REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

WNS GLOBAL SERVICES PHILIPPINES, INC., Petitioner,	**CTA EB NO. 1840** **(CTA Case No. 8574)**
	Present:
-versus-	Del Rosario, *P.J.,* Castañeda, Jr., Uy, Fabon-Victorino, Mindaro-Grulla, Ringpis-Liban, Manahan, Bacorro-Villena, *and* Modesto-San Pedro, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** JAN 10 2020 1:35 p.m.

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DECISION

CASTAÑEDA, JR., J.:

Before the Court *En Banc* is a Petition for Review filed by the WNS Global Services Philippines, Inc. (WNS) under Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) in relation to Rule 43 of the Rules of Court which seeks the setting aside and annulment of the following:

1. October 10, 2017 Decision[1] of the CTA Third Division[2] the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND OR TO ISSUE A TAX CREDIT CERTIFICATE** in the amount of **₱457,445.55** in favor of petitioner, representing WPI's unutilized excess input VAT

[1] Annex A, Petition for Review, *Rollo*, pp. 33-57.
[2] Penned by Associate Justice Ma. Belen M. Ringpis-Liban with the concurrence of Associate Justices Lovell R. Bautista and Esperanza R. Fabon-Victorino.

attributable to its zero-rated sales/receipts for the four quarters of fiscal year ending March 31, 2011.

SO ORDERED."

2. March 26, 2018 Resolution[3] denying the Motion for Reconsideration (Re: *Decision* dated 10 October 2017) of herein petitioner WNS Global Services Philippines, Inc. (WNS) for lack of merit.

THE FACTS

The facts are summarized from the October 10, 2017 Decision and condensed from the records, as follows:

The Parties

Petitioner WNS is a corporation organized and existing under Philippine laws since the year 2009. It is "engaged in the business of providing services including but not limited to (i) outsourced customer care, credit collection, billing and billing information services, outsourced contact management services for the customers, employees, and business-channel partners of client, organizations through the medium of telephone, email, and web-medium of telephone, email and web-based interactions, and (ii) other I.T.-enabled services (such as outsourced back-office services) and for this purpose, to do any and all things necessary for or conducive to the attainment of such purpose."[4]

On the other hand, respondent Commissioner of Internal Revenue (CIR) is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR) who has the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the National Internal Revenue Code (NIRC) or other laws or portions thereof administered by the BIR. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.[5]

Relevant Facts

WNS Philippines, Inc. (WPI) is a corporation duly organized and existing under Philippine laws under Company Registration No. CS200810061. It was also registered with the Board of Investments (BOI) on June 9, 2009 as an ICT Export Service Enterprise under Certificate of

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[3] Annex B, Petition for Review, *Rollo*, pp. 59-62.
[4] Decision, *Rollo*, p. 33.
[5] *Id.* at p. 34.

Registration No. 2009-078 and with the Bureau of Internal Revenue (BIR) as a VAT enterprise during the years 2010 and 2011.[6]

On June 22, 2012, WPI filed its administrative claim for refund of unutilized input VAT for fiscal year ended March 31, 2011 with the Revenue District Office (RDO) No. 47.[7]

WPI later merged with petitioner WNS, which was approved by the Securities and Exchange Commission (SEC) on August 31, 2012, with the petitioner as the surviving entity.[8]

As the surviving corporation after its merger with WPI, petitioner WNS, by operation of law, absorbed all of the assets and liabilities of WPI, including WPI's input VAT. Likewise, it acquired the legal standing to institute the present claim for refund of WPI's unutilized input VAT for fiscal year (FY) ending March 31, 2011.[9]

CTA 3rd Division Proceedings

On November 16, 2012, due to the failure of respondent to resolve the administrative claim, WNS filed a Petition for Review before the Court *a quo*.[10]

On January 21, 2013, within the extended time granted by the Court *a quo*, respondent filed his Answer, interposing the following special and affirmative defenses:

> "SPECIAL AND AFFIRMATIVE DEFENSES
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> 5. Claims for refund are strictly construed against the taxpayer as the same partakes the nature of a tax exemption;
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> 6. The taxpayer has the burden to show that the taxes were erroneously or illegally paid. Failure on the part of the Petitioner to prove the same is fatal to its cause of action. In the instant case, the Petitioner failed to present proof that the input VAT it is claiming as refund remained unutilized and was not carried over to subsequent taxable quarters;
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> 7. It is incumbent for the Petitioner to prove the existence of a valid contract and that said contract is indeed considered zero-rated VAT transaction;
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> 8. Hence, Petitioner failed to prove that the compensation or consideration which it received for the services rendered were actually paid

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[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] *Id.*
[10] *Id.*

for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas;

9. The Petitioner failed to prove its personality and legal basis for claiming the amount being refunded."[11]

The Pre-Trial Conference was, thereafter, set on March 21, 2013.[12]

Upon petitioner's motion, the pre-trial conference was deferred through a Resolution dated March 20, 2013 and petitioner was given ten (10) days from receipt thereof to file a Motion for Commissioning of Independent Certified Public Accountant (CPA).[13]

On April 10, 2013, petitioner filed a Motion for Commissioning of Independent Certified Public Accountant *Ad Cautelam*. On May 9, 2013, Mr. Emmanuel Y. Mendoza was commissioned as the Independent CPA for the case.[14]

Petitioner's Pre-Trial Brief was filed through registered mail on June 17, 2013. On the other hand, respondent's Pre-Trial Brief was filed on October 21, 2013.[15]

On November 8, 2013, the parties filed their Joint Stipulation of Facts and Issues through registered mail. This was adopted by the Court *a quo* in the Pre-Trial Order dated November 20, 2013, which also terminated the Pre-Trial.[16]

On December 2, 2013, petitioner filed a Motion to Amend Pre-Trial Order. This was granted by the Court *a quo* in the Resolution dated January 30, 2014.[17]

During trial, petitioner presented the following witnesses: (1) Ms. Jennifer Cuaresma, petitioner's Group Manager for Finance; (2) Mr. Emmanuel Y. Mendoza, the Independent CPA; (3) Mr. Michael Garber, previous Director of WNS North America, Inc.; and, (4) Ms. Anil Patil, Director of WNS Global Services (UK) Limited.[18]

On December 5, 2014, petitioner filed its Formal Offer of Evidence. In the Resolution dated February 9, 2015, the Court *a quo* admitted petitioner's Exhibits "P-1 and P-1-a", "P-2 to P-2-KKKK", "P-3-A to P-3-AA", "P-3-BB to P-3-EE", "P-4-A to P-4-R", "P-4-S to P-4-Y", "P-6-A to P-6-B", "P-7-A to P-7-D", "P-8-A to P-8-D", "P-9", "P-10-A", "P-10-B", "P-10-C", "P-10-D",

[11] *Id.* at pp. 34-35.
[12] *Id.* at p. 35.
[13] *Id.*
[14] *Id.*
[15] *Id.* at p. 36.
[16] *Id.*
[17] *Id.*
[18] *Id.*

"P-11-A", "P-11-B", "P-11-C", "P-12-A", "P-13", "P-14 and P-14-a", "P-16-a to P-16-d", "P-17-a", "P-17-b", "P-18", "P-19-a", "P-19-b to P-19-d", "P-20-a to P-20-d", "P-21", "P-22 and P-22-a", "P-23 and P-24", "P-25 and P-25-a", "P-26 and P-26-a", "P-27", "P-29", "P-30", and "P-33 and P-33-a". However, the Court denied the admission of Exhibit "P-3-FF" for petitioner's failure to identify the same before the Court; Exhibit "P-35", for petitioner's failure to identify the same before the Court and for petitioner's failure to present its original for comparison; Exhibits "P-5-A to P-5-B", "P-11-D", and "P-12-B", for failure to correspond with the document described in the Formal Offer of Evidence; and Exhibits "P-28", "P-31", "P-32", "P-34", and "P-36", for petitioner's failure to present the originals for comparison.[19]

On March 23, 2015, petitioner filed a Motion for Partial Reconsideration (Re: Resolution dated 09 February 2015). Then, on May 27, 2015, petitioner filed a Motion to Admit Incorporated Supplemental Motion for Partial Reconsideration and to Set Commissioner's Hearing (Re: Resolution dated 09 February 2015). These motions were both partially granted by the Court in the Resolution dated August 27, 2015, wherein the Court admitted Exhibits "P-28" and "P-34", but still denied the admission of Exhibit "P-3-FF" for failure to present the original during the July 27, 2014 hearing.[20]

On October 12, 2015, petitioner then filed a Manifestation with Consolidated Motion to Clarify and for Production of Documents. This was later on denied by the Court in the Resolution dated December 22, 2015.[21]

During the January 18, 2016 hearing, petitioner's Exhibits "P-3-FF", "P-37", and "P-37-a" were admitted into evidence.[22]

On March 3, 2016, petitioner filed a Motion to Admit Attached Judicial Affidavit of Mr. Yogendra Goyal. This was granted by the Court in the Resolution dated May 19, 2016, thus, the Judicial Affidavit of Mr. Yogendra Goyal was admitted to form part of the records. The judicial affidavit was marked, identified, and admitted into evidence as Exhibit "P-35" during the August 15, 2016 hearing.[23]

During the same August 15, 2016 hearing, counsel for respondent manifested that he would not present any witness, but offered as respondent's evidence, Exhibits "R-1" and "R-1-a", which were later admitted into evidence.[24]

On September 14, 2016, the Memorandum for Petitioner was filed. Respondent, however, failed to file his Memorandum as per Records

[19] *Id.* at pp. 36-37.
[20] *Id.* at p. 37.
[21] *Id.*
[22] *Id.*
[23] *Id.*
[24] *Id.*

Verification dated September 15, 2016. Thus, in the Resolution dated October 12, 2016, the instant case was declared submitted for decision.[25]

On October 10, 2017, the Court *a quo* promulgated the Decision which partially granted the petition.[26]

On March 26, 2018, Court *a quo* denied petitioner's Motion for Reconsideration (Re: *Decision* dated 10 October 2017) for lack of merit.[27]

CTA En Banc Proceedings

On April 19, 2018, the petitioner WNS filed the instant Petition for Review.[28]

In a May 8, 2018 Resolution, the Court *En Banc* ordered the petitioner to submit: (1) Proof of authority of Saurajit De or any other person to prepare and file the instant petition; (2) Verification and Certification by the person authorized by the petitioner; and, (3) Affidavit of Service, within ten (10) days from notice.[29]

On June 7, 2018, petitioner filed its Manifestation and Compliance.[30]

In a July 9, 2018 Resolution, the Court *En Banc* noted petitioner's Manifestation and Compliance and ordered the respondent to file his comment on the petition within ten (10) days from notice.[31]

In a Resolution dated October 29, 2018, the Court *En Banc* noted that, despite notice, respondent failed to file his comment and directed the parties to file their memoranda within thirty (30) days from notice.[32]

On December 21, 2018, petitioner WNS filed its Memorandum by registered mail.[33]

In a Resolution dated February 28, 2019, the Court *En Banc* noted that the respondent failed to file his memorandum and, accordingly, submitted the case for decision.[34]

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[25] *Id.*
[26] *Rollo*, pp. 33-56.
[27] *Id. at* pp. 59-62.
[28] *Id. at* pp. 1-29.
[29] *Id. at* pp. 237-238.
[30] *Id. at* pp. 239-246.
[31] *Id. at* pp. 248-249.
[32] *Id. at* pp. 252-253.
[33] *Id. at* pp. 254-282.
[34] *Id. at* pp. 286-287.

THE ISSUES

In assailing the October 10, 2017 Decision and March 26, 2018 Resolution, the petitioner WNS raised two *related* grounds for the petition:[35]

1. "Whether or not WPI, now through the Petitioner, had satisfactorily complied with all the requirements to claim refund or issuance of tax credit certificate on WPI's unutilized excess input VAT attributable to its zero-rated sales/receipts for the four quarters of fiscal year ending 31 March 2011; and,

2. Whether or not the CTA 3rd Division erred in disallowing the claim for refund of the Petitioner in the amount of ₱8,872,815.67 for the alleged non-compliance with the substantiation requirements under the NIRC and Revenue Regulations No. 16-2005."

THIS COURT'S RULING

We resolve to deny the petition and uphold the assailed decision of the CTA Third Division.

Petitioner WNS anchors its appeal on the ground that the non-compliance with the invoicing requirements under Section 113 of the NIRC, as amended, and Revenue Regulations No. 16-2005 (RR 16-2005) which "pertains to the incomplete information in the invoices and/or official receipts" is attributable to *petitioner's suppliers* on its domestic purchases of goods and services.[36] Therefore, this omission should not prejudice its claim as an innocent purchaser for value[37] and a "mere recipient, being the buyer, of the VAT invoices or receipts and the writing of the details xxx is not within the control, much less, a responsibility of WPI."[38] Petitioner contends that it is the *petitioner's suppliers* who are obliged to observe proper issuance of these commercial documents to support the VAT transaction, whether zero-rated, exempt or subject to 12% VAT.[39] Accordingly, the petitioner is convinced that the Court *a quo* erred is denying the ₱8,872,815.67 input VAT generated by it purchases.

First, the petitioner does not dispute the factual findings of the Court *a quo* pertaining to the disallowance. However, petitioner WNS does not agree that the input VAT should be disallowed based on those factual findings.

It will be recalled that the petitioner's input VAT were disallowed due to the following grounds, singly or collectively: *gr*

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[35] Petition for Review, *Rollo*, p. 10.
[36] *Id.* at p. 24.
[37] *Id.* at p. 25-27.
[38] *Id.* at p. 18.
[39] *Id.* at pp. 22-23.

- Amount of Input VAT was not separately indicated in the official receipt/invoice; and/or
- WPI's TIN was not indicated; and/or
- WPI's business address was not indicated; and/or
- WPI's registered address was incomplete; and/or
- Supported by documents other than VAT official receipt.

This was presented in tabular form to facilitate reference in the assailed decision, thus:

> "In addition, petitioner's input VAT claim in the amount of ₱8,872,815.67, detailed below, shall be disallowed for non-compliance with the substantiation requirements under the afore-mentioned VAT law and regulations:

Supplier's Name	**Exhibit**	**Input VAT Claim**	**Amount of Input VAT was not separately indicated in the O.R./Invoice**	**WPI's TIN was not indicated**	**WPI's Business Address was not indicated**	**WPI's registered name was incomplete**	**Supported by Documents other than VAT Official Receipt**
INPUT VAT ON DOMESTIC PURCHASE OF SERVICES							
First Quarter							
Advanced Contract Solutions, Inc.	"P-2-A"	₱ 1,044,224.73	X	X	X		
Advanced Contract Solutions, Inc.	"P-2-B"	923,244.48	X	X	X	X	
DHL Express (Philippines) Corp.	"P-2-C"	269.72	X	X	X		
DHL Express (Philippines) Corp.	"P-2-D"	670.74	X	X	X		
DHL Express (Philippines) Corp.	"P-2-E"	272.03	X	X	X		
Eastwest Healthcare	"P-2-G"	18,851.55	X	X		X	
Eastwest Healthcare	"P-2-H"	264.32	X	X	X	X	
Oakwood Premier Joy Nostalg Center	"P-2-I"	621.73	X	X			
Quantum Hotels and Resorts	"P-2-J"	4,977.05	X	X	X		
subtotal		*1,993,126.35*					
Second Quarter							
Advanced Contract Solutions, Inc.	"P-2-K"	40,634.92	X	X	X		
Advanced Contract Solutions, Inc.	"P-2-L"	923,244.48	X	X	X		
Advanced Contract Solutions, Inc.	"P-2-M"	923,244.48	X	X			
Advanced Contract Solutions, Inc.	"P-2-N"	923,244.48	X	X	X		
Advanced Contract Solutions, Inc.	"P-2-O"	46,590.48	X	X	X		
Advanced Contract Solutions, Inc.	"P-2-P"	22,939.08	X				

Advanced Contract Solutions, Inc.	"P-2-Q"	923,244.48	X				
Bayan Telecommunications, Inc.	"P-2-R"	20,635.65	X				
Digital Switchover, Inc.	"P-2-S"	965.16	X	X	X		
Stellar Global Solutions	"P-2-V"	59,519.60	X	X			
subtotal		*3,884,262.81*					
Third Quarter							
Advanced Contract Solutions, Inc.	"P-2-W"	952,108.25	X				
Advanced Contract Solutions, Inc.	"P-2-X"	1,887,678.11	X				
Eastern Works Marketing	"P-2-Z"	1,504.82	X	X	X		
Sycip Salazar Hernandez & Gatmaitan	"P-2-AA"	30,231.00					X
Sycip Salazar Hernandez & Gatmaitan	"P-2-BB"	12,295.34					X
subtotal		*2,883,817.52*					
Fourth Quarter							
Manabat Sanagustin & Co., CPAs	"P-2-CC"	30,901.06	X	X	X		
Manabat Sanagustin & Co., CPAs	"P-2-DD"	46,379.57	X	X	X		
subtotal		*77,280.63*					
Total		***₱8,838,487.31***					
AMORTIZATION OF CAPITAL GOODS EXCEEDING 1M DEFERRED FROM PRIOR QUARTERS							
First Quarter							
Adept Corporation	"P-2-NN"	₱ 160.71	(Dated outside the period of claim, September 28, 2011)				
Com2, Inc.	"P-2-YY"	1,181.25	X	X			
Com2, Inc.	"P-2-ZZ"	3,937.50	X	X			
Com2, Inc.	"P-2-CCC"	2,109.38	X				
Oblation Trading	"P-2-PPP"	123.21	X	X	X	X	
Oblation Trading	"P-2-QQQ"	177.68	X	X	X	X	
Vil Clad Marketing Corp.	"P-2-XXX"	892.36	X				
subtotal		8,582.09					
Second Quarter		8,582.09					
Third Quarter		8,582.09					
Fourth Quarter		8,582.09					
Total		***₱ 34,328.36***					
TOTAL DISALLOWED INPUT VAT PER THIS COURT'S FURTHER VERIFICATION		**₱8,872,815.67**					

Thus, out of the total input VAT claim of P10,163,064.25, only the amount of P610,105.41 represents WPI's valid input VAT, computed as follows:

Total Input VAT per Quarterly VAT Return	₱ 10,163,064.25
Less: Disallowances	
Per ICPA's report	680,143.16
Per this Court's further verification	8,872,815.67
Valid Input VAT	**₱ 610,105.41"**

Second, the law is clear. Petitioner's arguments to the contrary can neither obscure nor override the letter of the law.

Sections 113 and 237 of the NIRC, as amended, specifies a list of information or compliance requirements that should be indicated in the VAT invoices and official receipts:

"CHAPTER II - COMPLIANCE REQUIREMENTS

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); and

(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 known 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 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 break-down 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 known 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.

(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and

(4) In the case of sales in the amount of One thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client.

xxx xxx xxx

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: *Provided, however,* That where the receipt is issued to cover payment made as rentals, commissions, compensations, fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client: *Provided, further,* That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser.

The original of each receipt or invoice shall be issued to the purchaser, customer or client at the time the transaction is effected, who, if engaged in business or in the exercise of profession, shall keep and preserve the same in his place of business for a period of three (3) years from the close of the taxable year in which such invoice or receipt was issued, while the duplicate shall be kept and preserved by the issuer, also in his place of business, for a like period.

The Commissioner may, in meritorious cases, exempt any person subject to internal revenue tax from compliance with the provisions of this Section." (*Underscoring supplied*)

To implement these provisions, Section 4.113-1 of RR 16-2005 or the Consolidated VAT Regulations of 2005 mirrors the enumeration of invoicing requirements found in Sections 113 and 237 of the NIRC:

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

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

(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 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.

(3) In the case of sales in the amount of one thousand pesos (P1,000.00) 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, shall be indicated in addition to the information required in (1) and (2) of this Section." (*Underscoring supplied*)

As applied in this case, Sections 113 and 237 of the NIRC and Section 4.113-1 of RR 16-2005 clearly require that for every sale or purchase, a duly registered VAT invoice or official receipt shall be issued. Furthermore, such VAT invoice or official receipt must show a statement that the seller is a VAT-registered person; the seller's TIN; the total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; the amount of tax shown as a separate item; in the case of sales of ₱1,000 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, shall be indicated.

These provisions of law and the implementing regulations on VAT invoicing and accounting requirements are *mandatory* as the word "shall" is used. The use of the word "shall" in a statute connotes a mandatory order or an imperative obligation. Its use renders the provisions mandatory and not merely permissive.[40] "Its use in a statute denotes an imperative obligation and is inconsistent with the idea of discretion. Where the law is clear and unambiguous, it must be taken to mean exactly what it says, and courts have no choice but to see to it that the mandate is obeyed."[41]

Third, the Supreme Court has already explained and ruled on the mandatory nature of the invoicing requirements under Section 113 in *Miramar Fish Company, Inc. v. Commissioner of Internal Revenue*:[42]

> "Equally essential herein, Section 113 of the NIRC of 1997, as amended, categorically provides that a VAT-registered entity, like petitioner, shall issue a duly registered VAT invoice or official receipt, which must contain 'a statement that the seller is a VAT-registered person.' <u>Therefore, as correctly articulated by the CTA En Banc, compliance with the aforesaid invoicing requirements is mandatory</u>. Thus:
>
>> It bears stressing that the law and regulations are explicit in emphasizing strict compliance with the invoicing requirements because for the same transactions the output VAT of the seller becomes the input VAT of the purchaser. Pursuant to Sections 106(D)(1) and 108(C) of the NIRC of 1997, as amended, in relation to Section 110 of the same Code, the output or input tax on the sale or purchase of goods is determined by the total amount indicated in the invoice, while the output or input tax on the sale or purchases of services is determined by the total amount indicated in the official receipt. Since petitioner is engaged in the sale of goods, specifically, canned tuna and canned pet food (Joint Stipulation of Facts and Issues, par. 3), its output tax, if any, will be determined by the total amount indicated in the invoices. Thus, as required by Section 113 of the NIRC of 1997, as amended, petitioner's sales invoices must indicate that it is a VAT-registered person, which in this case was not complied with by petitioner. (Emphasis supplied)

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[40] *Commissioner of Internal Revenue v. Secretary of Justice and Metropolitan Cebu Water District*, G.R. No. 209289, July 9, 2018.
[41] *Abakada Guro Party List (Formerly AASJAS) Officers Samson S. Alcantara and Ed Vincent S. Albano v. The Honorable Executive Secretary Eduardo Ermita, et al.*, G.R. No. 168056, September 1, 2005.
[42] G.R. No. 185432, June 4, 2014.

At this juncture, and to settle strictness in compliance, we go to the textbook lesson that if the language of the law is clear, explicit and unequivocal, it admits no room for interpretation but merely application. A statute clear and unambiguous on its face need not be interpreted; stated otherwise, the rule is that only statutes with an ambiguous or doubtful meaning may be the subject of statutory construction. The provisions of Sections 113 and 237 of the NIRC of 1997, as amended, and Section 4.108-1 of RR No. 7-95, are clear in enumerating the invoicing requirements necessary to be shown in order to qualify as duly registered receipts or sales or commercial invoices issued by VAT-registered entities, such as petitioner herein, for the purpose of claiming for refund of creditable input tax due or paid attributable to any zero-rated or effectively zero-rates sales. Absent compliance, the unavoidable result is immediate denial of the claim." (*Underscoring supplied*)

This holding on the mandatory nature of the Section 113 invoicing requirements was again reiterated in *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*.[43] In *Eastern*, the Supreme Court *affirmed* the denial of a claim for input VAT refund due to failure to comply with the mandatory invoicing requirements prescribed in Sections 113 and 237 of the NIRC, as amended, and in Section 4.113-1 of RR 16-2005. The Supreme Court stated in pertinent part:

"***The word 'zero-rated' is required on the invoices or receipts issued by VAT-registered taxpayers.***

ETPI posits that the NIRC allows VAT-registered taxpayers to file a claim for refund of input taxes directly attributable to zero-rated transactions subject to compliance with certain conditions. To bolster its averment, ETPI pointed out that the imprint of the word "zero-rated" on the face of the sales invoice or receipt is merely required in RR No. 7-95 which cannot prevail over a taxpayer's substantive right to claim a refund or tax credit for its input taxes. And, that the lack of the word "zero-rated" on its invoices and receipts does not justify an outright denial of its claim for refund or tax credit considering that it has presented equally relevant and competent evidence to prove its claim. Moreover, its clients are non-resident foreign corporations which are exempted from paying VAT. Thus, it cannot take advantage of its omission to print the word "zero-rated" on its invoices and sales receipts.

The Secretary of Finance has the authority to promulgate the necessary rules and regulations for the effective enforcement of the provisions of the NIRC. Such rules and regulations are given weight and respect by the courts in view of the rule-making authority given to those who formulate them and their specific expertise in their respective fields.

An applicant for a claim for tax refund or tax credit must not only prove entitlement to the claim but also compliance with all the documentary and evidentiary requirements. Consequently, the old CTA, as affirmed by

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[43] G.R. No. 183531, March 25, 2015.

the CTA en banc, correctly ruled that a claim for the refund of creditable input taxes must be evidenced by a VAT invoice or official receipt in accordance with Section 110 (A) (1) of the NIRC. Sections 237 and 238 of the same Code as well as Section 4.108-1 of RR No. 7-95 provide for the invoicing requirements that all VAT-registered taxpayers should observe, such as: (a) the BIR Permit to Print; (b) the Tax Identification Number of the VAT-registered purchaser; and (c) the word "zero-rated" imprinted thereon. Thus, the failure to indicate the words 'zero-rated' on the invoices and receipts issued by a taxpayer would result in the denial of the claim for refund or tax credit. Revenue Memorandum Circular No. 42-2003 on this point reads:

> 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.
>
> 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 denied 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. (Emphasis ours)

In this respect, the Court has consistently ruled on the denial of a claim for refund or tax credit whenever the word 'zero-rated' has been omitted on the invoices or sale receipts of the taxpayer-claimant as pronounced in *Panasonic Communications Imaging Corporation of the Philippines v. CIR* wherein it was ratiocinated, viz.:

> Section 4.108-1 of RR 7-95 proceeds from the rule-making authority granted to the Secretary of Finance under Section 245 of the 1977 NIRC (Presidential Decree 1158) for the efficient enforcement of the tax code and of course its amendments. The requirement is reasonable and is in accord with the efficient collection of VAT from the covered sales of goods and services. As aptly explained by the CTA's First Division, the appearance of the word "zero-rated" on the face of invoices covering zero-rated sales prevents buyers from falsely claiming input VAT from their purchases when no VAT was actually paid. If, absent such word, a successful claim for input VAT is made, the government would be refunding money it did not collect.
>
> Further, the printing of the word 'zero-rated' on the invoice helps segregate sales that are subject to 10% (now 12%) VAT from those sales that are zero-rated. Unable to submit the proper invoices, petitioner Panasonic has been

> unable to substantiate its claim for refund." (*Citations omitted and underscoring supplied*)

Finally, a refund is not a matter of right by the mere fact that a taxpayer has undisputed excess input VAT or that such tax was admittedly illegally, erroneously or excessively collected.[44] "Tax refunds or tax credits — just like tax exemptions — are strictly construed against taxpayers, the latter having the burden to prove strict compliance with the conditions for the grant of the tax refund or credit."[45] "This is the reason why a claimant must positively show compliance with the statutory requirements provided for under the NIRC in order to successfully pursue one's claim."[46]

WHEREFORE, premises considered, the Petition for Review is **DENIED** for lack of merit. The October 10, 2017 Decision and the March 26, 2018 Resolution are hereby **AFFIRMED.**

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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[44] *Harte-Hanks Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 205721, September 14, 2016.
[45] *Commissioner of Internal Revenue v. Mirant Pagbilao Corporation (now TeaM Energy Corporation)*, G.R. No. 180434, January 20, 2016.
[46] *Winebrenner & Iñigo Insurance Brokers, Inc. v. Commissioner of Internal Revenue*, G.R. No. 206526, January 28, 2015.

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
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.

ROMAN G. DEL ROSARIO
Presiding Justice