REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

SCHAEFFLER PHILIPPINES INC., Petitioner,	**CTA EB NO. 2947** (CTA Case No. 10358)
	Present:
- versus -	**RINGPIS-LIBAN,** *P.J.,* **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: FEB 20 2026

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DECISION

FERRER-FLORES, J.:

At bar is a **Petition for Review (Re: Decision dated 15 February 2024 and Resolution dated 25 June 2024 of the Special First Division, Court of Tax Appeals)**[1] filed on July 12, 2024 by **Schaeffler Philippines Inc.** assailing the Decision dated February 15, 2024[2] (assailed Decision) and Resolution dated June 25, 2024[3] (assailed Resolution) of the Court's Special First Division (Court in Division) in the case entitled *Schaeffler Philippines Inc. vs. Commissioner of Internal Revenue*, docketed as CTA Case No. 10358. The dispositive portions of the assailed Decision and Resolution read as follows:

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[1] *Rollo*, pp. 1-26.

[2] *Id.* at 31-47; Penned by (Ret.) Presiding Justice Roman G. Del Rosario, with Concurring and Dissenting Opinion from (Ret.) Associate Justice Catherine T. Manahan, and, with Dissenting Opinion from Associate Justice Marian Ivy F. Reyes-Fajardo.

[3] *Id.* at 58-64.; Penned by (Ret.) Presiding Justice Roman G. Del Rosario, concurred in by (Ret.) Associate Justice Catherine T. Manahan, and Associate Justice Marian Ivy F. Reyes-Fajardo reiterating her Dissenting Opinion in the assailed Decision.

Assailed Decision

> **WHEREFORE**, premises considered, the Petition for Review is **DENIED** for lack of merit.
>
> **SO ORDERED.**

Assailed Resolution

> **WHEREFORE**, premises considered, the Motion for Reconsideration is **DENIED** for lack of merit.
>
> **SO ORDERED.**

THE PARTIES[4]

Petitioner is a domestic market enterprise primarily engaged in the business of wholesale, export and import, and commission agency of rolling bearings, journal bearings, auxiliary devices and other components and parts, as well as spare parts, for automotive and other vehicles, railway, aircraft, general machineries, high precision devices and other equipment, as well as the provision of after-sales services, consulting and other relevant services.

Respondent **Commissioner of Internal Revenue (CIR)** is being sued in his official capacity, having been duly appointed and empowered to perform the duties of his office including, among others, the duty to act on and approve claims for refund and/or tax credits as provided by law.

FACTUAL ANTECEDENTS

The factual antecedents as narrated in the Division Decision are as follows:[5]

> On June 23, 2020, petitioner filed an Application for Tax Credits/Refunds, together with the supporting documents, before the Bureau of Internal Revenue (BIR), which sought the refund of its unutilized input tax in the amount of P10,775,485.00 attributable to its zero-rated sales for the 1st quarter of CY 2018 or from January 1, 2018 to March 31, 2018.
>
> In the VAT Refund Notice dated August 25, 2020, which petitioner received on the same date, the BIR approved petitioner's refund claim but only in the reduced amount of P5,625,739.78, computed as follows:

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[4] Division Decision, *Rollo*, pp. 31-32.

[5] *Rollo*, pp. 35-41.

Amount of Claim		P10,775,485.00
Less: Deductions/disallowance		
Over Claimed Excess Input Tax from Previous Period	P701,747.00	
Unsupported "Other" Purchases	157,671.66	
Violation of Invoicing Requirements pursuant to Section 113 in relation to Section 110 of the NIRC, as amended	719,985.19	
Discrepancy between Importation Claimed against Importation per AITEID	**3,332,237.00**	
No Commercial Invoice as required by RMC No. 47-2019	238,104.37	5,149,745.22
RECOMMENDED VAT REFUND		P5,625,739.78

Petitioner filed the present Petition for Review on September 24, 2020, claiming a refund amounting to **P3,332,237.00** only.

Summonses were served upon respondent on October 20, 2020, and the Office of the Solicitor General on October 21, 2020.

On November 19, 2020, respondent filed via registered mail a Motion for Extension of Time to File Answer, which the Court granted in the Resolution dated December 16, 2020, giving respondent until December 19, 2020 within which to file his Answer.

Within the approved extended period, respondent posted on December 18, 2020 his Answer (With Special and Affirmative Defenses).

On January 6, 2021, respondent filed a Compliance, elevating the BIR Records of this case.

In the Resolution dated January 19, 2021, the Court noted respondent's: (i) Manifestation (Change of Address); (ii) Answer (With Special and Affirmative Defenses); and (iii) Compliance, and set the Pre-Trial Conference on March 18, 2021.

Both petitioner and respondent filed their respective Pre-Trial Briefs on March 11, 2021.

The Pre-Trial Conference was reset to May 27, 2021 via videoconference, and was conducted on said date.

On June 25, 2021, petitioner filed a Motion to Commission an Independent Certified Public Accountant (ICPA).

The parties filed their Joint Stipulation of Facts and Issues on June 28, 2021.

In the Resolution dated July 14, 2021, the Court approved the parties' Joint Stipulation of Facts and Issues, and terminated the Pre-Trial.

The Court granted petitioner's Motion to Commission an ICPA in its Order dated October 7, 2021. Thereafter, Ms. Ma. Fedna B. Parallag was allowed to take her oath as ICPA, and was given a non-extendible period of forty-five (45) days, or until November 22, 2021, within which to submit her report.

On November 22, 2021, the ICPA submitted her Report.

The Pre-Trial Order was issued on February 7, 2022.

Thereafter, trial of the case ensued.

Petitioner presented both testimonial and documentary evidence. It offered the testimonies by way of Judicial Affidavits of the following witnesses, namely: (1) Ms. Melany A. Belen, petitioner's Treasurer and Finance Manager; and, (2) Ms. Parallag, the Court-commissioned ICPA.

On January 10, 2022, petitioner filed via email, private courier and registered mail a Motion for Extension of Time to File Petitioner's Formal Offer of Evidence.

Petitioner filed its Formal Offer of Evidence on February 2, 2022.

In the Resolution dated March 4, 2022, the Court: (i) noted petitioner's Formal Offer of Evidence; (ii) rendered moot the Motion for Extension of Time to File Petitioner's Formal Offer of Evidence; and (iii) granted respondent fifteen (15) days, or until February 17, 2022, within which to file comment.

On February 16, 2022, respondent posted his Comment/Opposition (To Petitioner's Formal Offer of Evidence dated February 02, 2022).

On March 4, 2022, petitioner filed via registered mail a Manifestation & Motion for Correction of Pre-Trial Order dated 07 February 2022.

Acting on petitioner's Formal Offer of Evidence and Manifestation & Motion for Correction of Pre-Trial Order dated 07 February 2022, the Court, in the Resolution dated May 24, 2022, admitted all of petitioner's documentary evidence except Exhibits **"P-8"**, **"P-22"**, **"P-23"**, **"P-24"**, **"P-25"**, **"P-26"**, **"P-38"**, **"P-51"**, **"P-52"**, **"P-53"** to **"P-56"**, **"P-58"** to **"P-65"**, and **"P-344"** to **"P-567,"** and granted the sought corrections to the Pre-Trial Order. Thereafter, petitioner rested its case.

Respondent likewise presented both documentary and testimonial evidence. He offered the testimony of Revenue Officer Mica Norielle G. Cui by way of Judicial Affidavit.

Respondent filed his Formal Offer of Evidence on August 4, 2022; meanwhile petitioner filed via email on August 19, 2022, and via personal filing on August 22, 2022, its Comment/Opposition (Re: Respondent's Formal Offer of Evidence dated 03 August 2022).

In the Resolution dated September 13, 2022, the Court admitted all of respondent's exhibits, and granted the parties a non-extendible period of thirty (30) days to file their respective memoranda.

Petitioner and respondent filed their Memoranda on October 17, 2022, and October 14, 2022, respectively.

On November 17, 2022, the case was submitted for decision.

The Court in Division denied petitioner's claim for refund of its unutilized input value-added tax (VAT) attributable to zero-rated sales for the first quarter of calendar year (CY) 2018 in view of 1) failure to present original for comparison of the Board of Investments (BOI) Certificate issued, and, 2) failure to comply with invoicing requirements as the term "zero-rated sale" was not prominently written on the invoices.

Petitioner's *Motion for Reconsideration* was likewise denied for lack of merit.

PROCEEDINGS BEFORE THE COURT *EN BANC*

Aggrieved, petitioner filed the present *Petition for Review* on July 12, 2024.[6]

Respondent filed his *Comment (Re: Petition for Review dated 12 July 2024)* on November 20, 2024.[7]

On January 6, 2025, the Court *En Banc* noted respondent's comment and submitted the case for decision.[8]

ISSUES

Petitioner assigns the following errors:

a. The Court in Division committed a reversible error when it ruled that petitioner's failure to present the original of the BOI Certification evidencing that Philippine Gold Processing and Refining Corp. (PGPRC) exports 100% of its products renders the submitted photocopy of such certification (marked as petitioner's Exhibit "P-65") inadmissible in evidence;

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6 *Supra* at note 1.
7 *Rollo*, pp. 86-93.
8 *Rollo*, p. 96.

b. The Court in Division committed a reversible error when it ruled that petitioner's failure to submit the BOI Certificate of Registration of PGPRC should lead to the disallowance of the zero-rated sales made by petitioner to PGPRC in the amount of ₱193,851.00; and,

c. The Court in Division committed a reversible error when it denied petitioner's VAT refund claim on the ground that petitioner allegedly failed to comply with the invoicing requirements under Section 113(A), in relation to Section 113(B)(2)(C) of the National Internal Revenue Code (NIRC) of 1997, as amended, and Section 4.113-1 of Revenue Regulations (RR) No. 16-2005.[9]

PARTIES' ARGUMENTS

In support of its *Petition*, petitioner forwards the following arguments:

First, it submits that a photocopy or duplicate copy of the BOI Certification (Exhibit "P-65") evidencing that PGPRC exports 100% of its products is admissible to the same extent as the original and is a valid proof of its contents under Rule 130, Section 4 (c) of the Revised Rules on Evidence. A duplicate is admissible to the same extent as an original unless 1) a genuine issue is raised as to the authenticity of the original and, 2) in the circumstances, it is unjust or inequitable to admit the duplicate in lieu of the original. Petitioner insists that the two exceptions are not present in this case. In fact, in his *Comment* to petitioner's *Formal Offer of Evidence*, respondent had no categorical objection as to the genuineness and due execution of Exhibit "P-65." Neither is it unjust or inequitable to admit the duplicate copy of the BOI Certification in lieu of the original.

Petitioner avers that even without the presentation of the BOI Certificate of Registration of PGPRC, a perusal of the BOI Certification evincing that PGPRC exports 100% of its products will readily show that PGPRC is indeed registered with the BOI.

Second, petitioner contends that the term "zero-rated sale" is prominently printed in the breakdown portion of its BIR-registered sales invoices, clearly identifying the nature of the sale. There is, thus, no failure on its part to comply with the invoicing requirements under Section 113(A), in relation to Section 113(B)(2)(c) of the NIRC of 1997, as amended, and Section 4.113-1 of RR No. 16-2005. It submits that for as long as the

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[9] SUBJECT: Consolidated Value-Added Tax Regulations of 2005, September 1, 2005.

transaction can be clearly identified as a zero-rated sale, regardless of how it is presented, then the invoicing requirement has already been complied with.

Finally, petitioner firmly believes that it is entitled to the refund of its excess and unutilized input VAT on its importations attributable to its zero-rated sales amounting to ₱3,332,237.00 for the first quarter of CY 2018.

In refutation, respondent points out that petitioner failed to timely file a motion for reconsideration of the Resolution denying the admission of the exhibit in evidence, thus, petitioner is barred from questioning the same. Nonetheless, even assuming that petitioner may still be allowed to question the denial of the admission of exhibit, it is still incumbent upon it to present the original of the BOI Certification for comparison. Respondent likewise echoes the Court in Division's finding that petitioner failed to comply with invoicing requirements.

RULING OF THE COURT *EN BANC*

The *Petition for Review* is impressed with merit.

The Court En Banc has jurisdiction

Prior to discussing the merits, We shall first determine the Court *En Banc's* jurisdiction.

Section 3(b) of Rule 8 of the Revised Rules of the CTA (RRCTA) provides:

> Sec. 3. *Who may appeal; period to file petition.* –
>
> (b) **A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from reeeipt of a copy of the questioned decision or resolution**. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of he reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (Emphasis supplied)

Petitioner received the assailed Decision on February 29, 2024. It filed a *Motion for Reconsideration* on March 12, 2024. Thereafter, on June 27, 2024, it received the assailed Resolution. Counting 15 days from June 27, 2024, petitioner had until July 12, 2024 within which to appeal before the Court *En Banc*.

Petitioner, thus, timely filed the instant *Petition for Review* before the Court *En Banc* on July 12, 2024.

The Court shall now proceed to tackle the merits of the case.

Photocopy is admissible in evidence

The Court in Division denied the admission of Exhibits "P-22", "P-23", "P-24", "P-25", "P-26", "P-38", "P-53 to P-56", "P-58 to P-65", "P-344 to P-567" for failure to present originals for comparison.

After a careful deliberation, the Court finds that petitioner's exhibits, which were denied admission solely on the ground of failure to present the original for comparison as enumerated above, must be reconsidered. This is aligned with the prevailing rule on the admissibility of a duplicate, such as a photocopy, as an original.

Section 4, Rule 130 of the 2019 Revised Rules on Evidence provides:

> Section 4. *Original of document.* –
>
> (a) An "original" of a document is the document itself or any counterpart intended to have the same effect by a person executing or issuing it. An "original" of a photograph includes the negative or any print therefrom. If data is stored in a computer or similar device, any printout or other output readable by sight or other means, shown to reflect the data accurately, is an "original."
>
> (b) A **"duplicate" is a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduce the original.**
>
> (c) A **duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original, or (2) in the circumstances, it is unjust or inequitable to admit the duplicate in lieu of the original.** (Emphasis supplied)

In the recent case of *People vs. Lastimosa (Lastimosa),*[10] the Supreme Court extensively discussed the changes in admissibility of duplicate as original, to wit:

> The 2019 Revised Rules on Evidence modified the title of the *Best Evidence Rule* to the *Original Document Rule*. Further, scrutiny of the

[10] G.R. No. 265758, February 3, 2025.

> structure of the current Rule 130, Sections 3 and 4 reveals that no evidence is admissible other than the original document itself. By express provision, a duplicate, which is defined in Rule 130, Section 3 (b), is admissible to the same extent as an original unless any of the two exceptions are present. It is notable that the definition of a duplicate does not exclude those reproduced from a paper-based original. Accordingly, ***a duplicate of a paper-based document, under the 2019 Revised Rules on Evidence, is admissible to the same extent as an original except when any of the exceptions are present.***
>
> With this, the ruling in *MCC Industrial*, drawing a dichotomy between the admissibility of duplicates of (a) electronic data message and electronic documents and (b) paper-based documents, has been ***abandoned***.
>
> ***With the advent of the 2019 Revised Rules on Evidence, in conjunction with the Rules on Electronic Evidence, the duplicate of any original, whether an electronic data message, electronic document, or paper-based document, is admissible to the same extent as the original unless (1) a genuine question is raised as to the authenticity of the original, or (2) under the circumstances, it is unjust or inequitable to admit the duplicate in lieu of the original.*** (Emphasis and italics in the original)
>
> xxx xxx xxx

Whether a photocopy qualifies as a "duplicate" under Section 3 (b) of Rule 130 of the 2019 Revised Rules on Evidence, the Supreme Court in *Lastimosa* ruled in the affirmative, to wit:

> Merriam-Webster Dictionary defines *photocopy* as "a copy of usually printed material made with a process in which an image is formed by the action of light usually on an electrically charged surface." Meanwhile, Encyclopedia Britannica defines *photocopying* as "[t]he process of producing copies of original documents and drawings by exposing the originals to chemicals, light, heat, or electrostatic energy and recording the resulting images on a sensitized surface."
>
> A duplicate is defined by Rule 130, Section 3 (b) of the 2019 Revised Rules on Evidence as "a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduce the original."
>
> A photocopy, which is a counterpart produced by the same impression as the original through action of light on an electrically charged surface, clearly falls under the definition of a duplicate. **A photocopy, being a duplicate, is admissible to the same extent as the original absent any genuine question as to the authenticity of the original or a showing that it is unjust or inequitable to admit the duplicate in lieu of the original.** (Emphasis supplied)

From the foregoing, it is settled that a photocopy of a document is considered as duplicate, thus admissible, unless there is a genuine question as to the authenticity of the original or a showing that it is unjust or inequitable to admit the duplicate in lieu of the original.

A perusal of respondent's *Comment/Opposition (To Petitioner's Formal Offer of Evidence dated February 02, 2022)*[11] readily reveals that respondent posed no objection as to the authenticity of the exhibits mentioned above. Neither are there indicia that the admission of the same into evidence is unjust or inequitable. Therefore, absent any of the exceptions its admissibility as provided above, the same shall be admitted in evidence.

The Court *En Banc* is not unaware of the procedural lapse by petitioner when it failed to file a timely motion for reconsideration to the *Resolution* dated May 24, 2022 denying the admission of the exhibits in evidence. This, notwithstanding, the Court *En Banc* finds it proper to warrant the relaxation of procedural rules to pave way for the broader interest of substantial justice.

In *Latogan vs. People*,[12] the Supreme Court elucidated that procedural rules were precisely conceived to aid the attainment of justice, and that when stringent application of the rules would hinder rather than serve the demands of substantial justice, the former must yield to the latter, viz.:

> The Court is well aware of the judicial mandate that rules prescribing the time which certain acts must be done, or certain proceedings taken, are absolutely indispensable to the prevention of needless delays and the orderly and speedy discharge of judicial business. With respect to notices of hearing of motions, in particular, the Court has consistently warned that a notice of hearing which does not comply with the requirements of the Rules of Court is a worthless piece of paper and would not merit any consideration from the Court.
>
> However, procedural rules were precisely conceived to aid the attainment of justice. If a stringent application of the rules would hinder rather than serve the demands of substantial justice, the former must yield to the latter. Section 6, Rule 1 of the Rules of Court enjoins the liberal construction of the Rules of Court in order to promote its objective to assist the parties in obtaining just, speedy, and inexpensive determination of every action and proceeding. xxx
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> xxx xxx xxx
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> In setting aside the aforementioned technicalities, infirmities, and thereby giving due course to tardy appeals and defective petitions, it must be emphasized that the Court is mindful of the extraordinary situations that merit liberal application of the Rules. In this case where technicalities were dispensed with, the Court's decisions were not meant to undermine the force

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11 Division Docket Vol. II, pp. 826-829.
12 G.R. No. 238298, January 22, 2020.

> and effectivity of the periods set by the law. On the contrary, in those rare instances, there always existed a clear need to prevent the commission of a grave injustice as in this case. Our judicial system and the courts have always tried to maintain a healthy balance between the strict enforcement of procedural laws and the guarantee that every litigant be given the full opportunity for the just and proper disposition of his cause.

Similarly, in *Tomas vs. Santos*,[13] the Supreme Court opined that courts are not enslaved by technicalities. Technicality and procedural imperfection should, as a rule, not serve as bases of decisions. In that way, the ends of justice would be served. To quote the High Court:

> The Court is fully aware that procedural rules are not to be simply disregarded as they insure an orderly and speedy administration of justice. However, it is equally true that courts are not enslaved by technicalities, and they have the prerogative to relax compliance with procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to speedily put an end to litigation and the parties' right to an opportunity to be heard. This is in line with the time-honored principle that cases should be decided only after giving all parties the chance to argue their causes and defenses. Technicality and procedural imperfection should, thus, not serve as bases of decisions. In that way, the ends of justice would be served.

Here, the Court *En Banc* finds compelling reason to allow the admission in evidence of exhibits denied solely on the ground of failure to present originals for comparison. This would rather breathe life to the amendment in the Rules on Evidence. The Supreme Court, in *Lastimosa*, lengthily narrated the historical development behind the amendment to allow duplicates to be used in place of originals, while safeguarding the integrity of evidence, to wit:

> The 2024 National Court Rules Committee of the United States explains that "[i]n essence, Rule 1003 allows duplicates to be used in place of originals in many legal situations. This approach reflects the practical realities of document usage and storage in the modern world, where duplicates are often indistinguishable from originals and can be more accessible. However, the rule also provides safeguards to ensure the integrity of evidence in cases where the authenticity of the original is in question or where the use of a duplicate might lead to unfairness in the proceedings."
>
> The *Notes of Advisory Committee on Proposed Rules* of the United States Federal Rules of Evidence is also illuminating as to the rule's historical development:
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>> When the only concern is with getting the words or other contents before the court with accuracy and precision, then a counterpart serves equally as well as the original, if the counterpart is the product of a method which insures accuracy and

[13] G.R. No. 190448, July 26, 2010, citing *Bank of the Philippine Islands vs. Dando*, G.R. No. 177456, September 4, 2009.

> genuineness. By definition in Rule 1001(4), *supra*, a "duplicate" possesses this character.
>
> Therefore, if no genuine issue exists as to authenticity and no other reason exists for requiring the original, a duplicate is admissible under the rule. This position finds support in the decisions, *[Myrick v. United States]*, 332 F.2d 279 (5th Cir. 1964), no error in admitting photostatic copies of checks instead of original microfilm in absence of suggestion to trial judge that photostats were incorrect; *[Johns v. United States]*, 323 F.2d 421 (5th Cir. 1963), not error to admit concededly accurate tape recording made from original wire recording; *[Sauget v. Johnston]*, 315 F.2d 816 (9th Cir. 1963), not error to admit copy of agreement when opponent had original and did not on appeal claim any discrepancy. Other reasons for requiring the original may be present when only a part of the original is reproduced and the remainder is needed for cross-examination or may disclose matters qualifying the part offered or otherwise useful to the opposing party. *[United States v. Alexander]*, 326 F.2d 736 (4th Cir. 1964). And see *[Toho Bussan Kaisha, Ltd. v. American President Lines, Ltd.]*, 265 F.2d 418, 76 A.L.R.2d 1344 (2d Cir. 1959).

There is also an emerging trend in the jurisdiction of England and Wales, while less direct as the United States, demonstrating the Best Evidence Rule losing its relevance. On this point, Stephen Mason and Daniel Seng observed as follows:

> 2.46 Since the statutory intercession of the Civil Evidence Act 1995 and the Criminal Justice Act 2003, the best evidence rule has further taken a simplified, statutory form. The judgment of the Court of Appeal in *Masquerade Music Ltd. v. Springsteen* suggests that the best evidence rule is hardly of any relevance. After considering the best evidence rule in detail and reviewing the case law extensively, Jonathan Parker LJ outlined the position with respect to the best evidence rule in the twenty-first century, at [85]:
>
>> In my judgment, the time has now come when it can be said with confidence that the best evidence rule, long on its deathbed, has finally expired. In every case where a party seeks to adduce secondary evidence of the contents of a document, it is a matter for the court to decide, in the light of all the circumstances of the case, what (if any) weight to attach to that evidence. Where the party seeking to adduce the secondary evidence could readily produce the document, it may be expected that (absent some special circumstances) the court will decline to admit the secondary evidence on the ground that it is worthless. At the other extreme, where the party seeking to adduce the secondary evidence genuinely cannot produce the document, it may be expected that (absent some special circumstances) the court will admit the secondary evidence and attach such weight to it as it considers appropriate in all the circumstances. In cases falling between those two extremes, it is for the court to

> make a judgment as to whether in all the circumstances any weight should be attached to the secondary evidence. Thus, the 'admissibility' of secondary evidence of the contents of documents is, in my judgment, entirely dependent upon whether or not any weight is to be attached to that evidence. And whether or not any weight is to be attached to such secondary evidence is a matter for the court to decide, taking into account all the circumstances of the particular case.

Therefore, notwithstanding petitioner's failure to timely file a motion for reconsideration, the Court *En Banc* will consider the exhibits denied solely on the ground of failure to present original for comparison, in accordance with Section 4, Rule 130 of the 2019 Revised Rules on Evidence.

Substantial compliance with the invoicing requirement

The Court in Division denied petitioner's claim for refund for failure to comply with invoicing requirements, particularly, the term "zero-rated sale" should be written or printed prominently on the VAT invoice or official receipt (OR). Moreover, notwithstanding that petitioner indicated in the breakdown of the VAT invoices the amount pertaining to "zero-rated sale," such did not cure its failure to comply with the imprinting requirement.

We disagree.

Section 113(B) of the NIRC of 1997, as amended, provides as follows:

> SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* —
>
> xxx xxx xxx
>
> (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 breakdown 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 component of the sale**. *(Emphasis supplied)*

In the present case, the following requirements in Section 113(B)(2) of the NIRC of 1997, as amended, are relevant: *(1)* Subparagraph (c)—that the term "zero-rated" shall be written or printed prominently on the invoice or receipt; and, *(2)* Subparagraph (d) thereof—in instances of mixed transactions, the invoice or receipt shall clearly indicate the breakdown of the sale price between its taxable, exempt and zero-rated components ("breakdown requirement" for brevity). Note that the breakdown requirement did not provide for any writing/printing of the term "zero-rated" in case a single document is to be issued for mixed transactions.

The Court *En Banc* finds that the writing of the sales amount beside the term "Zero Rated Sales" is substantial compliance with the requirement of writing/printing the term "zero-rated" on receipt. To our mind, with such presentation, there is no other conclusion to be drawn other than that the amount pertains to zero-rated sales.

At this juncture, the Court *En Banc* concurs with the observations pointed out by Associate Justice Marian Ivy F. Reyes-Fajardo, in her Dissenting Opinion on the assailed Decision, to wit:

> Verily, in *refund cases*, it is still essential that the claimant's *own sales invoices or official receipts* satisfy the relevant invoicing and accounting requirements. However, even the failure to present and offer proof showing compliance with invoicing requirements does merit an outright and complete denial of the claim and **cannot serve to negate the zero-rated character of the sales**, especially when already demonstrated sufficiently, as in the present case. At the very least, the Court remains duty-bound to verify the claim and determine whether the remaining conditions under Section 112 (A) of the Tax Code have been satisfied.
>
> I reiterate two points: *First*, Schaeffler's invoices bear a detailed break-down, through which it has expressly disclosed the zero-rated nature of the sale, as well as the money value of the transaction. *Second*, its clients'

> Certificates of Registration show that Schaeffler's sales were made to PEZA-registered enterprises.
>
> It is clear from these considerations that Schaeffler's sales to PEZA-registered clients effectively subjects the same to VAT at zero percent *and* that its invoices contain the information required by the law and regulations. To be sure, the term "zero-rated sale" is prominently printed in the break-down portion of Schaeffler's invoices. That the break-down portion clearly identifies the nature of and the money value assigned to the transaction obviates the "evil" that buyers may falsely claim input VAT therefrom. While the appearance of the term "zero-rated sale" more than once or the use of a more emphatic typeface may increase prominence, in my opinion, it is not necessary in this case.

Hereafter, to determine whether petitioner is entitled to its claim for refund, the Court *En Banc* will consider those exhibits that were initially denied admission by the Court in Division solely on the ground of failure to present originals for comparison, and those VAT invoices/ORs that clearly reflect the zero-rated sales albeit in the breakdown portion.

In view of the foregoing, the Court *En Banc* shall now proceed to examine petitioner's claim for refund in relation to the requirements set forth in Section 112(A) of the NIRC of 1997, as amended.

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

Based on Section 112 of the NIRC of 1997, as last amended by Republic Act (RA) No. 10963,[14] jurisprudence has laid down certain requisites which the taxpayer-applicant must comply with to successfully obtain a credit/refund of input VAT. Said requisites are classified into certain categories, to wit:

> <u>As to the timeliness of the filing of the administrative and judicial claims</u>:
>
> 1. the refund claim is filed with the BIR within two years after the close of the taxable quarter when the sales were made;[15]

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

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

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

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

3. the taxpayer is a VAT-registered person;[16]

In relation to the taxpayer's output VAT:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[17]

5. for zero-rated sales under Section 106(A)(2)(1) and (2); 106(B); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the *Bangko Sentral ng Pilipinas* (BSP) rules and regulations;[18]

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[19]

7. the input taxes are due or paid;[20]

8. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume;[21] and

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[22]

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16 *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, *supra* at note 10; and *AT&T Communications Services Philippines, Inc., vs. Commissioner of Internal Revenue*, *supra* at note 10.

17 *Id.*

18 *Id.*

19 *Id.*

20 *Id.*

21 *Id.*

22 *Id.*

It must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove every minute aspect of their case.[23] It, thus, behooves petitioner to show compliance with each of the foregoing requisites. As a corollary, the absence of *any* of the said requisites is already a valid ground to deny the refund claim.

As already settled in the assailed Decision of the Court in Division,[24] petitioner has complied with the first three requisites. Accordingly, there is no need to further discuss the same, and the Court *En Banc* will focus on the fourth to ninth requisites.

Compliance with the fourth and fifth requisites

The *fourth* and *fifth* requisites, respectively, require that the taxpayer is engaged in zero-rated or effectively zero-rated sales; and that for zero-rated sales under Sections 106(A)(2)(a)(1), (2) and (b), and 108(B)(1) and (2) of the NIRC of 1997, as amended, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations.

Petitioner generated the following sales subject to 12% VAT and zero percent VAT to customers that are registered with BOI and Philippine Economic Zone Authority (PEZA) for the first quarter of CY 2018, to wit:

Sales	Amount
Sales Subject to VAT	₱ 78,946,564.72[25]
Zero-Rated Sales	121,890,543.63[26]
Total Sales	**₱ 200,837,108.35**

Considering the zero-rated sales amounting to ₱121,890,543.63, the Independent Certified Public Accountant (ICPA) noted that the transactions were considered as zero-rated sales subject to VAT at zero percent as these pertain to goods and services sold to entities registered with either the BOI or PEZA. The breakdown of zero-rated sales per customer is presented in the table below:

[23] *Edison (Bataan) Cogeneration Corporation vs. Commissioner of Internal Revenue, etseq.*, G.R. Nos. 201665 and 201668, August 30, 2017; *Commissioner of Internal Revenue vs. Philippine National Bank*, G.R. No. 180290, September 29, 2014; *Commissioner of Internal Revenue vs. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014; *Dizon vs. Court of Tax Appeals, et al.*, G.R. No. 140944, April 30, 2008; *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007; and *Commissioner of Internal Revenue vs. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.

[24] CTA EB Docket, pp. 31 to 47.

[25] Exhibit "P-4", 1st Quarter 2018 VAT Return, Line 15A, Docket – Vol. II, p. 657.

[26] Exhibit "P-4", 1st Quarter 2018 VAT Return, Line 17, Docket – Vol. II, p. 657.

Agency	Customer's Name	Zero-Rated Sales
BOI	Philippine Gold Processing and Refining Corporation (PGPRC)	₱ 193,851.00
PEZA	Asian Transmission Corporation	₱ 26,163,101.44
PEZA	Honda Parts Manufacturing Corporation	208,553.26
PEZA	Isuzu Autoparts Manufacturing Corporation	24,540,512.00
PEZA	Mitsuba Philippines Corporation	658,299.95
PEZA	Toyota Aisin Philippines, Inc. (*Formerly: Toyota Autoparts Philippines, Inc.*	67,126,225.98
	Total Sales to PEZA Registered Entities	121,696,692.63
	TOTAL SALES	**₱121,890,543.63**

To substantiate that these entities are registered with either BOI or PEZA, and pursuant to their registration are entitled to in the VAT zero percent incentives on their purchases from the petitioner, the following documents were provided:

Agency	Entity Name Per Registration	Issuance Date of Certificate of Registration	Certificate of Registration Number	Exhibit
BOI	Phil. Gold Processing & Refining Corporation	January 15, 2018	2018-025	"P-65"[27]
PEZA	Asian Transmission Corporation	April 1, 2014	14-047	"P-44"[28]
PEZA	Honda Parts Manufacturing Corporation	January 18, 1993	93-05	"P-45"[29]
PEZA	Isuzu Autoparts Manufacturing Corporation	February 19,1997	97-015	"P-46"[30]
PEZA	Mitsuba Philippines Corporation	December 21, 2018	96-107	"P-47"[31]
PEZA	Toyota Autoparts Philippines, Inc.	October 5, 2018	95-60	"P-48"[32]

A. Sales to BOI-registered entity (₱193,851.00)

Petitioner claims that it partly engaged in automatically zero-rated sales, as **100%** of its sales to BOI-registered entity for CY 2018 were exported, as shown by the Certification issued by the BOI.

Consequently, petitioner has adequately proven that the sales totaling ₱193,851.00 were made to BOI-registered entity through the submission of the relevant sales invoices.[33]

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[27] Exhibit "P-65", USB (Exhibit "P-50").
[28] Docket- Vol. II, p. 756.
[29] Docket- Vol. II, p. 757.
[30] Docket- Vol. II, p. 758.
[31] Docket- Vol. II, p. 759.
[32] Docket- Vol. II, p. 760.
[33] Exhibit "P-65", USB (Exhibit "P-50").

B. Sales to PEZA-registered entity (₱121,696,692.63)

It is undisputed that petitioner declared a total zero-rated sales in its second quarterly VAT Return for CY 2018 amounting to ₱121,890,543.63.[34] Out of this amount, the ICPA noted that ₱121,696,692.63 (₱121,890,543.63 less ₱193,851.00)[35] represents sales to PEZA-registered entities.

To prove compliance with the VAT invoicing requirements, petitioner submitted various sales invoices (SIs)[36] in support of its zero-rated sales to PEZA-registered entities, which were duly examined by the ICPA, extracted and summarized from petitioner's Schedule of Zero-Rated Sales-PEZA Registered Entities.[37]

With the findings of the ICPA and upon further examination of the Court *En Banc* of the documents presented, only zero-rated sales to PEZA-registered entities amounting to ₱98,594,821.63 (₱121,696,692.63 less ₱23,101,871.00) were valid while the amount of ₱23,101,871.00 will be denied as the amounts of zero-rated sales are unreadable, viz.:

Exhibits	Buyer	Amount
	Unreadable Amount of Zero-Rated Sales	
"P-67"	ASIAN TRANSMISSION CORP	₱ 4,802,944.48
"P-77"	ASIAN TRANSMISSION CORP	6,695,987.04
"P-89"	ASIAN TRANSMISSION CORP	5,246,514.92
"P-107"	ASIAN TRANSMISSION CORP	6,356,424.56
	TOTAL	₱23,101,871.00

Having established that petitioner had valid VAT zero-rated sales in the amount of ₱98,788,672.63 (₱121,890,543.63 less ₱23,101,871.00) for the subject period of claim, the Court *En Banc* shall proceed to determine whether petitioner complied with the remaining requisites pertaining to the input VAT being claimed for refund.

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

The *sixth* requisite provides that the claimed input taxes do *not* appear to be transitional input taxes, pursuant to Section 111(A) of the NIRC of 1997, to wit:

[34] Exhibit "P-4", Line 17, Docket – Vol. II, p. 657.
[35] ICPA Report, Sheet Annex 4, USB(Exhibit "P-50").
[36] Exhibits "P-67" to "P-130", USB(Exhibit "P-50").
[37] ICPA Report, Sheet Annex 4, USB(Exhibit "P-50").

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

Transitional input tax credit operates to benefit newly VAT-registered persons, whether or not they previously paid taxes in the acquisition of their beginning inventory of goods, materials and supplies. During the period of transition from non-VAT to VAT status, the transitional input tax credit serves to alleviate the impact of the VAT on the taxpayer.[38]

In this case, the claimed input taxes do *not* appear to be transitional input taxes, as understood under Section 111(A) of the NIRC of 1997, as amended; and thus, petitioner has complied with the *sixth* requisite for the grant of an input VAT refund.

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

Anent the *seventh* requisite in claiming VAT refund, it is crucial for petitioner to provide supporting documents to prove that the input taxes claimed were actually due or paid in accordance with Section 110(A) of the NIRC of 1997, as amended, as implemented by Sections 4.110-1 to 4.110-3 and 4.110-8 of RR No. 16-2005, as amended.

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

In its amended 1st Quarterly VAT Return for CY 2018,[39] petitioner reported total input VAT of ₱23,778,642.64, broken down as follows:

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

[39] Exhibit "P-4", Docket – Vol. II, pp. 657 to 658.

Input VAT on:	Amount of Input VAT
Importation of Goods	₱22,901,083.00
Services	719,887.98
Others	157,671.66
TOTAL	**₱23,778,642.64**

In support for the input VAT on importation and services, petitioner submitted Schedule of Input VAT on Importation,[40] Single Administrative Document (SAD) and Statement of Settlement of Duties and Taxes (SSDT),[41] Schedule of Input VAT on Local Purchases[42] and Official Receipts.[43]

Input VAT on Importation of Goods:

After a thorough evaluation of the documents submitted, only input VAT totaling ₱22,639,588.00 (₱22,901,083.00 less ₱261,495.00) for the importation of goods was determined to be duly substantiated. Accordingly, the amount of ₱261,495.00 is hereby recommended for disallowance for failure to comply with the invoicing requirements prescribed under Sections 110(A), 113(A) and (B), and 237 of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-2, 4.110-8, and 4.113-1 of RR No. 16-2005, as amended. A summary of the said disallowance is presented below:

Incorrect VAT paid on Importation		
SCHAEFFLER INDIA LIMITED	"P-544"	₱187,818.00
Without SSDT Number and Date		
SCHAEFFLER MANUFACTURING THAILAND	"P-567"	73,677.00
TOTAL		**₱261,495.00**

Input VAT on Services:

Furthermore, as confirmed by the ICPA[44] and upon further evaluation by the Court *En Banc* of the documents submitted, only input VAT amounting to ₱1,690.20 was determined to be duly substantiated. Accordingly, the amount of ₱718,197.78 (₱671,193.86 plus ₱47,003.92) is hereby disallowed due to non-compliance with the prescribed invoicing requirements. A summary of the said disallowance is presented below:

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40 Sheet Annex 16, ICPA Report, USB (Exhibit "P-50").
41 Exhibits "P-344" to "P-567", USB (Exhibit "P-50").
42 Sheet Annex 17, ICPA Report, USB (Exhibit "P-50").
43 Exhibits "P-568" to "P-604", USB (Exhibit "P-50").
44 Sheet Annex 17, ICPA Report, USB (Exhibit "P-50").

Input VAT on Purchase of Services			
Without Exceptions			
POWERMAX CONSULTING GROUP, INC	"P-580"	₱563.40	
POWERMAX CONSULTING GROUP, INC	"P-581"	1,126.80	
Sub-total			₱1,690.20
Input VAT on Purchases supported by			
documents that are out of period			
PLDT INC.	"P-583"	624.00	
GLOBAL STAFF RECRUITMENT SEARCH INC.	"P-584"	7,009.83	
A.HARTRODT PHILIPPINES, INC	"P-585"	51,810.78	
A.HARTRODT PHILIPPINES, INC	"P-586"	37,679.02	
PHILSCAN TRAVEL AND TOURS, INC	"P-587"	564.00	
SGV & CO.	"P-588"	41,351.76	
RADIX SYSTEMS SERVICES CORPORATION	"P-589"	246.00	
OPTIMA REALTY CORPORATION	"P-590"	2,030.31	
DHL EXPRESS (PHILIPPINES) CORP	"P-591"	235.80	
DHL EXPRESS (PHILIPPINES) CORP	"P-592"	164.04	141,715.54
Purchases supported by documents with			
incorrect address, incorrect TIN, no VATable			
amount and/or VAT amount			
A.HARTRODT PHILIPPINES, INC	"P-593"		19,641.84
Purchases supported by documents			
with no nature of service			
DIAMOND IGB, INC	"P-594"		472.43
Purchases supported by documents			
with no TIN, no nature of service			
and incorrect business style			
OPTIMA REALTY CORPORATION	"P-595"	871.77	
GLOBAL STAFF RECRUITMENT SEARCH INC.	"P-596"	6,454.26	
GLOBAL STAFF RECRUITMENT SEARCH INC.	"P-597"	5,411.13	
EL CIELITO TOURIST INN, INC.	"P-598"	2,352.96	
PHILSCAN TRAVEL AND TOURS, INC	"P-599"	648.00	
OPTIMA REALTY CORPORATION	"P-600"	2,075.56	

OPTIMA REALTY CORPORATION	"P-601"	16,820.36	34,634.04
Purchases supported by documents with			
no TIN, no Address and no nature of service			
OPTIMA REALTY CORPORATION	"P-602"	15,719.96	
BAYFRONT HOTEL	"P-603"	2,545.71	
BAYFRONT HOTEL	"P-604"	1,060.71	19,326.38
Purchases supported by documents			
not valid for claiming of input tax			515,154.17
Less: Excess input VAT per schedule versus Return			- 59,750.54
Sub-Total			671,193.86
Per Further Examination by the Court			
Without Nature of Service			
DHL EXPRESS (PHILIPPINES) CORP	"P-568"	123.52	
RADIX SYSTEMS SERVICES CORPORATION	"P-569"	504.00	
TMF PHILIPPINES, INC	"P-571"	6,072.00	
FOLLOSCO MORALLOS & HERCE	"P-574"	3,441.78	
FOLLOSCO MORALLOS & HERCE	"P-575"	1,231.20	
DHL EXPRESS (PHILIPPINES) CORP	"P-576"	234.78	
RADIX SYSTEMS SERVICES CORPORATION	"P-577"	252.00	
DIAMOND IGB, INC	"P-578"	754.55	
DIAMOND IGB, INC	"P-579"	415.85	
A.HARTRODT PHILIPPINES, INC	"P-582"	31,176.24	44,205.92
Supported by Sales Invoice			
BITHIAH MARKETING	"P-570"	1,435.71	
RICOH (PHILIPPINES), INC	"P-572"	648.93	
RICOH (PHILIPPINES), INC	"P-573"	713.36	2,798.00
Sub-Total			47,003.92
TOTAL			**₱719,887.98**

Input VAT on Local Purchases – Others:

The input VAT amounting to ₱157,671.66[45] classified under "*Others*" in the amended Quarterly VAT Return shall be denied outright, as no supporting documents were submitted to substantiate the claim.

In fine, for compliance with the *seventh* requisite, out of the total reported input VAT of ₱23,778,642.64, only the amount of ₱22,641,278.20 represents petitioner's valid input VAT for the first quarter of CY 2018, as computed below:

Input VAT Declared Per VAT Return	₱23,778,642.64
Less: Disallowances	
Importation	261,495.00
Services	718,197.78
Others	157,671.66
Sub-Total	1,137,364.44
Valid Input VAT	**₱22,641,278.20**

A portion of the input taxes being claimed is attributable to zero-rated or effectively zero-rated sales

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

As noted earlier, petitioner reported total sales of ₱200,837,108.35 for the first quarter of CY 2018, consisting of 12% vatable sales and zero-rated sales, in the following respective amounts, *viz.*:

Total Vatable Sales	₱ 78,946,564.72
Total Zero-Rated Sales	121,890,543.63
Total Sales	**₱200,837,108.35**

Since the valid input VAT of ₱22,641,278.20 cannot be directly or entirely attributed to specific sales, the same shall be allocated proportionately on the basis of the volume of petitioner's sales, thus:

[45] Exhibit "P-4", Line 21O, Docket – Vol. II, p. 657.

Total declared Vatable Sales	₱ 78,946,564.72
Divided by total declared Sales	200,837,108.35
Multiplied by valid input VAT	22,641,278.20
Valid input VAT allocated to declared Vatable Sales	**₱ 8,900,004.33**

Total declared Zero-Rated Sales	₱ 121,890,543.63
Divided by total declared Sales	200,837,108.35
Multiplied by valid input VAT	22,641,278.20
Valid input VAT allocated to declared Zero-Rated Sales	**₱ 13,741,273.87**

Hence, as regards petitioner's compliance with the *eighth* requisite, only the amount of ₱13,741,273.87 represents its declared input VAT attributable to total declared zero-rated sales for the first quarter of CY 2018.

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

Having determined that petitioner had input VAT attributable to its zero-rated sales, We now determine whether the same was not applied against its output VAT liability during and in the succeeding quarters, relative to the *ninth* requisite for the successful prosecution of an input VAT refund claim.

In *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) vs. Commissioner of Internal Revenue*,[46] the Supreme Court held as follows:

> xxx the input tax attributable to zero-rated sales may, **at the option of the VAT-registered taxpayer**, be: (1) charged against output tax from regular 12% VAT-able sales, and any unutilized or "excess" input tax may be claimed for refund of 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**. xxx. *(Emphases supplied.)*

In this case, records show that petitioner chose the *first* option since it applied its input VAT incurred during the first quarter of CY 2018 against its output VAT for the same period, and then claimed for refund the remaining unutilized or excess input VAT therefrom. Hence, applying the foregoing jurisprudential pronouncement, the refundable input VAT shall be computed net of output tax liability.

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

Moreover, since petitioner's valid input VAT allocated to declared vatable sales, in the amount of ₱8,900,004.33, is not enough to cover the output VAT liabilities in the amount of ₱9,473,587.77, the valid input VAT allocated to total declared zero-rated sales, in the amount of ₱13,741,273.87 shall then be utilized against the output VAT still due of ₱573,583.44, resulting to an excess input VAT allocated to total declared zero-rated sales in the amount of ₱13,167,690.43 computed as follows:

Output VAT due 1st quarter 2018	₱ 9,473,587.77
Less: Valid input VAT allocated to declared Vatable Sales	8,900,004.33
Output VAT still due	**₱ 573,583.44**

Valid input VAT allocated to declared Zero-Rated Sales	₱ 13,741,273.87
Less: Output VAT still due	573,583.44
Excess valid input VAT allocated to declared Zero-Rated Sales	**₱13,167,690.43**

Consequently, only the remaining input VAT of ₱13,167,690.43 can be attributed to the declared zero-rated sales of ₱121,890,543.33, and out of the said excess valid input VAT of ₱13,167,690.43, only the amount of ₱10,672,022.79 is attributable to the valid zero-rated sales of ₱98,788,672.63, as computed below:

Excess valid input VAT allocated to declared Zero-Rated Sales	₱ 13,167,690.43
Divided by declared zero-rated sales	121,890,543.63
Multiplied by valid zero-rated sales	98,788,672.63
Valid input VAT attributable to valid zero-rated sales	**₱ 10,672,022.79**

Considering the BIR's prior partial approval of petitioner's administrative claim, as shown by the issuance of a "*VAT Refund Notice*"[47] in the amount of ₱5,625,739.78, petitioner is theoretically entitled to the remaining balance of ₱5,046,283.01 (₱10,672,022.79 less ₱5,625,739.78). Nevertheless, the Court may adjudicate the present judicial claim only to the extent of the input VAT specifically prayed for, which is limited to **₱3,332,237.00**.

Furthermore, although the administrative claimed input VAT of ₱10,775,485.00, which includes the refundable valid input VAT of ₱3,332,237.00, was carried-over by petitioner in its succeeding *Quarterly VAT Returns*, the same remained unutilized until it was deducted as "VAT Refund/TCC claimed"[48] in its amended *Quarterly VAT Return* for the 4th quarter of taxable year 2019, thereby preventing the carry-over of such input taxes in the following taxable periods and application of the same to any future

[47] Exhibit "P-35", Docket – Vol. II, pp. 740 to 750.
[48] Exhibit "P-20", Docket – Vol. II, pp. 690 to 691, Line 23D.

output tax liability. Petitioner is, thus, deemed to have fulfilled the *ninth* requisite for the grant of its claim for refund/tax credit of input VAT.

In fine, petitioner has sufficiently proven its entitlement to the refund or issuance of tax credit certificate in the amount of **₱3,332,237.00**, representing its excess and unutilized input VAT attributable to its zero-rated sales for the first quarter of CY 2018.

ACCORDINGLY, the **Petition for Review (Re: Decision dated 15 February 2024 and Resolution dated 25 June 2024 of the Special First Division, Court of Tax Appeals)** filed by Schaeffler Philippines Inc. is **GRANTED**. The Decision dated February 15, 2024 and the Resolution dated June 25, 2024 of the Court's Special First Division in CTA Case No. 10358 are **REVERSED** and **SET ASIDE**.

Respondent is ordered to refund or issue a tax credit certificate in favor of petitioner the amount of **₱3,332,237.00**, representing petitioner's excess and unutilized input value-added tax attributable to its zero-rated sales for the first quarter of calendar year 2018.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

On official business but left her vote of concurrence in this case
MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

With Dissenting Opinion
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(On Official Business)

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MARIA ROWENA MODESTO-SAN PEDRO
Acting Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

SCHAEFFLER PHILIPPINES INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 2947
(CTA Case No. 10358)

Present:

RINGPIS-LIBAN, *P.J.*,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
FEB 20 2026

x - x

DISSENTING OPINION

BACORRO-VILLENA, J.:

With due respect to my esteemed colleague, Associate Justice Maria Corazon G. Ferrer-Flores, I am constrained to register my dissent. The *ponencia* partially grants petitioner Schaeffler Philippines Inc.'s (**petitioner**'s) Petition for Review and orders respondent Commissioner of Internal Revenue (**respondent/CIR**) to refund the reduced amount of ₱3,332,237.00, representing petitioner's excess and unutilized input value-added tax (**VAT**) attributable to its zero-rated sales for the first quarter of calendar year (**CY**) 2018, by according probative weight to all the photocopies previously denied by the Court in Division.

At the outset, I state plainly that, while I agree that the Court in Division erred in ruling that petitioner had failed to comply with the invoicing requirements under Section 113[1](A) in relation to Section 113(B)(2)(C) of the

[1] **SEC. 113.** *Invoicing and Accounting Requirements for VAT-Registered Persons.*

National Internal Revenue Code (**NIRC**) of 1997, as amended, this mistake does not elevate the denied photocopies to probative status.

I essay my reasons below.

Firstly, the Rules of Court (including Rule 130, Section 4 thereof) shall apply suppletorily to the Revised Rules of the Court of Tax Appeals (**RRCTA**).[2] Concomitantly, the RRCTA lays down a more exacting standard regarding the presentation of documentary evidence. The relevant provisions make it unequivocally clear that original documents must be presented for purposes of comparison and verification, to wit:

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> Rule 11
> PRE-TRIAL
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> SEC. 5. *Procedure in civil cases.*- In civil cases, the parties shall submit, at least three days before the pre-trial, their respective pre-trial briefs containing the following:
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> (d) The documents or exhibits to be presented, stating their purpose. **No evidence shall be allowed to be presented and offered during the trial in support of a party's evidence-in-chief other than those that had been <u>pre-marked</u>** and identified[.]
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> ...
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> Rule 12
> TRIAL
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> ...
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> SEC. 4. *Taking of evidence by Court official.* - In default or *ex parte* hearings, or in any case where the parties agree in writing, the Court may delegate the reception of evidence to the Clerk of Court, the Division Clerks of Court, their assistants who are members of the Philippine bar, or any Court attorney. The reception of documentary evidence by a Court official shall be for the sole purpose of marking, **comparison with the original**, and identification by witnesses of such documentary evidence. The Court official shall have no power to rule on objections to any question or to the admission of exhibits, which objections shall be resolved by the Court upon submission of the report and the transcripts within ten days from termination of the hearing.

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2 See RRCTA, Rule 1, Section 3.

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SEC. 5. *Presentation of voluminous documents or long accounts.- ...*

(b) ***Pre-marking and availability of originals.***- The receipts, invoices, vouchers or other documents covering the said accounts or payment to be introduced in evidence must be pre-marked by the party concerned and submitted to the Court in order to be made accessible to the adverse party who desires to check and verify the correctness of the summary and [Certified Public Accountant (CPA)] certification. **The original copies** of the voluminous receipts, invoices or accounts must be ready for verification and comparison in case doubt on its authenticity is raised during the hearing or resolution of the formal offer of evidence.

...

Rule 13
TRIAL BY COMMISSIONER

...

SEC. 3. *Findings of independent CPA.* - **The submission by the independent CPA of pre-marked documentary exhibits shall be subject to verification and comparison with the <u>original documents</u>**, the availability of which shall be the primary responsibility of the party possessing such documents and, secondarily, by the independent CPA[.][3]

...

Taken together, these provisions underscore the requirement that original documents be produced before this Court may consider them as evidence, unless their unavailability is sufficiently justified and the situation warrants the presentation of secondary evidence. Here, petitioner neither alleges the unavailability of the original documents nor provides any justification for their non-presentation before this Court. Petitioner merely asserts that the documents are "duplicates", thus admissible, without explaining why the originals could not be presented in compliance with the clear requirements of the RRCTA.

Secondly, petitioner never sought reconsideration of the Court in Division's Resolution denying admission of its documentary exhibits, neither by a timely motion for reconsideration of that Resolution nor by specifically challenging that evidentiary ruling in its motion for reconsideration of the

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[3] Italics in the original text, emphasis and underscoring supplied.

Court in Division's 15 February 2024 Decision,[4] thereby allowing the denial of multiple exhibits to attain finality at the Division level.

Thirdly, petitioner failed to make a tender of excluded evidence with respect to the documents disallowed by the Court in Division. Under the Section 40[5] of Rule 132 of the Revised Rules on Evidence (**RRE**), when documentary or object evidence is excluded, the offeror must cause the excluded documents to be attached to or made part of the record; if the excluded evidence is oral, the offeror must state for the record the witness' particulars and the substance of the proposed testimony. This procedure is specifically intended "for purposes of appeal," because **only then can the appellate court consider the same in disposing the case**. Absent such tender, the excluded documents do not form part of the records, and the reviewing court has no factual and procedural basis to re-evaluate their admissibility or probative value.[6] *Quod non est in actis, non est in mundo.* What is not in the record is not in the world—and certainly not in the record for the Court *En Banc*'s review. For the appellate court to consider as evidence, which was not offered by one party at all during the proceedings below, would infringe the constitutional right of the adverse party – in this case, the CIR, to due process of law.[7]

Fourthly, petitioner's Petition for Review before the Court *En Banc* unmistakably sought relief **only** as to Exhibit No. "P-65," the lone photocopy specifically identified and argued as an error. Yet the *ponencia* effectively resurrects and gives probative value to numerous other excluded exhibits that petitioner neither assigned as errors nor briefed for *En Banc*'s review. This effectively grants relief beyond the issues presented for review.

Fifthly, it bears noting that *People of the Philippines, v. Ybo Lastimosa*[8] (**Lastimosa**) is a criminal case and the case itself preliminarily mentioned that "in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal **can correct errors, though <u>unassigned</u> in the appealed judgment**, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors."

Finally, the wholesale admission of photocopies is especially problematic given the nature of the case: a tax refund claim, where each document (especially the official receipt or invoice) directly affects the

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4 *Rollo*, pp. 955-971.
5 **SEC. 40**. *Tender of excluded evidence.*
6 *Fortune Tobacco Corporation v. Commissioner of Internal Revenue*, G.R. No. 192024, 01 July 2015.
7 Id.
8 G.R. No. 265758, 03 February 2025.

amount to be refund, *i.e.*, to be released from the public treasury, if applicable. In such cases, the requirement that claimants present original documents is not a mere technicality but a substantive safeguard protecting public funds. The *ponencia*'s reliance on *Lastimosa* seems to overlook this context and the heightened evidentiary burden, *i.e.*, *strictissimi juris*, resting on the taxpayers.[9]

Thus, while the Revised Rules on Evidence (**RRE**) now permit duplicates under certain conditions, tax refund cases typically fall within the exceptions that require originals.[10] Because the authenticity and fairness concerns are inherent, given the financial implications and the vulnerability of receipts and invoices to manipulation and forgery, the taxpayer-claimant should present original receipts and invoices, not just photocopies, if they want to carry their burden of proof and secure a tax refund.

In sum, the *ponencia*'s wholesale admission of photocopies—unsupported by any showing of unavailability of originals, unpreserved by motion or assignment of error and untendered under the rules—effectively invites this Court *En Banc* to discard the very safeguards the RRCTA was designed to enforce. **The rule is exacting because the purse is finite.**

All told, I vote to **RECOMPUTE** the amount of unutilized input value-added tax attributable to petitioner Schaeffler Philippines Inc.'s zero-rated and effectively zero-rated sales for the first quarter of calendar year 2018, **EXCLUDING** previously denied photocopied exhibits, *i.e.*, Exhibits "P-22", "P-23", "P-24", "P-25", "P-26", "P-38", "P-53" to "P-56", "P-58" to "P-65", "P-344" to "P-567", which, for reasons herein stated, cannot be accorded probative weight.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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9 See *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue*, G.R. No. 215159, 05 July 2022.

10 Rule 130
RULES OF ADMISSIBILITY
SEC. 4. *Original of Document.* –
...
(c) A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the **authenticity** of the original, or (2) in the circumstances, it is **unjust** or inequitable to admit the duplicate in lieu of the original. (Emphasis supplied)