REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PPD PHARMACEUTICAL DEVELOPMENT PHILIPPINES CORP., *Petitioner,*	**CTA Case No. 10466**
	Members:
- versus -	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	**Promulgated:** FEB 06 2025 3:16 p.m.

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DECISION

REYES-FAJARDO, J.:

Before the Court is a Petition for Review[1] filed by PPD Pharmaceutical Development Philippines Corp. (PPD Pharma) assailing respondent Commissioner of Internal Revenue (CIR)'s partial denial of its claim; it now seeks the refund of the aggregate amount of ₱9,712,609.43, representing alleged unutilized input value-added tax (VAT) credits relative to the third and fourth taxable quarters of calendar year (CY) 2018.

FACTS

PPD Pharma is a domestic corporation registered with the Securities and Exchange Commission (SEC), with principal office address at 22nd Floor Seven/NEO Building (formerly Net Park Building), 5th Avenue E-Square, Crescent Park West, Bonifacio Global City, Taguig City.[2] It is registered with the Bureau of Internal Revenue

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1 Docket - Vol. 1, pp. 7-32.
2 Par. 1.1, Stipulation of Facts, Joint Stipulation of Facts and Issue (JSFI), Docket - Vol. 5, p. 2084; Exhibit "P-1", Docket - Vol. 6, pp. 2992 to 3017.

(BIR) for VAT purposes, with Certificate of Registration No. OCN 9RC0000520175,[3] under Tax Identification Number 009-270-744-000.[4]

Respondent is the head of the BIR, empowered to perform the duties of the office, including acting upon and approving claims for refund or tax credit. Its office address is at the 5th Floor, BIR National Office Building, BIR Road, Diliman, Quezon City.[5]

PPD Pharma filed its VAT Returns (BIR Form No. 2550-Q)[6] for the third and fourth quarters of CY 2018, declaring zero-rated sales[7] amounting to ₱411,171,346.70, computed as follows:

Third quarter	₱148,743,636.61
Fourth quarter	262,427,710.09
Total	**₱411,171,346.70**

During these quarters, PPD Pharma also reported purchases of goods and services, through which its suppliers passed on input taxes in the aggregate amount of ₱12,515,965.52, *viz.*:

	Third[8]	Fourth[9]	Total	Input VAT (12%)
Purchases of capital goods		₱12,910,624.90	12,910,624.90	₱1,549,274.99
Domestic purchases:				
Goods other than capital goods	₱636,125.50	1,932,793.08	2,568,918.58	308,270.23
Services	43,864,580.00	44,955,589.17	88,820,169.17	10,658,420.30
Total input VAT from current transactions				**₱12,515,965.52**

Proceedings at the administrative level.

On September 30, 2020, PPD Pharma filed an Application for Tax Credits/Refunds (BIR Form No. 1914),[10] together with the Revised Checklist of Mandatory Requirements on Claims for VAT Refund[11]

[3] Par. 1.3, Stipulation of Facts, JSFI, Docket - Vol. 5, p. 2085.
[4] Exhibit "P-3", Docket - Vol. 6, p. 3018.
[5] Par. 1.2, Stipulation of Facts, JSFI, Docket - Vol. 5, p. 2085.
[6] Exhibits "P-6" and "P-7," Docket - Vol. 6, pp. 3021-3024
[7] Line 17 of VAT Return.
[8] Lines 21E and 21I of the VAT Return, Docket - Vol. 6, p. 3021.
[9] Lines 21C, 21E, and 21I of the VAT Return, Docket - Vol. 6, p. 3023.
[10] Exhibit "P-4", Docket - Vol. 6, p. 3019.
[11] Exhibit "P-5", Docket - Vol. 6, p. 3020.

(hereinafter referred collectively as "administrative claim"), requesting for a refund or credit amounting to ₱12,030,491.36, representing excess input tax relative to the period from July 1 to December 31, 2018, computed[12] by petitioner as follows:

Total input VAT from current transactions	₱12,515,965.52
Less: Accrued input VAT from purchase of capital goods exceeding P1M	485,474.26
Amount claimed	**₱12,030,491.26**

In a VAT Refund Notice[13] dated December 3, 2020, respondent[14] granted the administrative claim to the extent of ₱2,317,881.93, computed as follows:

VAT Refund Claimed	₱12,030,491.36
Less: Deductions from Claim	9,712,609.43
Net Allowable Refund	**₱2,317,881.93**

After receiving the above notice on January 13, 2021, PPD Pharma filed the present Petition for Review on February 11, 2021 (hereinafter referred to as "judicial claim").

Proceedings before this Court.

Respondent CIR filed an Answer,[15] which was admitted by the Court on July 23, 2021.[16]

After the conduct of a pre-trial conference on October 26, 2021,[17] the parties submitted their Joint Stipulation of Facts and Issue (JSFI).[18] This was admitted and approved by the Court on December 11, 2021,[19] thereby deeming the termination of the pre-trial. On the basis thereof, the Court issued a Pre-Trial Order on February 28, 2022.[20]

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12 Docket - Vol. 1, p. 11.
13 Exhibit "P-38", Docket - Vol. 5, pp. 2415-2423.
14 Through Maria Luisa I. Belen, Assistant Commissioner, BIR Assessment Service.
15 Docket - Vol. 2, pp. 527 to 532.
16 Docket - Vol. 2, pp. 534 to 535.
17 Resolution dated July 23, 2021, Docket - Vol. 2, pp. 534 to 535; Minutes of the hearing held on, and Order dated, October 26, 2021, Docket - Vol. 4, p. 1805.
18 Docket - Vol. 5, pp. 2084-2100.
19 Docket - Vol. 5, pp. 2119-2120.
20 Docket - Vol. 5, pp. 2519-2526.

Thereafter, the case proceeded to trial.

For its part, PPD Pharma offered the testimonies of the following individuals: (1) Mr. Rustom Jay A. Ramirez,[21] PPD Pharma's Tax Accountant; and (2) Ms. Krista B. Bambao,[22] the Court-commissioned Independent Certified Public Accountant (ICPA).[23]

The ICPA Report and the BIR Records for this case were submitted to the Court on March 4, 2022[24] and March 10, 2022,[25] respectively.

Acting on PPD Pharma's Formal Offer of Documentary Evidence on June 24, 2022, the Court resolved to admit all of petitioner's exhibits *except*: (1) Exhibits "P-10," "P-40-series," "P-41," "P-42," "P-120," "P-121," "P-122," "P-208," "P-209," and "P-238", for failure to present originals for comparison; and (2) Exhibit "P-11", for failure to submit the duly marked exhibit.[26] Upon petitioner's motion for partial reconsideration, the Court admitted[27] Exhibits "P-10" and "P-11," but sustained the denial of Exhibits "P-40-series," "P-41," "P-42," "P-120," "P-121," "P-122," "P-208," "P-209," and "P-238," for failure to present the originals for comparison.

On the other hand, respondent offered the testimony of Revenue Officer Jayson B. Gordovez.[28] Acting on respondent's Formal Offer of Evidence,[29] the Court resolved[30] to admit all of respondent's offered exhibits.

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[21] Exhibit "P-247", Docket - Vol. 5, pp. 2148-2180; Minutes of the hearing held on, and Order dated, March 3, 2022, Docket - Vol. 5, pp. 2532-2534.

[22] Exhibit "P-259", Docket - Vol. 5, pp. 2574 to 2600; Minutes of the hearing held on, and Order dated, April 21, 2022, Docket - Vol. 6, pp. 2956 to 2957.

[23] *Oath of Commission* dated February 2, 2022, Docket - Vol. 5, p. 2129; Minutes of the hearing held on, and Order dated, February 2, 2022, Docket - Vol. 5, pp. 2123-2124.

[24] Exhibit "P-255", Docket - Vol. 5, pp. 2536-2563.

[25] *Compliance* dated March 10, 2022, Docket - Vol. 5, pp. 2565-2567.

[26] Docket - Vol. VIII, pp. 3754-3757.

[27] In a Resolution dated June 24, 2022.

[28] Judicial Affidavit of Revenue Officer Jayson B. Gordovez, Docket - Vol. 8, pp. 3782-3785; Minutes of the hearing held on, and Order dated, March 9, 2023, Docket - Vol. 8, pp. 3828-3830.

[29] Docket - Vol. 8, pp. 3854-3857.

[30] In a Resolution dated May 19, 2023, Docket - Vol. 8, pp. 3861-3862.

The case was deemed submitted for decision on February 6, 2024,[31] after petitioner's filing of its Memorandum[32] and respondent's Manifestation[33] adopting the Answer as its Memorandum.

ARGUMENTS

PPD Pharma's Arguments

Petitioner claims that it is entitled to the refund or credit of its unutilized input VAT amounting to ₱12,030,491.26 for the following reasons: *First,* it is a VAT-registered taxpayer; *Second,* for the third and fourth quarters of CY 2018, pursuant to Section 108(B)(2) of the National Internal Revenue Code of 1997, it reported zero-rated sales in the aggregate amount of ₱411,171,346.70, which consisted of clinical research services rendered to PPD Global Limited (PPD Global), a foreign corporation not doing trade or business in the Philippines; *Third,* in the course of rendering said services, PPD Pharma purchased goods and services, from which it aggregated input VAT credits amounting to ₱12,030,491.26; *Fourth,* said input VAT credits were never applied against any output VAT liability; *Fifth,* it lodged its administrative claim on September 30, 2020 or within two years from the close of the third and fourth quarters of CY 2018, as extended by Revenue Regulations No. (RR) 27-20; *Sixth,* the CIR granted its administrative claim to the extent of ₱2,317,881.93 only. It received the corresponding VAT Refund Notice on January 13, 2021, and; *Seventh,* it filed the present judicial claim within 30 days from receipt of the VAT Refund Notice.

Respondent CIR's Arguments

Respondent counters, in the main, that PPD Pharma failed to prove the zero-rated character of its sales, to which the input VAT sought to be refunded relates. Under Section 108(B)(2) of the Tax Code, also as held in *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.,*[34] the supply of services shall be regarded as zero-rated only if it is shown that the payment thereon was made in acceptable foreign currency accounted for in accordance with the rules of the Bangko Sentral ng Pilipinas (BSP). However,

[31] Minute Resolution dated February 6, 2024, Docket - Vol. 8, p. 3943.
[32] Docket - Vol. 8, pp. 3872-3929.
[33] Docket - Vol. 8, pp. 3868-3870.
[34] G.R. No. 153205, January 22, 2007, 541 Phil 119-137.

while PPD Pharma presented inward remittances in foreign currency, the documents submitted failed to show that said remittances were indeed made as payments for the alleged zero-rated sales.[35]

ISSUE

The parties stipulated the following issue for the Court's resolution:

> "2.1 Whether PPD is entitled to a tax refund or to the issuance of a tax credit certificate in the amount of Php9,712,609.43 representing its excess and/or unutilized input VAT credits attributable to its zero-rated sales of services for the third and fourth quarters of CY 2018."[36]

OUR RULING

The Petition for Review is denied for lack of merit. While the administrative and judicial claims were filed on time, PPD Pharma failed to demonstrate the zero-rated character of its supply of services to PPD Global, in accordance with the parameters set in Section 108(B)(2) of the Tax Code.

The recent case of *Chevron Holdings, Inc. v. Commissioner of Internal Revenue*[37] set out the requisites for a grant of refund or credit of unutilized input VAT attributable to zero-rated sales, *viz.*:

> Under Section 112 (A) of the Tax Code, the taxpayer may claim for refund or issuance of tax credit certificate of unutilized input VAT attributable to zero-rated sales subject to the following conditions: (1) the taxpayer is VAT-registered; (2) the taxpayer is engaged in zero-rated or effectively zero-rated sales; (3) the claim must be filed within two (2) years after the close of the taxable quarter when such sales were made; and (4) the creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax.

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[35] Paragraphs 7-10, *Answer*, Docket - Vol. 2, p. 529.
[36] Stipulation of the Issue, JSFI, Docket - Vol. 5, p. 2085.
[37] G.R. No. 215159, July 5, 2022.

We address first the matter of timeliness of the instant claim (*third requisite*). PPD Pharma's claim covers the third and fourth quarters of CY 2018. Counting two years from the close of the subject quarters, the respective deadlines to file an administrative claim relative thereto are as follows:

VAT Return	Close of the Quarter	Last Day to File Administrative Claim
3rd quarter	September 30, 2018	September 30, 2020
4th quarter	December 31, 2018	December 31, 2020

It is clear from the foregoing that PPD Pharma's **September 30, 2020** filing of its **administrative claim** was within the two-year prescriptive period set out in Section 112(A) of the Tax Code.

In turn, the CIR had 90 days from said filing to act on the administrative claim. Having regard to Revenue Regulations No. 27-20,[38] which **suspended**[39] the 90-day period to process VAT refunds starting October 6, 2020 until December 19, 2020, the CIR had until **March 13, 2021** to take action. Accordingly, the CIR issued the assailed VAT Refund Notice on December 3, 2020.

PPD Pharma received a copy thereof on **January 13, 2021**; it then proceeded to this Court and filed the present judicial claim on **February 11, 2021**. Likewise, the judicial claim was timely as it was filed within the 30-day reglementary period counted from receipt of the CIR's ruling.

Now coming to the *second requisite* in *Chevron*, as quoted above, which imposes upon the claimant the burden to establish the zero-rated character of its sales to which its input VAT credits shall be attributed, in accordance to Section 108(B) of the Tax Code, *viz*.:

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[38] Subject: Regulations Suspending the Filing and 90-Day Processing of VAT Refund Claims Anchored Under Section 112 of the Tax Code of 1997, as Amended October 6, 2020.

[39] SECTION 4. Processing of VAT Refunds. — The 90-day processing of VAT refund claims pursuant to Section 112 (C) of the Tax Code of 1997, as amended, is hereby suspended during the effectivity of R.A. No. 11494 or until the next adjournment of the Eighteenth Congress on December 19, 2020 (Revenue Regulations No. 27-20, id.)

> 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:
>
> (1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
>
> (2) **Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);**" (Emphases supplied)

Sales or supplies of services performed in the Philippines may fall into two categories for purposes of zero-rating: **export services** under sub-paragraph (B)(1) (*e.g.*, processing, manufacturing or repacking of goods intended for consumption outside the Philippines) and **other services** under sub-paragraph (B)(2) (*e.g.*, sale or supply of services other than those referred to in sub-paragraph (B)(1)).

PPD Pharma's claim is grounded on Section 108 sub-paragraph (B)(2).

That its supply of **clinical research services** to PPD Global are "services other than processing, manufacturing or repacking goods," which had been performed in the Philippines, is established by the *Affiliate Services Agreement*[40] and the *Confirmation of the Affiliate Services Agreement*[41] with PPD Global. Based on these documents, the scope of services rendered by PPD Pharma to PPD Global consists of Clinical Trial Co-ordination and Support Services, Global Clinical Data Management Services, Global Biostatistics and Programming Services, Clinical Shared Services, Administrative Shared Services, or Local Contracting with Sponsors.

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[40] Exhibit "P-10", Docket - Vol. 6, pp. 3027 to 3035.
[41] Exhibit "P-11", Docket - Vol. 8, pp. 3806 to 3816.

In *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*,[42] the Supreme Court enumerated the conditions under Section 108(B)(2), *viz.*:

> Sales of "other services," such as those qualifying services rendered by DKS to its foreign affiliates-clients, shall be zero-rated pursuant to Section 108 (B) (2) of the Tax Code if the following conditions are met: First, the seller is VAT-registered. Second, the services are rendered "to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed." **Third, the services are "paid for in acceptable foreign currency and accounted for in accordance with [BSP] rules and regulations."**

Petitioner's **VAT registration**[43] and **Philippines as the place of performance** of the subject services[44] are no longer disputed.

That PPD Pharma's lone client—PPD Global—for whom it rendered the subject services is a **non-resident foreign corporation (NRFC)** not engaged in trade or business in the Philippines is shown by PPD Global's SEC Certification of Non-Registration[45] and Proof of Incorporation/Registration in the United Kingdom.[46]

However, petitioner's evidence failed to convince the Court that its services were paid for in acceptable foreign currency and accounted for in accordance with BSP rules and regulations. While PPD Pharma presented documentation supporting its receipt of inward foreign currency remittances from PPD Global, it did not demonstrate that such remittances represented actual payments for services rendered to PPD Global.

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42 G.R. No. 234445, July 15, 2020.

43 Par. 1.3, Stipulation of Facts, JSFI, Docket - Vol. 5, p. 2085.

44 The Affiliate Services Agreement (Exhibit A) indicates that "Exhibit A of the apostilled ASA provides that the clinical trial co-ordination and support services for clinical trials shall be conducted locally." Further, Rustom Jay A. Ramirez, Tax Accountant, PPD Pharma, and ICPA Ms. Krista B. Bambao testified that the subject services rendered to PPD Global were performed in the Philippines (Answer to Question No. 42, Exhibit "P-247", Docket - Vol. 5, at p. 2158; Answer to Question No. 14, Exhibit "P-259", Docket - Vol. 5, p. 2580). Respondent CIR did not contest these statements or offer any countervailing evidence.

45 Exhibit "P-13," Docket - Vol. 6, p. 3058.

46 Exhibits "P-12," Docket - Vol. 4, pp. 1502 to 1521; "P-14," Docket - Vol. 4, p. 3059; and "P-18," Docket - Vol. 4, pp. 1524 to 1536.

In the VAT returns for the subject quarters, PPD Pharma declared zero-rated sales in the aggregate amount of **₱411,171,346.70.** The amounts declared correspond to the balances reported in the Summary List of Sales[47] submitted to the BIR and General Ledger[48] maintained by petitioner.

On the other hand, the Court verified that PPD Pharma received remittances from PPD Global in the aggregate amount of **$7,500,000.00,** which, when converted into Philippine peso, amount to ₱411,171,346.70. Petitioner issued a corresponding VAT Official Receipt for each remittance, *viz.*:

	Official Receipt			Amount		
Exh	**Ref No.**	**Date**	**Qtr.**	**USD ($)**	**Forex**	**PHP (₱)**
P-45	0000023	July 10, 2018	3	1,150,000.00	53.56	61,594,000.00
P-46	0000024	August 08, 2018	3	1,450,000.00	60.11	87,159,500.00
		Subtotal		2,600,000.00		148,753,500.00
P-47	0000025	October 08, 2018	4	1,100,000.00	53.60	58,960,000.00
P-48	0000026	November 08, 2018	4	1,500,000.00	53.88	80,820,000.00
P-49	0000027	December 11, 2018	4	2,300,000.00	53.32	122,636,000.00
		Subtotal		4,900,000.00		262,416,000.00
Total				**7,500,000.00**		**411,169,500.00**

PPD Pharma's representation is that these remittances are PPD Global's payments for the clinical research services it rendered for the latter. In line with this, petitioner presented the corresponding Proofs of Remittances and Certifications issued by Hong Kong and Shanghai Banking Corporation Limited (HSBC), the banking institution where petitioner maintains a foreign currency deposit account.

However, the evidence presented (Official Receipts, Proofs of Remittances, HSBC Certifications) only demonstrates that PPD Pharma *received* dollar remittances from PPD Global; petitioner failed to establish that the amounts thus received *in fact represent payments for services rendered* in favor of PPD Global under their Affiliate Services Agreement.

For reference, the face and contents of Exhibit "P-45" are reproduced below to show the format in which all PPD Pharma's Official Receipts were issued during the subject taxable quarters:

[47] Exhibits P-8 & P-9, Docket – Vol. 6, pp. 3025-3026.
[48] Account No. 10180 (Exhibit P-44), file saved in USB, Exhibit "P-256."

[PPD Logo]

22nd Floor, Net Park Building, 5th Avenue, E-Square, Crescent Park West, Bonifacio Global City Taguig
VAT REG TIN: 009-270-744-00000

OFFICIAL RECEIPT No. 0000023

PPD Pharmaceutical Development Philippines

Date: July 10, 2018

RECEIVED FROM: PPD Global Limited
ADDRESS: Granta Park, Great Abington Cambridge CB21 6GQ United Kingdom
TIN: ______ Buss. Name/Style: ______
The sum of: One million one hundred fifty thousand
(₱ USD 1,150,000)

For services covered by Billing Statement Number(s) indicated below

BREAKDOWN OF PAYMENT		
Particulars		
B.S. No.	I-0000029; I-0000031	
	C-APPPH100230	
VATable Sale	Amount	
Plus VAT		
Total VAT Sale		
VAT Zero Rated Sale	USD 1,150,000	
VAT Exempt Sale		
Add: 12% VAT		
Total Sale	USD 1,150,000	
Less: EWT		
Total	USD 1,150,000	

FORM OF PAYMENT		
Cash ☐		
Check ☐		Inward Remittance ☐
Bank	Check/PMC No.	Amount

PPD Pharmaceutical Development Phils. Corp.

[signed]
Authorized Signature

Converted to Singapore Dollars @ exchange rate of: ______

(Red Marking Supplied)

Official Receipt Nos. 0000024,[49] 0000025,[50] 0000026,[51] and 0000027,[52] bore the same format and were accomplished in the same manner as shown above.

Printed on each Official Receipt is the statement "For services covered by Billing Statement Number(s) indicated below;" this indicates that payments received represent compensation/settlement for charges made by PPD Pharma in a Billing Statement/Invoice sent to PPD Global. **However, the Billing Statements were not presented in evidence. Thus, the Court is unable to verify the specific nature of the items charged under the purported Billing Statements**. Whether these charges had been for services rendered **and/or some other transaction**, cannot be ascertained from the face of the Official Receipts.

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49 Exhibit "P-46," file saved in USB, Exhibit "P-256."
50 Exhibit "P-47," file saved in USB, Exhibit "P-256."
51 Exhibit "P-48," file saved in USB, Exhibit "P-256."
52 Exhibit "P-49," file saved in USB, Exhibit "P-256."

To be clear, PPD Pharma's receipts from PPD Global did not consist exclusively of payments for services fees, but also **advances and loans for working capital purposes**. These are disclosed (in Philippine Peso) in its CY 2018 Audited Financial Statements,[53] *viz.*:

NOTE 20 – RELATED PARTY TRANSACTIONS

The Company's relationship with its related parties is described below:

Related parties	Relationship
PPD Global Limited	Affiliate member of PPD Group
PPD Development(S) Pte Ltd – Philippine Branch	Affiliate member of PPD Group

The significant transactions of [PPD Pharma] in the normal course of business with related parties are described below:

A. TRANSACTIONS FROM RELATED PARTIES

1. The Company rendered services to affiliate, receives non-interest-bearing advances and interest-bearing loans from its affiliate for working capital purposes. These are shows has trade receivable, due from related party, non-current and loans payable in the statements of financial position. Total transactions and outstanding balance as at December 31 are as follows:

Category	Amount of transactions	Outstanding balance	Terms	Condition
Year 2018				
PPD Global Limited				
Service fees	**868,786,413**	112,909,441	Collectible within sixty (60) days after receipt of invoice, non-interest bearing	Unsecured, no impairment
Due from related party	**200,839,966**	6,598,383	Have no specific repayment terms; However, the Company has unconditional right to defer settlement for more than twelve (12) months; non-interest bearing	Unsecured, no impairment
Due to related party	**4,113,547**	262,594	Payable on demand; interest-bearing at a rate of 4.25% per annum	Unsecured, no impairment
Loans payable	-	314,381,534		
Finance cost	**13,083,576**	-		
	17,197,123	314,344,128		

(Boldfacing supplied)

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[53] Exhibit "P-36," Docket – Vol. 6, pp. 3105-

During CY 2018, aside from service fees amounting to **₱868,786,413**, petitioner also received advances from PPD Global amounting to **₱200,839,966**. For purposes of zero-rating, it was incumbent upon PPD Pharma to demonstrate that PPD Global's remittances amounting to $7,500,000.00 were (a) indeed payments for supplies of services during the third and fourth quarters of 2018, which are claimed to be zero-rated and (b) *not* advances, loans, or even payments for services rendered in previous periods.

Claimants bear the burden of proving the factual and legal basis of its claim for refund or credit.[54] Thus, for purposes of input tax refunds founded upon Section 112(A) of the Tax Code, the claimant must demonstrate, among others, *attributability* of the purchases that incurred input VAT to the "relevant sales" that were made;[55] input VAT shall only be refundable if the sales these are attributable to are zero-rated.

The Official Receipts, Proofs of Remittances, and HSBC Certifications presented only show that PPD Pharma received monies from PPD Global. The actual nature and purpose of the payments cannot be verified and ascertained. That the remittances evidenced by these documents may have included advances, not only service fees cannot be foreclosed. The **connection** between the *amounts received* and the *supply of services* which the payments supposedly pertain to is unclear.

The absence of this connection amounts to a failure to meet the requirements for zero-rating under Section 108(B)(2) of the Tax Code. While there were payments "in acceptable foreign currency and accounted for in accordance with [BSP] rules and regulations," without the requisite nexus, it cannot be said that these were compensation for PPD Pharma's clinical research services were paid for by PPD Global.

Without sufficient proof of zero-rated sales, a refund of unutilized input VAT under Section 112(A) cannot be allowed. In view of this, We shall no longer delve into the remaining requisites for entitlement of a refund or credit of unutilized input VAT.

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[54] *Commissioner of International Revenue v. Filminera Resources Corporation*, G.R. No. 236325, September 16, 2020, citing *Atlas Consolidated Mining and Development Corp. v. Commissioner of Internal Revenue*, G.R. Nos. 141104 & 148763, June 8, 2007, 551 PHIL 519-567.

[55] *Maibarara Geothermal, Inc. v. Commissioner of Internal Revenue*, G.R. No. 250479, July 18, 2022.

WHEREFORE, in light of the foregoing considerations, the Petition for Review is **DENIED** on account of insufficiency of evidence.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

CATHERINE T. MANAHAN
Associate Justice

HENRY S. ANGELES
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's Division.

CATHERINE T. MANAHAN
Chairperson
Third Division

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice