	-
Other tax credits/payments	71,331.80	71,331.80	-
Total	**₱1,276,291,422.42**	**₱1,049,900,697.92**	**₱226,390,724.50**

Consequently, only the remaining amount of ₱226,390,724.50 constitutes petitioner's valid input VAT for FY ended 31 March 2020.

Since there are zero-rated or effectively zero-rated sales, taxable sales and exempt sales, the valid input VAT of ₱226,390,724.50 shall be proportionately allocated on the basis of sales volume.

The *2nd* ***condition*** requires that claimed input taxes be attributable to zero-rated or effectively zero-rated sales. When a taxpayer has both zero-rated or effectively zero-rated sales and taxable or exempt sales, and input taxes cannot be directly and entirely attributed to any specific category of sales, input taxes must be allocated proportionately based on volume of sales.

As stated earlier, during the four (4) quarters of FY ended 31 March 2020, petitioner's reported total sales/receipts consisted of VATable sales/receipts, zero-rated sales/receipts and VAT-exempt sales/receipts. Considering that petitioner's input VAT cannot be directly identified with specific sales transactions, this Court shall allocate the valid input VAT of ₱226,390,724.50 proportionately on the basis of the volume of its sales, as follows:

Type of Sales/Receipts	Amount *Per* VAT Return [A]		Allocation Factor [C]	Valid Input VAT Allocation [D]	
			(A ÷ B)	(E × C)	
VATable Sales/Receipts	₱2,846,995,962.95		7.12999068%	₱16,141,637.56	
Zero-rated Sales/Receipts	36,513,653,854.77[202]		91.44446112%	**207,021,778.04**	
VAT-exempt Sales/Receipts	569,219,532.40		1.42554820%	3,227,308.90	
Total	**₱39,929,869,350.12**	[B]	**100%**	**₱226,390,724.50**	[E]

Thus, for purposes of petitioner's compliance with 2^{nd} ***condition***, only ₱207,021,778.04 constitutes valid input VAT attributable to petitioner's total reported zero-rated sales or receipts.

Petitioner has no excess input VAT available for refund.

Having determined that petitioner had valid input VAT attributable to its zero-rated sales, the Court shall now determine whether petitioner applied this input VAT against its output VAT liability during and in succeeding quarters, in relation to the 4^{th} ***condition*** of the 4^{th} *requisite* for the successful prosecution of an input VAT refund claim.

In the case of *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue*[203] (**Chevron**), the Supreme Court made a definitive declaration that a VAT-registered taxpayer has two (2) options with respect to its input VAT attributable to zero-rated sales, it may: (1) charge the same against output VAT from VATable sales, and claim for refund or issuance of a TCC any unutilized or "excess" input VAT; or (2) claim the same for refund or issuance of a TCC in its entirety, *viz*:

202 Adjusted to include undeclared zero-rated sales of ₱442,130,205.11.
203 G.R. No. 215159, 05 July 2022; Citation omitted, emphasis and underscoring supplied.

> ...
> **[T]he input tax attributable to zero-rated sales may, <u>at the option of the VAT-registered taxpayer</u>, 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 resultant amount as the basis in computing the allowable amount for refund. <u>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.</u>** These procedures find no basis in law and jurisprudence.
> ...

Clearly from the foregoing, a VAT-registered taxpayer has the discretion to decide whether to charge its input VAT attributable to zero-rated sales against output VAT. In this respect, the Court cannot impose its own methods for calculating the refund, such as compelling the crediting of input VAT against output VAT as a condition precedent to the refund or issuance of a TCC. This is especially true when the taxpayer-claimant opts to claim the input VAT attributable to zero-rated sales for a refund or issuance of a TCC in its entirety.

Furthermore, regardless of which option the taxpayer-claimant chooses, the Supreme Court's ruling in *Chevron* clarifies that since the taxpayer-claimant is requesting a refund of unutilized or unused input VAT from zero-rated sales (as opposed to the "excess" creditable input VAT from the output VAT), this amount is inherently immediately refundable, given that there is no related output VAT to offset it against. Therefore, the CTA's proper preliminary step in determining the refundable excess and unutilized input VAT attributable to valid zero-rated sales should be computing the ratable portion of the taxpayer-claimant's input VAT allocable to zero-rated sales, assuming the input VAT cannot be directly attributed to zero-rated activities.

It is only when the taxpayer-claimant chooses the first option, *i.e.*, to charge the input VAT attributable to zero-rated sales against output VAT from VATable sales and claim for refund or issuance of a TCC any unutilized or "excess" input VAT that the Court may require the offsetting of such ratable portion of the taxpayer-claimant's input VAT attributable to zero-rated sales against "Output VAT Still Due" as a condition precedent to the refund or issuance of a TCC.

In this case, petitioner credited its output VAT of ₱341,639,515.55 against its claimed total input VAT or "Declared Input VAT" of ₱1,276,291,422.40 and applied for refund the alleged remaining "Excess Input VAT" of ₱934,651,906.85. Clearly, petitioner has chosen the **first option**.

Now, after deducting the ₱16,141,637.56 valid input VAT attributable to taxable sales subject to 12% VAT, as determined earlier, from its output VAT liability amounting to ₱341,639,515.55 on such sales, petitioner still has a net output VAT payable of ₱325,497,877.99, as computed below:

Output VAT	₱341,639,515.55
Less: Input VAT attributable to 12% VATable Sales/Receipts	16,141,637.56
Net Output VAT Payable	**₱325,497,877.99**

Since the valid input VAT attributable to 12% VATable sales remains insufficient to fully offset petitioner's output VAT liability, the ₱207,021,778.04 valid input VAT attributable to its total reported zero-rated sales shall be utilized against the remaining output VAT liability of ₱325,497,877.99. However, the said amount of input VAT attributable to total reported zero-rated sales falls short of the net output VAT payable of ₱325,497,877.99. Consequently, petitioner still incurs a net output VAT due amounting to ₱118,476,099.94, as computed below:

Net Output VAT Payable	₱325,497,877.99
Less: Input VAT attributable to zero-rated sales	207,021,778.04
Net Output VAT Still Due	**₱118,476,099.95**

Consequently, petitioner failed to satisfy the ***4th condition***, *i.e.*, that claimed input taxes were not applied against output taxes during the period of claim. Petitioner failed to establish that it possessed sufficient input taxes to offset output tax liabilities for the period covered. This failure warrants the denial of the entire claim for refund.

In light of the foregoing disquisitions, petitioner failed to demonstrate full compliance with the requisites to successfully obtain a refund of input VAT.

Accordingly, the Court finds no necessity to the resolve issue of whether respondent correctly imposed additional output VAT in the total amount of ₱77,941,294.26.[204]

WHEREFORE, premises considered, the instant Petition for Review filed on 07 April 2022 by petitioner Dole Philippines, Inc. is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice

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[204] See Annex "A", Denial Letter dated 15 November 2021, Exhibit "P-45"/Exhibit "R-5", supra at note 12, p. 953.

Output tax on undeclared VATable sales not reported in the schedule of sales	₱5,508,131.35
Output tax on undeclared VATable sales per SAWT	71,561,842.91
Output tax on deemed sale transaction subject to VAT	871,320.00
Total	**₱77,941,294.26**

ATTESTATION

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Special 1st Division Acting Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Special 1st Division Acting Chairperson's Attestation, 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