REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

RIOFIL CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9344

Members:

CASTAÑEDA, JR.,
Chairperson
CASANOVA, *and*
MANAHAN, *JJ.*

Promulgated:

AUG 17 2018

3:05 p.m.

x- x

DECISION

MANAHAN, *J.:*

This is a Petition for Review[1] filed by Riofil Corporation praying for the refund or issuance of a tax credit certificate (TCC) in the amount ₱34,491,953.38, allegedly representing its excess and unapplied input valued-added tax (VAT) payments attributable to its zero-rated sales for the taxable year 2014.

THE FACTS

Petitioner Riofil Corporation is a domestic corporation organized and existing under the laws of the Republic of the Philippines.[2] Its present office address is at Units

[1] Docket, pp. 13-21.
[2] Exhibits "P-1" and "P-1.1", docket, vol. II, pp. 834 and 847.

1704-1706 Hanston Square, 17 San Miguel Avenue, Ortigas Center, Pasig City.[3]

As stated in its Articles of Incorporation, its primary purpose is "to carry on and conduct a general contracting business, including the constructing, enlarging, repairing, remodeling or otherwise engaging in any work upon buildings, roads, sidewalks, highways, bridges, or manufacturing plants; to engage in iron steel, wood brick, concrete, stone, cement, masonry and earth construction; to execute contracts or to receive assignments of contracts therefor, or relating thereto; also, to manufacture and furnish the building materials and supplies connected herewith".[4]

Petitioner is registered as a VAT taxpayer.[5]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR) vested with the authority to decide 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) or other laws or portions thereof administered by the BIR. The CIR holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

Petitioner is not registered with the Philippine Economic Zone Authority (PEZA) but renders services to its clients located and registered within the PEZA zone; the Clark Development Corporation (CDC)[6], as well as those located within the customs territory and outside of the economic zones.

In the course of providing services to its clients, petitioner alleges that it incurred and/or paid input taxes on its purchases of Vatable goods and services for the four quarters of taxable year 2014.[7]

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[3] Par. 1, Petitioner's Memorandum, docket, vol. III, p. 1291.
[4] Exhibit "P-1", docket, vol. II, p. 835.
[5] Exhibit "P-16", CD.
[6] Exhibits "P-6" to "P-6.16", CD and docket, vol. II, pp. 957-976.
[7] Par. 6, Petitioner's Memorandum, docket, vol. III, p. 1293.

On December 8, 2015, petitioner filed its Application for Tax Credits/Refund (BIR Form No. 1914) with the BIR Revenue District Office (RDO) No. 43A-East Pasig, requesting for the refund of its alleged unutilized input VAT for the four quarters of taxable year 2014.[8]

Respondent, however, failed to act on petitioner's claim for refund,[9] prompting petitioner to file a Petition for Review before this Court on May 6, 2016.

Respondent filed his Answer[10] to the Petition for Review on July 5, 2016 where he interposed Special and Affirmative Defenses.

Petitioner filed its Pre-Trial Brief[11] on August 26, 2016; while respondent's Pre-Trial Brief[12] was filed on October 11, 2016. Upon motion by respondent,[13] the pre-trial conference set on September 1, 2016 was cancelled and reset to October 13, 2016.[14]

The parties filed their Joint Stipulations of Facts and Issues[15] on October 27, 2016, which the Court approved in the Pre-Trial Order[16] dated November 10, 2016.

During trial, petitioner presented Ms. Shirley R. Mercado, petitioner's Accounting Manager,[17] and Ms. Maria Gracia L. Morfe, the Court-commissioned Independent Certified Public Accountant (ICPA),[18] as its witnesses.

After presentation, marking, and identification, petitioner formally offered its documentary evidence on April 6, 2017, consisting of Exhibits "P-1" to "P-2550-A", inclusive of sub-markings.[19] Except for Exhibit "P-6.12", these exhibits were later admitted as part of petitioner's

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[8] Exhibits "P-13", "P-13.1", and "P-13.2", CD.
[9] Par. 11, Petitioner's Memorandum, docket, vol. III, p. 1294.
[10] Docket, vol. I, pp. 125-129.
[11] Docket, vol. I, pp. 133-140.
[12] Docket, vol. II, pp. 708-710.
[13] Docket, vol. II, pp. 703-704.
[14] Minutes of the September 1, 2016 hearing, docket, vol. II, p. 706.
[15] Docket, vol. II, pp. 718-724.
[16] Docket, vol. II, pp. 743-751.
[17] Minutes of the February 20, 2017 hearing, docket, vol. II, p. 788.
[18] Minutes of the March 22, 2017 hearing, docket, vol. II, p. 804.
[19] Docket, vol. II, pp. 806-833.

documentary evidence pursuant to Resolutions dated May 16, 2017[20] and July 25, 2017[21].

When it was respondent's turn to present evidence, his counsel manifested that the case has no report of investigation and that he will no longer be presenting evidence. Thus, the parties were granted thirty (30) days to file their respective memoranda.[22]

Petitioner filed its Memorandum[23] on September 15, 2017; while respondent failed to file his memorandum.[24] Hence, the case was submitted for decision on October 6, 2017.[25]

THE ISSUES

The parties submitted this lone issue for this Court's resolution:[26]

> "Whether Riofil Corporation is entitled to its claim for refund in the amount of ₱34,491,953.38 representing its unutilized and/or unapplied input VAT for taxable year 2014."

PETITIONER'S ARGUMENTS

Petitioner maintains that it timely filed its administrative and judicial claims for VAT refund.

Petitioner claims that out of the available input VAT arising from its purchases for the four quarters of taxable year 2014, the amount of ₱34,491,953.38 is directly and entirely attributable to its zero-rated or effectively zero-rated sales and was not utilized against its output taxes for the same quarters because it had substantial amounts of input taxes carried forward from the previous quarters in addition to the input taxes for the current year which are

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[20] Docket, vol. III, pp. 1253-1255.
[21] Docket, vol. III, pp. 1282-1284.
[22] Minutes of the August 2, 2017 hearing, docket, vol. III, p. 1285.
[23] Docket, vol. III, pp. 1291-1310.
[24] Records Verification dated September 27, 2017, docket, vol. III, p. 1311.
[25] Resolution, docket, vol. III, p. 1312.
[26] Issues, Joint Stipulation of Facts and Issues (JSFI), docket, vol. II, p. 718.

not attributable to its zero-rated sales.[27] Petitioner then avers that it is legally entitled to a refund of its unutilized and/or unapplied and excess input VAT for the period covering January 1 to December 31, 2014.

Petitioner asserts that its sales of services to entities located and registered within PEZA and CDC are zero-rated. It argues that it incurred/paid input VAT on its purchases of goods and services for the four quarters of taxable year 2014. Further, said input taxes claimed were unutilized against any of its output VAT liabilities for the succeeding taxable quarters/years as verified by the ICPA. Thus, the claim for refund of ₱34,491,953.38 are directly attributable to zero-rated VAT sales based on the complete documents petitioner submitted in support of its claim for refund.

RESPONDENT'S ARGUMENTS

We quote hereunder the Special and Affirmative Defenses interposed by respondent in his Answer, viz:

> "**SPECIAL AND AFFIRMATIVE DEFENSES**
>
> The Honorable Court of Tax Appeals has no jurisdiction over the case.
>
> xxx xxx xxx
>
> 11. In the instant case, there is no showing that Petitioner submitted complete documents in support of the administrative claim for tax refund pursuant to Section 112 (C), as amended. Otherwise, there would be no sufficient compliance with regard to the filing of administrative claim for tax credit/refund which is a condition *sine qua non* prior to the filing of such claim.
>
> 12. Due to Petitioner's failure to attach xxx a statement under oath attesting to the completeness of the submitted documents as required under Revenue Memorandum Circular No. 54-2014, its application is subject to denial by the Respondent. Hence, the filing of the instant judicial action for refund was prematurely

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[27] Exhibit "P-11", CD; Pars. 8-9, Petitioner's Memorandum, docket, vol. III, pp. 1293-1294.

> filed since Petitioner failed to await the denial of its application for refund.
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> 13. In an action for tax refund/credit, the burden of proof rests upon the taxpayer to establish by sufficient and competent evidence its entitlement to a claim for refund, and failure to adduce sufficient proof is fatal to the action for tax refund/credit. xxx
>
> 14. Basic is the rule that tax refunds are in the nature of tax exemptions and are to be considered *strictissimi juris* against the entity claiming the same. xxx
>
> 15. Taxes collected are presumed to be in accordance with laws and regulations. Hence, not refundable.
>
> 16. Petitioner failed to sufficiently prove and demonstrate that the subject tax was erroneously or illegally collected. Hence, not refundable.
>
> xxx xxx xxx"

As to the issue of lack of jurisdiction, respondent elucidates that petitioner failed to show that it submitted complete documents in support of the administrative claim for refund. Consequently, there would be no sufficient compliance with regard to the filing of the administrative claim for refund which is a condition *sine qua non* prior to the filing of the judicial claim. Furthermore, respondent argues that petitioner's failure to attach a statement under oath attesting to the completeness of the submitted documents as required by Revenue Memorandum Circular (RMC) No. 54-2014 subjects the administrative claim to denial. Thus, for failure to wait for the denial, the judicial claim for refund was prematurely filed.

Moreover, respondent denies, among others, the allegation with regard to the input taxes incurred by petitioner, stating that the amount of ₱112,048,280.71 is not directly and entirely attributable to zero-rated or effectively zero-rated sales since petitioner also renders services to clients located within the customs territory and outside the economic zones. Respondent adds that even if petitioner rendered services to persons or entities whose exemption is based on special laws, he cannot be made to bear the burden of ascertaining for the petitioner what part of its refund claim is attributable to such services and petitioner cannot adopt a shotgun approach of claiming a bulk amount of refund in the hope that respondent would fail to distinguish the valid claims from the bogus ones. Either courses of action is highly reprehensible and repugnant to law and the administration of tax laws.

For the reasons aforestated, respondent prays for the denial of the entire instant claim for refund.

THE RULING OF THE COURT

Jurisdiction of the Court of Tax Appeals

At the outset, it is imperative to determine the timeliness of the filing by the petitioner of the administrative and judicial claims for refund as this is determinative of this Court's jurisdiction.

Jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy.[28] It is conferred only by law and not by the consent or waiver upon a court which, otherwise, would have no jurisdiction over the subject matter or nature of an action. Lack of jurisdiction of the court over an action or the subject matter of an action cannot be cured by the silence, acquiescence, or even by express consent of the parties.[29] If the court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case. The court could not decide the case on the merits.[30]

The Court of Tax Appeals is a court of special jurisdiction and can only take cognizance of such matters as are clearly within its jurisdiction.[31] The jurisdiction of the CTA regarding internal revenue tax refund is provided under Section 7(a)(1) and (2) of Republic Act (R.A.) No. 1125, as amended by R.A. Nos. 9282 and 9503, which states:

"SEC. 7. *Jurisdiction*. – The CTA shall exercise:

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[28] Nippon Express (Philippines) Corp. vs. Commissioner of Internal Revenue, G.R. No. 185666, February 4, 2015, citing Commissioner of Internal Revenue vs. Leonardo S. Villa and the Court of Appeals, G.R. No. L-23999, January 2, 1968.

[29] Carmen Danao Malana, et.al. vs. Benigno Tappa, et.al., G.R. No. 181303, September 17, 2009 quoting Laresma vs. Abellana, 484 Phil 766.

[30] *Supra,* Note No. 35.

[31] Commissioner of Internal Revenue vs. Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.), G.R. No. 169778, March 12, 2014.

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

(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 or other laws administered by the Bureau of Internal Revenue;

(2) **Inaction by the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;" (*Emphasis supplied*)

Similarly, Section 3(a)(1) and (2) of Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides:

"SEC. 3. *Cases within the jurisdiction of the Court in Division.* – The Court in Division 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; au

> (2) **Inaction by 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, where the National Internal Revenue Code or other applicable law provides a specific period for action: *Provided*, that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; *Provided, further*, that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules; and *Provided, still further*, that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code;" (*Emphasis supplied*)

It is clear from the afore-quoted provisions that the CTA shall exercise exclusive appellate jurisdiction to review on appeal the decisions as well as the *inaction* by the BIR Commissioner in cases involving refunds of internal revenue taxes. In cases where the 1997 NIRC provides a specific period for action, the inaction of the Commissioner of Internal Revenue shall be deemed a denial.[32]

Section 112(A) and (C) of the 1997 National Internal Revenue Code (NIRC), as amended, governs the filing of

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[32] Commissioner of Internal Revenue vs. San Roque Power Corporation, G.R. No. 187485, February 12, 2013.

administrative and judicial claims for refund or tax credit of excess and unutilized input VAT attributable to zero-rated or effectively zero-rated sales, which we quote:

> "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.
>
> 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 to the aforequoted Section 112 (A), the administrative claim filed by a VAT-registered person for the issuance of a TCC or refund of unutilized input VAT must be filed within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

Based on the facts and records of this case, petitioner's last day for filing its administrative claim for refund of excess/unutilized input VAT for the four (4) taxable quarters of 2014 fell on the following dates:

Period covered	**Last day of the Two-year period**
January to March 2014 (1st Quarter 2014)	March 31, 2016
April to June 2014 (2nd Quarter 2014)	June 30, 2016
July to September 2014 (3rd Quarter 2014)	September 30, 2016
October to December 2014 (4th Quarter 2014)	December 31, 2016

Clearly, petitioner's administrative claim for refund was timely filed on December 8, 2015.[33]

As to the timeliness of petitioner's judicial claim, Section 112(C) of the NIRC of 1997, as amended, provides that the BIR Commissioner has one hundred twenty (120) days from the date of 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 the BIR Commissioner, the

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[33] Exhibits "P-13" to "P-13.2".

taxpayer's recourse is to file an appeal before the CTA within 30 days from receipt of the decision of the BIR Commissioner. However, if after the 120-day period, the BIR Commissioner fails to act on the application for refund/tax credit, the remedy of the taxpayer is to appeal the inaction of the BIR Commissioner to the CTA within thirty (30) days from the expiration of the said period.

Accordingly, from the filing of petitioner's administrative claim, together with the supporting documents, on December 8, 2015, respondent had 120 days or until April 6, 2016 to act on said claim. Considering that respondent did not act on petitioner's claim on or before April 6, 2016, the latter had until May 6, 2016, the last day of the 30-day period, within which to file its appeal before this Court. Evidently, petitioner's judicial claim filed on May 6, 2016 was timely filed.

We now proceed to the well-established requisites in order to be entitled to a refund or issuance of a tax credit certificate of unutilized input VAT attributable to zero-rated or effectively zero-rated sales[34], thus:

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

Petitioner complied with the first requisite as it is duly registered with the BIR as a VAT taxpayer as evidenced by its Certificate of Registration No. OCN3RC0000618931[35] with Tax Identification No. 000-286-420-000.

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[34] San Roque Power Corporation vs. CIR, G.R. No. 180345, November 25, 2009. x
[35] Exhibit "P-16".

Anent the second requisite, the earlier mentioned timelines prove that both the administrative and judicial claims for refund were timely filed.

As regards the third requisite, petitioner asserts that it rendered services to clients registered with the PEZA and CDC and that the services rendered thereto are subject to zero-percent VAT pursuant to Section 108(B)(3) of the NIRC of 1997, as amended, which states:

> "SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* –
>
> (A) *Rate and Base of Tax.* –
>
> 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, provides:

> "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 supply of such services to zero percent (0%) rate;"

The special laws applicable to this case are Republic Act (RA) No. 7916, as amended, otherwise known as "The Special Economic Zone Act of 1995," and RA No. 7227, as amended by RA No. 9400, otherwise known as "Bases Conversion and Development Act of 1992". The relevant portions of said laws 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 from 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"

"REPUBLIC ACT NO. 9400
AN ACT AMENDING REPUBLIC ACT NO. 7227, AS AMENDED, OTHERWISE KNOWN AS THE BASES CONVERSION AND DEVELOPMENT ACT OF 1992, AND FOR OTHER PURPOSES

xxx xxx xxx

SEC. 2. Section 15 of the Republic Act No. 7227, as amended, is hereby amended to read as follows:

'SEC. 15. *Clark Special Economic Zone (CSEZ) and Clark Freeport Zone (CFZ).* – Subject to the concurrence by resolution of

> the local government units directly affected, the President is hereby authorized to create by executive proclamation a Special Economic Zone covering the lands occupied by the Clark military reservations and its contiguous extensions as embraced, covered and defined by the 1947 Military Bases Agreement between the Philippines and the United States of America, as amended, xxx. The CFZ shall be operated and managed as a separate customs territory ensuring free flow or movement of goods and capital equipment within, into and exported out of the CFZ, as well as provide incentives such as tax and duty-free importation of raw materials and capital equipment. xxx
> The provisions of existing laws, rules and regulations to the contrary notwithstanding, no national and local taxes shall be imposed on registered business enterprises within the CFZ. xxx
>
> xxx xxx xxx
> Duly registered business enterprises that will operate in the Special Economic Zones to be created shall be entitled to the same tax and duty incentives as provided for under Republic Act No. 7916, as amended: *Provided*, That for the purpose of administering these incentives, the PEZA shall register, regulate, and supervise all registered enterprises within the Special Economic Zones."

Since an 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 hence subject to 0% VAT. This was elucidated by the Supreme Court in the case of *Commissioner of Internal Revenue vs. Toshiba Information Equipment (Phils.), Inc.*[36], 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%)

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

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.

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[37]." (*Emphasis supplied*)

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[37] Now at 12% VAT rate.

Evidently, sales of services by petitioner to entities located in ecozones are subject to the 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 Revenue Regulations (RR) No. 16-05.

In its original and amended Quarterly VAT Returns for taxable year 2014, petitioner declared VAT zero-rated sales in the amount of ₱387,646,431.81, broken down as follows:

Exhibit	**Period Covered**	**Zero-Rated Sales**
"P-3" (Line 17, docket, vol. II, p. 896)	1st Quarter	₱ 138,771,719.85
"P-3.1.1" (Line 17, docket, vol. II, p. 900)	2nd Quarter	80,459,113.07
"P-3.2.1" (Line 17, docket, vol. II, p. 904)	3rd Quarter	100,161,384.86
"P-3.3.1" (Line 17, docket, vol. II, p. 908)	4th Quarter	68,254,214.03
	Total	**₱387,646,431.81**

In support of the foregoing, petitioner presented its Schedule of Cash Receipts from Zero-rated Clients[38] together with the purported official receipts[39].

Petitioner likewise presented the Certifications issued by PEZA and CDC to prove that its clients, as enumerated below, are PEZA and CDC-registered entities:

Customer Name	**PEZA/CDC Certification**	**Exhibit No.**
Atlantic Gulf and Pacific Company of Manila, Incorporated	PEZA Cert. No. 2014-0233	P-2447

[38] Schedules I to V of Exhibit "P-2548" (ICPA Report).
[39] Exhibits "P-18" to "P-522".

CCL Label Industries Philippines Inc.	PEZA Cert. No. 2014-0124	P-2448
Choei Plastic World Philippines Inc.	PEZA Cert. No. 2014-1207	P-2449
Furukawa Electric Autoparts Philippines, Inc.	PEZA Cert. No. 2014-0219	P-2450
Furukawa Sangyo Kaisha Philippines Inc.	PEZA Cert. No. 2014-1436	P-2451
Hewtech Philippines Corporation	PEZA Cert. No. 2014-0041	P-2452
JGC Philippines, Inc.	PEZA Cert. No. 2014-0363	P-2453
JFE Shoji Steel Philippines Inc.	PEZA Cert. No. 2014-0643	P-2454
Kodo (Philippines) Inc.	PEZA Cert. No. 2014-0642	P-2455
K & K Molding Inc	PEZA Cert. No. 2014-1379	P-2456
Masuda Philippines, Inc	PEZA Cert. No. 2014-0640	P-2457
Philippine Sinter Corporation	PEZA Cert. No. 2014-1203	P-2458
Sojitz Philippines Trading Inc	PEZA Cert. No. 2014-1924	P-2459
Tsuchiya Kogyo (Phils) Inc.	PEZA Cert. No. 2014-1157	P-2460
TTI Laguna Philippines Inc	PEZA Cert. No. 2014-1246	P-2461
Wakorepco Manufacturing Philippines Corporation	PEZA Cert. No. 2014-0443	P-2462
Yamazen Machinery & Tools Philippines Inc.	PEZA Cert. No. 2014-1534	P-2463
Yokohama Tire Phils. Inc.	Clark Business Registration No. C2013-154	P-2464
Yutaka Manufacturing (Phils.) Inc.	PEZA Cert. No. 2014-0082	P-2465

Thus, sales to the afore-mentioned entities for the four quarters of taxable year 2014 qualify for VAT zero-rating pursuant to Section 108(B)(3) of the NIRC of 1997, as amended, provided that the same comply with the invoicing requirements under 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, which are all quoted hereunder:

"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)*

"SECTION 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)*

A comparison of the amounts of zero-rated sales per VAT Returns as against the total amount supported by VAT zero-rated official receipts reveals a discrepancy of ₱8,956.06, as shown below:

Period	Per VAT Returns	Per VAT ORs[40]	Difference
1st Quarter	₱ 138,771,719.85	₱ 138,771,719.85	-
2nd Quarter	80,459,113.07	80,458,819.07	₱ 294.00
3rd Quarter	100,161,384.86	100,152,722.80[41]	8,662.06

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[40] Based on Schedules of Cash Receipts (Schedules I to IV) of ICPA Report (Exhibit "P-2548").

[41] Total of actual amounts per ORs; the difference of ₱19,031.89 from the amount per schedule of ₱100,171,754.69 is due to amounts per schedule greater than or less than the amounts per OR, as shown below:

Amount per schedule	Amount per OR	Exhibit No.	*Difference*
₱ 437,734.33	₱ 428,979.64	P-286	₱ 8,754.69
100,758.82	90,682.94	P-304	10,075.88
12,518,159.75	12,518,160.01	P-346	(0.26)
10,075.88	9,874.30	P-366	201.58
₱13,066,728.78	**₱13,047,696.89**		***₱19,031.89***

4th Quarter	68,254,214.03	68,254,214.03[42]	-
Total	**₱ 387,646,431.81**	**₱ 387,637,475.75**	**₱ 8,956.06**

Since the total amount of ₱8,956.06 was not covered by VAT zero-rated official receipts, the same shall be denied a VAT zero-rating status.

In addition, reported zero-rated sales in the amount of ₱4,924,776.36 shall be denied VAT zero-rating status for the reasons stated hereunder:

Customer Name	Exhibit No.	Amount	Reason for disallowance
First Quarter			
JGC Philippines Inc and Chiyoda Philippines Corp. Members of TJCP Joint Venture	P-81	₱ 451,707.32	Sale without PEZA/CDC Certification for VAT zero-rating
JGC Philippines Inc and Chiyoda Philippines Corp. Members of TJCP Joint Venture	P-95	73,078.78	Sale without PEZA/CDC Certification for VAT zero-rating
Furukawa Electric Autoparts Philippines, Inc.	P-115	83,549.00	Supported by VAT OR dated outside the period of claim
subtotal		***₱ 608,335.10***	
Second Quarter			
JGC Philippines Inc and Chiyoda Philippines Corp. Members of TJCP Joint Venture	P-128	₱ 1,833,072.96	Sale without PEZA/CDC Certification for VAT zero-rating
JGC Philippines Inc and Chiyoda Philippines Corp. Members of TJCP Joint Venture	P-244	290,450.00	Sale without PEZA/CDC Certification for VAT zero-rating
subtotal		***₱ 2,123,522.96***	
Fourth Quarter			

[42] Total of actual amounts per ORs; the difference of 0.80 is due to the amount per schedule of ₱264,078.80 less than amount per OR of ₱264,078.00 (Exhibit "P-497").

Tsuchiya Kogyo (Phils) Inc.	P-401	₱ 379,418.30	Supported by VAT OR w/o signature of the authorized issuer
K & K Molding Inc	P-483	1,813,500.00	Supported by VAT OR w/o signature of the authorized issuer
subtotal		***₱ 2,192,918.30***	
Total		**₱ 4,924,776.36**	

In sum, out of the total reported zero-rated sales of ₱387,646,431.81, only the amount of ₱382,712,699.39 represents petitioner's valid zero-rated sales, computed as follows:

	1st Quarter	**2nd Quarter**	**3rd Quarter**	**4th Quarter**	**Total**
Zero-rated Sales per VAT Returns	₱ 138,771,719.85	₱ 80,459,113.07	₱ 100,161,384.86	₱ 68,254,214.03	₱ 387,646,431.81
Less: Disallowances					
Not covered by VAT zero-rated ORs	-	294.00	8,662.06	-	8,956.06
Additional disallowances	608,335.10	2,123,522.96	-	2,192,918.30	4,924,776.36
Total disallowances					
Valid Zero-rated Sales	**₱138,163,384.75**	**₱ 78,335,296.11**	**₱100,152,722.80**	**₱66,061,295.73**	**₱382,712,699.39**

Having resolved that petitioner had valid VAT zero-rated sales of ₱382,712,699.39 for taxable year 2014, the Court will now determine the amount of input VAT attributable thereto.

In its original and amended Quarterly VAT Returns for taxable year 2014, petitioner declared input VAT in the total amount of ₱112,048,283.19, broken down as follows:

	1st Qtr	**2nd Qtr**	**3rd Qtr**	**4th Qtr**	**Total**

	(Exh. "P-3")	(Exh. "P-3.1.1")	(Exh. "P-3.2.1")	(Exh. "P-3.3.1")	
Input Tax Deferred on Capital goods Exceeding ₱1M from Previous Quarter *(Line 20B)*	₱ 5,916,090.70	₱ 5,016,428.84	₱ 5,107,361.67	₱ 4,468,829.29	₱ 20,508,710.50
Add: Input VAT on Capital Goods exceeding ₱1M *(Line 21D)*	-	1,032,745.71	348,642.33	542,678.57	1,924,066.61
Less: Input VAT on Purchases of Capital Goods Exceeding ₱1M deferred for the succeeding period *(Line 23A)*	5,016,428.84	5,107,361.67	4,468,829.29	3,981,652.48	18,574,272.28
Amortized Input VAT	**₱ 899,661.86**	**₱ 941,812.88**	**₱ 987,174.71**	**₱ 1,029,855.38**	**₱ 3,858,504.83**
Current Input VAT:					
On Purchases of Capital Goods not exceeding ₱1M *(Line 21B)*	₱ 206,273.57	₱ 130,822.98	₱ 159,394.83	₱ 232,442.89	₱ 728,934.27
On Domestic Purchases of Goods Other than Capital Goods *(Line 21F)*	6,461,734.86	8,808,617.13	12,595,450.31	12,544,070.26	40,409,872.56
On Importations of Goods Other than Capital Goods *(Line 21H)*	-	303,539.00	542,212.00	3,293,526.00	4,139,277.00
On Domestic Purchases of Services *(Line 21J)*	14,151,377.20	16,248,868.00	14,806,274.12	17,551,754.15	62,758,273.47
On Services Rendered by Non-residents *(Line 21L)*	-	-	-	153,421.06	153,421.06
Total Current Input VAT	**₱20,819,385.63**	**₱25,491,847.11**	**₱28,103,331.26**	**₱33,775,214.36**	**₱108,189,778.36**
Total Input VAT for the period	**₱21,719,047.49**	**₱26,433,659.99**	**₱29,090,505.97**	**₱34,805,069.74**	**₱112,048,283.19**

Petitioner claims that out of the total reported input VAT of ₱112,048,283.19, the amount of ₱34,491,953.38, subject of the instant refund, is directly related to the business activities with its zero-rated clients registered with PEZA or CDC. The breakdown of the amount of ₱34,491,953.38 is as follows:

Quarter	Input VAT attributable to zero-rated sales
First	₱ 9,378,147.04
Second	11,597,254.98
Third	8,908,423.45
Fourth	4,608,127.91
	₱ 34,491,953.38

As ascertained by the Court-commissioned ICPA, petitioner has various projects with its zero-rated VAT clients. Each project has been assigned a Project Reference Number (PRN) which becomes the identification of petitioner's purchases per project.

In order to determine if the input VAT purchases are directly identified with the zero-rated VAT clients and valid for input VAT refund, the PRNs were included in the validation of documents.[43]

To substantiate its claimed input VAT, petitioner presented in evidence the official receipts and invoices issued by its suppliers, which were examined by the ICPA. The ICPA summarized her findings as follows:[44]

Quarter	Input VAT Subject for Refund	Valid or Compliant	Not Valid or Non-compliant	Schedule

[43] ICPA Report, p. 13.
[44] ICPA Report, pp. 11-12.

1st	₱ 9,378,147.04	₱ 3,219,938.86	₱ 6,158,208.18	IX
2nd	11,597,254.98	9,080,413.58	2,516,841.40	X
3rd	8,908,423.45	5,232,805.44	3,675,618.01	XI
4th	4,608,127.91	2,219,262.42	2,388,865.49	XII
Total	**₱34,491,953.38**	**₱19,752,420.30**	**₱14,739,533.08**	

Based on the above findings of the ICPA, the input VAT of ₱14,739,533.08 shall be disallowed for failure to meet the substantiation requirements under Sections 110(A), 113(A) and (B), in relation to Sections 237 and 238 of the NIRC of 1997, as amended, and as implemented by Sections 4.110-1, 4.110-2, 4.110-8, and 4.113-1 of RR No. 16-05, as amended.

Moreover, the ICPA considered the amount of ₱583,694.02, as presented below, as additional invalid input VAT since the same pertains to purchases related to petitioner's project with JGC Philippines Inc. and Chiyoda Phils. Corp. as Members of TJCP, which were already denied VAT zero-rating:[45]

Exhibit No.	Date	Amount of Input VAT	Remarks
P-1652 (3Q)	01-Jul-14	₱ 576,828.02	No reduction of input VAT was noted in Schedule XI, thus, input VAT under this project will be reduced from the amount of input VAT refund
P-2176 (4Q)	17-Nov-14	1,430.36	No reduction of input VAT was noted in Schedule XII, thus, input VAT under this project will be reduced from the amount of input VAT refund
P-2230 (4Q)	09-Dec-14	1,714.29	No reduction of input VAT was noted in Schedule XII, thus, input VAT under this project will be reduced from the amount of input VAT refund

[45] ICPA Report, pp. 14-15.

P-2272 (4Q)	12-Dec-14	3,721.35	No reduction of input VAT was noted in Schedule XII, thus, input VAT under this project will be reduced from the amount of input VAT refund
Total		**₱ 583,694.02**	

In addition to the foregoing disallowances made by the ICPA, the Court finds that the additional input VAT amounting to ₱1,520,258.56 should likewise be disallowed for the following reasons:

Name of Supplier	Exhibit No.	Amount	Reason for Disallowance
First Quarter (Schedule IX)			
BME Partners Inc	P-611	₱ 36,517.50	Purchase of goods supported by document which is not readable
International Pipe Industries Corporation	P-873	50,990.77	Purchase of goods supported VAT invoice but the input VAT amount was not separately indicated
Square 8 Construction & Trading Corp		39,614.57	Purchases without supporting documents/exhibit reference
Jemrico Aluminum and Glass Supply Inc		40,557.99	Purchases without supporting documents/exhibit reference
Triple Five Auto Supply and General Merchandise		77.14	Purchases without supporting documents/exhibit reference
subtotal		***₱ 167,757.97***	
Second Quarter (Schedule X)			
El Concar Glass & Aluminum Supply	P-1146-2	₱ 29,814.23	Purchase of services supported by VAT OR without petitioner's TIN and date indicated; and the claimed VAT amount was classified as VAT-exempt;
Fabriline Incorporated	P-1259-5	339,009.37	Purchase of services supported by VAT OR but w/o petitioner's TIN

ew

Jluix Inc	P-1272-5	64,540.80	Purchase of services supported by VAT OR with notation "THIS DOCUMENT IS NOT VALID FOR CLAIMING INPUT TAX"
Tork Phils Inc	P-1343-4	73,270.22	Purchase of services supported by VAT OR with notation "THIS DOCUMENT IS NOT VALID FOR CLAIMING INPUT TAX"
Westpower Construction Corp		197,678.57	Purchase of services without supporting VAT OR
Bermon Marketing Communications Corporation	P-1548 to P-1548-6	76,222.50	Purchase of services supported by documents other than VAT OR
Metrotech Steel Industries Inc	P-1549 to P-1549-6	39,385.71	Purchase of goods supported by documents other than VAT invoice
Tork Phils Inc	P-1600-3	77,142.86	Purchase of services supported by VAT OR with notation "THIS DOCUMENT IS NOT VALID FOR CLAIMING INPUT TAX"
MBB Royale International Inc		394.29	Purchases without supporting documents/exhibit reference
Tiong Felix Trading		80.36	Purchases without supporting documents/exhibit reference
Gemini Air Enterprises		428.57	Purchases without supporting documents/exhibit reference
Triple Five Auto Supply and General Merchandise		166.07	Purchases without supporting documents/exhibit reference
Manalos Machine Shop		303.75	Purchases without supporting documents/exhibit reference
Triple Five Auto Supply and General Merchandise		93.21	Purchases without supporting documents/exhibit reference
Triple Five Auto Supply and General Merchandise		59.46	Purchases without supporting documents/exhibit reference
RG3 Enterprises		100.71	Purchases without supporting documents/exhibit reference
RG3 Enterprises		102.86	Purchases without supporting documents/exhibit reference

RG3 Enterprises		201.43	Purchases without supporting documents/exhibit reference
RG3 Enterprises		204.10	Purchases without supporting documents/exhibit reference
subtotal		***₱ 899,199.07***	
Third Quarter (Schedule XI)			
Square 8 Construction & Trading Corp	P-1783 to P-1783-4	₱ 102,000.00	Purchase of services supported by documents other than VAT OR
Zamir Construction Supply Co		255,000.00	Purchases without supporting documents/exhibit reference
Yufuin Yakiniku and Japanese Restaurant		660.05	Purchases without supporting documents/exhibit reference
Sekitori Japanese Restaurant Co		607.82	Purchases without supporting documents/exhibit reference
Wilcon Builders Depot Inc		2,159.83	Purchases without supporting documents/exhibit reference
Wilcon Builders Depot Inc-Calamba		1,360.71	Purchases without supporting documents/exhibit reference
Hipolito's Trading		109.71	Purchases without supporting documents/exhibit reference
subtotal		***₱ 361,898.12***	
Fourth Quarter			
Luther Marketing	P-2044	₱ 91,403.40	Purchase of goods supported by VAT invoice but without petitioner's TIN
subtotal		***₱ 91,403.40***	
Total		**₱ 1,520,258.56**	

Thus, out of petitioner's input VAT claim of ₱34,491,953.38, only the amount of ₱17,648,467.72 represents its valid input VAT, computed as follows:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Input VAT claimed for refund	₱ 9,378,147.04	₱ 11,597,254.98	₱ 8,908,423.45	₱ 4,608,127.91	₱ 34,491,953.38
Less: Disallowances					
Per ICPA findings	₱ 6,158,208.18	₱ 2,516,841.40	₱ 3,675,618.01	₱ 2,388,865.49	₱ 14,739,533.08
Additional invalid amount per ICPA	-	-	576,828.02	6,866.00[46]	583,694.02
Per Court's further review	167,757.97	899,199.07	361,898.12	91,403.40	1,520,258.56
Total Disallowances	₱ 6,325,966.15	₱ 3,416,040.47	₱ 4,614,344.15	₱ 2,487,134.89	₱ 16,843,485.66
Valid Input VAT	**₱3,052,180.89**	**₱8,181,214.51**	**₱4,294,079.30**	**₱2,120,993.02**	**₱17,648,467.72**

However, petitioner's valid input VAT amount of ₱17,648,467.72 is way lower compared to petitioner's output VAT liability for the subject period of claim in the amount of ₱79,430,473.89, detailed as follows:

Exhibit	Period Covered	Output VAT
P-3	1st Quarter	₱ 14,235,117.06
P-3.1.1	2nd Quarter	20,718,762.25
P-3.2.1	3rd Quarter	24,335,962.83
P-3.3.1	4th Quarter	20,140,631.75
Total		**₱ 79,430,473.89**

Consequently, petitioner still has net output VAT liability of ₱61,782,006.17, as shown below:

46 Total of ₱1,430.36, ₱1,714.29, and ₱3,721.35. cm

Period Covered	Output VAT	Valid Input VAT	Net Output VAT Payable
1st Quarter	₱ 14,235,117.06	₱ 3,052,180.89	₱ 11,182,936.17
2nd Quarter	20,718,762.25	8,181,214.51	12,537,547.74
3rd Quarter	24,335,962.83	4,294,079.30	20,041,883.53
4th Quarter	20,140,631.75	2,120,993.02	18,019,638.73
Total	**₱ 79,430,473.89**	**₱ 17,648,467.72**	**₱ 61,782,006.17**

While petitioner's Quarterly VAT Return for the first quarter of taxable year 2014 reflected the amount of ₱67,689,253.21,[47] as "Input Tax Carried Over from Previous Period," still, petitioner failed to present VAT invoices or receipts to prove the existence of such amount.

Petitioner should be mindful that in claiming excess/unutilized input tax from zero-rated transactions, it is the excess over the output taxes which should be refunded to the taxpayer or credited against other internal revenue taxes. Hence, it is important for the taxpayer to prove that it has enough prior year's excess input tax credits to cover its output tax liability for the current taxable year.[48]

Accordingly, the input tax carry-over of ₱67,689,253.21 cannot be validly applied against petitioner's output tax pursuant to Sections 110(A)(1) and (B) of the NIRC of 1997, as amended, which states:

SEC. 110. *Tax Credits.* –

(A) *Creditable Input Tax.* –

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[47] Exhibit "P-3", Line 20A.

[48] *Chevron Holdings, Inc. [formerly Caltex (Asia) Limited] vs. Commissioner of Internal Revenue,* CTA EB No. 1146, April 14, 2015. *[initials]*

> (1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax:
>
> xxx xxx xxx
>
> (B) *Excess Output or Input Tax.* – If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters: xxx."

Since there is no excess input VAT which may be the subject of a claim for refund or tax credit under Section 112 of the NIRC of 1997, as amended, the instant claim must be denied.

Well-settled in this jurisdiction is the fact that actions for tax refund, as in this case, are in the nature of a claim for exemption and the law is construed in *strictissimi juris* against the taxpayer. The pieces of evidence offered by the claimant are also *strictissimi* scrutinized and must be duly proven.[49]

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

Conversely, the claim for refund in the amount of Php34,491,953.38 representing alleged unutilized and/or unapplied input VAT for taxable year 2014 is hereby **DENIED.**

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

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[49] *Kepco Philippines Corporation vs. Commissioner of Internal Revenue*, G.R. No. 179961, January 31, 2011.

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
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.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CERTIFICATION

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