CTA Form No. 8

22-000042-0050

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10752

AIR DRILLING ASSOCIATES PTE LTD.,
Petitioner,

- versus -

NOTICE OF DECISION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

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

ATTY. ALBERT C. ARPON
ATTY. CARL FITRI A. HUSSIN
ATTY. JOCELYN P. LUMBRES
Bureau of Internal Revenue - Revenue Region No. 8A
Legal Division, 36th Floor, Export Bank Plaza Building
Sen. Gil Puyat Avenue corner Chino Roces Avenue
Makati City

AGAN MONTENEGRO MALASAGA & CO.
7th Floor, Electra House Building
115-117 Esteban Street, Legazpi Village
1229 Makati City

GREETINGS:

You are hereby notified by these presents that on **August 13, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **August 14, 2025.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

AIR DRILLING ASSOCIATES PTE LTD.,	**CTA CASE NO. 10752**
Petitioner,	*Members:*
- versus -	**DEL ROSARIO**, *P.J., Chairperson,* **BACORRO-VILLENA**, *and* **CUI-DAVID**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE,	Promulgated:
Respondent.	AUG 13 2025 8:10 AM

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DECISION

CUI-DAVID, J.:

Before the Court is a *Petition for Review*[1] filed by petitioner Air Drilling Associates Pte. Ltd. ("**petitioner**") on February 3, 2022, seeking a judgment ordering respondent Commissioner of Internal Revenue ("**respondent**" or "**CIR**") to refund or issue a Tax Credit Certificate (**TCC**) in the amount of ₱1,805,946.91, allegedly representing petitioner's unutilized creditable input value-added tax (**VAT**) attributable to its zero-rated sales covering the period from July 1, 2019 to December 31, 2019.

THE PARTIES

Petitioner is a foreign company organized and existing under the laws of the Republic of Singapore.[2] It is licensed by the Securities and Exchange Commission (**SEC**) to transact business in the Philippines as a branch office under Section 125 of Batas Pambansa Blg. 68 and the Foreign Investments Act of 1991 (Republic Act No. 7042, as amended), and is engaged in the business of pursuing geothermal aerated drilling services and related opportunities in the Philippines.[3] Its principal

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[1] Docket – Vol. I, pp. 7–16.
[2] *Id.* at 278, Exhibit "P-2".
[3] *Id.*; See also Docket – Vol. I, p. 7, *Petition for Review*, The Parties, par. 2.

address is Unit D, 3rd Floor, Glass Tower Building, 115 C. Palanca St., Legazpi Village, San Lorenzo, Makati City.[4] It is registered with the Bureau of Internal Revenue (**BIR**) as a VAT taxpayer under Tax Identification Number (**TIN**) 251-156-024-00000.[5]

Respondent, on the other hand, is the duly appointed Commissioner of the BIR, vested under the appropriate laws with the authority to carry out the functions, duties, and responsibilities of said office, including, *inter alia*, the power to decide disputed assessments, grant tax refunds, and issue tax credit certificates, pursuant to the provisions of the National Internal Revenue Code (**NIRC**) and other tax laws, rules, and regulations.[6]

THE FACTS AND THE PROCEEDINGS

Petitioner alleges that, in the course of its business as a contractor providing aerated drilling services, it paid the applicable input VAT on its domestic purchases of goods and services, importation of goods, and services rendered by non-residents.[7]

During the third (3rd) and fourth (4th) quarters of taxable year (**TY**) 2019, petitioner rendered aerated drilling services to renewable energy (**RE**) developers, namely Energy Development Corporation (**EDC**) and Philippine Geothermal Production Company (**PGPC**), where it accumulated unutilized creditable input VAT attributable to its zero-rated sales, amounting to ₱1,805,946.91.[8]

Petitioner duly filed its Quarterly VAT Returns for the 3rd and 4th quarters of TY 2019 *via* Electronic Filing and Payment System (**eFPS**), as follows:[9]

Exhibit No.	Quarter in TY 2019	Date Filed
"P-3"[10]	3rd quarter (Original)	October 25, 2019
"P-3-1"[11]	3rd quarter (Amended)	September 17, 2021

[4] Docket – Vol. I, p. 7, *Petition for Review*, The Parties, par. 2; 277, Exhibit "P-1".
[5] *Id.* at 277, Exhibit "P-1".
[6] *Id.* at 200, *Joint Stipulation of Fac[t]s and Issues* (JSFI), Facts Admitted, par. 1; 208, Pre-Trial Order, II. Statement of the Facts & Issues, A. Stipulation of Facts.
[7] *Id.* at 9, *Petition for Review*, Statement of Allegations, par. 8.
[8] Docket – Vol. II, p. 709–722, *Memorandum for Petitioner*, III. Statement of Facts, pars. 5 and 8.
[9] *Id.* at par. 9.
[10] Docket – Vol. I, p. 330–331.
[11] *Id.* at 332–333.

"P-4"[12]	4th quarter (Original)	January 27, 2020
"P-4-1"[13]	4th quarter (Amended)	July 22, 2021

Petitioner claims that the aforementioned creditable input VAT was not credited against its output VAT liabilities in the succeeding quarters.[14]

On September 30, 2021, petitioner filed an administrative claim for refund, together with the relevant supporting documents, for its unutilized/unclaimed excess input VAT for the 3rd and 4th quarters of TY 2019.[15] On the same date, a Tax Verification Notice was issued, authorizing Revenue Officer (**RO**) Jamil D. Amatonding III of Revenue District Office No. 47 – East Makati to verify petitioner's supporting documents and/or pertinent records in connection with the subject VAT refund claim.[16]

However, on December 23, 2021, petitioner received a Letter dated December 14, 2021, issued by BIR Revenue Region No. 8A - Makati City and signed by Maridur V. Rosario, Regional Director, denying the administrative claim for lack of legal and factual basis.[17]

Aggrieved, petitioner elevated the matter to this Court by filing the instant *Petition of Review* on February 3, 2022.

On February 7, 2022, a *Summons* was issued and received by respondent on February 18, 2022.

On April 12, 2022, within the extended period granted by the Court,[18] respondent filed his *Answer with Motion to Dismiss*,[19] praying that petitioner's claim for refund be denied for lack of jurisdiction and utter lack of merit.

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12 *Id.* at 334–335.
13 *Id.* at 336–337.
14 *Id.* at 9, *Petition for Review*, Statement of Allegations, par. 12.
15 Docket – Vol. I, p. 2, *Petition for Review*, Timeliness of Petition, par. 5; Exhibit "P-12"/ Exhibit "R-2", BIR Records, pp. 117–128.
16 *Id.* at 209, Pre-Trial Order, II. Statement of Facts & Issues, A. Stipulation of Facts, par. 2; 201, JSFI, Facts Admitted, par. 2.
17 Docket – Vol. I, p. 2, *Petition for Review*, Timeliness of Petition, par. 6; Exhibit "P-13"/ Exhibit "R -7", BIR Records, pp. 734–735.
18 Docket – Vol. I, pp. 66–68, Respondent's *Motion for Extension of Time to File Answer* dated March 17, 2022; 71, Order dated March 30, 2022.
19 *Id.* at 75–89.

The *BIR Records* of the case, consisting of 774 pages in one folder, were subsequently transmitted to the Court on April 13, 2022.[20]

On May 16, 2022, in compliance with the Court's Resolution dated May 5, 2022,[21] petitioner filed its *Comment (To Respondent's Motion to Dismiss)*.[22] In a Resolution dated May 31, 2022, the Court denied the *Motion to Dismiss* incorporated in respondent's *Answer*.[23]

Thereafter, the Pre-Trial Conference was conducted on August 17, 2022.[24] Prior thereto, *Respondent's Pre-Trial Brief*[25] was filed on June 17, 2022, while petitioner submitted its *Pre-Trial Brief* on August 11, 2022.[26]

As ordered during the *Pre-Trial Conference*, the parties submitted a *Joint Stipulation of Fac[t]s and Issues*[27] on September 6, 2022, based on which a *Pre-Trial Order*[28] was issued on October 17, 2022.

On August 31, 2022, petitioner filed a *Motion to Commission an Independent Certified Public Accountant*[29] (**ICPA**), Atty. Adan Delamide (**Atty. Delamide**), which the Court granted in its Order dated December 1, 2022.[30]

Trial ensued, during which petitioner presented the following witnesses, who testified through their respective judicial affidavits: (1) Ms. Rosebelle Liu (**Ms. Liu**),[31] petitioner's Office Manager; and (2) Atty. Delamide,[32] the Court-commissioned ICPA. The *Report* of the ICPA[33] (***ICPA Report***) was posted on January 16, 2023.

On March 8, 2023, petitioner filed its *Formal Offer of Evidence*,[34] to which respondent opposed by filing a *Comment*

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20 *Id.* at 72, Compliance dated April 18, 2022.
21 *Id.* at 157.
22 *Id.* at 158–161.
23 *Id.* at 167–171.
24 *Id.* at 188–190, Minutes of the hearing held on, and Order dated, August 17, 2022.
25 *Id.* at 172–179.
26 *Id.* at 182–186.
27 *Id.* at 200–204.
28 *Id.* at 208–214.
29 *Id.* at 191–193.
30 *Id.* at 217–218.
31 Docket – Vol. II, pp. 591–599, Exhibits "P-14"; Docket – Vol. I, pp. 217–218, Order dated December 1, 2022.
32 Docket – Vol. I, pp. 221–229, Exhibit "P-16"; 254–256, Minutes of the hearing held on, and Order dated, February 2, 2023.
33 *Id.* at 230–251, Exhibit "P-287"
34 *Id.* at 265–276.

(on Petitioner's Formal Offer of Evidence) on March 15, 2023.[35] In its Resolution dated March 31, 2023,[36] the Court admitted petitioner's exhibits, *except* for the following:

(1) Exhibits "P-11", "P-115", "P-187 to P-198", "P-211", "P-230", "P-258 to P-265", "P-266 to P-268", "P-269 to P-271", "P-272 to P-274", "P-275 to P-277", and "P-278 to P-280", for failure to present the originals for comparison; and

(2) Exhibits "P-14" and "P-14-1", for failure to conform with the content requirement under Section 3(b) of the CTA Circular No. 01-2013 or the Guidelines Implementing the Judicial Affidavit Rule (JAR) in the Court of Tax Appeals (**CTA**).

In view of the partial denial of its exhibits, petitioner filed a *Motion for Reconsideration*[37] on April 25, 2023, to which respondent filed his *Comment/Opposition (on Petitioner's Motion for Reconsideration dated April 24, 2023)*[38] on May 2, 2023.

In a Resolution issued on May 29, 2023, the present case was transferred to this Court's First Division pursuant to Administrative Circular No. 01-2023 (Reorganizing the Divisions of the Court), dated May 23, 2023.[39]

Then, on March 6, 2024, acting on petitioner's *Motion for Reconsideration*, the Court granted the same and admitted Exhibits "P-14" and "P-14-1," which pertain to the compliant Amended Judicial Affidavit of Ms. Liu.[40]

For his part, respondent presented his lone witness, RO Jamil D. Amatonding III.[41] On May 7, 2024, respondent filed his *Formal Offer of Evidence*,[42] to which petitioner filed a *Comment to Respondent's Formal Offer of Evidence* on May 10, 2024.[43] In a Resolution dated July 2, 2024,[44] the Court admitted all of respondent's exhibits. In the same Resolution, the parties were

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35 *Id.* at 578–580.
36 Docket – Vol. II, pp. 583–586.
37 *Id.* at 587–590.
38 *Id.* at 636–638.
39 *Id.* at 646.
40 *Id.* at 652–654, Resolution dated March 6, 2024.
41 Docket – Vol. I, pp. 109–116, Exhibit "R-4", Judicial Affidavit of Revenue Officer Jamil D. Amatonding III; Docket – Vol. II, pp. 600–606, Exhibit "R-8", Supplemental Judicial Affidavit of Revenue Officer Jamil D. Amatonding III; Docket – Vol. II, pp. 655–660, Minutes of the hearing held on, and Order dated, May 2, 2024.
42 Docket – Vol. II, pp. 749–753.
43 *Id.* at 671–673.
44 *Id.* at 679–680.

granted thirty (30) days from notice to file their respective memoranda.

Respondent filed his *Memorandum*[45] on July 29, 2024, while the *Memorandum for Petitioner*[46] was filed on August 2, 2024.

With the submission of the parties' memoranda, the instant case was deemed submitted for decision on August 13, 2024.[47]

THE ISSUE

The sole issue for resolution, as stipulated by the parties, is:[48]

> "Whether petitioner is entitled to its claim for refund of its alleged unutilized input VAT allegedly acquired during the 3rd and 4th quarters of taxable year 2019, amounting to ₱1,805,946.91."

Petitioner's arguments:

In its *Petition for Review*[49] and *Memorandum for Petitioner*,[50] petitioner asserts the following:

(1) Its administrative and judicial claims for refund were timely filed in accordance with Section 112 of the NIRC of 1997, as amended;

(2) It is a VAT-registered entity;

(3) It rendered services subject to VAT zero-rate and substantiated the present claim with relevant supporting documents;

(4) It substantiated the input VAT paid/incurred during the 3rd and 4th quarters of TY 2019, which are attributable to its VAT zero-rated sales; and

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45 *Id.* at 695–706.
46 *Id.* at 709–722.
47 *Id.* at 724, Resolution dated August 13, 2024.
48 Docket – Vol. I, p. 209, Pre-Trial Order, II. Statement of the Facts & Issues. B. Stipulation of Issue; 201, JSFI, Issue.
49 *Id.* at 7–16.
50 Docket – Vol. II, pp. 709–722.

(5) The input VAT acquired during the 3rd and 4th quarters of TY 2019 was not applied against any output VAT in the succeeding periods.

Respondent's counter-arguments:

In his *Answer with Motion to Dismiss* [51] respondent contends:

(1) Petitioner's sales to EDC for the 3rd and 4th quarters of TY 2019 are not zero-rated since petitioner failed to submit the necessary Certificate of Endorsement (**COE**) from the Department of Energy (**DOE**) as required under Section 26, Chapter VII of Republic Act (**RA**) No. 9513[52] and Section 18 (C), Part III, Rule 5 of the *Implementing Rules and Regulations* (**IRR**) of RA No. 9513;

(2) Petitioner failed to comply with the invoicing requirements under Section 113 of the NIRC of 1997, as amended, in relation to Revenue Regulations (**RR**) No. 16-2005, and even failed to submit supporting documents for the claimed input taxes;

(3) Petitioner's claim for tax credit/refund is not fully substantiated thus, mere pro forma;

(4) There is a disparity between petitioner's claimed input taxes on domestic purchases of goods/services and the actual VAT sales invoices (**SIs**) and official receipts (**ORs**); and

(5) A claim for refund is strictly construed against the taxpayer, as it partakes of the nature of a tax exemption.

Additionally, in his *Memorandum*,[53] respondent argues:

(1) The *ICPA Report* should not be given full credence as the ICPA failed to certify several invoices as faithful reproductions of the originals;

(2) There is no concrete proof of sale between EDC, PGPC, and petitioner for the 3rd and 4th quarters of TY 2019;

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[51] Docket – Vol. I, pp. 75–89.
[52] Renewable Energy Act of 2008.
[53] Docket – Vol. II, pp. 695–706.

(3) There is no contract between petitioner and EDC to prove its alleged zero-rated sales, as the Contract and Amended Contract failed to prove that the same are valid and binding between parties; and

(4) As to the alleged sale of services to PGPC, the pieces of evidence presented by petitioner are insufficient to prove such service.

THE COURT'S RULING

The instant *Petition for Review* is unmeritorious.

Requisites for the grant of a refund or issuance of a TCC for unutilized or excess input VAT attributable to zero-rated sales.

Section 112 of the NIRC of 1997, as amended by RA No. 10963,[54] provides:

> 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,*

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[54] 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 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES, January 1, 2018.

> *finally*, That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
>
> . . . .
>
> (C) *Period within which Refund of Input Taxes shall be Made.* – **In proper cases, the Commissioner shall grant a refund for creditable input taxes within ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof**: *Provided*, That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.
>
> **In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals**: *Provided, however,* That failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code. (Emphasis supplied)

From the foregoing provision, jurisprudence has laid down specific requisites that a taxpayer-applicant must comply with to successfully obtain a refund or tax credit of unutilized or excess input VAT attributable to zero-rated sales. These requisites are categorized as follows:

<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.[55]

2. In case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act on the said claim within a period of 90 days, the judicial claim has been filed with this Court, within 30 days from receipt of the decision or after the expiration of the said 90-day period.[56]

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55 *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010 [Per J. Carpio-Morales, Third Division]; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callejo, Sr., Third Division].

56 See *Commissioner of Internal Revenue v. Vestas Services Philippines, Inc.*, G.R. No. 255085, March 29, 2023 [Per J. Hernando, First Division]; *Commissioner of Internal Revenue v. CE Casecnan Water and Energy Company, Inc.*, G.R. No. 212727, February 1, 2023 [Per J. Hernando, First Division]; *Energy Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 203367, March 17, 2021 [Per J. Hernando, Third Division]; [cf: Sections 7(a)(1) and (2), and 11 (first paragraph), RA No. 1125, as amended by RA No. 9282].

Concerning the taxpayer's registration with the BIR:

3. The taxpayer is a VAT-registered person.[57] Relative thereto, it must be emphasized that registration is an indispensable requirement under our VAT law.[58]

In relation to the taxpayer's output VAT:

4. The taxpayer is engaged in zero-rated or effectively zero-rated sales.[59]

5. For zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2),[60] the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the *Bangko Sentral ng Pilipinas* (BSP) rules and regulations.[61]

As regards the taxpayer's input VAT being refunded:

6. The input taxes are not transitional.[62]

7. The input taxes are due or paid.[63]

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.[64]

9. The input taxes have not been applied against output taxes during and in the succeeding quarters.[65]

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57 *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010 [Per J. Carpio-Morales, Third Division]; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callejo, Sr., Third Division].

58 *Commissioner of Internal Revenue v. Seagate Technology (Philippines)*, G.R. No. 153866, February 11, 2005 [Per J. Panganiban, Third Division].

59 *Id.*

60 Under RA No. 10963, Section 106(A)(2)(a)**(2)** was renumbered to Section 106(A)(2)(a)**(3)** while Section 106(A)(2)**(b)** was deleted. However, there was no corresponding amendment to the subsections cited in Section 112(A) of the NIRC of 1997, as amended.

61 *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010 [Per J. Carpio-Morales, Third Division]; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callejo, Sr., Third Division].

62 *Id.*

63 *Id.*

64 *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callejo, Sr., Third Division].

65 *Supra* note 55.

In addition to the above, the taxpayer-applicant must comply with the substantiation and invoicing requirements prescribed under the NIRC and its implementing rules and regulations.[66] Such compliance is indispensable to a "valid claim for input taxes attributable to zero-rated sales,"[67] as it provides the necessary basis to "determine the veracity of the taxpayer's claims."[68]

Strict adherence to these requirements is necessary, considering the nature of VAT and the tax credit method employed under the VAT system, where tax payments are based on output and input taxes, and where the seller's output VAT becomes the buyer's input VAT, which may be claimed as a refund or tax credit in the same transaction. It ensures the proper collection of taxes at all stages of distribution, facilitates the computation of tax credits, and provides an accurate audit trail or evidence for BIR monitoring purposes.[69]

Finally, cases before this Court are litigated *de novo*. As such, party-litigants must prove **every minute aspect** of their case by presenting, formally offering, and submitting their evidence to the CTA.[70] It is incumbent upon petitioner to establish compliance with the foregoing requisites. As a corollary, the absence of *any* of these requisites or requirements constitutes valid grounds for denying the refund claim.

The Court has jurisdiction over the instant Petition.

<u>First and second requisites:</u> Petitioner's administrative and judicial claims for refund or tax credit were timely filed.

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66 *Team Energy Corporation (Formerly: Mirant Pagbilao Corporation and Southern Energy Quezon, Inc.) v. Commissioner of Internal Revenue*, G.R. Nos. 197663 & 197770, March 14, 2018 [Per J. Leonen, Third Division].

67 *J.R.A. Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013 [Per J. Perlas-Bernabe, Second Division].

68 *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018 [Per J. Martires, Third Division].

69 *Supra* note 66.

70 *Commissioner of Internal Revenue v. Vestas Services Philippines, Inc.*, G.R. No. 255085, March 29, 2023 [Per J. Hernando, First Division]; *Commission of Internal Revenue v. Deutsche Knowledge Services, Pte. Ltd.*, G.R. Nos. 226548 & 227691, 226682–83, February 15, 2023 [Per J. M.V. Lopez, Second Division] citing *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007 [Per J. Corona, First Division]; See also *Edison (Bataan) Cogeneration Corporation v. Commissioner of Internal Revenue*, G.R. Nos. 201665 & 201668, August 30, 2017 [Per J. Del Castillo, First Division]; *Commissioner of Internal Revenue v. Philippine National Bank*, G.R. No. 180290, September 29, 2014 [Per J. Leonen, Second Division]; *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014 [Per J. Peralta, Third Division]; *Dizon v. Court of Tax Appeals, et al.*, G.R. No. 140944, April 30, 2008 [Per J. Nachura, Third Division]; *Commissioner of Internal Revenue v. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005 [Per J. Carpio-Morales, Third Division].

The *first* requisite requires that a claim for a refund or tax credit of input VAT must be filed with the BIR within two years from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

In this case, the claim pertains to the 3rd and 4th quarters of TY 2019. Counting two years from the close of the said quarters, the deadlines for filing the administrative claim are as follows:

Period	**Close of the Taxable Quarter**	**Deadlines or Last Day to File Administrative Claim**	**Filing Date of Administrative Claim**
July 1 to September 30, 2019 (3rd quarter)	September 30, 2019	September 30, 2021	September 30, 2021
October 1 to December 31, 2019 (4th quarter)	December 31, 2019	December 31, 2021	

Petitioner filed its administrative claim with the BIR on September 30, 2021,[71] which falls within the prescribed two-year period. The BIR, in its denial letter dated December 14, 2021, also verified the timeliness of the administrative claim and acknowledged that it was filed within the two-year period prescribed by law.[72]

The *second* requisite necessitates that a judicial claim must be filed within 30 days from receipt of respondent's decision, or after the expiration of the 90-day period prescribed under Section 112(C) of the NIRC of 1997, as amended.

Here, petitioner filed its administrative claim on September 30, 2021. Respondent had 90 days, or until December 29, 2021, to act on the claim.

Although respondent issued a letter denying petitioner's entire claim for refund on December 14, 2021, within the 90-day period, petitioner received the denial only on December 23, 2021.[73] As such, petitioner had 30 days from that date, or until January 24, 2022,[74] to file an appeal with this Court.

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71 Exhibit "P-12"/ Exhibit "R-2", BIR Records, pp. 117–128.

72 Exhibit "P-13"/ Exhibit "R -7", BIR Records, pp. 734–735.

73 Docket – Vol. I, p. 2, *Petition for Review*, Timeliness of Petition, par. 6; Exhibit "P-13"/ Exhibit "R -7", BIR Records, pp. 734–735.

74 January 22, 2022, the 30th day of the filing period, fell on Saturday.

The Court, in its Resolution dated May 31, 2022,[75] ruled that the instant *Petition for Review* was filed within the 30-day reglementary period. In the said resolution, respondent's *Motion to Dismiss* incorporated in his *Answer,* averring that the extension provided under Supreme Court Administrative Circular No. 01-2022[76] was only until February 1, 2022, was denied. The Court held:

> Respondent's *motion* must fail.
>
> . . . .
>
> In the instant case, record reveals that petitioner filed its Petition for Review *via* email on January 19, 2022, or within the 30-day period to file a judicial claim for refund. This filing by petitioner *via* email was acknowledged by this Court's Judicial Records Division on January 20, 2022. Further, following the Court's instruction per *Memorandum* dated February 2, 2022, petitioner personally filed the required number of hard copies of its Petition for Review and paid the filing fees on February 3, 2022.
>
> Clearly, respondent's assertion that petitioner's Petition for Review was filed beyond the 30-day reglementary period on February 3, 2022, thereby depriving the Court of jurisdiction to take cognizance of the same, is misplaced.

Petitioner filed the instant Petition electronically on January 19, 2022, and submitted the hard copies on February 3, 2022. Thus, the filing of the present *Petition for Review* on February 3, 2022 was timely. [77]

Accordingly, the Court finds that petitioner has complied with both the *first* and *second* requisites.

Having settled that the *Petition for Review* was timely filed, the Court likewise finds that it has the requisite jurisdiction to take cognizance of this case under Section 3(a)(1), Rule 4[78] of the Revised Rules of the Court of Tax Appeals in relation to

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[75] Docket – Vol. I, p. 167–171.

[76] Re: Extension of the Deadlines for the Filing of any and all pleadings and other Court Submissions falling due in the month of January 2022 in all courts, January 10, 2022.

[77] Docket – Vol. I, pp. 7–16.

[78] SEC. 3. *Cases within the jurisdiction of the Court in Divisions.* – The Court in Divisions shall exercise:
(a) Exclusive original or appellate jurisdiction to review by appeal the following:
(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue.

Sections 7(a)(1) and (2), and 11 of RA No. 1125,[79] as amended by RA No. 9282.[80]

<u>Third requisite</u>: Petitioner is a VAT-registered person/entity.

As to the *third* requisite, petitioner has duly established its status as a VAT-registered entity through the presentation of its BIR Certificate of Registration (BIR Form No. 2303)[81] OCN 9RC0000652585E, with TIN 251-156-024-00000. Thus, petitioner has satisfied this requisite.

<u>Fourth requisite</u>: Petitioner failed to prove that it was engaged in zero-rated or effectively zero-rated sales during the 3rd and 4th quarters of TY 2019.

The *fourth* requisite for a valid claim for input VAT refund or tax credit requires that the taxpayer be engaged in zero-rated or effectively zero-rated sales.

Petitioner alleges that, from July 1, 2019 to December 31, 2019, it accumulated excess or unutilized input VAT amounting to ₱1,805,946.91, arising from domestic purchases of goods and services, importation of non-capital goods, and purchases of services rendered by non-residents. [82] Petitioner claims that these transactions were directly attributable to its sale of services to EDC and PGPC, both of which are RE Developers. Thus, it contends that these sales qualify as zero-rated under Section 108(B)(3) of the NIRC of 1997, as amended, and Section 15(g) of RA No. 9513.[83]

Section 108(B)(3) of the NIRC of 1997, as amended, provides:

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79 AN ACT CREATING THE COURT OF TAX APPEALS.

80 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

81 Docket – Vol. I, p. 277, Exhibit "P-1".

82 Docket – Vol. II, pp. 709–722, *Memorandum for Petitioner*, III. Statement of Facts, par. 8.

83 Exhibit "P-12"/ Exhibit "R-2", BIR Records, pp. 117–128; Docket – Vol. II, pp. 709–722, *Memorandum for Petitioner*, VI. Discussion, pars. 8–13.

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

... ...

(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.

... ...

(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;

Meanwhile, Section 15(g) of RA No. 9513 grants certain tax incentives to RE Developers, such as EDC and PGPC. The pertinent provision states:

CHAPTER VII
General Incentives

SEC. 15. *Incentives for Renewable Energy Projects and Activities* — RE Developers of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications, as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives:

... ...

(g) Zero Percent Value-Added Tax Rate — The sale of fuel or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337.

All RE Developers shall be entitled to zero-rated value-added tax on its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities.

This provision shall also apply to the whole process of exploring and developing

> **renewable energy sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors.** (Emphasis supplied)

Moreover, Part III, Rule 5, Section 13(G) of the IRR of RA No. 9513 issued by the DOE,[84] provides as follows:

> SEC. 13. *Fiscal Incentives for Renewable Energy Projects and Activities*
>
> DOE-certified existing and new RE Developers of RE facilities, including Hybrid Systems, in proportion to and to the extent of the RE component, for both Power and Non-Power Applications, shall be entitled to the following incentives:
>
> ... ...
>
> ***G. Zero Percent Value-Added Tax Rate***
>
> The following transactions/activities shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337:
>
> ... ...
>
> (b) **Purchase of local goods, properties and services needed for the development, construction, and installation of the plant facilities of RE Developers**; and
>
> (c) **Whole process of exploration and development of RE sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors**. (Emphasis supplied)

Based on the foregoing provisions, RE Developers are entitled to VAT zero-rating on their purchases of local goods, properties, and services necessary for the development, construction, and installation of plant facilities. The law explicitly provides that VAT zero-rating applies to the whole process of exploring and developing renewable energy sources up to their conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors.

Furthermore, Part III, Rule 5 of the IRR of RA No. 9513, outlines the conditions for availing of incentives and other

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[84] DOE Circular No. DC2009-05-0008, Rules and Regulations Implementing Republic Act No. 9513 (Renewable Energy Act of 2008), May 25, 2009.

privileges under the said law. Section 18(A), (B), and (C) thereof reads:

> SEC. 18. *Conditions for Availment of Incentives and Other Privileges.* —
>
> *A. Registration/ Accreditation with the DOE*
>
> **For purposes of entitlement to the incentives and privileges under the Act, existing and new RE Developers, and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall register with the DOE, through the Renewable Energy Management Bureau (REMB)**. The following certifications shall be issued:
>
> *(1)* ***DOE Certificate of Registration*** **– issued to an RE Developer holding a valid RE Service/Operating Contract.**
>
> For existing RE projects, the new RE Service/Operating Contract shall pre-terminate and replace the existing Service Contract that the RE Developer has executed with the DOE subject to the Transitory Provision in Rule 13, Section 39.
>
> The DOE Certificate of Registration shall be issued immediately upon award of an RE Service/Operating Contract covering an existing or new RE project or upon approval of additional investment.
>
> Any investment added to existing RE projects shall be subject to prior approval by the DOE.
>
> ... ...
>
> *B. Registration with the Board of Investments (BOI)*
>
> The RE sector is hereby declared a priority investment sector that will regularly form part of the country's Investment Priority Plan (IPP), unless declared otherwise by law.
>
> **To qualify for the availment of the incentives under Sections 13 and 15 of this IRR, RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment, shall register with the BOI.**
>
> The registration with the BOI shall be carried out through an agreement and an administrative arrangement between the BOI and the DOE, with the end-view of facilitating the registration of qualified RE facilities. The applications for registration shall be favorably acted upon

Mr

> immediately by the BOI, on the basis of the certification issued by the DOE.
>
> C. *Certificate of Endorsement by the DOE*
>
> **RE Developers, and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall be qualified to avail of the incentives provided for in the Act only after securing a Certificate of Endorsement from the DOE, through the REMB, on a per transaction basis.**
>
> The DOE, through the REMB, shall issue said certification within fifteen (15) days upon request of the RE Developer or manufacturer, fabricator, and supplier; *Provided,* That the certification issued by the DOE shall be without prejudice to any further requirements that may be imposed by the government agencies tasked with the administration of the fiscal incentives mentioned under Rule 5 of this IRR. (Emphasis supplied)

Relative thereto, the DOE issued Department Circular (DC) No. DC2021-12-0042,[85] which amended Section 18(C) of the IRR of RA No. 9513, to confirm that RE Developers are ***automatically*** qualified to avail of the incentives under RA No. 9513 upon securing a DOE Certificate of Registration. It further clarified that a DOE Certificate of Endorsement is required only for importations made by an RE Developer, as follows:

> SEC. 18. *Conditions for Availment of Incentives and Other Privileges –*
>
> ... ...
>
> **C. DOE ENDORSEMENT FOR AVAILMENT OF INCENTIVES AND DUTY-FREE IMPORTATIONS OF MACHINERY, EQUIPMENT, AND MATERIALS**
>
> RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall be AUTOMATICALLY qualified to avail of the incentives provided for in the Act, OTHER THAN THE INCENTIVE OF DUTY-FREE IMPORTATION OF QUALIFIED MACHINERY, EQUIPMENT, MATERIALS, PARTS AND COMPONENTS, after securing a Certificate of Registration from the DOE.
>
> RE DEVELOPERS THAT IMPORT RE EQUIPMENT, MATERIALS, PARTS, AND COMPONENTS SHALL SECURE A CERTIFICATE OF ENDORSEMENT FROM THE DOE,

[85] Prescribing Amendments to Sections 13(E) and 18(C) of Department Circular No. DC2009-05-0008, Entitled Rules and Regulations Implementing Republic Act No. 9513, otherwise known as "The Renewable Energy Act of 2008".

THROUGH THE REMB, ON A PER IMPORTATION BASIS. (Emphasis supplied)

Bearing these in mind, respondent's contention that a DOE Certificate of Endorsement is required before the benefit of VAT zero-rating for sales to RE Developer may be availed of is misplaced.

Accordingly, since petitioner's transactions with EDC and PGPC involved only the sale of services and did not include the importation of RE equipment, the following requirements must be met to qualify for VAT zero-rating under RA No. 9513 and its IRR:

1. The RE Developer must be registered with the DOE and BOI (***first condition***); and

2. The local sales of goods, properties, and services to the RE Developer are necessary for the development, construction, and installation of the RE Developer's plant facilities, and the whole process of exploration and development of RE sources up to their conversion into power (***second condition***).

A. Petitioner's failure to establish PGPC's BOI registration as an RE Developer justifies the disallowance of its claim for VAT zero-rating on services rendered to PGPC.

With respect to the *first condition*, it is incumbent upon any supplier of services to RE Developers, such as petitioner, to establish that its customer (PGPC) is duly registered with both the DOE and the BOI as an RE Developer. While records reveal that PGPC's DOE Certificate of Registration[86] and Certificate of Endorsement[87] were formally offered and admitted into evidence, **no proof of its BOI registration** was presented or admitted during trial.

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[86] Exhibit "P-283".
[87] Exhibit "P-284".

Hence, the *first condition* was not satisfied. In the absence of evidence showing that PGPC was registered with the BOI as an RE Developer, petitioner **cannot validly claim entitlement to VAT zero-rating** under RA No. 9513.

Even assuming arguendo that PGPC is registered with the BOI, the *second condition* was likewise not met. As correctly pointed out by respondent, the pieces of evidence presented by petitioner, such as billing invoices and VAT ORs, were insufficient to prove that the services were rendered for DOE- and BOI-registered PGPC projects.[88] Although the billing invoices described the nature of the services (*e.g.*, aerated drilling services), including equipment rental and supply of personnel, no supporting documents, such as a contract or service agreement between petitioner and PGPC, were submitted to prove that these services were necessary for and actually rendered in connection with the exploration and development of RE sources during the subject claim period.

B. Petitioner's failure to substantiate its sale of services to EDC and to prove BOI registration of all its projects with EDC disqualifies its claim for VAT zero-rating.

A scrutiny of EDC projects shows that not all of petitioner's service transactions with EDC qualify for VAT zero-rating under RA No. 9513. Specifically, petitioner failed to prove that all projects were duly registered with the BOI.

The table below summarizes the registration and endorsement status of EDC's projects:

Location of EDC's Projects	DOE Certificate of Registration	Registration with the BOI	Certificate of Endorsement by the DOE
Tongonan, Leyte	GRESC-2009-10-001 dated October 23, 2009[89]	Certificate of Registration No. 2012-024, dated February 6, 2012[90]	Letter of Endorsement dated June 23, 2020, issued by Director Mylene C.

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[88] Exhibits "P-32 to P-41" and "P-44 to P-49", USB; Docket – Vol. II, pp. 695–706, *Memorandum*.
[89] Docket – Vol. I, p. 360, Exhibit "P-6".
[90] *Id.* at 365, Exhibit "P-7".

Palinpinon, Negros Oriental	GRESC-2009-10-002 dated October 23, 2009[92]	Certificate of Registration No. 2014-027 dated February 12, 2014[93]	Capongcol, Officer-in-Charge, Renewable Energy Management Bureau (Letter of Endorsement dated June 23, 2020)[91]
Bacon-Manito Sorsogon/Albay	GRESC-2009-10-003 dated October 23, 2009[94]	None	
Kidapawan City, North Cotabato	GRESC-2009-10-004 dated October 23, 2009[95]	None	
Northern Negros, Negros Occidental	GRESC-2009-10-005 dated October 23, 2009[96]	None	None

Based on the foregoing, petitioner failed to establish the BOI registration of EDC's projects in Bacon-Manito, Sorsogon/Albay; Kidapawan City, North Cotabato; and Northern Negros, Negros Occidental. Moreover, EDC's project in Northern Negros, Negros Occidental, was not at all mentioned in the Letter of Endorsement dated June 23, 2020.[97] Thus, only the services rendered to EDC's projects in Tongonan, Leyte, and Palinpinon, Negros Oriental, may potentially qualify for VAT zero-rating, satisfying the *first condition.*

However, petitioner must still establish the *second condition,* that the services to the RE Developer were necessary for the development, construction, and installation of the RE Developer's plant facilities and the whole process of exploration and development of RE sources, up to their conversion into power. There is, thus, a need for the Court to closely look into the supporting documents to determine the nature or kind of services rendered.

To recall, petitioner asserts that it rendered aerated drilling services to EDC, among others, during the 3rd and 4th quarters of TY 2019, where it accumulated unutilized creditable input VAT attributable to its zero-rated sales.[98] It anchors its claim for VAT refund or tax credit on Section 108(B)(3) of the NIRC of 1997, as amended, and Section 15(g) of RA No. 9513;

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92 *Id.* at 361, Exhibit "P-6-1".
93 *Id.* at 372, Exhibit "P-7-1".
91 *Id.* at 380–381, Exhibit "P-8".
94 *Id.* at 362, Exhibit "P-6-2".
95 *Id.* at 363, Exhibit "P-6-3".
96 *Id.* at 364, Exhibit "P-6-4".
97 Docket – Vol. II, pp. 567–568, Exhibit "P-8".
98 *Id.* at 709–722, *Memorandum for Petitioner*, III. Statement of Facts, pars. 5 and 8.

hence, it believes that its sales of services to EDC are considered zero-rated.

The Court, however, is not convinced.

Ms. Liu, petitioner's Office Manager, testified via judicial affidavit that petitioner rendered aerated drilling services to EDC, as evidenced by contracts entered into by EDC and petitioner, to wit: [99]

> Q7: **You mentioned that Air Drilling, the petitioner, rendered aerated drilling services to EDC, what would be your proof to support this statement?**
>
> A7: **The Contracts entered into by EDC and Air Drilling, sir.**
>
> ... ...
>
> Q9: I am showing you these documents marked as Exhibits P-9, P-10, and P-11. Can you please identify these documents and tell us the relevance with your previous answer?
>
> A9: Yes, sir. Exhibit P-9 is the Contract between EDC and Air Drilling. P-10 is the Appendix to the contract between EDC and Air Drilling. P-11 is the Amended Contract between EDC and Air Drilling. **These documents, contracts prove that Air Drilling is under contract to render aerated drilling services to EDC.** (Emphasis supplied)

Indeed, petitioner presented the *Contract for Aerated Fluids Drilling Works* dated January 14, 2014 (***Contract***), including its *Appendix,*[100] which indicates that it undertook to provide EDC with "*works and techniques to be undertaken by Contractor to design and execute the Aerated Fluids Drilling Program for a Geothermal Well, including the Aerated Fluids Drilling Services and the supply of the specific Goods, Consumables or Contractor Personnel.*"[101]

The *Contract* provides that it would remain in full force and effect for thirty-six (36) months from **January 1, 2014**, expiring on **January 1, 2017**, to wit:

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[99] *Id.* at 591–599, Exhibits "P-14".
[100] *Id.* at 382–459 and 460–516, Exhibits "P-9" and "P-10", respectively.
[101] *Id.* at 382 and 391, Exhibit "P-9", Recitals and par. 1.87, respectively.

> 1.32 '**Effective Date**' means <u>January 1, 2014</u>.
>
> ... ...
>
> 4. TERM
>
> Unless sooner terminated in accordance with this Contract, **this Contract shall be effective from and after the Effective Date and shall continue to be in full force and effect <u>for a period of thirty (36) months from the Effective Date</u> or <u>completion of the Geothermal Well(s) in progress at the end of the foregoing 36 month period</u>**, whichever is later (the '**Term**').[102] *(Emphasis and underscoring added)*

Petitioner also presented the *Contract Amendment to Contract No. SSA 13-034* "Contract for Aerated *Fluids Drilling Works" (**Amended Contract**)*,[103] which revised Clause 4 (Term) to extend the contract's effectivity until **December 31, 2019**, or until the completion of the geothermal well(s) in progress on December 31, 2019, whichever is later. However, the submitted Amended Contract was merely a **photocopy**.

In his *Comment (on Petitioner's Offer of Evidence)* dated March 13, 2023,[104] respondent timely objected to the admission of the *Amended Contract* (Exhibit "P-11") for being a mere **photocopy,** in violation of Rule 130 of the Rules of Evidence. The Court, in its Resolution dated March 31, 2023,[105] denied the admission of the *Amended Contract* due to petitioner's failure to present the original copy for comparison. Notably, petitioner did not seek reconsideration of this ruling in its subsequent *Motion for Reconsideration.*[106] Thus, the Court cannot accord probative value to the *Amended Contract*, consistent with the rule that "evidence which has not been admitted cannot be validly considered by the Courts in arriving at their judgments."[107]

As a result, there is no admissible evidence establishing that petitioner was under contract to render services to EDC during the 3rd and 4th quarters of TY 2019, the subject claim period. Apart from petitioner's bare assertion that it rendered aerated drilling services to EDC during this time, no contract or

[102] Docket – Vol. II, pp. 382–459, Exhibit "P-9".
[103] Docket – Vol. II, pp. 517–524, Exhibit "P-11".
[104] *Id.* at 578–580.
[105] Docket – Vol. II, pp. 583–586.
[106] *Id.* at 587–590.
[107] *Dela Llana v. Biong*, G.R. No. 182356, December 4, 2013 [Per J. Brion, Second Division].

service agreement in force during the relevant period was presented.

While the original *Contract* suggests that aerated fluids drilling works were necessary for geothermal energy production by EDC, this necessity was not established for the 3rd and 4th quarters of TY 2019. Similar to the Court's findings regarding petitioner's sale of services to PGPC, the VAT ORs and billing invoices issued to EDC are insufficient for the Court to verify that the services were rendered to EDC, an RE Developer, in relation to the exploration and development of RE sources during the claim period.

Petitioner likewise failed to adduce proof of the said geothermal well(s) completion date, if any, nor was any evidence of an extension or amendment to the *Contract's* term admitted. Clearly, the materiality and relevancy of the said *Contract* are inadequate to prove petitioner's claim for VAT zero-rating. Accordingly, petitioner's sales to EDC cannot be considered zero-rated.

Considering the foregoing, the *second condition* for VAT zero-rating was not satisfied.

At this point, it is evident that petitioner failed to establish the *fourth* requisite for a successful claim for refund or issuance of a TCC of input VAT. Consequently, it is unnecessary to address petitioner's compliance with the remaining requisites.

It must be emphasized that actions for a refund or tax credit, as in the present case, are in the nature of tax exemptions. As such, they are regarded as a derogation of sovereign authority and construed *strictissimi juris* against the person or entity claiming the refund.[108] The pieces of evidence presented entitling a taxpayer to an exemption are also *strictissimi* scrutinized and must be duly proven.[109] Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented, as they are not intended to be liberally construed.[110] Hence, an applicant for a claim for refund or tax credit must not only prove entitlement to the claim

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108 *Commissioner of Internal Revenue v. S.C. Johnson & Son, Inc., et al.*, G.R. No. 127105, June 25, 1999 [Per J. Gonzaga-Reyes, Third Division].

109 *Kepco Philippines Corporation v. Commissioner of Internal Revenue*, G.R. No. 179961, January 31, 2011 [Per J. Mendoza, Second Division] citing *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 159490, February 18, 2008 [Per J. Velasco, Jr., Second Division].

110 *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222428, February 19, 2018 [Per J. Peralta, Second Division].

but also compliance with all the documentary and evidentiary requirements.[111]

In fine, given that petitioner failed to satisfy the *fourth* requisite for the grant of a refund or credit of input VAT under Section 112(A) of the NIRC of 1997, as amended, the present *Petition for Review* must be denied.

WHEREFORE, premises considered, the instant *Petition for Review* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G.DEL ROSARIO
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

111 *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015 [Per J. Reyes, Third Division] citing *J.R.A. Philippines, Inc. v. CIR*, G.R. No. 171307, August 28, 2013 [Per J. Perlas-Bernabe, Second Division].

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.

ROMAN G. DEL ROSARIO
Presiding Justice