REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Special Third Division

INTERGRAPH PROCESS & BUILDING SOLUTIONS PHILIPPINES, INC., *Petitioner,*	**CTA CASE NO. 9454**
-versus-	**Members:** **FABON-VICTORINO,** and **RINGPIS-LIBAN,** ***JJ.***
COMMISSIONER OF INTERNAL REVENUE *Respondent.*	**Promulgated:** APR 15 2019 4:28 p.m.

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DECISION

RINGPIS-LIBAN, J.:

The Case

Before this Court is a Petition for Review[1] filed by Intergraph Process and Building Solutions Philippines, Inc. on August 26, 2016, praying for the refund of excess input value-added tax ("VAT") in the aggregate amount of Php15,282,401.06 allegedly attributable to its zero-rated sales for the period covering January 1 to December 31, 2014.

The Facts

Petitioner Intergraph Process and Building Solutions Philippines, Inc. is a domestic corporation duly organized under and by virtue of the laws of the Philippines, with principal business address at 37th Floor, LKG Tower, 6801 Ayala Avenue, Makati City, Metro Manila.[2] It is a VAT-registered taxpayer, with Taxpayer Identification No. 223-836-980-000, as evidenced by its Bureau of

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[1] Docket, pp. 10-35.
[2] *Id.,* Joint Stipulation of Facts and Issues (JSFI), Par. 1, p. 395.

Internal Revenue ("BIR") Certificate of Registration No. OCN9RC0000439396 dated April 29, 2003.[3]

As stated in its Articles of Incorporation[4], petitioner's primary purpose is:

> "to engage in the business of designing, manufacturing, assembling, selling (on wholesale), licensing, marketing, and servicing of computer software: to buy, sell, import, export, trade, or otherwise deal in computer spare parts and supplies; to perform system analysis design and programming and maintenance and technical consulting services for computer systems; and to act as technical consulting services for computer systems; and to act as technical consultants to person, corporations, partnerships and associations engaged in enterprises using computer software, including the conduct of feasibility studies and other studies necessary and relevant to computer software."[5]

On the other hand, respondent is the duly appointed Commissioner of the Bureau of Internal Revenue who has the power to decide on disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the National Internal Revenue Code ("NIRC") of 1997, as amended, or other laws or portions thereof administered by the BIR. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

In the course of its trade and business, petitioner sold services to various entities registered with the Philippine Economic Zone Authority ("PEZA").[6]

For the period covering January 1 to December 31, 2014, petitioner allegedly accumulated excess input VAT credits from its domestic purchases of services, which are allocated to its VAT zero-rated transactions in the aggregate amount of Php15,282,401.06, and which has not been applied against output tax in the succeeding quarters or years.

On various dates, petitioner filed with the BIR its Quarterly VAT Returns.[7]

On March 31, 2016, petitioner filed with the BIR an administrative claim for tax refund in the total amount of Php15,282,401.06, allegedly representing

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3 *Id.,* Exhibit "P-3", p. 560.
4 *Id.,* Exhibit "P-2", p. 552.
5 *Id.,* JSFI, Par. 3, JSFI, p. 396.
6 *Id.,* Exhibits "P-4" to "P-14", pp. 561-571.
7 *Id.,* Exhibits "P-17" to "P-24", pp. 574-585.

the excess input taxes that are attributable to its VAT zero-rated sales for the year 2014.[8]

Believing that the 120-day period given to respondent to decide on its claim for refund had lapsed on July 29, 2016, petitioner filed the instant Petition for Review before this Court on August 26, 2016.

Respondent filed his Answer[9] on November 2, 2016 through registered mail and was received by the Court on November 16, 2016. He interposed the following special and affirmative defenses:

> "2. Taxes paid and collected are presumed to be made in accordance with the laws and regulations, hence, not refundable;
>
> 3. It is incumbent upon the Petitioner to show that it has complied with the provision of Section 204(C) in relation to Section 229 of the 1997 Tax Code, as amended;
>
> 4. Petitioner's claim for refund or issuance of tax credit certificate in the amount of Php15,282,401.06 as alleged unutilized input VAT paid on purchases of goods and services attributable to its zero-rated sales for the taxable year 2014 was not fully substantiated by proper documents, such as sales invoices, official receipts and others.
>
> 5. In an action for tax credit or refund, the burden is upon the taxpayer to prove that he is entitled thereto, and failure to discharge the said burden is fatal to the claim xxx;
>
> 6. Claims for refund are construed strictly against the claimant, the same partake the nature of exemption from taxation xxx."

Respondent filed his Pre-Trial Brief[10] on February 6, 2017; while petitioner's Pre-Trial Brief[11] was filed on March 8, 2017. The pre-trial conference was held on March 14, 2017.[12]

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[8] *Id.,* Exhibit "P-59", pp. 652-658.
[9] *Id.,* pp. 179-181.
[10] *Id.,* pp. 191-193.
[11] *Id.,* pp. 194-214.
[12] *Id.,* Minutes of the Hearing, p. 380.

In compliance with the order of the Court during the pre-trial conference, the parties filed their Joint Stipulation of Facts and Issues[13] on March 23, 2017, which the Court adopted in the Pre-Trial Order[14] dated May 4, 2017.

Petitioner presented Atty. Adan T. Delamide, the Court-commissioned Independent Certified Public Accountant (ICPA), as its witness. [15]

After presentation, marking and identification, petitioner formally offered its documentary evidence on August 17, 2017, consisting of Exhibits "P-1" to "P-61" and "P-63" to "P-196", inclusive of submarkings.[16] In a Resolution dated September 28, 2017, the Court admitted petitioner's documentary evidence except for Exhibits "P-188", "P-189", and "P-190" for failure to present the originals for comparison.[17]

When it was respondent's turn to present evidence, his counsel manifested that she has no evidence to present. Thus, the parties were granted thirty (30) days to file their respective memoranda.[18]

Petitioner filed its Memorandum[19] on March 7, 2018; while respondent filed his Memorandum[20] through registered mail on April 13, 2018 and received by the Court on April 20, 2018. The Court then declared the case submitted for decision as of April 25, 2018.[21]

The Issue

The parties submitted this lone issue for this Court's resolution:

> Whether petitioner is entitled for tax refund for the excess unutilized input VAT attributable to its VAT zero-rated sales for the period from January 1, 2014 to December 31, 2014 in the amount of Php15,282,401.06.[22]

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[13] *Id.*, pp. 395-413.
[14] *Id.*, pp. 432-440.
[15] *Id.*, Minutes of the Hearing dated August 7, 2017, p. 521.
[16] *Id.*, pp. 523-549.
[17] *Id.*, pp. 665-666.
[18] *Id.*, Minutes of the Hearing dated February 12, 2018, p. 674.
[19] *Id.*, pp. 676-697.
[20] *Id.*, pp. 704-708.
[21] *Id.*, p. 711.
[22] *Id.*, p. 397.

Discussion/Ruling

Pertinent to the resolution of the case at bench are Sections 112(A) and (C) of the NIRC of 1997, as amended, which read:

> "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.
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> xxx xxx xxx
>
> (C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* – In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.
>
> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty

day-period, appeal the decision or the unacted claim with the Court of Tax Appeals."

Pursuant thereto, in order to be entitled to a refund or tax credit of unutilized input VAT attributable to zero-rated or effectively zero-rated sales, it is imperative to prove the following:

1. that the taxpayer is VAT-registered;
2. that the claim for refund was filed within the prescriptive period;
3. that there must be zero-rated or effectively zero-rated sales;
4. that input taxes were incurred or paid;
5. that such input taxes are attributable to zero-rated or effectively zero-rated sales; and
6. that the input taxes were not applied against any output VAT liability.

1st Requisite: Petitioner is a VAT-registered entity.

As stated earlier, petitioner is duly registered with the BIR as a VAT entity with Taxpayer Identification No. 223-836-980-000, as evidenced by its BIR Certificate of Registration No. OCN9RC0000439396 dated April 29, 2003.[23]

2nd Requisite: Petitioner's administrative and judicial claims were seasonably filed.

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

The present claim covers the four quarters of taxable year (TY) 2014. Counting two years from the end of each taxable quarter, petitioner had until the following dates within which to file its administrative claim for refund or issuance of TCC:

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[23] *Id.*, Exhibit "P-3", p. 560.

Taxable Period	2-Year Prescriptive Period
1st Quarter (January to March 2014)	March 31, 2016
2nd Quarter (April to June 2014)	June 30, 2016
3rd Quarter (July to September 2014)	September 30, 2016
4th Quarter (October to December 2014)	December 31, 2016

Evidently, petitioner's administrative claim for refund of unutilized input VAT filed on March 31, 2016[24] was filed within the two-year prescriptive period.

As to the timeliness of petitioner's judicial appeal, Section 112(C) of the NIRC of 1997, as amended, provides that respondent has one hundred twenty (120) days from the date of the submission of the complete documents in support of the application for refund or tax credit within which to grant or deny the claim. In case of full or partial denial by respondent, the taxpayer's recourse is to file an appeal before this Court within thirty (30) days from receipt of the decision of respondent. However, if after the 120-day period, respondent fails to act on the application for refund or tax credit, the remedy of the taxpayer is to appeal the inaction of respondent to this Court within thirty (30) days.

Accordingly, from the filing of petitioner's administrative claim on March 31, 2016, respondent had one hundred twenty (120) days or until July 29, 2016 to act on the said claim. Since respondent failed to act on the said claim on or before July 29, 2016, petitioner had thirty (30) days or until August 29, 2016[25] within which to file its judicial claim before this Court. Evidently, petitioner's judicial appeal by way of a Petition for Review was likewise timely filed on August 26, 2016[26].

3rd Requisite: Petitioner had zero-rated sales.

Petitioner is a stock corporation duly registered with the Securities and Exchange Commission (SEC) under Company Registration No. CS200309261 issued on April 22, 2003.[27] It is engaged in the business of designing, manufacturing, assembling, selling (on wholesale), licensing, marketing and servicing of computer software; to buy, sell, import, export, trade or otherwise deal in computer spare parts and supplies; to perform system analysis design and programming and maintenance and technical consulting services for computer systems; and to act as technical consultants to persons, corporations,

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24 Exhibit "P-59".
25 August 28, 2016 fell on a Sunday.
26 Docket, p. 10.
27 *Id.,* Exhibit "P-1", p. 550.

partnerships and associations engaged in enterprises using computer software, including the conduct of feasibility studies and other studies necessary and relevant to computer software.[28]

Petitioner maintains that its sales to its customers registered with the PEZA are subject to zero percent (0%) VAT pursuant to Section 108(B)(3) of the NIRC of 1997, as amended, which provides:

> "SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* –
>
> xxx xxx xxx
>
> (B) *Transactions Subject to Zero Percent (0%) Rate.* – The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> xxx xxx xxx
>
> (3) Services rendered to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects the supply of such services to zero percent (0%) rate;"

Section 4.108-5(b)(3) of Revenue Regulations (RR) No. 16-2005, which implements the foregoing provision, states:

> "SEC. 4.108-5. *Zero-Rated Sale of Services.* –
>
> xxx xxx xxx
>
> (b) *Transactions Subject to Zero Percent (0%) VAT Rate.* – The following services performed in the Philippines by a VAT-registered person shall be subject to zero percent (0%) VAT rate:
>
> xxx xxx xxx
>
> (3) **Services rendered to persons or entities whose exemption under special laws** or international agreements to which the Philippines is a signatory **effectively subjects the**

[28] *Id.,* Exhibit "P-2-a", p. 552.

supply of such services to zero percent (0%) rate;" *(Emphasis supplied)*

Further, the special law specific to this case is Republic Act (RA) No. 7916, as amended, otherwise known as "The Special Economic Zone Act of 1995". The relevant portions of said law are quoted hereunder for ready reference:

"REPUBLIC ACT NO. 7916
(as amended by Republic Act No. 8748)

AN ACT PROVIDING FOR THE LEGAL FRAMEWORK AND MECHANISMS FOR THE CREATION, OPERATION, ADMINISTRATION, AND COORDINATION OF SPECIAL ECONOMIC ZONES IN THE PHILIPPINES, CREATING FOR THIS PURPOSE, THE PHILIPPINE ECONOMIC ZONE AUTHORITY (PEZA) AND FOR OTHER PURPOSES.

xxx xxx xxx

SECTION 8. *ECOZONE to be Operated and Managed as Separate Customs Territory.* – The ECOZONE shall be managed and operated by the PEZA as separate customs territory.

The PEZA is hereby vested with the authority to issue certificates of origin for products manufactured or processed in each ECOZONE in accordance with the prevailing rules of origin, and the pertinent regulations of the Department of Trade and Industry and/or the Department of Finance.

xxx xxx xxx

SECTION 24. *Exemption form National and Local Taxes.* – Except for real property taxes on land owned by developers, no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE. xxx"

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 zero percent (0%) VAT. This was elucidated by the Supreme Court in the case of *Commissioner of Internal Revenue vs. Toshiba Information Equipment (Phils.), Inc.*[29], to wit:

> "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**.
>
> xxx 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?

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[29] G.R. No. 150154, August 9, 2005.

> **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%) VAT[30]." (*Emphasis supplied*)

Evidently, sales of goods and services by a VAT-registered taxpayer to entities located in the Ecozones are considered "export sales" subject to zero percent (0%) VAT rate pursuant to Section 108(B)(3) of the NIRC of 1997, as amended, and as implemented by Section 4.108.5(b)(3) of RR No. 16-05, as amended.

To prove that its clients are duly registered with the PEZA, petitioner submitted the Certifications[31] issued by PEZA, as well as, the letter[32] of the PEZA Director General, Ms. Lilia B. de Lima dated March 30, 2016 to Sycip Gorres Velayo & Co. (SGV), confirming the issuance of VAT zero-rating certifications to the following entities:

Client	PEZA Certification No.	Exhibit No.	PEZA Registration Certificate	
			No.	Date
ATLANTIC GULF & PACIFIC COMPANY OF MANILA INC.	2014-0233	P-4; P-15	1-Aug	8/6/2008
BABCOCK-HITACHI (PHILIPPINES) INC. (BHPI)	2014-0782	P-5; P-15	09-03	1/20/2009
CHIYODA PHILIPPINES CORPORATION (CPh)	2014-0364	P-6; P-15	09-96-IT	12/22/2009
DASH ENGINEERING PHILIPPINES, INC. (DEPI)	2014-0855	P-7; P-15	04-24-IT	8/11/2004
FLUOR DANIEL, INC.-PHILIPPINES (FDIP)	2014-0826	P-8; P-15	08-39-IT	July 30, 2008 as amended on July 5, 2012
HITACHI, LTD. (HL)	2014-0008	P-9; P-15	12-74-IT	8/30/2012
JFE TECHNO MANILA, INC. (JFE)	2014-0655	P-10; P-15	07-03-IT	Jan 30, 2007 as amended on Jan 30, 2012
JGC PHILIPPINES, INC. (JGC)	2014-0363	P-11; P-15	07-14-IT	2/27/2007
MHI TECHNICAL SERVICES CORP. (MTSC)	2014-0199	P-12; P-15	06-65-IT	Nov 7, 2006 as amended on Feb 27, 2012
MHPS TECHNICAL SERVICES CORP. (MTSC)	2014-0199	P-13; P-14	06-65-IT	Nov 7, 2006 as amended on Mar 28, 2014

Consequently, only the sales made to the above-enumerated PEZA entities during the four quarters of TY 2014 shall qualify for VAT zero-rating.

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30 Now at 12% VAT rate.
31 Exhibits "P-4" to "P-14".
32 Docket, Exhibit "P-15", p. 572.

In line with this, Sections 113(A)(2), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended, as implemented by Sections 4.113-1(A)(2), (B)(1) and (2)(c) of RR No. 16-05, provide that a VAT taxpayer, like herein petitioner, shall for every lease of goods or properties, and for every sale, barter or exchange of services, issue a VAT official receipt 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:
>
> xxx xxx xxx
>
> (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:
>
> xxx xxx xxx
>
> (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;
>
> xxx xxx xxx
>
> (3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and" *(Emphasis supplied)*
>
> "SEC. 4.113-1. ***Invoicing Requirements.*** –

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

xxx xxx xxx

(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:

xxx xxx xxx

(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;" *(Emphasis supplied)*

In its Amended Quarterly VAT Returns for the four quarters of TY 2014, petitioner declared total sales of Php403,149,995.19, which included zero-rated sales in the total amount of Php340,059,361.20, to wit:[33]

[33] *Id.*, pp. 575 to 576, 578 to 579, 581 to 582, and 584 to 585.

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
	"P-18"	"P-20"	"P-22"	"P-24"	
VATable sales	Php 11,796,453.04	Php 12,975,578.55	Php 16,261,074.41	Php 22,057,527.99	Php 63,090,633.99
Zero-rated sales	83,815,363.06	97,508,408.47	80,256,987.72	78,478,601.95	340,059,361.20
Total	**Php95,611,816.10**	**Php110,483,987.02**	**Php96,518,062.13**	**Php100,536,129.94**	**Php403,149,995.19**

In support of its declared zero-rated sales of Php340,059,361.20, petitioner presented its Schedule of Sales[34] and the related official receipts[35] for the four quarters of TY 2014.

Upon verification, the Court finds that the claimed zero-rated sales to MHPS (Philippines), Inc. in the amount of US$60,188.00 with peso equivalent of Php2,706,955.30, supported by official receipt No. 2151 dated November 5, 2014,[36] shall be denied VAT zero-rating for petitioner's failure to prove that the said client is duly registered with the PEZA.

Thus, only the amount of Php337,352,405.90 represents petitioner's valid zero-rated sales, determined as follows:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Zero-Rated Sales per VAT Returns	Php 83,815,363.06	Php 97,508,408.47	Php 80,256,987.72	Php 78,478,601.95	Php 340,059,361.20
Less: Disallowed sale to MHPS (Philippines), Inc.				2,706,955.30	2,706,955.30
Valid Zero-Rated Sales	**Php83,815,363.06**	**Php97,508,408.47**	**Php80,256,987.72**	**Php75,771,646.65**	**Php337,352,405.90**

Having resolved that petitioner had valid VAT zero-rated sales for the four quarters of TY 2014 in the total amount of Php337,352,405.90, the Court proceeds to determine the amount of input VAT attributable thereto.

4th and 5th Requisites: Petitioner had input taxes during TY 2014 which are attributable to its zero-rated sales for the same period.

For the four quarters of TY 2014, petitioner declared input taxes in the total amount of Php22,853,277.13, out of which the amount of Php15,282,401.06 is the subject of petitioner's claim for refund, to wit:

[34] Exhibits "P-25", "P-27", "P-29", and "P-31"; Annex E of Exhibit "P-64" (ICPA Report).
[35] Exhibits "P-66" to "P-186", contained in Exhibit "P-196" (CD).
[36] Exhibit "P-169".

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
	P-18	P-20	P-22	P-24	
Domestic purchases of services	Php 439.06	Php 42,990.00	Php 298.40	Php 4,602.53	Php 48,329.99
Services rendered by non-residents	4,174,523.96	4,173,224.03	3,980,324.96	10,476,874.19	22,804,947.14
Total current input taxes	**Php4,174,963.02**	**Php4,216,214.03**	**Php3,980,623.36**	**Php10,481,476.72**	**Php 22,853,277.13**
Less: Output taxes on VATable sales	1,415,574.37	1,557,069.43	1,951,328.92	2,646,903.36	7,570,876.08
Excess input taxes for the TY 2014	**Php2,759,388.65**	**Php2,659,144.60**	**Php2,029,294.44**	**Php 7,834,573.36**	**Php15,282,401.05**[37]

To support the total current input taxes of Php22,853,277.13, petitioner submitted the official receipts (for domestic purchase of services)[38] issued by its suppliers and BIR Form No. 1600 (for services rendered by non-residents).[39]

Upon examination, the Court finds that out of the declared input VAT of Php22,853,277.13, the amount of Php48,213.87, as determined below, should be disallowed for petitioner's failure to meet the substantiation requirements under Sections 110(A), 113(A)(2) and (B)(4), and 237 of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-8, and 4.113-1 of RR No. 16-05, as amended:

Exhibit No.	Registered Name	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Purchase of services supported by official receipts which were denied admission by the Court per Resolution dated September 28, 2017[40]						
P-188	CEO SUITE PHILIPPINE BRANCH	Php -	Php -	Php -	Php 135.86	Php 135.86
P-189	CEO SUITE PHILIPPINE BRANCH			102.10		102.10
P-190	CEO SUITE PHILIPPINE BRANCH	336.14				336.14
Sub-total		***Php 336.14***	***Php -***	***Php 102.10***	***Php 135.86***	***Php 574.10***
Purchase of services amounting to Php1,000.00 and above supported by official receipts without the TIN and address of petitioner						
P-187	CEO SUITE PHILIPPINE BRANCH	Php -	Php -	Php 196.30	Php -	Php 196.30
P-193	CEO SUITE PHILIPPINE BRANCH				4,466.66	4,466.66
Sub-total		***Php -***	***Php -***	***Php 196.30***	***Php 4,466.66***	***Php 4,662.96***
Purchase of services amounting to Php1,000.00 and above supported by official receipts without the TIN and address of petitioner; supported by invalid OR (without the signature of the cashier)						
P-194	SGV & CO	Php -	Php 42,960.73	Php -	Php -	Php 42,960.73
Sub-total		***Php -***	***Php 42,960.73***	***Php -***	***Php -***	***Php 42,960.73***
Purchase of services without supporting documents			***16.07***			***16.07***
Difference per VAT Returns vs. Per Documents					***0.01***	***0.01***
Total Disallowances		**Php 336.14**	**Php 42,976.80**	**Php 298.40**	**Php 4,602.53**	**Php 48,213.87**

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37 Minimal difference of Php0.01 compared to the amount of claim per Petition amounting to Php15,282,401.06.

38 Exhibits "P-187" to "P-194".

39 Docket, Exhibits "P-33" to "P-56", pp. 624 to 647.

40 *Id.,* p. 665.

As such, only the amount of Php22,805,063.26 represents petitioner's valid input VAT for TY 2014, computed as follows:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Input VAT per VAT Returns	Php 4,174,963.02	Php 4,216,214.03	Php 3,980,623.36	Php 10,481,476.72	Php 22,853,277.13
Less: Disallowances	336.14	42,976.80	298.40	4,602.53	48,213.87
Valid Input VAT	**Php4,174,626.88**	**Php4,173,237.23**	**Php3,980,324.96**	**Php10,476,874.19**	**Php22,805,063.26**

A portion, however, of the total valid input VAT of Php22,805,063.26 shall be applied against the reported output VAT liability of Php7,570,876.08. Consequently, only the remaining input VAT of Php15,234,187.18 can be attributed to the entire zero-rated sales amounting to Php340,059,361.20 and only the input VAT of Php14,964,108.71 is attributable to the valid zero-rated sales of Php337,352,405.90, computed as follows:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Valid Input VAT	Php 4,174,626.88	Php 4,173,237.23	Php 3,980,324.96	Php 10,476,874.19	Php 22,805,063.26
Less: Output VAT	1,415,574.37	1,557,069.43	1,951,328.92	2,646,903.36	7,570,876.08
Excess Input VAT	**Php2,759,052.51**	**Php2,616,167.80**	**Php2,028,996.04**	**Php7,829,970.83**	**Php15,234,187.18**
Divide by Total Declared Zero-Rated Sales	83,815,363.06	97,508,408.47	80,256,987.72	78,478,601.95	340,059,361.20
Multiply by Valid Zero-Rated Sales	83,815,363.06	97,508,408.47	80,256,987.72	75,771,646.65	337,352,405.90
Excess Input VAT attributable to Zero-Rated Sales	**Php2,759,052.51**	**Php2,616,167.80**	**Php2,028,996.04**	**Php7,559,892.36**	**Php14,964,108.71**

6th Requisite: The excess input taxes were not applied against any output VAT liability.

Petitioner was able to prove that the claimed input VAT of Php2,759,388.66, Php2,659,144.60, Php2,029,294.43 and Php7,834,573.36, or in the aggregate amount of Php15,282,401.05 for the 1st, 2nd, 3rd and 4th quarters of TY 2014, respectively, were not applied against any output VAT in the succeeding quarters and the same remained unutilized as the said amounts were deducted as "VAT Refund/TCC claimed" in the respective Amended Quarterly VAT Returns for TY 2014. Apparently, the subject claim no longer formed part of the excess input VAT of Php40,380,200.61[41] as of the end of the fourth quarter of TY 2014 that was carried over or applied to the succeeding 1st quarter

[41] *Id.*, Line 29 of Exhibit "P-24", p. 585.

of TY 2015. As such, it eliminates the possibility that the present claim would be applied to future output VAT liability.

WHEREFORE, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND OR TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **Php14,964,108.71** representing petitioner's excess input VAT attributable to its zero-rated sales for the period covering January 1, 2014 to December 31, 2014.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

I CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

ATTESTATION

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

ESPERANZA R. FABON-VICTORINO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the 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.

ROMAN G. DEL ROSARIO
Presiding Justice