21-000128-0051

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10487

STEFANINI PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

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

ATTY. FELIX PAUL R. VELASCO III
ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. BRYAN ANTHONY C. DIEGO
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

MENDOZA CALNEA MANGUNDAYAO AND ASSOCIATES
U-2310 Prestige Tower Condominium
F. Ortigas Jr. Road, Ortigas Center
Pasig City

GREETINGS:

You are hereby notified by these presents that on **January 9, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

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

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

STEFANINI PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. **10487**

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:
JAN 09 2025 1:40PM

x - x

DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Stefanini Philippines, Inc., (**petitioner**) pursuant to Section 3(a)[2], Rule 8 in relation to Section 3(a)(1)[3], Rule 4 of the Revised Rules of the Court of

---

[1] Filed on 17 March 2021, Division Docket, Volume I, pp. 7-29.

[2] **SEC. 3.** *Who may appeal; period to file petition.* —
(a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

[3] **SEC. 3.** *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
(a) Exclusive original over 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[.]

Tax Appeals (**RRCTA**), seeking to appeal respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) total denial of its administrative claim for refund or issuance of tax credit certificate (**TCC**) in the amount of ₱3,784,605.84. The amount claimed represents excess and unutilized input Value-Added Tax (**VAT**) on purchases of goods and services attributable to zero-rated sales for the third (3^{rd}) quarter of calendar year (**CY**) 2018.

PARTIES OF THE CASE

Petitioner is a corporation organized under Philippine law, with registered office address at 3, 5 & 6/F iMET BPO Metrobank Ave., Metropolitan Park, Roxas Blvd., Pasay City 1300.[4] It is registered with the Securities and Exchange Commission (**SEC**) with Company Registration No. CS200801124[5], and with the BIR under Taxpayer's Identification Number (**TIN**) 006-960-314-000.[6] The corporation is engaged in the business of providing business processes outsource solutions and allied contact or call center services, both as principal and agent, as well as to lease real properties suitable for operations, marketing and advertising.[7]

Respondent, on the other hand, is the duly appointed CIR empowered to perform the duties of his or her office, including among others, the duty to act upon and approve claims for refund or tax credit as provided by law, with office address at the 5^{th} Floor, Bureau of Internal Revenue (**BIR**) National Office Building, BIR Road, Diliman, Quezon City, where he or she may be served summons and other legal processes of the Court.[8]

FACTS OF THE CASE

For the 3^{rd} quarter of CY 2018, petitioner filed its Quarterly VAT Return (**BIR Form No. 2550-Q**)[9] through the Electronic BIR (**eBIR**)

---

4 Paragraph 1, I. Stipulation of Facts, Compliance dated 13 December 2021 (Joint Stipulation of Facts and Issues [JSFI]), Division Docket, Volume II, pp. 666-680.
5 Exhibit "P-2", Formal Offer of Evidence (FOE) Folder.
6 Exhibit "P-4", id.
7 Exhibit "P-3", id.
8 Par. 2, Stipulation of Facts, JSFI, Division Docket, Volume II, p. 666.
9 Exhibit "P-72", USB.

Forms facility. There, it declared a total sales amount of ₱195,447,067.45, which included zero-rated sales/receipts in the amount of ₱194,784,170.82, as shown below:

Vatable Sales/Receipts	₱662,896.63
Zero-Rated Sales/Receipts	194,784,170.82
Total Sales/Receipts	**₱195,447,067.45**

For the same period, petitioner claimed to have accumulated excess input tax in the total amount of ₱3,864,153.44 from its current domestic purchases of goods and services and amortized input VAT on purchases of capital goods from previous quarters, out of which the amount of ₱3,784,605.84 is the subject of the present petition, as shown on the following tabulation[10]:

Input Tax Due on Capital Goods exceeding ₱1 Million:	
Deferred from previous quarter	₱2,248,548.29
Add: Purchase of Capital Goods exceeding ₱1 Million	545,954.40
Total	*₱2,794,502.69*
Less: Deferred for the succeeding period	2,590,651.08
Amortized input tax on capital goods exceeding ₱1 Million	*₱ 203,851.61*
Input Tax Due on Current Purchases of Goods other than Capital Goods:	
Input tax on purchase of capital goods not exceeding ₱1 Million	₱117,291.60
Input tax on domestic purchases of goods other than capital goods	237,686.54
Sub-total	*₱354,978.14*
Input Tax Paid on:	
Input tax on domestic purchase of services	₱3,305,323.69
Total Input Taxes for the 3rd quarter of CY 2018	**₱3,864,153.44**
Less: Output Tax	79,547.60
Amount of claim for refund	**₱3,784,605.84**

On 29 September 2020, petitioner filed with the BIR VAT Credit Audit Division (**VCAD**) an administrative claim for the refund of unutilized input VAT attributable to zero-rated sales for the 3rd quarter of CY 2018 in the total amount of ₱3,784,605.84.[11]

---

10 Id.

11 Par. 7, Petition for Review, supra at note 1; Exhibit "P-78", id.

On 30 September 2020, respondent issued a Tax Verification Notice (**TVN**) with TVN No. 201800142986 authorizing Revenue Officers (**ROs**) Estela G. Buenviaje (**Buenviaje**) and Jonathan G. Simon (**Simon**) to verify the supporting documents to petitioner's claim for VAT refund.[12]

On 15 February 2021, petitioner received the BIR Letter dated 16 December 2020, issued by the Assistant Commissioner Assessment Service, Maria Luisa I. Belen (**Asst. Comm. Belen**).[13] Asst. Comm. Belen denied petitioner's claim for refund due to the following reasons: (1) non-compliance with the invoicing requirements; (2) zero-rated sales to foreign corporations with no nonresident foreign corporation (**NRFC**) registration; (3) unsupported prior claim on capital goods; (4) disallowed input VAT on capital goods not exceeding ₱1 million; (5) non-submission of the original copies of VAT invoices or original receipts pertaining to local purchases; and, (6) non-submission of certified copy of the Quarterly VAT Return for the 3rd quarter of CY 2018, which was filed through the eBIR Forms facility.

On 17 March 2021, petitioner filed its judicial claim with the CTA[14] and it was raffled to the Court's Second Division.

On 22 March 2021, summons was issued to respondent, directing him or her to file an Answer within thirty (30) days from the date of receipt thereof, *i.e.*, 17 May 2021.[15]

On 15 June 2021, respondent filed a "Motion for Extension of Time to File Answer".[16] In its Order dated 16 June 2021[17], the Court granted the said motion and thereby extended respondent's deadline to file an Answer until 16 July 2021.

---

12 Q&A No. 11, Exhibit "R-6", Division Docket, Volume II, p. 599.
13 Exhibit "P-81", id., Volume I, pp. 53-54.
14 Supra at note 1.
15 Division Docket, Volume I, p. 561.
16 Id., pp. 564-566.
17 Id., p. 568.

Respondent's Answer was eventually filed on 18 July 2021.[18]

In his or her Answer, respondent interposed the following special and affirmative defenses:

1. Petitioner failed to substantiate its claim for refund at the administrative level;

2. Since a decision has been rendered denying the claim for refund for failure to substantiate its claim, petitioner cannot present herein documents that it did not submit at the administrative level, citing *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*[19] (**Total Gas**);

3. The BIR denied the administrative claim as it found that petitioner failed to submit the original copies of VAT invoices or original receipts pertaining to local purchases and a certified copy of the Quarterly VAT Return for the 3rd quarter of CY 2018, which are deemed vital to prove the validity of petitioner's claim; and,

4. Claims for refund are construed strictly against the taxpayer and in favor of the government.

Subsequently, the Pre-Trial Conference was set on 20 September 2021.[20] However, pursuant to Supreme Court Administrative Circular No. 56-2021[21], the previously set Pre-Trial Conference was reset to 24 November 2021.[22] Respondent's Pre-Trial Brief[23] was filed on 03 November 2021, while petitioner's Pre-Trial Brief[24] was filed on 18 November 2021. The Pre-Trial Conference proceeded on 24 November 2021.[25]

---

18 Id., pp. 569-581.
19 G.R. No. 207112, 08 December 2015.
20 Notice of Pre-Trial Conference dated 15 July 2021, Division Docket, Volume II, pp. 583-584.
21 Court Operations on 2-20 August 2021.
22 Notice of Resetting dated 11 October 2021, id., p. 629.
23 Id., pp. 589-592.
24 Id., pp. 630-645.
25 See Order dated 24 November 2021, id., p. 646.

On 17 December 2021, petitioner sought the commissioning[26] of an Independent Certified Public Accountant (**ICPA**), Joseph Cedric V. Calica (**Calica**), which the Court granted in its Order dated 16 February 2022.[27]

The parties' Joint Stipulation of Facts and Issues[28] (**JSFI**) was filed on 17 December 2021, which was approved in the Pre-Trial Order[29] issued on 12 January 2022.

In the trial that ensued subsequently, petitioner presented the following witnesses who all testified *via* their respective judicial affidavits, namely: Jeanina B. Pepito (**Pepito**) and the Court-commissioned ICPA Calica.[30]

On the witness stand, Pepito, petitioner's Finance Manager, declared that: (1) petitioner is registered with the SEC and engaged in the business process outsource solutions and allied contact or call center services; (2) it renders business process solutions services in the Philippines to its nonresident affiliate entities engaged in business conducted outside the Philippines; (3) the services it rendered were paid in acceptable foreign currency and accounted for accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (**BSP**); (4) it incurred input VAT attributable to zero-rated sales in the amount of ₱3,784,605.84 during the 3rd quarter of CY 2018; (5) it was not able to utilize input taxes on its purchases of goods and services in the Philippines which are attributable to its zero-rated sale of services; (6) it timely filed both administrative and judicial claims for input VAT refund; and, (7) the claim is substantiated in accordance with law.[31]

26 See *Motion to Commission and Appoint Independent Certified Public Accountant*, id., pp. 647-650.
27 Id., p. 698.
28 See Compliance dated 13 December 2021, id., pp. 666-680.
29 Id., pp. 682-691.
30 See Order dated 25 April 2022, id., p. 742.
31 See Judicial Affidavit dated 17 March 2021, Exhibit "P-83", id., Volume I, pp. 59-82; Supplemental Judicial Affidavit dated 17 November 2021, Exhibit "P-84", id., Volume II, pp. 609-613.

No cross-examination was conducted.[32]

Upon the completion of Pepito's testimony, petitioner presented ICPA Calica. He testified that: (1) he is the Court-commissioned ICPA; (2) as such, he prepared the ICPA Report dated 01 April 2022[33] (which he submitted to the Court on 04 April 2022) enclosing the audit procedures performed and the findings of the verification, and a USB[34] containing the scanned copies of the documents examined; (3) out of the total claim of ₱3,784,605.84, petitioner only properly supported ₱3,149,559.63 with relevant documents; and, (4) the difference of ₱635,046.21 noted in his examination pertains to claims supported by documents that do not comply with the invoicing requirements and claims not completely supported by relevant documents, among others.[35]

Again, respondent did not conduct any cross-examination.[36]

Following the comparison and re-marking of petitioner's exhibits during the Commissioner's Hearing on 14 and 16 March 2022[37], petitioner filed on 13 May 2022 its Formal Offer of Evidence[38] (**FOE**).[39] With respondent's "Comment (Re: [FOE] dated 13 May 2022)"[40] filed on 16 May 2022, petitioner's FOE was submitted for resolution.

On 21 July 2022, the Court issued a Resolution admitting petitioner's FOE.[41] In the same Resolution, the Court set the initial presentation of respondent's evidence on 05 September 2022.

---

32 TSN dated 25 April 2022, p. 8.
33 Exhibit "P-125", USB.
34 Exhibit "P-126".
35 See Judicial Affidavit dated 19 April 2022, Exhibit "P-124", Division Docket, Volume II, pp. 722-740.
36 TSN dated 25 April 2022, p. 14.
37 Division Docket, Volume II, pp. 699-700 and 708.
38 Id., pp. 743-775.
39 In compliance with the Court's Order dated 25 April 2022, id., p. 742.
40 Id., pp. 776-778.
41 See Resolution dated 21 July 2022, id., pp. 790-791.

In view of the groundbreaking ceremony of the CTA Building 3, the initial presentation of respondent's evidence was reset to 27 October 2022.[42]

Prior to the scheduled hearing on 27 October 2022, respondent filed a "Motion to Reset Hearing scheduled on 27 October 2022".[43] Petitioner did not object, hence in the interest of justice and there being no objection thereto, the Court reset the reception of respondent's evidence to 16 March 2023.[44]

During the 16 March 2023 hearing, respondent manifested that his or her intended witness, RO Simon, was not available as he was tasked to conduct an audit examination in Davao City.[45] Respondent also manifested that on 13 March 2023, he or she already filed a "Motion to Reset Hearing scheduled on 16 March 2023".[46] In the same hearing, the Court, notwithstanding petitioner's "Comment/ Opposition (to Respondent's Motion to Reset Hearing dated March 13, 2023)"[47] filed on 15 March 2023, granted the said motion. According to the Court, the reason for the absence of respondent's witness is part of his official duty and the same is properly documented by the Memorandum dated 28 February 2023, signed by Asst. Comm. Belen of respondent's Assessment Service, together with a Tax Verification Notice (TVN) attached thereto. The hearing was then reset to 13 April 2023.[48]

Later, the initial presentation of respondent's evidence finally proceeded on 13 April 2023. Respondent offered the testimony of his or her lone witness, RO Simon.[49]

On the witness stand, RO Simon declared[50] that: (1) he was tasked to process and evaluate petitioner's claim for refund covering the 3rd quarter of CY 2018; (2) he issued the Memorandum dated

---

42 See Notice of Resetting dated 30 August 2022, id., p. 792.
43 Id., pp. 794-797.
44 See Resolution dated 27 October 2022, id., p. 802.
45 See Minutes of the Hearing held on 16 March 2023, id., p. 831.
46 Id., pp. 803-806.
47 Id., pp. 810-813.
48 See Order dated 16 March 2023, id., p. 832.
49 See Order dated 13 April 2023, id., pp. 836-837.
50 Judicial Affidavit dated 26 October 2021, Exhibit "R-6", id., pp. 597-603.

03 December 2020, recommending the denial of petitioner's claim for refund for lack of factual and legal basis; (3) although he initially recommended a net allowable refund of ₱2,455,141.12, the total denial of petitioner's claim was warranted because petitioner failed to submit a certified copy of the Quarterly VAT Return for the 3rd quarter of CY 2018 in accordance with Revenue Memorandum Circular (**RMC**) No. 47-2019[51]; and, (4) after he recommended the total denial of petitioner's claim for refund, a letter dated 16 December 2020 was issued informing petitioner of the denial of its claim for refund.

Despite the finding of a validly substantiated input VAT of ₱2,455,141.12, RO Simon confirmed during cross-examination that the administrative claim was still denied because petitioner had not complied with RMC No. 47-2019, which purportedly requires that returns not filed through the electronic filing and payment system (**eFPS**) be duly certified by the Revenue District Office (**RDO**) concerned before being submitted to respondent.[52] There was no redirect examination.

Acting on respondent's "Urgent Motion to Hold in Abeyance the Filing of Respondent's [FOE] and to Set the Case for a Commissioner's Hearing"[53], filed on 17 April 2023, the Court set on 06 July 2023 the Commissioner's Hearing of respondent's documentary exhibits.[54]

In the Resolution issued on 29 May 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 23 May 2023.[55]

On 10 July 2023, respondent filed his or her FOE[56] consisting of Exhibits "R-1" to "R-6-1", inclusive of sub-markings. On 14 July 2023,

---

51 Revised Guidelines and Mandatory Requirements for the Processing and Grant of Value-Added Tax (VAT) Refund Claims within the 90-day Period Pursuant to Section 112 of the Tax Code of 1997, as Amended.

52 TSN dated 13 April 2023.

53 Division Docket, Volume II, pp. 838-841.

54 See Resolution dated 26 May 2023, id., p. 844.

55 Id., p. 845.

56 Id., pp. 847-851.

petitioner filed its "Comment/Opposition (to Respondent's [FOE])"[57] thereto.

In the Resolution dated 25 October 2023[58], the Court admitted respondent's exhibits and granted the parties a period of 30 days within which to file their respective memoranda. Petitioner filed its Memorandum[59] on 06 December 2023. On the other hand, respondent filed his or her Manifestation[60] on 13 December 2023, stating that the arguments raised in his or her Answer[61] were being adopted as his or her Memorandum. On 09 January 2024, the present case was submitted for decision.[62]

ISSUE

As can be gleaned from the parties' JSFI[63], the sole issue for this Court's resolution is –

> WHETHER PETITIONER STEFANINI PHILIPPINES, INC. V. COMMISSIONER OF INTERNAL REVENUE IS ENTITLED TO A REFUND OF ITS ALLEGED UNUTILIZED INPUT VALUE-ADDED TAX (VAT) ARISING FROM PURCHASES OF CAPITAL GOODS, GOODS (OTHER THAN CAPITAL GOODS) AND SERVICES ALLEGEDLY ATTRIBUTABLE TO ZERO-RATED SALES OF SERVICES FOR THIRD (3^{RD}) QUARTER OF CALENDAR YEAR (CY) 2018 IN THE AMOUNT OF ₱3,784,605.84.

ARGUMENTS

In the instant Petition for Review, petitioner argues that its excess and unutilized input VAT being claimed for refund, amounting to ₱3,784,605.84, are all attributable to its zero-rated sales of services to its NRFC affiliates engaged in business conducted outside the Philippines in the 3^{rd} quarter of CY 2018 pursuant to Section 108(B)(2) of the National Internal Revenue Code (**NIRC**) of 1997, as amended.

---

57 Id., pp. 854-858.
58 Id., pp. 863-867.
59 Id., pp. 868-908.
60 Id., pp. 909-911.
61 Supra at note 18.
62 See Notice dated 09 January 2024, Division Docket, Volume II, p. 913.
63 See supra at note 28.

Considering that the said amount of excess and unutilized input VAT for the 3rd quarter of CY 2018 has remained unutilized and/or unapplied against its output VAT liability, it is entitled to the refund and/or issuance of a TCC for the said amount under the said provisions of the NIRC of 1997, as amended.

Conversely, respondent contends that petitioner is not entitled to the subject refund claim as it failed to offer and present sufficient evidence to establish the same. Respondent also avers that a claim for refund is strictly construed against the taxpayer as it partakes the nature of a tax exemption.

RULING OF THE COURT

After a careful and thorough evaluation of the parties' respective evidence and the applicable laws, rules and regulations, the Court finds the instant petition partly meritorious.

Petitioner anchors its claim on Sections 110(B)[64], 112(A) and (C) of the NIRC of 1997, as amended by Republic Act (**RA**) No. 10963 or Tax Reform for Acceleration and Inclusion (**TRAIN**), which are quoted hereunder:

> ...
> **SEC. 110**. *Tax Credits*. —
> ...
>
> (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: *Provided, however*, That any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.
> ...

---

64 As amended by Republic Act No. 9361, "AN ACT AMENDING SECTION 110(B) OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES".

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 or 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.

...

(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.[65]

...

In *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*[66] (**Deutsche Knowledge Services**), the Supreme

[65] Emphasis supplied and italics in the original text.

[66] G.R. No. 234445, 15 July 2020; Citations omitted.

Court laid down the requisites for the entitlement to tax refund or credit of excess input VAT attributable to zero-rated sales, to wit:

> ...
>
> Under Section 4.112-1(a) of Revenue Regulations No. (RR) 16-05, otherwise known as the Consolidated VAT Regulations of 2005, in relation to Section 112 of the Tax Code, a claimant's entitlement to a tax refund or credit of excess input VAT attributable to zero-rated sales hinges upon the following requisites: "(1) the taxpayer must be VAT-registered; (2) the taxpayer must be engaged in sales which are zero-rated or effectively zero-rated; (3) the claim must be filed within two 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."
>
> ...

Applying the foregoing principle, the Court will proceed to determine whether petitioner complied with the aforementioned requisites. For an orderly discussion, We shall start with the third (3^{rd}) requisite, followed by the first (1^{st}) and second (2^{nd}) requisites, then the fourth (4^{th}) requisite.

<u>THIRD (3^{RD}) REQUISITE:</u>
THE CLAIM MUST BE FILED WITHIN TWO (2) YEARS AFTER THE CLOSE OF THE TAXABLE QUARTER WHEN SUCH SALES ARE MADE.

In accordance with Section 112(A) and (C)[67] of the NIRC of 1997, as amended by TRAIN, the administrative claim for refund of unutilized input VAT must be filed with the BIR within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales are made.

Petitioner's present claim covers the 3^{rd} quarter of CY 2018. Counting two (2) years from the close of the said quarter, *i.e.*, 30 September 2018, the last day for the filing of the administrative

---

[67] Supra at p. 12.

claim is 30 September 2020. Thus, petitioner timely filed its administrative claim on 29 September 2020.[68]

As to the timeliness of petitioner's judicial claim, respondent had ninety (90) days or until 28 December 2020, to decide on petitioner's administrative claim. Considering that respondent issued a letter dated 16 December 2020[69] totally denying the same (which petitioner received on 15 February 2021), petitioner had 30 days therefrom or until 17 March 2021, within which to file a judicial claim before this Court. Thus, the instant Petition for Review was also seasonably filed on 17 March 2021.[70] Such being the case, the Court finds that petitioner satisfied the above-stated 3rd *requisite.*

FIRST (1ST) REQUISITE:
PETITIONER MUST BE VALUE-ADDED TAX (VAT)-REGISTERED.

Indisputably, petitioner is a VAT-registered taxpayer with TIN 006-960-314-000, as evidenced by its BIR Certificate of Registration Number OCN 9RC0001383163E dated 18 January 2018.[71] Thus, petitioner complied with the *1st requisite.*

SECOND (2ND) REQUISITE:
PETITIONER MUST BE ENGAGED IN SALES WHICH ARE ZERO-RATED OR EFFECTIVELY ZERO-RATED.

The *2nd requisite* requires that the taxpayer be engaged in zero-rated or effectively zero-rated sales and, for zero-rated sales under Sections 106(A)(2)(a)(1) and (3)[72], and 108(B)(1) and (2)[73] of the

---

68 Supra at note 11.

69 Exhibits "P-81" to "P-81-A" and "P-82" to "P-82-A", Division Docket, Volume I, pp. 53-58.

70 Supra at note 1.

71 Exhibit "P-5", USB.

72 **SEC. 106.** *Value-Added Tax on Sale of Goods or Properties.* –

(A) *Rate and Base of Tax.* – There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, a value-added tax equivalent to twelve percent (12%) of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor.

...

(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

(a) *Export Sales.* - The term '*export sales*' means:

NIRC of 1997, as amended, the acceptable foreign currency exchange proceeds must have been duly accounted for in accordance with BSP rules and regulations.

As indicated in petitioner's Quarterly VAT Return for the 3rd quarter of CY 2018[74], petitioner declared total sales/receipts of ₱195,447,067.45, which included zero-rated receipts in the amount of ₱194,784,170.82, as follows:

Vatable Sales/Receipts	₱662,896.63
Zero-Rated Receipts	194,784,170.82
Total Sales/Receipts	**₱195,447,067.45**

Based on petitioner's Schedule of Sales[75], its total zero-rated sales of ₱194,784,170.82 can be further broken down as follows:

Company Name		Zero-Rated Receipts (in PHP)
1.	Stefanini Inc.	₱159,932,300.00
2.	Stefanini UK Ltd	7,770,689.70

(1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

...

(3) Sale of raw materials or packaging materials to a nonresident buyer for delivery to a resident local export-oriented enterprise to be used in manufacturing, processing, packing or repacking in the Philippines of the said buyer's goods and paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)[.]

73 **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:

(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)[.]

74 Supra at note 9.

75 Exhibits "P-86-A", USB.

3. Stefanini SARL	11,987,257.74
4. Stefanini Australia Pty Ltd	2,712,887.92
5. Stefanini NV/SA	12,381,035.18
6. Unaccounted difference	0.28
Total	**₱194,784,170.82**

Relative to the 2^{nd} *requisite,* petitioner maintains that during the 3^{rd} quarter of CY 2018, it rendered business process outsource solutions and allied contact or call center services in the Philippines to its affiliate entities which are nonresident foreign corporations or entities engaged in business conducted outside the Philippines; and that the services were paid in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP. Thus, according to petitioner, its sale of services to said affiliate entities is subject to zero percent (0%) VAT,[76] pursuant to Section 108(B)(2) of the NIRC of 1997, as amended[77], which states:

> ...
>
> **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.
>
> > (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**

---

[76] Q&A Nos. 6, 13 and 30, Exhibit "P-83", Division Docket, Volume I, pp. 62, 63 and 69, respectively.

[77] Par. 11, VI. Legal Bases, Petition for Review, supra at note 1.

> **accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP).**[78]
>
> ...

In *Accenture, Inc. v. Commissioner of Internal Revenue*[79] (**Accenture**), citing *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*[80], the Supreme Court held that in order for the supply of services to be considered VAT zero-rated under the above-mentioned provision, the taxpayer-claimant must prove the following, to wit: (1) the services other than processing, manufacturing or repacking of goods rendered by VAT registered persons in the Philippines; (2) the transaction paid for in acceptable foreign currency duly accounted for in accordance with BSP rules and regulations; and, (3) the recipient of such services must be performing business outside the Philippines.

As to the *1st requirement*, petitioner submitted the following agreements indicating therein the services to be provided, *i.e.*, "outsourced processing services to support [its clients'] internal operations and external customer contracts":

1. Agreement for Services between Stefanini, Inc. and petitioner made on 01 May 2018;[81]

2. Addendum to Agreement for Services entered into between petitioner and Stefanini, Inc. made on 03 January 2019;[82]

3. Agreement for Services between Stefanini UK Ltd. and petitioner made on 01 September 2017;[83]

4. Addendum to Agreement for Services entered into between Stefanini UK Ltd. and petitioner made on 03 January 2019;[84]

---

78 Emphasis supplied and italics in the original text.
79 G.R. No. 190102, 11 July 2012.
80 G.R. No. 153205, 22 January 2007.
81 Exhibit "P-6", USB.
82 Exhibit "P-6-1", id.
83 Exhibit "P-7", id.
84 Exhibit "P-7-1", id.

5. Agreement for Services between Stefanini Sàrl, à Lausanne and petitioner made on 01 May 2018;[85]

6. Addendum to Agreement for Services entered into between Stefanini Sàrl, à Lausanne and petitioner made on 03 January 2019;[86]
7. Agreement for Services between Stefanini Australia Pty Ltd. and petitioner made on 01 May 2018;[87]

8. Addendum to Agreement for Services entered into between Stefanini Australia Pty Ltd. and petitioner made on 03 January 2019;[88]

9. Agreement for Services between Stefanini NV/SA and petitioner made on 01 May 2018;[89] and,

10. Addendum to Agreement for Services entered into between Stefanini NV/SA and petitioner made on 03 January 2019.[90]

The services provided by petitioner clearly fall within the scope of *"services other than processing, manufacturing or repacking goods."*

Furthermore, petitioner must show that the services were performed in the Philippines. The articles/clauses of the Agreements for Services, as amended[91], specifically Article 1 paragraphs 1.1 to 1.5 (Right, Obligations and Services to be provided) does not categorically state that the contracted services shall be performed by the petitioner in the Philippines. However, the Addenda to Agreements for Services between petitioner and its non-resident customers (Stefanini, Inc., Stefanini UK Ltd, Stefanini SARL, Stefanini Australia Pty Ltd. and Stefanini NV/SA) dated 03 January 2019[92], all indicate that the subject "[s]ervices will be performed, provided, and rendered by [petitioner] in and from its principal place of business in the Philippines." As it stands, there being no indication

---

85 Exhibit "P-8", id.
86 Exhibit "P-8-1", id.
87 Exhibit "P-9", id.
88 Exhibit "P-9-1", id.
89 Exhibit "P-10", id.
90 Exhibit "P-10-1", id.
91 Exhibits "P-6", "P-7", "P-8", "P-9" and "P-10", id.
92 Exhibits "P-6-1", "P-7-1", "P-8-1", "P-9-1" and "P-10-1", id.

that the services other than processing, manufacturing or repacking goods were *not* performed in the Philippines, petitioner satisfactorily complied with the *1st requirement.*

Before proceeding with the discussion of the *2nd requirement*, the Court deems it more appropriate to first discuss petitioner's compliance with the *3rd requirement* (as laid down in *Accenture*) which requires that the recipient of such services must be performing business outside the Philippines.

In *Deutsche Knowledge Services*[93], the Supreme Court discussed the two (2) components that the claimant must establish to prove its clients' status as an NRFC, to wit:

> ...
>
> For purposes of zero-rating under Section 108(B)(2) of the Tax Code, the claimant must establish the two components of a client's NRFC status, *viz:* (1) that their client was established under the laws of a country not the Philippines or, simply, is not a domestic corporation; and (2) that it is not engaged in trade or business in the Philippines. To **be sure, there must be sufficient proof of *both* of these components . . . showing not only that the clients are foreign corporations, but also are not doing business in the Philippines.**
>
> ...
>
> To recall, the CTA found that the SEC Certification of Non-Registration of Company and Authenticated Articles of Association and/or Certificates of Registration/Good Standing/Incorporation sufficiently established the NRFC status of 11 of DKS's affiliates clients.
>
> The Court upholds these findings.
>
> ...
>
> In any case, after a judicious review of the records, the Court still do not find any reason to deviate from the court *a quo*'s findings. **To the Court's mind, the SEC Certifications of Non-Registration show that their affiliates are foreign corporations. On the other hand, the articles of association/ certificates of incorporation stating that these affiliates are registered to operate in their respective home countries,**

[93] Supra at note 66; Citations omitted, italics in the original text and emphasis supplied.

outside the Philippines are *prima facie* evidence that their clients are not engaged in trade or business in the Philippines.

Proof of the above-mentioned second component sets the present case apart from *Accenture, Inc. v. Commissioner of Internal Revenue* and *Sitel Philippines Corp. v. Commissioner of Internal Revenue.* In these cases, the claimants similarly presented SEC Certifications and client service agreements. However, the Court consistently ruled that documents of this nature only establish the *first* component (*i.e.*, that the affiliate is foreign). The absence of any other competent evidence (*e.g.*, articles of association/ certificates of incorporation) proving the *second* component (*i.e.*, that the affiliate is not doing business here in the Philippines) shall be fatal to a claim for credit or refund of excess input VAT attributable to zero-rated sales.

...

As held in the said case, there must be sufficient proof of both components – (1) that its clients are **foreign corporations** (which can be proven by the SEC Certifications of Non-Registration); and, (2) **not doing business in the Philippines** (the *prima facie* proof of which is the articles of association/certificates of incorporation stating that these affiliates are registered to operate in their respective home countries, outside the Philippines).

In the instant case, to prove that it rendered services to NRFCs doing business outside the Philippines, petitioner presented the SEC Certifications of Non-Registration and proof of incorporation/ registration in a foreign country, to wit:

Company Name	**Certification of Non-Registration of Company issued by the SEC**	**Proof of incorporation/ registration in a foreign country**
	Exhibit No.	
1. Stefanini, Inc.	"P-58"[94]	"P-63" to "P-63-A";[95] "P-64" to "P-64-B"[96]
2. Stefanini UK Ltd.	"P-59"[97]	"P-65" to "P-65-A"[98]

94 USB.
95 Id.
96 Id.
97 Id.
98 Id.

3. Stefanini SARL	"P-60"[99]	"P-66" to "P-66-A;[100] "P-67" to "P-67-A"[101]
4. Stefanini Australia Pty Ltd	"P-61"[102]	"P-68" to "P-68-A"[103]
5. Stefanini NV SA	"P-62"[104]	"P-69" to "P-69-A"[105]

With respect to the *3rd requirement* that payment for such services must be in acceptable foreign currency duly accounted for in accordance with the rules and regulations of the BSP, petitioner presented documents such as: (1) Schedule of Zero-Rated Sale of Services[106]; (2) Schedule of Billing Statements with Cross Reference to Official Receipts (**ORs**) of Zero-Rated Sales[107]; (3) Summary of Zero-Rated Sales with Cross Reference to Amount Inwardly Remitted to Stefanini Philippines, Inc.[108]; and, (4) corresponding Billing Statements[109] and VAT zero-rated ORs[110] for the 3rd quarter of CY 2018. In addition, petitioner presented the Reconciliation of Export Sales and Foreign Currency Remittances on Zero-Rated Sale of Services[111] and Certificate of Inward Remittance issued by the Bank of America[112] indicating inward remittances from its foreign clients for the 3rd quarter of CY 2018.

As ICPA Calica noted, petitioner's zero-rated receipts were paid for in acceptable foreign currency (USD, EUR, AUD and GBP) and traceable to the Certificate of Inward Remittance provided.

Additionally, the foreign currency remittances referred to under Section 108(B)(2), must not only be duly accounted for in accordance with the BSP rules and regulations, they must likewise be compliant with the pertinent invoicing requirements, containing all the required information under Sections 113(A)(1), (B)(1) and (2)(c) of the NIRC of

---

99 Id.
100 Id.
101 Id.
102 Id.
103 Id.
104 Id.
105 Id.
106 Exhibit "P-39", id.
107 Exhibit "P-86-B", id.
108 Exhibit "P-87", id.
109 Exhibits "P-86-B-1" to "P-86-B-22", id.
110 Exhibits "P-86-A-1" to "P-86-A-26", id.
111 Exhibit "P-71", id.
112 Exhibit "P-70", id.

1997, as amended[113], and Sections 4.113-1(A)(1), (B)(1) and (2)(c) of Revenue Regulations (**RR**) No. 16-2005[114], which respectively provide:

> ...
>
> **SEC. 113.** *Invoicing and Accounting Requirements for VAT-Registered Persons.* —
>
> (A) *Invoicing Requirements.* — A VAT-registered person shall issue:
>
> 1. A VAT invoice for every sale, barter or exchange of goods or properties; and
>
> 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:
>
>   (a) The amount of the tax shall be shown as a separate item in the invoice or receipt;
>
>   (b) If the sale is exempt from value-added tax, the term '**VAT-exempt sale**' shall be written or printed prominently on the invoice or receipt;
>
>   (c) If the sale is subject to zero percent (0%) value-added tax, the term '**zero-rated sale**' shall be written or printed prominently on the invoice or receipt;
>
>   (d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the **breakdown** of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: *Provided*,

---

113 Prior to the changes brought about by Republic Act No. 11976 or "Ease of Paying Taxes Act".

114 Consolidated Value-Added Tax Regulations of 2005.

That the seller may issue separate invoices or receipts for the taxable, exempt, and **zero-rated** components of the sale."[115]

...

SEC. 4.113-1. *Invoicing Requirements.* —

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

1. A VAT invoice for every sale, barter or exchange of goods or properties; and

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:

      a. The amount of tax shall be shown as a separate item in the invoice or receipt;
      b. If the sale is exempt from VAT, the term "VAT-exempt sale" shall be written or printed prominently on the invoice or receipt;
      c. If the sale is subject to zero percent (0%) VAT, the term "**zero-rated sale**" shall be **written** or **printed prominently** on the invoice or receipt;
      d. If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall

---

[115] Emphasis and italics in the original text.

> clearly indicate the **break-down** of the sale price between its taxable, exempt and **zero-rated** components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.[116]

...

In addition to the above requirements, the ORs supporting the sale of services to NRFCs must be duly registered with the BIR and must contain all the required information, pursuant to Sections 237 and 238 of the NIRC of 1997, as amended, *viz*:

> ...
> **SEC. 237.** *Issuance of* ***Receipts*** *or Sales or Commercial Invoices.* — All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service. ...
>
> ...
>
> **SEC. 238.** *Printing of* ***Receipts*** *or Sales or Commercial Invoices.* — All persons who are engaged in business shall secure from the Bureau of Internal Revenue an authority to print receipts or sales or commercial invoices before a printer can print the same.
>
> No authority to print **receipts** or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.[117]
>
> ...

To summarize the foregoing requirements, the following information should be reflected in the VAT OR:

---

116 Emphasis supplied and italics in the original text.

117 Emphasis supplied and italics in the original text.

1. A statement that the seller is a VAT-registered person, followed by its 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: (a) the amount of tax shall be shown as a separate item in the invoice or receipt; (b) if the sale is exempt from VAT, the term "VAT exempt sale" shall be written or printed prominently on the invoice or receipt; (c) if the sale is subject to zero percent (0%) VAT, the term "zero-rated sale" shall be written or printed prominently on the invoice or receipt; or, (d) if the sale involves goods, properties or services, some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the breakdown of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale;

3. In the case of sales in the amount of ₱1,000.00 or more, where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and TIN of the purchaser, customer or client;

4. Date of transaction; and,

5. Quantity, unit cost and description of merchandise or nature of service.

Corollary, RMC No. 42-03[118] expressly provides that a taxpayer's failure to comply with the invoicing requirements will result in the disallowance of the claim for input tax, as follows:

118 Clarifying Certain Issues Raised Relative to the Processing of Claims for Value-Added Tax (VAT) Credit/Refund, Including Those Filed with the Tax and Revenue Group, One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center, Department of Finance (OSS) by Direct Exporters.

...

Q-13: *Should penalty be imposed on TCC application for failure of claimant to comply with certain* ***invoicing requirements****, (e.g., sales invoices must bear the TIN of the seller)?*

A-13: Failure by the supplier to comply with the invoicing requirements on the documents supporting the sale of goods and services will result [in] the disallowance of the claim for input tax by the purchaser-claimant.

If the claim for refund/TCC is based **on the existence of zero-rated sales by the taxpayer** but **it fails to comply with the invoicing requirements in the issuance of sales invoices (e.g., failure to indicate the TIN), its claim for tax credit/refund of VAT on its purchases shall be** **<u>denied</u>** considering that the invoice it is issuing to its customers does not depict its being a VAT-registered taxpayer whose sales are classified as zero-rated sales. Nonetheless, this treatment is without prejudice to the right of the taxpayer to charge the input taxes to the appropriate expense account or asset account subject to depreciation, whichever is applicable. Moreover, the case shall be referred by the processing office to the concerned BIR office for verification of other tax liabilities of the taxpayer.[119]

...

Thus, only zero-rated receipts supported by the above-stated documents shall qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended.

A careful scrutiny of petitioner's pieces of evidence reveals that its zero-rated receipts of ₱194,784,170.54 were duly supported by VAT zero-rated ORs compliant with the aforementioned invoicing requirements, to wit:

Exhibit No.	OR No.	Date	Company Name	Zero-Rated Receipts (in Foreign Currency)	Zero-Rated Receipts (in PHP)
"P-86-A-1"	85	3 July 2018	Stefanini, Inc.	475,000.00	₱25,365,000.00
"P-86-A-2"	86	13 July 2018	Stefanini, Inc.	20,000.00	1,067,000.00
"P-86-A-3"	87	17 July 2018	Stefanini UK Ltd.	38,321.64	2,706,657.43

119 Italics in the original text, emphasis and underscoring supplied.

"P-86-A-4"	88	18 July 2018	Stefanini, Inc.	420,000.00	22,421,700.00
"P-86-A-5"	89	25 July 2018	Stefanini, Inc.	30,000.00	1,597,500.00
"P-86-A-6"	90	30 July 2018	Stefanini, Inc.	290,000.00	15,442,500.00
"P-86-A-7"	91	31 July 2018	Stefanini NV/SA	69,159.89	4,293,321.81
"P-86-A-8"	92	31 July 2018	Stefanini SARL	46,079.02	2,860,585.56
"P-86-A-9"	93	3 August 2018	Stefanini, Inc.	117,000.00	6,215,625.00
"P-86-A-10"	94	7 August 2018	Stefanini UK Ltd.	37,124.77	2,533,765.55
"P-86-A-11"	95	14 August 2018	Stefanini, Inc.	210,000.00	11,217,150.00
"P-86-A-12"	96	14 August 2018	Stefanini Australia Pty Ltd.	37,918.47	1,469,719.90
"P-86-A-13"	97	15 August 2018	Stefanini NV/SA	74,857.70	4,525,896.54
"P-86-A-14"	98	15 August 2018	Stefanini SARL	95,636.37	5,782,174.93
"P-86-A-15"	99	23 August 2018	Stefanini, Inc.	70,000.00	3,739,050.00
"P-86-A-16"	100	28 August 2018	Stefanini, Inc.	350,000.00	18,660,250.00
"P-86-A-17"	151	31 August 2018	Stefanini, Inc.	110,000.00	5,873,450.00
"P-86-A-18"	152	7 September 2018	Stefanini, Inc.	145,000.00	7,813,325.00
"P-86-A-19"	153	12 September 2018	Stefanini, Inc.	300,000.00	16,158,000.00
"P-86-A-20"	154	13 September 2018	Stefanini, Inc.	40,000.00	2,156,800.00
"P-86-A-21"	155	13 September 2018	Stefanini NV/SA	56,879.86	3,561,816.83
"P-86-A-22"	156	13 September 2018	Stefanini SARL	53,409.41	3,344,497.25
"P-86-A-23"	157	24 September 2018	Stefanini, Inc.	360,000.00	19,501,200.00
"P-86-A-24"	158	27 September 2018	Stefanini UK Ltd.	35,557.43	2,530,266.72
"P-86-A-25"	159	27 September 2018	Stefanini Australia Pty Ltd.	31,713.47	1,243,168.02
"P-86-A-26"	160	28 September 2018	Stefanini, Inc.	50,000.00	2,703,750.00
Total				**3,563,658.03**	**₱194,784,170.54**

In fine, and for purposes of compliance with the 2nd *requisite*, the amount of ₱194,784,170.54 represents petitioner's valid zero-rated sales for the 3rd quarter of CY 2018 pursuant to Section 108(B)(2) of the NIRC of 1997, as amended.

The dissent is of the view that different types of sales transactions impose distinct imprinting requirements. Specifically, Section 113(B)(2)(c)[120] of the NIRC of 1997, as amended, governs purely VAT zero-rated sales transactions, wherein it is required that the term "zero-rated sale" is written or imprinted prominently. On the other hand, Section 113(B)(2)(d)[121] of the NIRC of 1997, as amended, governs mixed-sale transactions wherein only a breakdown of the sale between its taxable, exempt and zero-rated components is enough.

120 Supra at p. 22.
121 Id.

In the instant case, since the subject sale transactions were purely VAT zero-rated receipts, a 'breakdown' is not enough, the term "zero-rated sale" must also be prominently imprinted or written.

We beg to differ.

Subsections (a), (b), and (c) of Section 113(B)(2)[122] of the NIRC of 1997, as amended, apply to pure transactions, whereas subsection (d) of the same Section[123] applies to mixed-sale transactions. Should a seller be engaged in mixed-sale transactions, he or she or it is required to comply with subsection (d) only, and thus show the breakdown of sales to distinguish the taxable, exempt and the zero-rated components thereof. Nothing in subsection (d) requires the seller to again indicate the amount of tax or again print the term "exempt" or "zero-rated" on the same invoice (as this would be a redundant exercise). It is sufficient that a breakdown is presented to clearly segregate the sales.

Conversely, should a seller be engaged in pure transactions, then he or she is required to comply with either subsections (a), (b), or (c) only, thus, show the amount of tax as a separate item, or imprint the term "exempt" or "zero-rated" whichever is applicable to the pure transaction. Such seller is not necessarily required to comply with subsection (d). It suffices that the applicable term or amount of tax is prominently imprinted or indicated to clearly distinguish the sale reflected on the invoice. Simply stated, as long as the sale transaction type – whether subject to 12% or 0% VAT or exempt – can be readily identified, the imprinting requirement is deemed satisfied. This interpretation aligns with the purpose of the requirement, *i.e.,* to prevent buyers from falsely claiming input VAT from their purchases when no VAT was actually paid to the prejudice of the State[124], without imposing undue burden on taxpayers.

---

122 Id.
123 Id.
124 See *Panasonic Communications Imaging Corporation of the Philippines (formerly Matsushita Business Machine Corporation of the Philippines) v. Commissioner of Internal Revenue*, G.R. No. 178090, 08 February 2010.

In addition, it bears noting that during the period of claim, *i.e.*, 3rd quarter of CY 2018, petitioner was engaged in mixed transactions[125], *i.e.*, it had transactions which are subject to 12% VAT, and others which are not subject to 12% VAT (but to 0% VAT). Annex C.1.2 of Revenue Memorandum Order (**RMO**) No. 12-13[126], which governs the issuance of Authority to Print (**ATP**) ORs, such as the instant case, provides the following *pro-forma* ATP OR if the VAT taxpayer is engaged in mixed transactions:

Sample Only

"Annex C.1.2"

ABC CORPORATION
76 Dilman, Quezon City
VAT Reg. TIN: 144-424-024-0000

OFFICIAL RECEIPT

DATE ____________

In settlement of the following:	
Billing Invoice No.	Amount
Total Sales (VAT Inclusive)	
Less: VAT	
Total	
Less: SC/PWD Discount	
Total Due	
Less: Withholding Tax	
Amount Due	
VATable Sales	
VAT-Exempt Sales	
Zero Rated Sales	
VAT Amount	
Total Sales	
Form of Payment:	
Cash ☐	Check ☐

Received from ____________________ with TIN ________ and address at ______________________ engaged in the business style of ________________________, the sum of ____ pesos (₱ _____) In partial/full payment for ____________________.

Sr. Citizen TIN

By ______________
Cashier/ Authorized Representative

OSCA/PWD ID No. Signature

No. 1001

10 Bklts (3x) 1001-1500
BIR Authority to Print No. 3AU000805222
Date Issued 07-30-13 ; Valid until 07-29-2018
BERTHA PRINTING SERVICES, INC.
Bgy. 789, Quezon City
TIN: 123-456-789-0000

Printer's Accreditation No. P08051200
Date Issued 08-01-12

THIS OFFICIAL RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF ATP.

A meticulous examination of petitioner's ORs[127] reveals that the same faithfully comply with the said RMO. As such, petitioner cannot be faulted for adhering to the prevailing rules and regulations. To disallow petitioner's zero-rated receipts in such circumstances would constitute a grave injustice.

Verily, a 'breakdown' conspicuously showing that the said sale transaction is zero-rated substantially complies with the imprinting requirement under subsection (c). Accordingly, the amounts

---

125 Supra at note 9.

126 Prescribing Work-around Guidelines and Procedures in the Processing of Authority to Print (ATP) Official Receipts (ORs), Sales Invoices (SIs) and Other Commercial Invoices (CIs) in the Interim Period until the On-line ATP System Pursuant to Revenue Regulations (RR) No. 18-2012 is Fully Developed.

127 Exhibits "P-86-A-1" to "P-86-A-26", USB.

prominently written on the line directly parallel to the term "VAT ZERO RATED" clearly represent zero-rated receipts.

FOURTH (4TH) REQUISITE:
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.

To satisfy the *fourth requisite*, the following conditions must concur:

a. 1st **condition**: the input taxes are due or paid;

b. 2nd **condition**: the input taxes claimed are attributable to zero-rated or effectively zero-rated sales and 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;

c. 3rd **condition**: the input taxes are not transitional input taxes; and,

d. 4th **condition**: the input taxes have not been applied against output taxes during and in the succeeding quarters.

Petitioner complied with the ***3rd condition*** as its input taxes do not appear to be transitional input taxes since they operate to benefit only newly VAT-registered persons. Also, petitioner is deemed to have complied with the ***4th condition*** after it was established that it deducted the input VAT claim of ₱3,784,605.84 as a "VAT Refund/TCC Claimed" (line 23D) in its Amended Quarterly VAT Return for the 2nd quarter of CY 2020[128] preventing thus the carry-over of the said amount unto the succeeding taxable quarters. Accordingly, the subject claim no longer formed part of the excess input VAT of

[128] Exhibit "P-76", Line 23D, USB.

₱55,268,556.74[129] as of the end of the 2nd quarter of CY 2020, to be carried over to the succeeding quarters.[130]

Anent the ***4th condition***, respondent contends that petitioner's failure to submit a certified copy of the Quarterly VAT Return for the 3rd quarter of CY 2018 warrants the denial of its claim. Respondent emphasizes that a certified copy of the return is required if the same has not been filed through the eFPS as provided under RMC No. 47-2019.[131]

We beg to differ.

Annex A.1[132] of RMC No. 47-2019[133] provides the mandatory requirements for the processing and grant of VAT refund claims pursuant to Section 112 of the NIRC of 1997, as amended. One of the requirements listed is "[c]opy of the following quarterly VAT returns, **duly certified by the BIR Office where the claimant is registered** (except for returns filed through eFPS)."

In the case of *Commissioner of Internal Revenue v. Taganito Mining Corporation*[134], the Supreme Court, citing the seminal case of *Total Gas*[135], ruled that a taxpayer's failure with the requirements listed under RMO No. 53-98 (now RMC No. 47-2019) is not fatal to its claim for tax credit or refund of excess unutilized excess VAT. This holds especially true when the application for tax credit or refund of excess unutilized excess VAT has arrived at the judicial level.[136] After all, in the judicial level or when the case is elevated to this Court, the Rules of Court governs.[137] Simply put, the question of whether the evidence that a party submits is sufficient to warrant the grant of its prayer lies within the Court's sound discretion and judgment.

---

129 Id.
130 Exhibits "P-108" to "P-119", id.
131 Supra at note 51.
132 Revised Checklist of Mandatory Requirements on Claims for VAT Refund.
133 Supra at note 51.
134 G.R. Nos. 219630-31 and 219635-36, 07 December 2021.
135 Supra at note 19.
136 Id.
137 Id.

Here, respondent failed to object to the admissibility of the Quarterly VAT Return for the 3rd quarter of CY 2018 as can be gleaned from his or her Comment (Re: [FOE] dated 13 May 2022).[138] Petitioner, on the other hand, duly identified and authenticated the said return through Pepito's Judicial Affidavit dated 17 March 2021.[139] Petitioner's witness further explained that they filed the said return through eBIR Forms, as the eFPS platform was unavailable at that time, as corroborated by respondent's own Advisory dated 24 October 2018.[140] Notably, during cross-examination, respondent did not question the authenticity of the subject return.

Moreover, the Court properly admitted the subject return in its Resolution dated 21 July 2022.[141] Thus, the same can be given probative value and should not undermine petitioner's claim for refund.

As to the ***1st condition***, petitioner claims that for the 3rd quarter of CY 2018, it had a total amount of ₱3,864,153.44 from its current domestic purchases of goods and services and amortized input VAT on purchases of capital goods from previous quarters, out of which the amount of ₱3,784,605.84 is the subject of the present petition, as shown on the following tabulation[142]:

Input Tax Due on Capital Goods exceeding ₱1 Million:	
Deferred from previous quarter	₱2,248,548.29
Add: Purchase of Capital Goods exceeding ₱1 Million	545,954.40
Total	*₱2,794,502.69*
Less: Deferred for the succeeding period	2,590,651.08
Amortized input tax on capital goods exceeding ₱1 Million	*₱ 203,851.61*
Input Tax Due on Current Purchases of Goods other than Capital Goods:	
Input tax on purchase of capital goods not exceeding ₱1 Million	₱117,291.60
Input tax on domestic purchases of goods other than capital goods	237,686.54
Sub-total	*₱354,978.14*
Input Tax Paid on:	
Input tax on domestic purchase of services	₱3,305,323.69

138 Supra at note 40.
139 Par. 47 to 51, supra at note 31, pp. 74-76.
140 Exhibit "P-73". USB.
141 Supra at note 41.
142 Supra at p. 3.

Total Input Taxes for the 3rd quarter of CY 2018	**₱3,864,153.44**
Less: Output Tax	79,547.60
Amount of claim for refund	**₱3,784,605.84**

In support of its reported input VAT of ₱3,864,153.44 from its domestic purchases of goods and services for the 3rd quarter of CY 2018, petitioner submitted various suppliers' sales invoices and ORs[143] which Court-commissioned ICPA Calica examined.

For purposes of satisfying the aforesaid condition, it is of crucial importance that petitioner provides documents to support its declaration that the input VAT claimed during the subject period was actually due or paid in accordance with Section 110(A) of the NIRC of 1997, as amended[144], which provides:

> ...
> **SEC. 110.** *Tax Credits.* —
>
> (A) *Creditable Input Tax.* —
>
> (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**:
>
> a. Purchase or importation of goods:
>
> i. For sale; or
> ii. For conversion into or intended to form part of a finished product for sale including packaging materials; or
> iii. For use as supplies in the course of business; or
> iv. For use as materials supplied in the sale of service; or
> v. For use in trade or business for which deduction for depreciation or amortization is allowed under this Code.
>
> b. Purchase of services on which a value-added tax has actually been paid.
>
> (2) The input tax on domestic purchase or importation of goods or properties by a VAT-registered person shall be creditable:

143 Exhibits "P-85-A-1" to "P-85-A-252", "P-85-B-1" to "P-85-B-6" and "P-85-C-1" to "P-85-C-36", USB.

144 Prior to the changes brought about by Republic Act No. 11976 or "Ease of Paying Taxes Act".

a. To the purchaser upon consummation of sale and on importation of goods or properties; and
b. To the importer upon payment of the value-added tax prior to the release of the goods from the custody of the Bureau of Customs.

Provided, That the input tax on goods purchased or imported in a calendar month for use in trade or business for which deduction for depreciation is allowed under this Code shall be spread evenly over the month of acquisition and the fifty-nine (59) succeeding months if the aggregate acquisition cost for such goods, excluding the VAT component thereof, exceeds One million pesos (P1,000,000): *Provided, however*, That if the estimated useful life of the capital good is less than five (5) years, as used for depreciation purposes, then the input VAT shall be spread over such a shorter period: *Provided, further*, That the amortization of the input VAT shall only be allowed until December 31, 2021 after which taxpayers with unutilized input VAT on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized. *Provided, finally*, That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or free.[145]

...

The above provisions are implemented by Sections 4.110-1 to 4.110-3 of RR No. 16-2005, as amended by RR No. 13-2018[146], which provide as follows:

...

SEC. 4.110-1. ***Credits For Input Tax.*** — '*Input tax*' means the VAT due on or paid by a VAT-registered person on importation of goods or local purchases of goods, properties, or services, including lease or use of properties, in the course of his trade or business. It shall also include the transitional input tax and the presumptive input tax determined in accordance with Sec. 111 of the Tax Code.

It includes input taxes which can be directly attributed to transactions subject to the VAT plus a ratable portion of any input tax which cannot be directly attributed to either the taxable or exempt activity.

---

145 Emphasis supplied and italics in the original text.

146 Regulations Implementing the Value-Added Tax Provisions under the Republic Act (RA) No. 10963, or the "Tax Reform for Acceleration and Inclusion (TRAIN)," Further Amending Revenue Regulations (RR) No. 16-2005 (Consolidated Value-Added Tax Regulations of 2005), as Amended.

Any input tax on the following transactions evidenced by a VAT invoice or official receipt issued by a VAT-registered person in accordance with Secs. 113 and 237 of the Tax Code shall be creditable against the output tax:

a. Purchase or importation of goods
   1. For sale; or
   2. For conversion into or intended to form part of a finished product for sale, including packaging materials; or
   3. For use as supplies in the course of business; or
   4. For use as raw materials supplied in the sale of services; or
   5. For use in trade or business for which deduction for depreciation or amortization is allowed under the Tax Code.

b. Purchase of real properties for which a VAT has actually been paid;
c. Purchase of services in which a VAT has actually been paid;
d. Transactions "deemed sale" under Sec. 106 (B) of the Tax Code;
e. Transitional input tax allowed under Sec. 4.111 (a) of these Regulations;
f. Presumptive input tax allowed under Sec. 4.111 (b) of these Regulations;
g. Transitional input tax credits allowed under the transitory and other provisions of these Regulations.

SEC. 4.110-2. ***Persons Who Can Avail of the Input Tax Credit.*** — The input tax credit on importation of goods or local purchases of goods, properties or services by a VAT-registered person shall be creditable:

a. To the importer upon payment of VAT prior to the release of goods from customs custody;
b. To the purchaser of the domestic goods or properties upon consummation of the sale; or
c. To the purchaser of services or the lessee or licensee upon payment of the compensation, rental, royalty or fee.

SEC. 4.110-3. ***Claims for Input Tax on Depreciable Goods.*** — Where a VAT-registered person purchases or imports capital goods, which are depreciable assets for income tax purposes, the aggregate acquisition cost of which (exclusive of VAT) in a calendar month exceeds One Million pesos (P1,000,000.00), regardless of the acquisition cost of each capital good, shall be claimed as credit against output tax in the following manner:

(a) If the estimated useful life of a capital good is five (5) years or more — The input tax shall be spread evenly over a period of sixty (60) months and the claim for input tax credit will commence in the calendar month when the capital good is acquired. The total input taxes on purchases or importations of this type of capital goods shall be divided by 60 and the quotient will be the amount to be claimed monthly.

(b) If the estimated useful life of a capital good is less than five (5) years — The input tax shall be spread evenly on a monthly basis by dividing the input tax by the actual number of months comprising the estimated useful life of the capital good. The claim for input tax credit shall commence in the calendar month that the capital goods were acquired.

Where the aggregate acquisition cost (exclusive of VAT) of the existing or finished depreciable capital goods purchased or imported during any calendar month does not exceed One million pesos (P1,000,000.00), the total input taxes will be allowable as credit against output tax in the month of acquisition.

...

(c) The amortization of the input VAT shall only be allowed until December 31, 2021 after which taxpayers with unutilized input VAT on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized: *Provided*, That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or fee.[147]

...

Meanwhile, Section 4.110-8 of RR No. 16-2005 provides for the substantiation requirements of input tax credits, as follows:

...

SEC. 4.110-8. ***Substantiation of Input Tax Credits.*** —

a. Input taxes for the importation of goods or the domestic purchase of goods, properties or services is made in the course of trade or business, whether such input taxes shall be credited against zero-rated sale, non-zero-rated sales, or subjected to the 5% Final Withholding VAT, **must be substantiated and supported by the following documents, and must be**

[147] Emphasis supplied and italics in the original text.

reported in the information returns required to be submitted to the Bureau:

1. For the importation of goods — import entry or other equivalent document **showing actual payment of VAT on the imported goods.**
2. For the domestic purchase of goods and properties — invoice showing the information required under Secs. 113 and 237 of the Tax Code.
3. For the purchase of real property — public instrument i.e., deed of absolute sale, deed of conditional sale, contract/agreement to sell, etc., together with VAT invoice issued by the seller.
4. For the purchase of services — official receipt showing the information required under Secs. 113 and 237 of the Tax Code.

A cash register machine tape issued to a registered buyer shall constitute valid proof of substantiation of tax credit only if it shows the information required under Secs. 113 and 237 of the Tax Code.[148]

...

The documents also need to comply with the invoicing requirements[149] provided under Sections 113(A)(1), (B)(1) and (2)(c) of the NIRC of 1997, as amended, and Sections 4.113-1(A)(1), (B)(1) and (2)(c) of RR No. 16-2005, as amended.

Based on ICPA Calica's findings, the total input VAT of ₱637,205.42 shall be disallowed for petitioner's failure to meet the substantiation and invoicing requirements, *viz*:[150]

Particulars	Exhibit No.	Amount of Input Tax
Local purchases of goods other than capital goods and services		
Petitioner's name is not properly indicated in the supporting documents	"P-88-A"	₱32,503.12
No valid supporting documents	"P-88-B"	100,203.71
Incorrect or incomplete address indicated in the supporting documents	"P-88-C"	136,646.39
Out-of-period	"P-88-D"	88,715.99

148 Emphasis supplied and italics in the original text.
149 Supra at pp. 21-24.
150 Exhibit "P-88", USB.

VAT amount not separately shown in the supporting documents	"P-88-E"	51,937.20
Petitioner's TIN is missing or incomplete	"P-88-F"	86,344.34
With duplicate transaction	"P-88-G"	13,117.20
With discrepancy in the amount filed	"P-88-H"	45.30
No sales invoices/official receipts submitted by petitioner	"P-88-I"	121,828.94
Amortization on purchases of capital goods exceeding ₱1 Million		
Petitioner's name is not properly indicated in the supporting documents	"P-88-A"	650.00
Petitioner's TIN is missing or incomplete	"P-88-F"	647.66
With discrepancy in the amount filed	"P-88-H"	4,565.57
Total Disallowance per ICPA		**₱637,205.42**

Upon further verification, the Court finds that the additional input VAT on domestic purchases of goods and services in the total amount of ₱786,319.57 shall likewise be disallowed for reasons stated herein, to wit:

Exhibit No.	Supplier's Name	OR No.	Purchase Amount	Input VAT Amount
Input VAT on purchases of services supported by VAT ORs but the nature of service was not indicated therein or the documents bearing the reference indicated is not attached to the OR				
"P-85-A-72"	Extra Ordinaire Janitorial & Manpower Services, Inc.	22853	₱253,095.42	₱30,371.45
"P-85-A-119"	Intellicare (Asalus Corporation)	30084	5,775,750.00	693,090.00
"P-85-A-120"	Intellicare (Asalus Corporation)	30085	28,281.56	3,393.79
"P-85-A-121"	Intellicare (Asalus Corporation)	32535	22,966.84	2,756.02
"P-85-A-122"	Intellicare (Asalus Corporation)	29366	16,806.00	2,016.72
"P-85-A-132"	Lane Archive Technologies Corporation	61900	10,170.00	1,220.40
"P-85-A-143"	RCW Construction Development Corporation	6900	285,577.46	34,269.30
"P-85-A-144"	Ricoh (Philippines), Inc.	192611	59,593.75	7,151.25
"P-85-A-145"	Ricoh (Philippines), Inc.	192612	10,736.61	1,288.39
"P-85-A-148"	Ricoh (Philippines), Inc.	195817	59,593.75	7,151.25
"P-85-A-149"	Ricoh (Philippines), Inc.	195816	30,091.67	3,611.00
Total				**₱786,319.57**

Hence, for purposes of compliance with the ***1st condition***, out of the total reported input VAT of ₱3,864,153.44, only the amount of **₱2,440,628.45** represents petitioner's valid input VAT due or paid for the 3rd quarter of CY 2018, as computed below:

Input VAT per VAT Return		₱3,864,153.44
Less: Disallowances		
Per ICPA findings	637,205.42	
Per Court's further verification	786,319.57	1,423,524.99
Total Substantiated or Valid Input VAT		**₱2,440,628.45**

As for the ***2nd condition***, since petitioner had both zero-rated and VATable sales in the 3rd quarter of CY 2018 and the corresponding input VAT cannot be directly and entirely attributed to any of these sales, the input VAT shall be proportionately allocated on the basis of sales volume, to wit:

Total Declared Zero-Rated Receipts *per* VAT Return	₱194,784,170.82
Divided by Reported Total Declared Receipts *per* VAT Return	195,447,067.45
Multiplied by Total Declared Input VAT	3,864,153.44
Declared Input VAT allocated to Declared Zero-Rated Receipts	**₱3,851,047.41**

Total Declared 12% VATable Receipts *per* VAT Return	₱662,896.63
Divided by Reported Total Declared Receipts *per* VAT Return	195,447,067.45
Multiplied by Total Declared Input VAT	3,864,153.44
Declared Input VAT allocated to Declared 12% VATable Receipts	**₱13,106.03**

In the case of *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue*[151] (**Chevron**), the Supreme Court made a definitive declaration that a VAT-registered taxpayer has two (2) options with respect to its input VAT attributable to zero-rated sales, it may: (1) charge the same against output VAT from VATable sales, and claim for refund or issuance of a TCC any unutilized or "excess" input VAT; or, (2) claim the same for refund or issuance of a TCC in its entirety, *viz:*

151 G.R. No. 215159, 05 July 2022; Citation omitted, emphasis and underscoring supplied.

> ...
>
> **[T]he input tax attributable to zero-rated sales may, <u>at the option of the VAT-registered taxpayer</u>, be: (1) charged against output tax from regular 12% VAT-able sales, and any unutilized or "excess" input tax may be claimed for refund or the issuance of tax credit certificate; or (2) claimed for refund or tax credit in its entirety.** It must be stressed that **the remedies of charging the input tax against the output tax and applying for a refund or tax credit are alternative and cumulative.** Furthermore, the option is vested with the taxpayer-claimant. It goes without saying that **the CTA, and even the Court, may not, on its own, deduct the input tax attributable to zero-rated sales from the output tax derived from the regular twelve percent (12%) VAT-able sales first and use the resultant amount as the basis in computing the allowable amount for refund. <u>The courts cannot condition the refund of input taxes allocable to zero-rated sales on the existence of "excess" creditable input taxes, which includes the input taxes carried over from the previous periods, from the output taxes.</u>** These procedures find no basis in law and jurisprudence.
>
> ...

Clearly from the foregoing, a VAT-registered taxpayer has the discretion to decide whether to charge its input VAT attributable to zero-rated sales against output VAT. In this respect, the Court cannot impose its own methods for calculating the refund, such as compelling the crediting of input VAT against output VAT as a condition precedent to the refund or issuance of a TCC. This is especially true when the taxpayer-claimant opts to claim the input VAT attributable to zero-rated sales for a refund or issuance of a TCC in its entirety.

Furthermore, regardless of which option the taxpayer-claimant chooses, the Supreme Court's ruling in *Chevron* clarifies that since the taxpayer-claimant is requesting a refund of unutilized or unused input VAT from zero-rated sales (as opposed to the "excess" creditable input VAT from the output VAT), this amount is inherently immediately refundable, given that there is no related output VAT to offset it against. Therefore, the CTA's proper preliminary step in determining the refundable excess and unutilized input VAT attributable to valid zero-rated sales should be computing the ratable portion of the taxpayer-claimant's input VAT allocable to zero-rated sales, assuming the input VAT cannot be directly attributed to zero-rated activities.

It is only when the taxpayer-claimant chooses the first option, *i.e.*, to charge the input VAT attributable to zero-rated sales against output VAT from VATable sales and claim for refund or issuance of a TCC any unutilized or "excess" input VAT that the Court may require the offsetting of such ratable portion of the taxpayer-claimant's input VAT attributable to zero-rated sales against "Output VAT Still Due" as a condition precedent to the refund or issuance of a TCC.

In this case, petitioner credited its output VAT of ₱79,547.60 against its "Declared Input VAT" of ₱3,864,153.44 and applied for refund the remaining "Excess Input VAT" of ₱3,784,605.84. Clearly, petitioner has chosen the **first option**.

Since petitioner's declared input VAT allocated to 12% VATable sales in the amount of ₱13,106.03, as determined earlier, is not enough to cover the output VAT due of ₱79,547.60, the declared input VAT attributable to declared zero-rated receipts in the amount of ₱3,851,047.41 shall then be utilized against the output VAT still due of ₱66,441.57, resulting in an excess input VAT attributable to declared zero-rated sales in the amount of ₱133,671,461.36, computed as follows:

Output VAT	₱79,547.60
Less: Declared Input VAT allocated to Declared 12% VATable Receipts	13,106.03
Output VAT still due	**₱66,441.57**

Declared Input VAT attributable to Declared Zero-Rated Receipts	₱3,851,047.41
Output VAT still due	66,441.57
Excess Input VAT attributable to Declared Zero-Rated Receipts	**₱3,784,605.84**

However, as discussed earlier, not all of petitioner's input VAT is valid. Thus, this Court determines whether the valid input VAT of petitioner is sufficient to cover its excess input VAT attributable to declared zero-rated sales, *viz:*

Excess Input VAT attributable to Declared Zero-Rated Receipts (A)	₱3,784,605.84
Total Available Valid and Substantiated Input VAT (B)	2,440,628.45
Valid Available Input VAT attributable to Declared Zero-Rated Receipts (A or B, whichever is lower)	**₱2,440,628.45**

Meanwhile, in relation to its zero-rated receipts, considering that petitioner had properly substantiated all its total declared zero-rated receipts[152], the entire valid input VAT of ₱2,440,628.45 shall be attributable to said valid zero-rated sales/receipts of ₱194,784,170.82.

It is well established that claims for tax refund, like tax exemptions, are construed *strictissimi juris* against the taxpayer. However, when the claim for refund has a clear legal basis and is sufficiently supported by evidence, as in the present case, then the Court shall not hesitate to grant the refund.[153]

WHEREFORE, premises considered, the instant Petition for Review filed on 17 March 2021 by petitioner Stefanini Philippines, Inc. is hereby **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in the amount of **₱2,440,628.45**, representing petitioner's unutilized excess input Value-Added Tax for the 3rd quarter of CY 2018 which is attributable to its zero-rated sales for the same period.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

(With due respect, see Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

---

152 With ₱0.28 minor difference as noted earlier.

153 *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue*, supra at note 151; citing *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, 25 November 2009; *Commissioner of Internal Revenue v. Philippine Airlines, Inc.*, G.R. No. 180043, 14 July 2009.

LANEE S. CUI-DAVID
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

First Division

STEFANINI PHILIPPINES INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10487

Members:

DEL ROSARIO, *P.J. & Chairperson,*
BACORRO-VILLENA, and
CUI-DAVID, *JJ.*

Promulgated:
JAN 09 2025; 1:40PM

x---x

DISSENTING OPINION

DEL ROSARIO, P.J.:

With utmost respect, I am constrained to withhold my assent to the *ponencia*. I submit that petitioner's claim for refund of input value-added tax (VAT) attributable to zero-rated sales must be denied for petitioner's failure to comply with the invoicing requirements under Section 113(B)(2)(c) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Section 113(B)(2)(c) and (d) of the NIRC of 1997, as amended, reads:

> "SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.*
>
> xxx xxx xxx
>
> (B) *Information Contained in the VAT Invoice or VAT Official Receipt.* - The following information **shall** be indicated in the VAT invoice or VAT official receipt:

x x x

(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:

x x x

(c) If the sale is subject to zero percent (0%) value-added tax, the term "zero-rated sale" shall be written or printed prominently on the invoice or receipt;

(d) If the sale involved goods, properties or services some of which are **subject to and some of which are VAT zero-rated or VAT exempt**, the invoice or receipt shall clearly indicate the **<u>breakdown</u>** of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: *Provided*, That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale. x x x" *(Boldfacing and underscoring supplied)*

The above provision is implemented by Section 4.113-1 of Revenue Regulations (RR) No. 16-2005, as amended, which reads:

"SEC. 4.113-1 . *Invoicing Requirements.* -

x x x

(B) *Information contained in VAT invoice or VAT official receipt.-* The following information shall be indicated in VAT invoice or VAT official receipt:

x x x

(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:

x x x

(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;

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT -exempt, the invoice or receipt shall clearly indicate the <u>break-down</u> of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale." *(Boldfacing and underscoring supplied)*

Verily, it is a requirement that for any VAT invoice or official receipt evidencing a zero-rated transaction, the term **"zero-rated sale" should be written or printed prominently thereon**. Failure to comply with the invoicing requirements is sufficient ground to deny the claim for refund or tax credit.[1]

In a number of cases[2], the Supreme Court has ruled that the writing or imprinting of the term "zero-rated sale" on the VAT invoice or official receipt is **indispensable** for a valid claim for refund of unutilized input tax. This requirement was traced by the Supreme Court from Section 4.108-1 of RR No. 7-95, which has been incorporated in Section 113(B)(2)(c) of the NIRC of 1997, as amended, by virtue of the amendments introduced by Republic Act No. 9337, which confirms the validity of the imprinting requirement on VAT invoices or official receipts, *viz.*:[3]

> "**RR 7-95, which took effect on 1 January 1996, proceeds from the rule-making authority granted to the Secretary of Finance** by the NIRC for the efficient enforcement of the same Tax Code and its amendments. In Panasonic Communications Imaging Corporation of the Philippines v. Commissioner of Internal Revenue, we ruled that this provision is reasonable and is in accord with the efficient collection of VAT from the covered sales of goods and services.' Moreover, we have held in Kepco Philippines Corporation v. Commissioner of Internal Revenue that **the subsequent incorporation of Section 4.108-1 of RR 7-95 in Section 113(B)(2)(c) of R.A. 9337 actually confirmed the validity of the imprinting requirement on VAT invoices or official receipts - a case falling under the principle of legislative approval of administrative interpretation by reenactment."** (Boldfacing supplied)

Revenue Memorandum Circular No. 42-2003 provides that if the refund claim is based on the existence of zero-rated sales but the taxpayer fails to comply with the invoicing requirements, such claim should be **denied**, viz.:

---

[1] *Commissioner of Internal Revenue vs. Philex Mining Corporation*, G.R. No. 230016, November 23, 2020.

[2] *Panasonic Communications Imaging Corporation of the Philippines vs. Commissioner of Internal Revenue*, G.R. No. 178090, February 8, 2010; *J.R.A. Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 177127, October 11, 2010; *Hitachi Global Storage Technologies Philippines Corp. vs. Commissioner of Internal Revenue*, G.R. No. 174212, October 20, 2010; *Kepco Philippines Corporation vs. Commissioner of Internal Revenue*, G.R. No. 181858, November 24, 2010; *Silicon Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 172378, January 17, 2011; *Western Mindanao Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 181136, June 13, 2012; *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.

[3] *Western Mindanao Power Corporation vs. Commissioner of Internal Revenue*, *id.*

"Q-13: Should penalty be imposed on TCC application for failure of claimant to comply with certain invoicing requirements, (e.g., sales invoices must bear the TIN of the seller)?

A-13: **Failure by the supplier to comply with the invoicing requirements** on the documents supporting the sale of goods and services will result to the **disallowance** of the claim for input tax by the purchaser-claimant." (Boldfacing supplied)

A scrutiny of **all the official receipts** submitted by petitioner reveals that the words **"zero-rated sale" were not separately written or printed prominently thereon**. What appears on record are VAT official receipts that are exclusively intended for <u>mixed</u> transactions, that is – for sales subject to VAT and some which are VAT zero-rated or VAT exempt. In other words, notwithstanding the fact that petitioner indicated in the breakdown of the VAT official receipts the amount pertaining to "zero-rated sales", such however did **not in any way cure its failure to comply with the imprinting requirement.**

Verily, when the transaction involves a purely VAT zero-rated sale, the VAT official receipt should prominently bear the phrase "zero-rated sale" in accordance with **Paragraph (c)** of Section 113(B)(2) of the NIRC of 1997, as amended. However, when the transaction is mixed, *i.e.,* a combination of VATable, VAT-exempt or VAT zero-rate sales, the breakdown requirement under **Paragraph (d)** of Section 113(B)(2) may apply. In the case at bar, **all of petitioner's VAT official receipts pertain to purely VAT zero-rated sales, yet the imprinting of the required phrase "zero-rated sale" remained lacking.**

If the breakdown format is intended by law to be sufficient in all types of transactions- whether **mixed transactions <u>or</u> purely "zero-rated sales" transactions**, then the law does not make sense in crafting **separate provisions**, one, in requiring the use of "breakdown format", and another, mandating a separate format that requires imprinting of "zero-rated sale" in purely VAT zero-rated sale transactions.

Section 113 of the NIRC of 1997, as amended, in both its previous form under Republic Act (RA) No. 9337, which is applicable to this case, and present form as introduced by RA No. 11976, otherwise known as "Ease of Paying Taxes Act", requires the use of two (2) formats, that is, either the use of invoices bearing prominently the phrase "zero-rated sale" **<u>or</u>** the use of invoices bearing the "breakdown format" **(depending upon the nature or type of sale involved)**. Section 113 of the NIRC of 1997, as amended by RA No. 9337 and RA No. 11976 read as follows:

RA No. 9337	RA No. 11976
SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* –	Section 113. Invoicing and Accounting Requirements for VAT-Registered Persons.-
(A) *Invoicing Requirements.* - A VAT-registered person shall issue: (1) A VAT invoice for every sale, barter or exchange of goods or properties; and (2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.	(A) Invoicing Requirement. - A VAT-registered person shall issue a VAT invoice for every sale, barter, exchange, or 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:	(B) Information Contained in the VAT Invoice. - The following information shall be indicated in the **VAT invoice**:
xxx xxx xxx	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;	(c) If the sale is subject to **zero percent (0%)** value-added tax, the term **'zero-rated sale' shall be written or printed on the invoice**;
(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, **the invoice or receipt shall clearly indicate the <u>break-down</u> of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt**: *Provided*, That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.	(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, **the invoice shall clearly indicate the <u>breakdown</u> of the sale price between its taxable, exempt, and zero-rated components**, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice: *Provided,* That the seller may issue separate invoices for the taxable, exempt, and zero-rated components of the sale.
xxx	xxx

Interestingly, the Ease of Paying Taxes Act,[4] **has retained specific but separate provisions on the type of sales subject to imprinting "zero-rated sale" and those that are subject to "breakdown format"**, albeit with a minor modification on the imprinting requirement, *i.e.*, the omission of the word "prominently" to qualify the requirement. The retention of both requirements supports the interpretation that the **format requiring the imprinting of "zero-rated sales" is indeed separate and distinct from the format requiring "breakdown" for mixed transactions**.

In numerous VAT refund cases, this Court had allowed erasures and corrections in invoices or official receipts as long as they are made by an authorized signatory. Such treatment of allowing erasures and corrections in invoices or official receipts, especially on the parts where the types and amounts of sales are shown, creates a risk that ill-intentioned taxpayers may manipulate zero-rated sale transactions who make use of the "breakdown format" without "zero-rated sale" separately and prominently written in the official receipts by altering such invoices or receipts to appear as VATable transactions, thus eventually allowing them to be entitled to input tax credits. **To prevent such abuse, which cannot simply be discounted, the requirement of stamping or imprinting the term "zero-rated sales" in receipts involving purely zero-rated sale transaction is and should be implemented. This measure ensures that alterations cannot easily convert zero-rated sales into VATable sales, and thus prevent the evil, i.e., the use of credits against output tax liability, or worse, refund of taxes not actually incurred or paid.**

ALL TOLD, I *VOTE* to DENY the Petition for Review for lack of merit.

ROMAN G. DEL ROSARIO
Presiding Justice

[4] RA No. 11976.