

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Third Division

PILIPINAS KYOHRITSU, INC.,
Petitioner,

CTA CASE NO. 9991

-versus-

Members:
UY, *Chairperson,*
RINGPIS-LIBAN, *and*
MODESTO-SAN PEDRO, *II.*

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

Promulgated:
MAY 16 2022
1:36 p.m.

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DECISION

RINGPIS-LIBAN, J.

STATEMENT OF THE CASE

This *Petition for Review* under Rule 4, Section 3 of A.M. No. 05-11-07-CTA, otherwise known as the “*Revised Rules of the Court of Tax Appeals*”, in relation to Section 3, Rule 8 of the same Rules and Section 112 of the Tax Code, as amended, is an appeal of the denial of the application for value-added tax (VAT) refund covering the period July 1, 2016 to September 30, 2016, amounting to ₱7,874,469.66, and administratively filed on September 18, 2018.¹

THE PARTIES

Petitioner Pilipinas Kyohritsu, Inc. is registered with the Bureau of Internal Revenue (BIR) as a VAT-registered taxpayer, under Tax Identification Number (TIN) 000-269-082-00000, with address at Km. 75 Laurel Highway, Inosloban, Lipa City, Batangas.²

Respondent is the Commissioner of Internal Revenue, who was duly appointed and is empowered to perform the duties of his office, including the

¹ Statement of the Case, Pre-Trial Order dated June 17, 2019, Docket – Vol. 1, p. 414.

² Exhibit “P-1”, Docket – Vol. 2, pp. 713 to 714.

power to grant or deny tax refunds, pursuant to Section 112 (c) of the Tax Code, as amended by Republic Act (RA) 8424, otherwise known as the “*Tax Reform Act of 1997*”. His office is located at the BIR National Office Building, Agham Road, Diliman, Quezon City.³

THE FACTS OF THE CASE

On September 18, 2018, petitioner filed its *Application for Tax Credits/ Refund* (BIR Form No. 1914),⁴ and the letter dated September 17, 2018,⁵ applying for a VAT Refund amounting to ₱13,391,857.11, for the period from July 1, 2016 to September 30, 2016.

On December 3, 2018, petitioner received a copy of *VAT Refund Notice* dated November 15, 2018, signed by Assistant Commissioner for the Assessment Service, Ms. Erlinda A. Simple,⁶ the contents of which are the following:

“This has reference to your claim for Value Added Tax (VAT) refund covering the period from July 1, 2016 to September 30, 2016 in the amount of Php13,391,857.11 pursuant to Section 112 of the National Internal Revenue Code (NIRC) of 1997, as amended.

Please be informed that, upon processing of the aforementioned claim under Tax Verification Notice (TVN) No. 2018-00024330 dated September 18, 2018, the total amount of input tax allowable for VAT refund on local purchases and importations is **Php3,386,009.79**, net of disallowances. Details are shown on the attached sheet marked as Annex ‘A’ and summarized as follows:

A. Local Purchases

VAT Refund Claimed	Php 10,965,785.44
Less: Disallowances	9,928,829.53
Net Approved VAT Refund	<u>Php 1,036,955.91</u>

B. Importations

VAT Refund Claimed	Php 2,426,071.67
Less: Disallowances	77,017.79
Recommended Net Approved VAT Refund	<u>Php 2,349,053.88</u>

Total Amount Approved for VAT Refund **Php 3,386,009.79**

The amount of **Php2,349,053.88** representing the approved VAT refund on importations is subject to further verification of actual receipts of

³ Par. 1, Admitted Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. 1, p. 389.
⁴ Exhibit “P-3”, Docket, Vol. 2. p. 720.
⁵ Exhibit “P-2”, Docket, Vol. 2. pp. 716 to 718.
⁶ Exhibit “P-4”, Docket – Vol. 2, pp. 722 to 723; Exhibit “R-1”, BIR Records, pp. 575 to 576.

VAT payments by the Bureau of Customs (BOC), in compliance with the requirements of the Commission on Audit.

The approved report on the said claim may be subjected to audit/investigation and should there be material findings, the amount allowable may be adjusted and/or an assessment notice may be issued for the collection of any deficiency tax or excess tax refund.”

In arriving at the said amount of ₱3,386,009.79, respondent disallowed input VAT on various items, as follows:⁷

A. Local Purchases		
VAT Refund Claimed		₱ 10,965,785.44
Disallowances after VCAD verification:		
Disallowed input VAT per Vouching	₱ (113,784.40)	
Disallowed input VAT per ITS	(11,603.44)	
Deferred input VAT on capital goods	(199,151.80)	
Output VAT on Interest Income	(20,517.53)	
Output VAT from reimbursed expenses	(890,065.88)	
Withholding VAT on royalty fees paid to parent	(816,725.15)	
Input tax allocable to unsupported export proceeds	(334.92)	(2,052,183.12)
Disallowances after review:		
Output VAT assessed on PPE written-off deemed sale	₱ (7,874,469.66)	
Additional Deferred Input VAT	(2,176.75)	(7,876,646.41)
NET Allowable VAT Refund		₱1,036,955.91
B. Importations		
VAT Refund Claimed		₱ 2,426,071.67
Disallowances after VCAD verification:		
Disallowed input VAT per Vouching	₱ (49,796.32)	(49,796.32)
Disallowances after review:		
Allocable input VAT to non-substantiated export sales	(27,221.47)	(27,221.47)
NET ALLOWABLE VAT REFUND		₱2,349,053.88

Petitioner filed the present *Petition for Review* on December 21, 2018.⁸

On January 15, 2019, respondent filed his *Answer*⁹ interposing the following special and affirmative defenses, to wit: that the petition must be dismissed for failure of petitioner to substantiate its administrative claim for refund; that since respondent rendered a Decision in the administrative level, the Court’s jurisdiction becomes strictly appellate in nature; that since respondent rendered a decision, the jurisdiction of the Court shifts from a trial court to an appellate tribunal; that the Court should confine itself to whether the findings of respondent are consistent with law; that since the instant case is

⁷ Par. 18, *Petition for Review*, vis-à-vis Par. 1, *Answer*, Docket – Vol. 1, pp. 16 and 37, respectively.

⁸ Docket – Vol. 1, pp. 10 to 25.

⁹ Docket – Vol. 1, pp. 37 to 44.

a judicial review, it is *trial de novo* in the sense that litigants must present anew their evidence in accordance with the Rules of Court; that a Decision has been rendered in this case denying petitioner's administrative claim for refund for failure to substantiate the same, petitioner cannot submit documents it did not submit at the administrative level; that petitioner is not entitled to refund in the amount of P7,874,469.66; and that taxes paid and collected by the Bureau of Internal Revenue (BIR) are presumed to have been made in accordance with law, rules and regulations and the burden to prove otherwise is upon petitioner.

Respondent transmitted the *BIR Records* of this case on January 17, 2019.¹⁰

The Pre-Trial Conference was set and held on May 2, 2019.¹¹ Prior thereto, *Respondent's Pre-Trial Brief* was filed on February 7, 2019,¹² while petitioner's *Pre-Trial Brief* was submitted on April 26, 2019.¹³

On May 10, 2019, the parties presented their *Joint Stipulation of Facts and Issues*,¹⁴ which was admitted and approved in the Resolution dated May 16, 2019.¹⁵ The Pre-Trial Order dated June 17, 2019 was then issued.¹⁶

Trial then ensued.

During trial, petitioner presented its documentary and testimonial evidence. It offered the testimonies of the following individuals, namely: (1) Ms. Edna Luisa Lopez,¹⁷ petitioner's Manager of Finance and Management Accounting Department; and (2) Ms. Evelyn Ocampo,¹⁸ Assistant Manager of the Management Accounting Section of petitioner.

Petitioner filed its *Formal Offer of Evidence* on November 25, 2019.¹⁹ Respondent then filed his *Comment (Re: Petitioner's Formal Offer of Evidence)* on November 28, 2019.²⁰ In the Resolution dated January 28, 2020,²¹ the Court admitted Exhibits "P-30", "P-30.1", "P-31" and "P-31-1"; but *denied* the admission of Exhibits "P-1", "P-2", "P-2.1", "P-2.2", "P-3", "P-3.1", "P-3.2",


¹⁰ Docket – Vol. 1, pp. 46 to 48.

¹¹ *Notice of Pre-Trial Conference* dated January 18, 2019, Docket – Vol. 1, pp. 51 to 52; Minutes of the hearing held on and Order dated May 2, 2019, Docket – Vol. 1, pp. 385 and 387 to 388.

¹² Docket – Vol. 1, pp. 53 to 56.

¹³ Docket – Vol. 1, pp. 376 to 382.

¹⁴ Docket – Vol. 1, pp. 389 to 395.

¹⁵ Docket – Vol. 1, p. 397.

¹⁶ Docket – Vol. 1, pp. 414 to 420.

¹⁷ Exhibit "P-30", Docket – Vol. 1, pp. 73 to 96; Minutes of the hearing held on, and Order dated, July 25, 2019, Docket – Vol. 1, p. 443 to 444.

¹⁸ Exhibit "P-31", Docket – Vol. 2, pp. 453 to 465; Minutes of the hearing held on, and Order dated, November 14, 2019, Docket – Vol. 2, pp. 681 to 683.

¹⁹ Docket – Vol. 2, pp. 684 to 692.

²⁰ Docket – Vol. 2, pp. 695 to 697.

²¹ Docket – Vol. 2, pp. 702 to 705.

“P-4”, “P-5”, “P-5.1”, “P-5.2”, “P-5.3”, “P-5.4”, “P-5.5”, “P-5.6”, “P-6”, “P-6.1”, “P-6.2”, “P-6.3”, “P-6.4”, “P-6.5”, “P-6.6”, “P-6.7”, “P-6.8”, “P-6.9”, “P-6.10”, “P-6.11”, “P-6.12”, “P-6.13”, “P-6.14”, “P-6.15”, “P-6.16”, “P-7”, “P-7.1”, “P-7.2”, “P-7.3”, “P-7.4”, “P-7.5”, “P-7.6”, “P-7.7”, “P-7.8”, “P-7.9”, “P-7.10”, “P-7.11”, “P-7.12”, “P-7.13”, “P-7.14”, “P-7.15”, “P-7.16”, “P-8”, “P-8.1”, “P-8.2”, “P-8.3”, “P-8.4”, “P-8.5”, “P-8.6”, “P-8.7”, “P-8.8”, “P-8.9”, “P-8.10”, “P-8.11”, “P-8.12”, “P-8.13”, “P-8.14”, “P-8.15”, “P-8.16”, “P-9”, “P-10”, “P-10.1”, “P-10.2”, “P-10.3”, “P-10.4”, “P-10.5”, “P-10.6”, “P-10.7”, “P-10.8”, “P-11”, “P-12”, “P-13”, “P-14”, “P-15”, “P-16”, “P-16.1”, “P-16.2”, “P-16.3”, “P-16.4”, “P-16.5”, “P-16.6”, “P-16.7”, “P-16.8”, “P-17”, “P-17.1”, “P-17.2”, “P-17.3”, “P-17.4”, “P-17.5”, “P-17.6”, “P-17.7”, “P-17.8”, “P-18”, “P-19”, “P-20”, “P-21”, “P-22”, “P-23”, “P-24”, “P-25”, “P-26”, “P-27”, “P-28” and “P-29”, for failure to submit the duly marked exhibits.

Petitioner then filed its *Motion for Reconsideration with Motion to Admit Exhibits Marked* on February 17, 2020.²² Respondent failed to file his comment thereon.²³ In the Resolution dated July 16, 2020,²⁴ the Court granted petitioner’s *Motion for Partial Reconsideration with Motion to Admit Exhibits Marked*, and accordingly admitted Exhibits “P-1”, “P-2”, “P-2.1”, “P-2.2”, “P-3”, “P-3.1”, “P-3.2”, “P-4”, “P-5”, “P-5.1”, “P-5.2”, “P-5.3”, “P-6”, “P-6.1”, “P-6.2”, “P-6.3”, “P-6.4”, “P-6.5”, “P-6.6”, “P-6.7”, “P-6.8”, “P-6.9”, “P-6.10”, “P-6.11”, “P-6.12”, “P-6.13”, “P-6.14”, “P-6.15”, “P-6.16”, “P-7”, “P-7.1”, “P-7.2”, “P-7.3”, “P-7.4”, “P-7.5”, “P-7.6”, “P-7.7”, “P-7.8”, “P-7.9”, “P-7.10”, “P-7.11”, “P-7.12”, “P-7.13”, “P-7.14”, “P-7.15”, “P-7.16”, “P-7-17”, “P-7-18”, “P-8”, “P-8.1”, “P-8.2”, “P-8.3”, “P-8.4”, “P-8.5”, “P-8.6”, “P-8.7”, “P-8.8”, “P-9”, “P-10”, “P-10.1”, “P-10.2”, “P-10.3”, “P-10.4”, “P-11”, “P-12”, “P-13”, “P-14”, “P-15”, “P-16”, “P-16.1”, “P-16.2”, “P-16.3”, “P-16.4”, “P-16.5”, “P-17”, “P-17.1”, “P-17.2”, “P-17.3”, “P-17.4”, “P-18”, “P-19”, “P-20”, “P-21”, “P-22”, “P-23”, “P-24”, “P-25”, “P-26”, “P-27”, “P-28” and “P-29”.

Respondent likewise presented his documentary and testimonial evidence. He proffered the testimony of Revenue Officer Orlando B. Torre.²⁵ During the hearing for the presentation of said witness on March 10, 2021, respondent’s counsel orally presented his *Formal Offer of Evidence* of Exhibits “R-1”, “R-2”, “R-3”, “R-3-a”, and “R-4”, which the Court admitted.²⁶

The *Memorandum (for Petitioner Pilipinas Kyobritsu, Inc.)* was posted on April 26, 2021,²⁷ while respondent’s *Memorandum* was filed on June 7, 2021.²⁸

²² Docket – Vol. 2, pp. 706 to 712.

²³ Records Verification Report dated June 17, 2020 issued by the Judicial Records Division of this Court, Docket – Vol. 3, p. 1007.

²⁴ Docket – Vol. 3, pp. 1009 to 1011.

²⁵ Exhibit “R-3”, Docket – Vol. 1, pp. 63 to 67; Minutes of the hearing held on and Order dated, March 10, 2021, Docket – Vol. 3, pp. 1019 to 1021.

²⁶ Minutes of the hearing held on and Order dated, March 10, 2021, Docket – Vol. 3, pp. 1019 to 1021.

²⁷ Docket – Vol. 3, pp. 1048 to 1070.

²⁸ Docket – Vol. 3, pp. 1074 to 1080.

On June 22, 2021, this case was deemed submitted for decision.²⁹

THE ISSUES RAISED BY THE PARTIES

The following issues were stipulated by the parties for the Court's resolution, to wit:

- “1. Whether or not the Petitioner is entitled to an additional refund of its unutilized and/or unused input VAT in the total amount of Seven Million Eight Hundred Seventy Four Thousand and Four Hundred Sixty Nine Pesos and 66/100 (Php7,874,469.66) covering the period of July 01, 2016 to September 30, 2016
2. Whether or not the decision of the Commissioner of Internal Revenue dated November 15, 2018 is correct based on the documents submitted by the petitioner to the respondent”.³⁰

Petitioner's arguments:

Petitioner argues that it is entitled to an additional refund of its unutilized and/or input VAT in the total amount of ₱7,874,469.99.

Respondent's counter-arguments:

Respondent argues that the petition must be dismissed for failure of petitioner to substantiate its administrative claim for refund; and that petitioner is not entitled to refund in the amount of ₱7,874,469.99.

THE COURT'S RULING

The present *Petition for Review* lacks merit.

Requisites under the law for the refund or issuance of tax credit certificate of input VAT

Pursuant to the provisions of Section 112(A) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act (RA) No. 

²⁹ Resolution dated June 22, 2021, Docket – Vol. 3, p. 1084.

³⁰ Issues, JSFI, Docket – Vol. 1, p. 390.

9337³¹, jurisprudence has laid down certain requisites which must be complied with by the taxpayer-applicant to successfully obtain a credit/refund of input VAT. Said requisites are classified into certain categories, to wit:

As to the timeliness of the filing of the administrative and judicial claims:

1. the claim is filed with the BIR within two years after the close of the taxable quarter when the sales were made;³²
2. that 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 120 days from the date of submission of complete documents in support of the application, the judicial claim must be filed with this Court, within 30 days from receipt of the decision or after the expiration of the said 120-day period;³³

With reference to the taxpayer's registration with the BIR:

3. the taxpayer is a VAT-registered person;³⁴

In relation to the taxpayer's output VAT:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;³⁵
5. for zero-rated sales under Sections 106(A)(2)(a)(1), (2) and (b); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations;³⁶

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;³⁷
7. the input taxes are due or paid;³⁸
8. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both

³¹ AN ACT AMENDING SECTIONS 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

³² *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009; and *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010.

³³ *Steag State Power, Inc. (Formerly State Power Development Corporation) vs. Commissioner of Internal Revenue*, G.R. No. 205282, January 14, 2019; *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.

³⁴ *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc.*, supra.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

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;³⁹ and

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.⁴⁰

In addition, in claims for VAT refund/credit, applicants must satisfy the substantiation and invoicing requirements under the NIRC and other implementing rules and regulations.⁴¹ Thus, petitioner's compliance with all the VAT invoicing requirements is required to be able to file a claim for input taxes attributable to zero-rated sales.⁴² The invoicing and substantiation requirements should be followed because it is the only way to determine the veracity of the taxpayer's claims.⁴³ Moreover, it must be emphasized that compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.⁴⁴

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.⁴⁵

Furthermore, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove every minute aspect of their case.⁴⁶ Thus, it behooves petitioner to show compliance with each of the foregoing requisites. As a corollary, the absence of *any* of the said requisites is already a valid ground to deny the refund claim. ✓

³⁹ *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.

⁴⁰ *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc.*, supra.

⁴¹ *Team Energy Corporation vs. Commissioner of Internal Revenue*, et seq., G.R. Nos. 197663 and 197770, March 14, 2018.

⁴² *JRA Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013.

⁴³ *Nippon Express (Philippines) Corporation vs. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018.

⁴⁴ *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.

⁴⁵ *Team Energy Corporation vs. Commissioner of Internal Revenue*, et seq., supra.

⁴⁶ *Edison (Bataan) Cogeneration Corporation vs. Commissioner of Internal Revenue*, et seq., G.R. Nos. 201665 and 201668, August 30, 2017; *Commissioner of Internal Revenue vs. Philippine National Bank*, G.R. No. 180290, September 29, 2014; *Commissioner of Internal Revenue vs. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014; *Dizon vs. Court of Tax Appeals*, et al., G.R. No. 140944, April 30, 2008; *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007; and *Commissioner of Internal Revenue vs. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.

Petitioner's administrative and judicial claims were timely filed.

To repeat, the *first* requisite pertains to the filing of a claim for tax refund or tax credit of input VAT before the BIR, within two (2) years from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim covers the 2nd quarter of fiscal year ending March 31, 2017, *i.e.*, July 1, 2016 to September 30, 2016. Counting two (2) years from the close of the said quarter, petitioner had until September 30, 2018, within which to file its administrative claim for tax credit certificate/refund. Thus, petitioner's administrative claim, together with the supporting documents, filed on September 18, 2018⁴⁷ fell within the 2-year prescriptive period.

The *second* requisite necessitates that the judicial claim must have been filed within 30 days from receipt of respondent's decision or after the expiration of the 120-day period under Section 112(C) of the NIRC of 1997, as amended. Thus, from the filing of petitioner's administrative claim on September 18, 2018, respondent had 120 days or until January 16, 2019 to act on the said claim.

Respondent, through Assistant Commissioner Erlinda A. Simple, issued *VAT Refund Notice* dated November 15, 2018⁴⁸ (which was issued within the 120-day period prescribed by law), informing petitioner that its claim was partially approved in the amount of ₱3,386,009.79.

Considering that petitioner received the said notice on December 3, 2018, the filing of the present *Petition for Review* on December 21, 2018⁴⁹ was timely made within the prescribed 30-day period.

Such being the case, the Court finds that petitioner complied with the above-stated *first* and *second* requisites.

Petitioner is a VAT-registered taxpayer.

As for its compliance with the *third* requisite, petitioner has fulfilled the same by presenting its Certificate of Registration with OCN No. 8RC0000906901E dated March 14, 2017, under TIN 000-269-082-00000.⁵⁰

⁴⁷ Exhibits "P-2" and "P-3", Docket – Vol. 2, pp. 716 to 720.

⁴⁸ Exhibit "P-4", Docket – Vol. 2, pp. 722 to 723.

⁴⁹ Docket – Vol. 1, pp. 10 to 25.

⁵⁰ Exhibit "P-1", Docket – Vol. 2, pp. 713 to 714.

The input VAT being claimed do not appear to be transitional input taxes.

The claimed input taxes do *not* appear to be transitional input taxes, as understood under Section 111(A) of the NIRC of 1997, as amended, to wit:

“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 credit operates to benefit newly VAT-registered persons, whether or not they previously paid taxes 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 credit serves to alleviate the impact of the VAT on the taxpayer.⁵¹ Since there is no showing that the claimed input taxes are transitional input taxes, petitioner has complied with the *sixth* requisite for the grant of an input VAT refund.

Petitioner failed to prove compliance with the fourth, fifth, seventh and eighth requisites for the grant of an input VAT refund claim.

Petitioner failed to prove that it has complied with the invoicing requirements under the NIRC of 1997 and other appropriate regulations.

To reiterate, cases filed in this Court are litigated *de novo*. Thus, petitioner should prove every minute aspect of its case by presenting, formally offering and submitting to this Court all evidence required for the successful prosecution of its administrative party-litigants must prove every minute aspect of their case.⁵²

⁵¹ *Fort Bonifacio Development Corporation vs. Commissioner of Internal Revenue*, G.R. Nos. 158885 and 170680, April 2, 2008.

⁵² Refer to *Commissioner of Internal Revenue vs. Philippine National Bank*, *supra*.

The term “*de novo*” means anew, afresh, or a second time;⁵³ or re-started from the beginning, or begun all over again.⁵⁴ A trial *de novo* means a new trial in the same manner, with the same effect, and upon the same issues as the case was tried in the lower court, in accordance with the rules of practice in the appellate court.⁵⁵

Notably, petitioner did not treat the proceedings before this Court as one *de novo*, since petitioner did not present, formally offer, and submit evidence to establish the *fourth*, *fifth*, *seventh*, and *eighth* requisites to successfully obtain a credit/refund of input VAT.

Petitioner further failed to establish that the input VAT claim of ₱7,874,469.66 is unapplied against any output tax during and in the succeeding quarters.

The *ninth* requisite under Section 112(A) of the NIRC of 1997, as amended, that the input taxes have not been applied against output taxes during and in the succeeding quarters, must be read and applied in conjunction with Section 110 (B) thereof which provides as follows:

“SEC. 110. *Tax Credits.* —

xxx xxx xxx

(B) *Excess Output or Input Tax.* — If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters: *Provided, however,* That any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.”

It is evident from the foregoing that when the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter/s. But when input tax attributable to zero-rated sales exceeds the output tax, the excess input tax may be refunded or credited against other internal revenue taxes. Hence, for input tax attributable to zero-rated sales, it is only when input tax exceeds the output tax and the same is unapplied/unutilized against any output tax, that a refund or credit is proper.

⁵³ Refer to The Attorney's Pocket Dictionary, ©1981, p. 546.

⁵⁴ Refer to Random House Webster's Dictionary of the Law, ©2000, p. 125.

⁵⁵ *The People of the Philippines vs. Bawasanta*, G.R. No. 45467, June 30, 1937.

As determined earlier, petitioner is liable for 12% output VAT amounting to ₱7,874,469.66 on deemed sale transactions. As correctly found by respondent, the amount of ₱7,874,469.66 does not represent petitioner's refundable excess input VAT as it was applied/offset against petitioner's output VAT on the deemed sale transactions. There being no excess input VAT as a result of zero-rated sales of petitioner, the said *ninth* requisite is likewise not complied with by the latter.

The Court reiterates its consistent ruling that actions for tax refund or credit, as in the instant case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven. The burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit. Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented as they are not intended to be liberally construed.⁵⁶

Thus, in view of petitioner's failure to prove, to the satisfaction of the Court, its entitlement to the grant of tax refund or issuance of tax credit of input VAT in the amount of ₱7,874,469.66, the Court must perforce deny the present claim for refund.

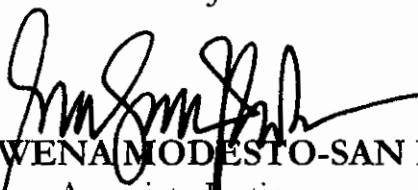
WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **DENIED** for lack of merit.

SO ORDERED.


MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:


ERLINDA P. UY
Associate Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

⁵⁶ *Coca-Cola Bottlers Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 222428, February 19, 2018.

ATTESTATION

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


ERLINDA P. UY
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, is it 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