CTA Form No. 8

22-000281-0054

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10884

PETROTRADE 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. AYESHA HANIA B. GUILING-MATANOG
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

DU-BALADAD AND ASSOCIATES
20th Floor, Chatham House
Rufino corner Valero Streets
Salcedo Village, Makati City

GREETINGS:

You are hereby notified by these presents that on **April 23, 2026,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **April 27, 2026.**

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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

PETROTRADE PHILIPPINES, INC., *Petitioner,*	**CTA CASE NO. 10884**
	Members:
- versus -	**BACORRO-VILLENA,** *Acting Chairperson, and* **CUI-DAVID,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: APR 23 2026; 4:00 PM

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DECISION

CUI-DAVID, J.:

Before the Court is a *Petition for Review*[1] filed by petitioner Petrograd Philippines, Inc. on June 10, 2022, praying that judgment be rendered ordering respondent Commissioner of Internal Revenue to refund the amount of ₱92,856,719.67, allegedly representing petitioner's unutilized input value-added tax (VAT) attributable to its zero-rated sales for the second (2[nd]) quarter of taxable year (TY) 2020.

THE PARTIES

Petitioner is a domestic corporation duly organized and existing under Philippine laws, with principal office address at 94 Scout Rallos Street, Barangay Sacred Heart, Quezon City, Philippines.[2] It is registered with the Bureau of Internal Revenue (BIR) - Revenue District Office No. 124 — Excise LT Audit Division II, with Taxpayer Identification Number 000-658-115-00000.[3] It is likewise registered with the Bureau of

[1] Docket – Vol. I, pp. 6-42.
[2] *Id.* at 175, *Joint Stipulation of Facts and Issue* (JSFI), Summary of Admitted Facts, par. 1.
[3] *Id.* at 431-433, Exhibit "P-6".

Customs as a corporation engaged in "Wholesale of Solid, Liquid, Gaseous Fuels."[4]

Respondent is the Chief of the Bureau of Internal Revenue (BIR), the government agency vested with authority to administer and enforce national internal revenue taxes, including, among others, the duty to act on and approve claims for refund as provided by law.[5]

THE FACTS AND THE PROCEEDINGS

Petitioner avers that during the 2nd quarter of TY 2020, it engaged in the following transactions, which were accordingly reported in its VAT returns:

	Sales/Receipts for the Quarter (Exclusive of VAT)	Output Tax Due for the Quarter
VATable Sales/Receipts – Private	₱216,103,124.35	₱25,932,374.92
Sale to the Government	-	-
Zero-rated Sales/Receipts	877,254,255.58	-
Exempt Sales/Receipts	-	-
TOTAL	**₱1,093,357,379.93**	**₱25,932,374.92**

During the same period, petitioner allegedly incurred the following input taxes:

	Purchases	Input Tax
Local Taxable Purchases	₱66,853,266.69	₱8,022,392.00
Importations	897,572,373.22	107,708,684.79
TOTAL	**₱964,425,639.91**	**₱115,731,076.79**

Petitioner claims that because a substantial portion of its sales/receipts were VAT zero-rated, a substantial portion of its input tax incurred was not fully utilized during the same quarter, nor used against its output taxes in the subsequent periods.

Thus, on January 12, 2022, petitioner filed a letter (*Application for VAT Refund)* dated December 13, 2021,[6] together with the *Application for Tax Credits/Refunds* (BIR Form No. 1914),[7] and the *Revised Checklist of Mandatory Requirements on Claims for VAT Credit/Refund,*[8] seeking the

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4 *Id.* at 434-435, Exhibits "P-7-1" and "P-7-2".
5 *Id.* at 176, JSFI, Summary of Admitted Facts, par. 3.
6 Docket – Vol. II, pp. 571-572, Exhibit "P-27".
7 *Id.* at 573, Exhibit "P-28".
8 *Id.* at 574, Exhibit "P-29".

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refund of excess or unutilized input VAT attributable to its zero-rated sales to foreign vessels for the period April 1, 2020 to June 30, 2020, in the amount of ₱92,856,719.67.

However, on May 12, 2022,[9] petitioner received a letter dated May 10, 2022,[10] denying its administrative claim for refund for lack of factual and legal bases.

Hence, petitioner elevated its claim to this Court *via* the instant *Petition for Review* filed on June 10, 2022.

On August 22, 2022, and within the extended period[11] granted by the Court, respondent filed his *Answer*,[12] asserting that petitioner's judicial claim should be denied for failure to comply with Revenue Memorandum Order (RMO) No. 47-2020, which requires the submission of the quarterly VAT returns corresponding to the quarter showing the deduction of the amount sought to be refunded from the available input tax, filed on or before the date of the VAT refund application. For respondent, since a decision has already been rendered at the administrative level, petitioner cannot present before the Court documents that it did not submit at the administrative level. He added that the Court is confined to determining whether there was insufficiency of substantiation to justify the denial of the claim.

On October 27, 2022, respondent transmitted the *BIR Records* for this case, consisting of seven (7) folders.[13]

A *Pre-Trial Conference* was conducted on November 24, 2022.[14]

On January 9, 2023, the parties filed their *Joint Stipulation of Facts and Issues*,[15] which the Court admitted and approved in its Resolution[16] dated January 12, 2023, thereby terminating the *Pre-Trial*. The corresponding *Pre-Trial Order*[17] was issued on January 25, 2023.

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9 BIR Records (Exhibit "R-3"), pp. 310-311, Exhibits "P-1" and "R-2",
10 *Id.*
11 Docket – Vol. I, p. 61, Order dated July 28, 2022.
12 *Id.* at 62-69.
13 *Id.* at 81-83, *Compliance* dated October 24, 2022.
14 *Id.* at 79-80, Notice of Pre-Trial Conference dated September 8, 2022; 121, Minutes of the hearing held on November 24, 2022; 123-124, Order dated November 24, 2022.
15 *Id.* at 175-199.
16 *Id.* at 207.
17 *Id.* at 209-219.

During trial, petitioner presented the following: (1) **Mr. Alfie I. Herrera**,[18] its Finance Manager; and (2) **Mr. George V. Villaruz**, [19] the Court-commissioned Independent Certified Public Accountant (ICPA).[20]

On December 4, 2023, petitioner filed its *Formal Offer of Evidence*, [21] to which respondent filed his *Comment (On Petitioner's Formal Offer of Evidence)* on December 28, 2023.[22]

In a Resolution[23] promulgated on April 16, 2024, the Court admitted petitioner's offered exhibits, *except*: (1) Exhibits "P-37" and "P-473 to P-475", for not being found in the records of the case; and (2) Exhibits "P-421-2", "P-422-2", "P-423-2", "P-424-2", "P-490-1", "P-491", "P-494", "P-498", "P-500", "P-501", "P-502", "P-503", "P-504", and "P-505", for failure to present the originals for comparison.

On May 9, 2024, petitioner filed a *Motion for Reconsideration,* [24] to which respondent filed a *Comment/ Opposition (Re: Motion for Reconsideration dated 9 May 2024)*[25] on May 27, 2024.

In a Resolution issued July 12, 2024,[26] the Court: (1) directed the ICPA to submit within five (5) days from notice, clear and readable PDF scanned copies of Exhibits "P-473", "P-473-1", "P-473-2", "P-473-3", "P-473-4", "P-473-5", "P-474", "P-474-1", "P-474-2", "P-474-3", "P-474-4", "P-475", "P-475-1", "P-475-2", "P-475-3", "P-475-1", "P-475-2", "P-475-3", "P-475-4", "P-475-5", "P-475-6", "P-490-1", "P-500", and "P-501", and a certification that the same are faithful reproductions of the originals, pursuant to Section 2, Rule 13 of the Revised Rules of the Court of Tax Appeals; and (2) held in abeyance the resolution of petitioner's *Motion for Reconsideration.*

On July 19, 2024, petitioner filed its *Compliance (with Attached Copy of Certification and USB Flash drive containing scanned copies of Exhibits).*[27]

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[18] Exhibit "P-85" (on a separate folder); Docket – Vol. I, pp. 236-239, Minutes of the hearing held on September 27, 2023; 241-242, Order dated September 27, 2023.
[19] Docket – Vol. I, pp. 322-349, Exhibit "P-99"; 352-353, Order dated November 14, 2023.
[20] *Id.* at 235, *Oath of Commission* dated September 27, 2023; 236-239, Minutes of the hearing held on September 27, 2023; 241-242, Order dated September 27, 2023.
[21] *Id.* at 360-409.
[22] Docket – Vol. II, pp. 650-652.
[23] *Id.* at 658-662.
[24] *Id.* at 663-669.
[25] *Id.* at 694-696.
[26] *Id.* at 700-704.
[27] *Id.* at 705-712.

Thus, on September 23, 2024, acting on petitioner's *Motion for Reconsideration*, the Court resolved to admit Exhibits "P-473", "P-473-1", "P-473-2", "P-473-3", "P-473-4", "P-473-5", "P-474", "P-474-1", "P-474-2", "P-474-3", "P-474-4", "P-475", "P-475-1", "P-475-2", "P-475-3", "P-475-4", "P-475-5", "P-475-6", "P-490-1", "P-500", and "P-501".[28]

For his part, respondent presented the testimony of Revenue Officer (RO) **Kathrina D. Quimosing**.[29] After her testimony, respondent's counsel orally offered respondent's evidence, all of which was admitted in open Court.[30]

On April 24, 2025,[31] the instant case was submitted for decision, following the filing of petitioner's *Memorandum*[32] on April 3, 2025, and the *Records Verification Report*[33] dated April 8, 2025, stating that respondent failed to file his *Memorandum*.

Hence, this Decision.

THE ISSUE

As stipulated by the parties, the sole issue for resolution is:

> Whether or not Petitioner is entitled to its claim for refund in the total amount of ₱92,856,719.67, allegedly representing its unutilized and excess input Value-Added-Tax attributable to its zero-rated sales/receipts for the 2nd Quarter of Taxable Year 2020.[34]

Petitioner's arguments:

Petitioner argues that it is entitled to a refund of ₱92,856,719.67, representing its unutilized and excess input taxes attributable to its zero-rated sales/receipts for the 2nd quarter of taxable year 2020. It contends that respondent's denial of its administrative claim for VAT refund is without legal and factual bases.

[28] *Id.* at 717-719, Resolution dated September 23, 2024.
[29] Docket – Vol. I, pp. 74-77, Exhibit "R-4"; Docket – Vol. II, p. 731-733, Minutes of the hearing held on March 4, 2025; 734-735, Order dated, March 4, 2025.
[30] Docket – Vol. II, pp. 731-733, Minutes of the hearing held on March 4, 2025; 734-735, Order dated March 4, 2025.
[31] *Id. at* 773, Notice of Resolution dated April 24, 2025.
[32] *Id.* at 737-768.
[33] *Id.* at 772.
[34] Docket – Vol. I, p. 176, JSFI, Statement of the Issue to be Resolved.

Respondent's counter-arguments:

Respondent, on the other hand, contends that the instant judicial claim should be denied for petitioner's failure to comply with RMO No. 47-2020. For respondent, the taxpayer-claimant has the burden of proving the factual basis of his claim for a tax refund or credit. After all, tax refunds, like tax exemptions, are construed strictly against the taxpayer.

THE COURT'S RULING

Pertinent to the resolution of this case are paragraphs (A) and (C) of Section 112 of the NIRC of 1997, as amended by Republic Act (RA) No. 10963,[35] which provide:

> 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

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[35] AN ACT AMENDING SECTIONS 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35, 62, AND 89; ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

> 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.

Based on the foregoing provisions, jurisprudence has established the requisites that a taxpayer-claimant must satisfy to be entitled to a refund or tax credit of input VAT. These requisites may be classified into certain categories, to wit:

<u>As to the timeliness of the filing of the administrative and judicial claims:</u>

1. The refund claim is filed with the BIR within two (2) years after the close of the taxable quarter when the sales were made;[36]

2. In case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act on the said claim within a period of ninety (90) days, the judicial claim has been filed with this Court, within thirty (30) days from receipt of the decision or after the expiration of the said ninety (90)-day period;[37]

<u>With reference to the taxpayer's registration with the BIR</u>:

3. The taxpayer is a VAT-registered person;[38]

<u>In relation to the taxpayer's output VAT</u>:

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

[37] Refer to *Commissioner of Internal Revenue v. Vestas Services Philippines, Inc.*, G.R. No. 255085, March 29, 2023 [Per J. Hernando, First Division]; *Commissioner of Internal Revenue v. CE Casecnan Water and Energy Company, Inc.*, G.R. No. 212727, February 1, 2023 [Per J. Hernando, First Division]; *Energy Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 203367, March 17, 2021 [Per J. Hernando, Third Division].

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

4. The taxpayer is engaged in zero-rated or effectively zero-rated sales;[39]

5. For zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2),[40] the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the *Bangko Sentral ng Pilipinas* (BSP) rules and regulations;[41]

As regards the taxpayer's input VAT being refunded:

6. The input taxes are not transitional;[42]

7. The input taxes are due or paid;[43]

8. The input taxes have not been applied against output taxes during and in the succeeding quarters;[44] and

9. The input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume.[45]

In addition, for VAT refund/credit claims, applicants must satisfy the substantiation and invoicing requirements under the NIRC and other implementing rules and regulations.[46] The invoicing and substantiation requirements should be followed because they are the only way to determine the veracity of the taxpayer's claims.[47]

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39 *Id.*

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

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

42 *Id.*

43 *Id.*

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

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

46 *Team Energy Corporation v. Commissioner of Internal Revenue*, G.R. Nos. 197663 & 197770, March 14, 2018 [Per J. Leonen, Third Division].

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

Strict compliance with substantiation and invoicing requirements is necessary considering VAT's nature and VAT system's tax credit method, where tax payments are based on output and input taxes and where the seller's output tax becomes the buyer's input tax that is available as tax credit or refund in the same transaction. It ensures the proper collection of taxes at all stages of distribution, facilitates computation of tax credits, and provides accurate audit trail or evidence for BIR monitoring purposes.[48]

Furthermore, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove <u>every minute aspect</u> of their case.[49] Thus, it behooves petitioner to show compliance with each of the requisites and invoicing requirements.

First and second requisites: Petitioner's administrative and judicial claims were timely filed.

The *first* requisite pertains to filing a tax refund or credit for input VAT with the BIR within two (2) years from the close of the taxable quarter in which the zero-rated or effectively zero-rated sales were made.

The present claim covers the 2nd quarter of TY 2020, which ended on **June 30, 2020**. Counting two (2) years from the close of the said quarter, the last day to file an administrative claim for refund of excess or unutilized input VAT is **June 30, 2022**. Thus, the filing of petitioner's *Application for Tax Credits/Refunds*[50] of input tax for the 2nd quarter of TY 2020 on **January 12, 2022,** was well within the two (2)-year prescriptive period.

As for the *second* requisite, the same necessitates that the judicial claim must be filed within thirty (30) days from receipt of respondent's decision or after the expiration of the ninety

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[48] *Team Energy Corporation v. Commissioner of Internal Revenue,* G.R. Nos. 197663 & 197770, March 14, 2018 [Per J. Leonen, Third Division].

[49] *Edison (Bataan) Cogeneration Corporation v. Commissioner of Internal Revenue,* G.R. Nos. 201665 & 201668, August 30, 2017 [Per J. Del Castillo, First Division]; *Commissioner of Internal Revenue v. Philippine National Bank,* G.R. No. 180290, September 29, 2014 [Per J. Leonen, Second Division]; *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014 [Per J. Peralta, Third Division]; *Dizon v. Court of Tax Appeals,* G.R. No. 140944, April 30, 2008 [Per J. Nachura, Third Division]; *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007 [Per J. Corona, First Division]; *Commissioner of Internal Revenue v. Manila Mining Corporation,* G.R. No. 153204, August 31, 2005 [Per J. Carpio-Morales, Third Division].

[50] Docket – Vol. II, p. 573, Exhibit "P-28".

(90)-day period under Section 112(C) of the NIRC of 1997, as amended. Thus, from the filing of petitioner's administrative claim on January 12, 2022, respondent had ninety (90) days or until **April 12, 2022**, to act on the said claim. However, this 90-day period was extended under Revenue Regulations (RR) No. 01-2022,[51] as clarified in Revenue Memorandum Circular (RMC) No. 16-2022,[52] for 30 days from due date. Thus, respondent's letter dated **May 10, 2022**, informing petitioner that its application for VAT refund was denied for lack of factual and legal bases, was issued well within the extended 90-day period.

The record reveals that the said letter dated May 10, 2022, was received by petitioner on **May 12, 2022**. Counting 30 days from May 12, 2022, petitioner had until **June 13, 2022**,[53] to file its judicial claim for refund. With the filing of the *Petition for Review* on **June 10, 2022**, the judicial claim was timely instituted.

Accordingly, the *first* and *second* requisites were complied with.

Third requisite: Petitioner is a VAT-registered entity.

It is undisputed that petitioner also satisfied the *third* requisite since it is duly registered with the BIR as a VAT taxpayer with TIN 000-658-115-00000.[54]

Fourth and fifth requisites: Petitioner had zero-rated or effectively zero-rated sales for the 2nd quarter of TY 2020.

The *fourth* and *fifth* requisites respectively require that the taxpayer is engaged in zero-rated or effectively zero-rated sales, and for zero-rated sales under Sections 106(A)(2)(a)(1), (2), and

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[51] SUBJECT : Extension of the Deadlines for the Filing of Returns and Payment of the Corresponding Taxes Due Thereon, Including Submission of Required Documents (Position Papers, Replies, Protests, Documents and Other Similar Letters and Correspondences in Relation to the On-Going BIR Audit Investigation), Application for Tax Refund and Issuance of Assessment Notices and Warrants of Distraint and Levy for Taxpayers within the Jurisdiction of Revenue Regional and District Offices of the Bureau of Internal Revenue Classified under Alert Level 3 or Higher.

[52] SUBJECT: Clarifying the Scope and Coverage of the Extension of Deadlines Granted Pursuant to Revenue Regulations No. 1-2022.

[53] June 11, 2022 fell on a Saturday.

[54] Docket – Vol. I, pp. 431-433, Exhibit "P-6".

(b),[55] and 108(B)(1) and (2) of the NIRC of 1997, as amended, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the Bangko Sentral ng Pilipinas (BSP) rules and regulations.

In its amended *Quarterly VAT Return* for the 2nd quarter of TY 2020, [56] petitioner declared total sales amounting to ₱1,093,357,379.93, of which ₱877,254,255.58 were reported as zero-rated:

Vatable Sales/Receipt	₱ 216,103,124.35
Zero-Rated Sales/Receipt	877,254,255.58
Total Sales/Receipts	**₱1,093,357,379.93**

To recall, petitioner claims that it is engaged in zero-rated sales as it sells bunker fuels to persons engaged in international shipping, where the fuel sold is used for international shipping operations. Such sale of fuel is subject to 0% VAT under Section 106(A)(2)(a)(6) of the NIRC of 1997, as amended, which reads as follows:

> 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:
>
> . . . .
>
> (6) **The sale of** goods, supplies, equipment and **fuel to persons engaged in international shipping** or international air transport operations: **Provided, That the** goods, supplies, equipment and **fuel shall**

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

[56] Docket – Vol. II, p. 539, Exhibit "P-18-3".

> **be used for international shipping** or air transport operations. (Emphasis supplied)

In relation thereto, RR No. 13-2018[57] further clarified the scope of zero-rated sales under Section 4.106-5 of RR No. 16-2005, as amended, providing that:

> SECTION 2. AMENDMENTS. — Sections 4.106-5, 4.108-3, 4.108-5, 4.109-1, 4.109-2, 4.110-3, 4.112-1, 4.114-1, 4.114-2, and 4.116 of RR No. 16-2005, as amended, are hereby further amended to read as follows:
>
> > SEC. 4.106-5. Zero Rated Sales of Goods or Properties. — x x x
> >
> > The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
> >
> > (a) *Export sales.* — 'Export Sales' shall mean:
> >
> > . . . .
> >
> > (5) **The sale of** goods, supplies, equipment and **fuel to persons engaged in international shipping** or international air transport operations: ***Provided, That*** the goods, supplies, equipment, and **fuel shall be used exclusively for international shipping** or air transport operations.
> >
> > **The sale of** goods, supplies, equipment and **fuel to persons engaged in international shipping** or international air transport operations **is limited to** goods, supplies, equipment and **fuel that shall be used in the transport of goods and passengers from a port in the Philippines directly to a foreign port, or vice versa, without docking or stopping at any other port in the Philippines unless the docking or stopping at any other Philippine port is for the purpose of unloading passengers and/or cargoes that originated from abroad, or to load passengers and/or cargoes bound for abroad**: *Provided, further,* that if any portion of such fuel, goods, supplies or equipment is used for purposes other than that mentioned in this paragraph, such portion of fuel, goods, supplies, and equipment shall be subject to 12% VAT. (Emphasis supplied)

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[57] SUBJECT: 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.

As can be discerned from the foregoing provisions, certain essential elements must be present for the sale of fuel to persons engaged in international shipping to be subject to a zero percent (0%) VAT:

1) That the persons to whom petitioner sold and delivered the fuel are engaged in international shipping; and

2) That the fuel loaded to persons engaged in international shipping must have been used exclusively for international shipping, meaning, after departing from a port in the Philippines, it directly proceeded to a foreign port without docking or stopping at any other port in the Philippines, unless the docking or stopping at any other Philippine port is for the purpose of unloading passengers and/or cargoes that originated from abroad, or to load passengers and/or cargoes bound for abroad.

To comply with the foregoing requirements, petitioner presented the following:[58]

(i) report of the International Maritime Organization (IMO) in its website (with URL link: "https://gisis.imo.org/Public/SHIPS/Default.aspx."), [59] to establish the foreign registration on the international vessel, as the said report contains the Ship IMO reference number, Ship Name, Flag Administration, Call sign and Ship Status;

(ii) *Sale Invoices* (SIs),[60] *Bunker Delivery Receipts* (BDR),[61] and *Bunkering Permits,* [62] to prove that the fuel was indeed loaded to international vessel; and

(iii) *Certification* by Maritime Industry Authority (MIA) dated December 28, 2020 and *Certifications* by the Bureau of Customs,[63] certifying that the foreign vessels where the bunker fuels were loaded for the period covering April 1, 2020 to June 30, 2020 did not appear in the Philippine Registry of Domestic Ships, and at the same time have not been granted any Special Permit to temporarily trade/operate domestically.

At the outset, the Court cannot give credence to any information obtained by petitioner from the IMO's website at the URL "https://gisis.imo.org/Public/SHIPS/Default.aspx,"

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58 Refer to Docket – Vol. II, pp. 752-753, *Memorandum,* pars. 45 to 47.
59 USB (Exhibit "P-100-2), Exhibits "P-389" to "P-419"0.
60 USB (Exhibit "P-100-2), Exhibits "P-129" to "P-200".
61 USB (Exhibit "P-100-2), Exhibits "P-202" to "P-289".
62 USB (Exhibit "P-100-2), Exhibits "P-290" to "P-336".
63 Docket – Vol. II, pp. 580-583, Exhibit "P-38"; USB (Exhibit "P-100-2), Exhibits "P-488" to "P-490-2".

because the Court is unable to confirm whether the details stated therein are accurate and exist.

As for the MIA *Certification* dated December 28, 2020,[64] and BOC *Certifications* dated April 12, 2023,[65] June 15, 2023,[66] and June 19, 2023,[67] the Court finds these documents sufficient to ascertain whether petitioner's clients are indeed engaged in international shipping, do not ply domestic waters, and proceeded to a foreign port after the bunkering operation.

Thus, petitioner's clients listed in the MIA Certification and supported by corresponding BOC Certifications, whose details are set forth below, are deemed to have complied with the *first* and *second* essential elements for VAT zero-rating:

Petitioner's Customers for the period April 1, 2020 to June 30, 2020 as summarized by the ICPA (Refer to Annex "C" of the ICPA Report)	Name of Receiving Vessel per SI and BDR	Listed in the MIA's *Certification* dated December 28, 2020 (Exh. "P-38", Docket - Vol. II, pp. 580 to 583) Yes/No	Vessel Registry as per *Certification* dated December 28, 2020	Next Port as per BOC's Certifications dated April 12, 2023, June 15, 2023, and June 19, 2023 (Exhs. "P-490 to P-490-2", USB)
NARUWHIRL MARITIME S.A.	M/V Ocean Mercury	Yes	Malta	(No destination stated but did not ply the domestic waters - Exh. P-490-1)
ANIMA SHIPPING CO, LIMITED.	M/V Anima	Yes	Cyprus	Australia
CARNIVAL CORPORATION/CARNIVA L PLC	M/V Queen Elizabeth	Yes	Bermuda	Singapore
CARNIVAL CORPORATION/CARNIVA L PLC	M/V Pacific Dawn	Yes	United Kingdom	Singapore
CARNIVAL CORPORATION/CARNIVA L PLC	M/V Pacific Explorer	Yes	United Kingdom	Singapore
SPECTRUM OF THE SEAS INC.	M/V Spectrum of the Seas	Yes	Bahama	Singapore
SEIN SHIPPING CO LTD.	M/V Sein Sun	Yes	Korea	

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[64] Docket – Vol. II, pp. 580 to 583, Exhibit "P-38".
[65] USB (Exhibit "P-100-2"), Exhibit "P-490-1".
[66] USB (Exhibit "P-100-2"), Exhibit "P-490".
[67] USB (Exhibit "P-100-2"), Exhibit "P-490-2".

				(no destination stated but did not ply the domestic waters - Exh. P-490-2)
SEIN SHIPPING CO LTD.	M/V Sein Galaxy	Yes	Korea	(no destination stated but did not ply the domestic waters - Exh. P-490-2)
EXPLORER DREAM LIMITED	M/V Explorer Dream	Yes	Bahamas	China
COSTA CROCIERE S.P.A	M/V Costa Venezia	Yes	Italy	China
PRINCESS CRUISE LINES LIMITED	M/V Sapphire Princess	Yes	United Kingdom	
COSTA CROCIERE S.P.A	M/V Costa Serena	Yes	Italy	Singapore Singapore
PRINCESS CRUISE LINES LIMITED	M/V Majestic Princess	Yes	United Kingdom	Singapore
HOLLAND AMERICA LINE N.V.	M/V Eurodam	Yes	Netherlands	Singapore
EXPLORER DREAM LIMITED	M/V Explorer Dream	Yes	Bahamas	China
PRINCESS CRUISE LINES LIMITED	M/V Royal Princess	Yes	Bermuda	Singapore
HOLLAND AMERICA LINE N.V.	M/V Amsterdam	No		Singapore
CANCELLED- World Fuel Services				
COSTA CROCIERE S.P.A	M/V Costa Venezia	Yes	Italy	China China
PRINCESS CRUISE LINES LIMITED	M/V Golden Princess	Yes	United Kingdom	Singapore
MIN SHENG FINANCIAL LEASING CO, LTD.	M/V Lan Hai He Xie	Yes	China	China
COSTA CROCIERE S.P.A	M/V Costa Serena	Yes	Italy	Singapore
HOLLAND AMERICA LINE N.V.	M/V Noordam	Yes	Netherlands	Singapore
CANCELLED- Sein Shipping Co.				
CANCELLED- Sein Shipping Co.				
HOLLAND AMERICA LINE N.V.	M/V Noordam	Yes	Netherlands	Singapore
CARNIVAL CORPORATION/CARNIVA L PLC	M/V Pacific Dawn	Yes	United Kingdom	Singapore
PRINCESS CRUISE LINES LIMITED	M/V Ruby Princess	Yes	Bermuda	Singapore
COSTA CROCIERE S.P.A	M/V Costa Venezia	Yes	Italy	China

CANCELLED- World Fuel Services				
HOLLAND AMERICA LINE N.V.	M/V Eurodam	Yes	Netherlands	Singapore
CARNIVAL CORPORATION/CARNIVA L PLC	M/V Pacific Aria	Yes	United Kingdom	Singapore
PRINCESS CRUISE LINES LIMITED	M/V Majestic Princess	Yes	United Kingdom	Singapore
PRINCESS CRUISE LINES LIMITED	M/V Royal Princess	Yes	Bermuda	Singapore
PRINCESS CRUISE LINES LIMITED	M/V Sapphire Princess	Yes	United Kingdom	Singapore
CARNIVAL CORPORATION/CARNIVA L PLC	M/V Queen Elizabeth	Yes	Bermuda	Singapore
CANCELLED- Holland America Line				
CARNIVAL CORPORATION/CARNIVA L PLC	M/V Carnival Panorama	Yes	Panama	Singapore
PRINCESS CRUISE LINES LIMITED	M/V Royal Princess	Yes	Bermuda	Singapore
PRINCESS CRUISE LINES LIMITED	M/V Majestic Princess	Yes	United Kingdom	Singapore
PRINCESS CRUISE LINES LIMITED	M/V Ruby Princess	Yes	Bermuda	Singapore
COSTA CROCIERE S.P.A	M/V Costa Serena	Yes	Italy	Singapore
PRINCESS CRUISE LINES LIMITED	M/V Sea Princess	Yes	Bermuda	Singapore
SILVER MUSE SHIPPING CO, LTD.	M/V Silver Muse	Yes	Bahamas	Singapore
CARNIVAL CORPORATION/CARNIVA L PLC	M/V Pacific Dawn	Yes	United Kingdom	Singapore
GREAT PAROS LIMITED	M/V Dayang Century	Yes	Liberia	
PRINCESS CRUISE LINES LIMITED	M/V Crown Princess	Yes	Bermuda	Singapore
PRINCESS CRUISE LINES LIMITED	M/V Golden Princess	Yes	United Kingdom	Singapore
SEIN SHIPPING CO LTD.	M/V Sein Phoenix	Yes	Korea	
SEIN SHIPPING CO LTD.	M/V Sein Venus	Yes	Korea	(no destination stated but did not ply the domestic waters - Exh. P-490-2)
SEA ROAD LINE INC.	M/V Shin Izu	Yes	Panama	

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				(no destination stated but did not ply the domestic waters - Exh. P-490-2)
MONJASA PTE LTD	N/A			

Indeed, only sales to clients whose foreign vessels are expressly identified in the MIA *Certification* and corroborated by BOC *Certifications* qualify as VAT zero-rated transactions under Section 106(A)(2)(a)(6) of the NIRC of 1997, as amended.

Conversely, the Court notes that the foreign vessels with *Bunkering Permit* Nos. listed below were not included in the BOC *Certifications* submitted to show that they did not ply in domestic waters and that they proceeded directly to a foreign port after their bunkering operations in a port in the Philippines. Consequently, they did not meet the *second* essential element. Hence, the corresponding sales of fuel to the owners of these foreign vessels, amounting to ₱46,346,812.04, as shown below, are not entitled to VAT zero-rating, as summarized below:

Exhibit No.	Name of Customer	Name of foreign vessel	Bunkering Permit No.	Sales Amount
"P-160"	PRINCESS CRUISE LINES LIMITED	M/V Sapphire Princess	195	₱ 20,425,308.75
"P-195"	GREAT PAROS LIMITED	M/V Dayang Century	315	10,289,796.00
"P-198"	SEIN SHIPPING CO LTD.	M/V Sein Phoenix	307	15,631,707.29
Total				**₱46,346,812.04**

Accordingly, out of the declared zero-rated sales/receipts of ₱877,254,255.58, only the remaining amount of ₱830,907,443.54[68] qualifies for VAT zero-rating under Section 106(A)(2)(a)(6) of the NIRC of 1997, as amended. Moreover, the said amount of ₱830,907,443.54 was found to be duly substantiated by VAT zero-rated SIs,[69] together with the related BDRs[70] and *Bunkering Permits*.[71]

Thus, in compliance with the *fourth* requisite, petitioner was able to establish its valid zero-rated sales to persons engaged in international shipping for the 2nd quarter of taxable year 2020, but only to the extent of ₱830,907,443.54.

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[68] Declared zero-rated sales/receipts of ₱877,254,255.58 less sales denied of VAT zero-rating in the amount of ₱46,346,812.04.
[69] USB (Exhibit "P-100-2"), Exhibits "P-150" to "P-200".
[70] USB (Exhibit "P-100-2"), Exhibits "P-202" to "P-270".
[71] USB (Exhibit "P-100-2"), Exhibits "P-290" to "P-336".

Meanwhile, since petitioner's claim pertains to zero-rated sales under Section 106(A)(2)(a)(6) of the NIRC of 1997, as amended, the *fifth* requisite concerning foreign currency inward remittance is inapplicable.

Sixth requisite: The input taxes being claimed do not appear to be transitional.

The input VAT being claimed does not appear to be transitional input tax, as understood under Section 111(A) of the NIRC of 1997, as amended, which provides:

> SEC. 111. *Transitional/Presumptive Input Tax Credits.* –
>
> (A) *Transitional Input Tax Credits.* – A person who becomes liable to value-added tax or any person who elects to be a VAT-registered person shall, subject to the filing of an inventory according to the rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, be allowed input tax on his beginning inventory of goods, materials and supplies equivalent to two percent (2%) of the value of such inventory or the actual value-added tax paid on such goods, materials and supplies, whichever is higher, which shall be creditable against the output tax.

Transitional input tax credits are statutorily intended to benefit newly VAT-registered persons, regardless of whether VAT was previously paid in the acquisitions of their beginning inventory of goods, materials, and supplies. During the period of transition from non-VAT to VAT status, the transitional input tax credits serve to alleviate the impact of the VAT on the taxpayer.[72]

Absent any indication that the claimed input VAT is a transitional input tax, the Court finds that petitioner has complied with the *sixth* requisite for the grant of an input VAT refund.

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[72] *Fort Bonifacio Development Corporation v. Commissioner of Internal Revenue*, G.R. Nos. 158885 & 170680, April 2, 2009 [Per J. Tinga, *En Banc*].

Seventh requisite: A portion of the input taxes claimed was due or paid.

Anent the *seventh* requisite, petitioner bears the burden of presenting competent and sufficient documentary evidence to establish that the input VAT claimed for refund for the 2nd quarter of TY 2020 was actually due or paid, in accordance with Section 110(A) of the NIRC of 1997, as amended, 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:
>
> . . . .
>
> (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:
>
> (a) To the purchaser upon consummation of sale and on importation of goods or properties[.]

The above provisions are implemented by Sections 4.110-1 to 4.110-2 of RR No. 16-2005,[73] as amended, which define input tax and enumerate the transactions for which input VAT may be credited against output VAT, as well as the manner of claiming input VAT on depreciable capital goods:

> 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

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[73] SUBJECT: Consolidated Value-Added Tax Regulations of 2005.

any input tax which cannot be directly attributed to either the taxable or exempt activity.

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:

. . . .

(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;

. . . .

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:

. . . .

(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.

Relative thereto, Section 4.110-8 of RR No. 16-2005 explicitly prescribes the substantiation requirements for input tax credits, mandating that input VAT be supported by appropriate documents, such as VAT invoices, official receipts, or import documents showing actual payment of VAT, 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 reported in the information returns required to be submitted to the Bureau:

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> (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. (Emphasis supplied)

From the foregoing, it is clear that, to be entitled to input tax credits or refunds, a taxpayer's claimed input VAT must be supported by: **VAT invoices** (for domestic purchases of goods) or **official receipts [ORs]** (for domestic purchases of services) issued in accordance with Section 113(A) and (B), 237 and 238 of the NIRC of 1997, as amended, as well as, **import documents** showing actual payment of VAT (for importation).

In its amended *Quarterly VAT Return* for the 2nd quarter of TY 2020,[74] petitioner declared input VAT in the aggregate amount of ₱119,745,145.75 from domestic purchases and importation of goods other than capital goods, and domestic purchases of services, to wit:

Domestic Purchases of Goods Other than Capital Goods	₱ 2,751,498.44
Importation of Goods Other than Capital Goods	107,708,684.78
Domestic Purchases of Services	9,284,962.53
Total Input Taxes for the period	**₱119,745,145.75**

However, out of its declared input VAT of ₱119,745,145.75, petitioner sought a refund of only ₱92,856,719.67 *(see highlighted portion)*, which is based on the total claimed input tax of ₱115,731,076.79, as shown below:[75]

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[74] Docket – Vol. II, p. 539, Exhibit "P-18-3".
[75] Docket – Vol. I, pp. 30-31, *Petition for Review*, par. 41 and 47.

	Input Tax
Local Taxable Purchases	₱ 8,022,392.00
Importations	107,708,684.79
Total Purchases/Input Tax	**₱115,731,076.79**

Sales	**% of Total Sales**	**Allocated Input Tax**
VATable sales/receipts - Private	19.77%	₱ 22,874,357.12
Zero-rated Sales	80.23%	[76]92,856,719.67
	100.00%	**₱115,731,076.79**

In support of its claimed input VAT of ₱115,731,076.79, petitioner submitted BOC Single Administrative Documents (SADs) and Statements of Settlement of Duties and Taxes (SSDTs)[77] for its importations, and various invoices, ORs, and other related documents[78] for its domestic purchases, which were all examined by the Court-commissioned Independent Certified Public Accountant (ICPA).

Based on the findings of the ICPA, the input VAT amounting to ₱200,637.21[79] was disallowed from the claim for lack of supporting documents.

Further verification by the Court revealed that the input VAT amounting to ₱1,400,731.65, broken down below, was disallowed for reasons stated hereunder:

Exhibit No.[80]	**Name of Supplier**	**Input Tax**
Input tax on domestic purchases of goods supported by VAT SIs but without the notation "THIS INVOICE SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF ATP/PTU."		
"P-427"	CHEVRON PHILIPPINES INC.	₱ 57,170.58
"P-428"	CHEVRON PHILIPPINES INC.	41,580.03
"P-429"	CHEVRON PHILIPPINES INC.	91,624.41
"P-431"	CHEVRON PHILIPPINES INC.	21,512.21
"P-432"	CHEVRON PHILIPPINES INC.	77,448.65
"P-433"	CHEVRON PHILIPPINES INC.	29,994.26
"P-434"	CHEVRON PHILIPPINES INC.	107,130.91
"P-435"	CHEVRON PHILIPPINES INC.	55,351.09
"P-436"	CHEVRON PHILIPPINES INC.	56,503.62
"P-437"	CHEVRON PHILIPPINES INC.	111,714.16
"P-438"	CHEVRON PHILIPPINES INC.	86,325.14
"P-441"	CHEVRON PHILIPPINES INC.	66,111.05
"P-442"	CHEVRON PHILIPPINES INC.	25,627.58

76 Erroneously indicated as ₱92,856,7<u>91</u>.67 in the table per Docket – Vol. I, p. 31, *Petitioner for Review*, par. 47.
77 USB (Exhibit "P-100-2"), Exhibits "P-420" to "P-424" (inclusive of "P-42x-1" sub-markings).
78 USB (Exhibit "P-100-2"), Exhibits "P-425" to "P-487".
79 Docket – Vol. I, pp. 306-313, Annex $H_{2.1}$ of ICPA Report (Exhibit "P-100").
80 USB (Exhibit "P-100-2").

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"P-443"	CHEVRON PHILIPPINES INC.	159,450.54
"P-444"	CHEVRON PHILIPPINES INC.	60,536.68
"P-445"	CHEVRON PHILIPPINES INC.	107,399.38
"P-446"	CHEVRON PHILIPPINES INC.	125,038.69
"P-447"	CHEVRON PHILIPPINES INC.	52,468.61
Input tax on domestic purchase of goods supported by VAT SI but without the TIN of petitioner and the notation "THIS INVOICE SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF ATP/PTU."		
"P-440"	CHEVRON PHILIPPINES INC.	3,475.19
Input tax on domestic purchases of services supported by VAT ORs, but the nature of the services was not indicated therein.		
"P-451"	DHL EXPRESS (PHILIPPINES) CORP.	1,250.61
"P-471"	INTERTEK TESTING SERVICES PHILIPPINES, INC.	62,923.89
Overclaimed input tax on domestic purchases of services		
"P-470"	INTERTEK TESTING SERVICES PHILIPPINES, INC. (₱38,388.88 per claim less ₱38,388.80 per OR)	0.08
"P-483"	PUNONGBAYAN & ARAULLO (₱5,280.00 per claim less ₱5,185.71 per OR)	94.29
	Total	**₱1,400,731.65**

Accordingly, from the total claimed input VAT of ₱115,731,076.79, the total disallowances amount to ₱1,601,368.86, computed as follows:

Total claimed input VAT		₱ 115,731,076.79
Less: Disallowances		
Per ICPA findings	₱ 200,637.21	
Per the Court's further verification	1,400,731.65	1,601,368.86
Valid Input VAT		**₱114,129,707.93**

Thus, out of the total claimed input VAT of ₱115,731,076.79, only the amount of ₱114,129,707.93 represents petitioner's valid input VAT actually due or paid for the 2nd quarter of TY 2020. To this extent, petitioner partially complied with the seventh requisite for the grant of an input VAT refund.

Eighth requisite: Portion of the input taxes claimed is attributable to zero-rated or effectively zero-rated sales.

The *eighth* requisite requires that the input taxes claimed for refund be attributable to zero-rated or effectively zero-rated sales. Where a taxpayer is engaged in both zero-rated (or effectively zero-rated) sales and taxable or exempt sales, and the input taxes incurred cannot be directly and exclusively

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attributed to any particular class of sales, the law mandates that the input taxes be allocated proportionately on the basis of sales volume.

As earlier mentioned, petitioner had both zero-rated sales and VATable sales subject to 12% VAT during the 2nd quarter of TY 2020, as follows:

Vatable Sales/Receipts	₱ 216,103,124.35
Zero-Rated Sales/Receipts	877,254,255.58
Total Sales/Receipts	**₱1,093,357,379.93**

Since petitioner's input VAT cannot be directly or entirely attributed to either taxable or zero-rated sales, the valid input VAT of ₱114,129,707.93 must be allocated proportionately based on the volume of total sales/receipts, thus:

Total Vatable Sales/Receipts for the period	₱ 216,103,124.35
Divided by the Total Sales/Receipts for the period	1,093,357,379.93
Multiplied by Total Valid Input VAT for the period	114,129,707.93
Valid Input VAT Allocated to Total Vatable Sales/Receipts	**₱ 22,557,845.15**

Total Zero-Rated Sales/Receipts for the period	₱ 877,254,255.58
Divided by the Total Sales/Receipts for the period	1,093,357,379.93
Multiplied by Total Valid Input VAT for the period	114,129,707.93
Valid Input VAT Allocated to Total Zero-Rated Sales/Receipts	**₱ 91,571,862.78**

Thus, for purposes of compliance with the *eighth* requisite, only ₱91,571,862.78 constitutes petitioner's valid input VAT attributable to its total zero-rated sales/receipts for the 2nd quarter of TY 2020.

Ninth requisite: The subject input taxes were not applied against output taxes in the current or succeeding quarters.

Having determined that petitioner had input VAT attributable to its zero-rated sales/receipts, the Court now considers whether such input VAT was not applied against output VAT liabilities during the subject quarter or in the succeeding quarters, in relation to the *ninth* requisite for a valid refund claim.

In *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue*,[81] the Supreme Court held that the input tax attributable to zero-rated sales may, at the option of the VAT-registered taxpayer, be: (1) charged against output tax from regular 12% VATable 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, and such option is vested with the taxpayer-claimant. The choice between these remedies rests solely with the taxpayer-claimant, to wit:

> Thus, the input tax attributable to zero-rated sales may, **at the option of the VAT-registered taxpayer**, be: (1) charged against output tax from regular 12% VAT-able sales, and any unutilized or "excess" input tax may be claimed for refund of 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**. (Emphasis supplied)

In the present case, petitioner clearly elected the *second* option, as it opted to claim for refund the entire amount of input VAT allegedly attributable to its zero-rated sales/receipts, amounting to ₱92,856,719.67, without offsetting the same against any output VAT liability.

However, considering that petitioner was able to substantiate only ₱830,907,443.54 out of its total zero-rated sales of ₱877,254,255.58, only the corresponding input VAT attributable to the substantiated zero-rated sales shall be refundable. Thus, the refundable amount is limited to ₱86,733,967.85, computed as follows:

Valid Input VAT attributable to Total Zero-Rated Sales/Receipts	₱91,571,862.78
Divided by Total Zero-Rated Sales/Receipts	877,254,255.58
Multiplied by Valid Zero-Rated Sales/Receipts	830,907,443.54
Total Refundable Amount	**₱86,733,967.85**

Moreover, the claimed input VAT of ₱92,856,719.67, which includes the refundable input VAT of ₱86,733,967.85, remained unutilized since it was deducted as "VAT Refund/TCC

[81] G.R. No. 215159, July 5, 2022 [Per J. Lopez, M, *En Banc*].

claimed"[82] in petitioner's amended *Quarterly VAT Return* for the 2nd quarter of TY 2020, thereby preventing the carry-over or application of such input taxes in the succeeding taxable periods.

Thus, petitioner is deemed to have complied with the *ninth* requisite for the grant of its claim for refund/tax credit of input VAT.

In fine, petitioner satisfied the *ninth* requisite, and has sufficiently proven its entitlement to a refund of **₱86,733,967.85**, representing its unutilized and excess input VAT attributable to its zero-rated sales/receipts for the 2nd quarter of TY 2020.

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND** in favor of petitioner, the amount of **₱86,733,967.85** representing the latter's unutilized and excess input VAT attributable to its zero-rated sales/receipts for the 2nd quarter of taxable year 2020.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[82] Docket – Vol. II, p. 540, Exhibit "P-18-3" (Line 23D); While petitioner deducted the amount of ₱96,077,403.99 (included the claimed amount of ₱92,856,719.67) as VAT Refund/TCC Claimed per its amended 2nd *Quarterly Vat Return* for 2020, only the amount of ₱92,856,719.67 was the subject of its administrative and judicial claims for refund.

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Acting Chairperson

CERTIFICATION

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

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice