REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

DEUTSCHE KNOWLEDGE SERVICES, PTE.LTD., *Petitioner,*	CTA EB Nos. 1763 (CTA Case Nos. 8623, 8656, 8661 & 8685)
-versus-	
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	

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COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	CTA EB No. 1764 (CTA Case Nos. 8623, 8656, 8661 & 8685)
-versus-	*Present*: DEL ROSARIO, P.J., CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, and MANAHAN, *JJ.*
DEUTSCHE KNOWLEDGE SERVICES, PTE.LTD., *Respondent.*	Promulgated: JUN 07 2019 3:55 p.m.

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DECISION

MINDARO-GRULLA, J.:

Submitted for decision on July 26, 2018 to the Court En Banc are Petitions for Review filed by Deutsche Knowledge Services, PTE, LTD., (Deutsche) and the Commissioner of Internal Revenue (CIR) under Section 18, Republic Act No.

1125, as amended by R.A. No. 9282[1], seeking the reversal of the Decision[2] dated 04 August 2017 and the Resolution[3] dated 15 December 2017 rendered by the Third Division of this Court, the dispositive portions of which, respectively, read as follows:

Decision dated August 4, 2017:

"**WHEREFORE,** the present Petitions for Review are hereby **PARTIALLY GRANTED**. Accordingly, let a tax refund or a tax credit certificate be issued in favor of petitioner in the reduced amount of P17,188,625.90, representing its unutilized and excess input VAT attributable to zero-rated sales for the first, second, third, and fourth quarters of calendar year 2011.

SO ORDERED."

Resolution dated December 15, 2017:

"**WHEREFORE**, the Court DENIES, for lack of merit:

1. Respondent's and Petitioner's respective Motions for Partial Reconsideration dated August 18 and 24, 2017; and

2. Petitioner's Motion to Reopen Trial incorporated in its Motion for Partial Reconsideration.

SO ORDERED."

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[1] R.A 9282, Section 11. Section 18 of the same Act is hereby amended as follows:

"**SEC. 18. Appeal to the Court of Tax Appeals En Banc.** - No civil proceeding involving matter arising under the National Internal Revenue Code, the Tariff and Customs Code or the Local Government Code shall be maintained, except as herein provided, until and unless an appeal has been previously filed with the CTA and disposed of in accordance with the provisions of this Act.

"A party adversely affected by a resolution of a Division of the CTA on a motion for reconsideration or new trial, may file a petition for review with the CTA en banc."

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[2] Penned by Associate Justice Esperanza R. Fabon- Victorino, concurred in by Associate Justice Lovell R. Bautista and Associate Justice Ma.Belen M. Ringpis-Liban, En Banc Docket, pp. 48-85.
[3] Id., pp. 87-93.

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The following facts of the case as recited by the Third Division in its Decision and as established by evidence on record[4], read as follows:

> "Petitioner Deutsche Knowledge Services Pte. Ltd. is a foreign corporation organized and existing under the laws of Singapore, with license to transact business in the Philippines with office address at Net Quad Center, 31st Street corner 4th Avenue, E-Square Zone Crescent Park West, Taguig City. It is a VAT-registered taxpayer as of June 16, 2005, with Taxpayer Identification No. (TIN) 238-763-115-000.
>
> Petitioner is also registered with the Securities and Exchange Commission (SEC) and it is licensed to do business as a regional operating headquarters (ROHQ) in the Philippines. It is engaged in general administration and planning; business planning and coordination; sourcing/procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistic services; research and development services and product development; technical support and maintenance; data processing and communication and business development to its affiliates in the Philippines and abroad.
>
> On the other hand, respondent is Commissioner of the Bureau of Internal Revenue (BIR), with power to decide, approve, and grant refunds of internal revenue taxes or issue a tax credit certificate. He holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.
>
> Petitioner filed with the BIR its Monthly VAT Declarations and Quarterly VAT Returns through the Electronic Filing and Payments System (EFPS), for the period beginning January 1, 2011 to December 31, 2011 as follows:

PERIOD COVERED	DATE FILED
January 2011	February 18, 2011[5]

[4] Division Docket, Joint Stipulation of Facts, pp. 489-498.

February 2011	March 9, 2011[6]
First Quarter of 2011	April 25, 2011[7]
April 2011	May 19, 2011[8]
May 2011	June 17, 2011[9]
Second Quarter of 2011	July 22, 2011[10]
July 2011	August 18, 2011[11]
August 2011	September 19, 2011[12]
Third Quarter of 2011	October 26, 2011[13]
October 2011	November 18, 2011[14]
November 2011	December 19, 2011[15]
Fourth Quarter of 2011	January 20, 2012 (original)[16]
	March 14, 2013 (amended)[17]

On October 31, 2012, January 9, 2013, January 23, 2013 and March 19, 2013, petitioner separately filed with the BIR Large Taxpayers Regular Audit Division 3 (LTRAD), its administrative claims for refund or issuance of TCC for its alleged unutilized input VAT attributable to zero-rated sales for the 1st, 2nd, 3rd, and 4th quarters of 2011 in the respective amounts of ₱30,987,110.54, ₱43,483,971.55, ₱39,444,853.68, and ₱39,285,207.94 or in the aggregate amount of ₱153,201,143.71.

When no action was taken by respondent on its administrative claims for refund, petitioner filed with the Court four (4) separate Petitions for Review on March 27, 2013, May 20, 2013, June 19, 2013, and August 5, 2013, docketed as CTA Case Nos. 8623, 8656, 8661, and 8685, respectively.

Respondent filed his Answer in CTA Case No. 8623 on June 14, 2013, in CTA Case No. 8656 on July 19, 2013, in CTA Case No. 8661 on August 23, 2013, and in CTA Case No. 8685 on October 30, 2013.

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[6] Division Docket, Exhibit "P-4-a".
[7] Division Docket, Exhibit "P-5".
[8] Division Docket, Exhibit "P-4-b".
[9] Division Docket, Exhibit "P-4-c".
[10] Division Docket, Exhibit "P-6".
[11] Division Docket, Exhibit "P-4-d".
[12] Division Docket, Exhibit "P-4-e".
[13] Division Docket, Exhibit "P-7".
[14] Division Docket, Exhibit "P-4-f".
[15] Division Docket, Exhibit "P-4-g".
[16] Division Docket, Exhibit "P-31".
[17] Division Docket, Exhibit "P-8".

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To respondent's mind, the four cases for refund/tax credit should not be given due course for failure of petitioner to exhaust administrative remedies before elevating its cases to the Court. Allegedly, petitioner failed to submit complete supporting documents at the administrative level as mandated in Section 112 of the National Internal Revenue Code (NIRC), as amended, and Revenue Memorandum Order (RMO) No. 53-98.

Further, to be entitled to refund, petitioner, who has the burden of proof, must prove compliance with all the requisites under existing law and jurisprudence including registration, invoicing and accounting requirements.

After the parties submitted their Joint Stipulation of Facts and Issues, the Court issued the Pre-Trial Order on December 10, 2013.

To prove its case, petitioner presented as witnesses: (1) Rachel M. Concepcion; and (2) Katherine O. Constantino, the Court-commissioned Independent Certified Public Accountant (ICPA).

Rachel M. Concepcion, the Finance Controller of petitioner testified that she is familiar with the instant cases since she oversees, prepares and safekeeps petitioner's financial documents pertaining to its operations.

Petitioner is registered with the Securities and Exchange Commission (SEC) and is licensed to operate as a Regional Operating Headquarters (ROHQ) in the country. Petitioner is likewise registered with the BIR with Certificate of Registration OCN No. 9RC0000270209 dated June 16, 2005.

As a ROHQ, petitioner provides accounting, valuation and information systems maintenance and development services, among others, to entities in the Deutsche Bank Group. Thus, petitioner renders zero-rated services to its non-resident affiliates engaged in business outside the

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Philippines or nonresident persons not engaged in business who are outside the Philippines based on Section 108(B)(2) of the NIRC. For services rendered, it is paid in acceptable foreign currency, i.e. Euros, inwardly remitted through Deutsche Bank Manila then credited to petitioner's account in said bank. Thus, petitioner incurred input VAT for domestic purchases of goods (other than capital goods) and services, purchases of capital goods, and purchases of services rendered by nonresidents attributable to zero-rated sale of services in the year 2011, based on Section 110(B) and Section 112(A) of the NIRC. The input VAT incurred by petitioner remained unutilized since it was not applied against any output VAT liability.

Due to the inaction of respondent on petitioner's administrative claims for refund, petitioner filed four (4) separate administrative claims for refund of its unutilized input VAT for the year 2011 on October 31, 2012, January 9, 2013, January 23, 2013, and March 19, 2013.

The Court-commissioned ICPA Katherine O. Constantino testified that she examined and verified the documentary evidence of petitioner in relation to the present cases. Thereafter, she prepared an ICPA Report which she submitted to the Court on May 29, 2014, indicating that of the pro-rated amount of input VAT attributable to petitioner's zero-rated sales of ₱158,201,143.71, only ₱62,454,876.86 was properly substantiated. She also examined the additional documents submitted by petitioner and submitted to the Court a supplemental report.

After petitioner rested, respondent manifested that he would not present any evidence in the absence of the investigation report from the BIR examiners.

At the instance of petitioner, the cases were reopened for the recall of witness Rachel M. Concepcion, who identified additional documents to prove that petitioner rendered services to non-resident clients who are doing business outside the Philippines.

In the Resolution dated August 5, 2016, the cases were submitted for decision"

The Third Division of this Court rendered the assailed Decision dated August 4, 2017, which partially granted petitioner's claim for refund but in the reduced amount of ₱17,188,625.90, representing its unutilized and excess input VAT attributable to zero-rated sales for the four quarters of CY 2011.

Aggrieved, both parties filed their respective Motions for Reconsideration therefrom. Also, petitioner filed a Motion to Reopen Trial. All motions were denied by the Third Division on December 15, 2017 for lack of merit. Hence, these Petitions for Review were filed.

We rule to DENY the Petitions.

In the instant petitions, Deutsche argues that it was able to prove that its sales to its non-resident foreign clients are all zero-rated. Therefore, all its input VAT attributable to zero-rated sales may be the proper subject of a claim for refund. On the other hand, the CIR insists that Deutsche is not entitled to the claim for refund.

We do not agree with both petitioners' contention. In this regard, it bears stressing that the question of whether the evidence submitted by a party is sufficient to warrant the grant of a claim for refund lies within the sound discretion and judgment of the Court.[18] Thus, it is the claimant's burden to prove the factual basis of a claim for refund or tax credit.[19]

A cursory examination of the evidence presented before the Court in Division will show that not all of Deutsche's sales declared as *"Zero Rated Sales/Receipts"* in its Quarterly VAT Returns for the four quarters of taxable year 2011 qualify for VAT zero-rating.

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[18] Commissioner of Internal Revenue vs. CE Luzon Geothermal Pawer Company, Inc., CTA EB No. 474, September 1, 2009; Commissioner of Internal Revenue vs. Toledo Pawer Company, CTA EB No. 589, September 15, 2010; Commissioner of Internal Revenue vs. San Roque Power Corporation, CTA EB No. 657, April 4, 2012.
[19] Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 183531, March 25, 2015.

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Deutsche's claim is anchored on Section 108(B)(2) in relation to Sections 110(B) and 112(A) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended, which state:

> "SEC. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. –
>
> xxx xxx xxx
>
> (B) Transactions Subject to Zero Percent (0%) Rate.-
>
> The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
>
> (2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
>
> SEC. 110. Tax Credits. -
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> xxx xxx xxx
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> (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

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carried over to the succeeding quarter or quarters: xxx 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.

SEC. 112. Refunds or Tax Credits of Input Tax. –

(A) Zero-Rated or Effectively Zero-Rated Sales. – Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: Provided, however, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): Provided, further, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: Provided, finally, That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.

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(C) Period within which Refund or Tax Credit of Input Taxes shall be Made. - In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes

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> within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.
>
> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals."

In sum, to be entitled to a tax credit or refund of excess input VAT attributable to zero-rated or effectively zero-rated sales, the following requisites must be satisfied:

1. That the taxpayer is VAT-registered;

2. That the claim for refund was filed within the prescriptive periods;

3. That there must be zero-rated or effectively zero-rated sales;

4. That input taxes were incurred or paid;

5. That such input taxes are attributable to zero-rated or effectively zero-rated sales; and

6. That the input taxes were not applied against any output VAT liability

Considering that there is no dispute as to the first (1^{st}) and second (2^{nd}) requisites, the Court deems it necessary to proceed and determine compliance with the remaining requisites.

Based on the foregoing provisions, in order to subject a sale of service transaction to 0% VAT rate, it is required, *inter alia*, that the services were **"rendered to a person**

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engaged in business outside the Philippines or to a non-resident person not engaged in business who is outside the Philippines when the services are performed" and the consideration therefor was "paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP) ".

Under the premises, services covered by Section 108(B)(1) and (2) are in the nature of export sales since the payor-recipient of services is doing business outside the Philippines. Accordingly, under BSP rules, the proceeds of export sales must be reported to the BSP. Hence, there is reason to require the provider of services under Section 108(B)(1) and (2) to account for the foreign currency proceeds to the BSP.

The same justification does not apply if the provider and recipient of the services are both doing business in the Philippines since their transaction is not in the nature of an export sale even if payment is denominated in foreign currency. Further, when the provider and recipient of services are both doing business in the Philippines, their transaction falls squarely under Section 108(A) governing domestic sale or exchange of services. Indeed, this is a purely local sale or exchange of services subject to the regular VAT, unless of course the transaction falls under the other provision of Section 108(B).[20]

In the case of *Accenture, Inc. vs. Commissioner of Internal Revenue*,[21] the Supreme Court held in this wise:

> "The evidence presented by Accenture may have established that its clients are foreign. This fact does not automatically mean, however, that these clients were doing business outside the Philippines. After all, the Tax Code itself has provisions for a foreign corporation engaged in business within the Philippines and vice versa, to wit:
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> 'SEC. 22. Definitions- When used in this Title:

[20] Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc., G.R. No. 153205, January 22, 2007.
[21] Accenture, Inc. vs. Commissioner of Internal Revenue, GR. No. 190102, July 11, 2012.

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(H) The term 'resident foreign corporation' applies to a foreign corporation engaged in trade or business within the Philippines.

(I) The term 'nonresident foreign corporation' applies to a foreign corporation not engaged in trade or business within the Philippines.' (Emphasis in the original)

Consequently, to come within the purview of Section 108(B)(2), it is not enough that the recipient of the service be proven to be a foreign corporation; rather, it must be specifically proven to be a nonresident foreign corporation.

There is no specific criterion as to what constitutes 'doing' or 'engaging in' or 'transacting' business. We rule thus in *Commissioner of Internal Revenue v. British Overseas Airways Corporation*:[22]

'x x x. There is no specific criterion as to what constitutes 'doing' or 'engaging in' or 'transacting' business. Each case must be judged in the light of its peculiar environmental circumstances. The term implies a continuity of commercial dealings and arrangements, and contemplates, to that extent, the performance of acts or works or the exercise of some of the functions normally incident to, and in progressive prosecution of commercial gain or for the purpose and object of the business organization. 'In order that a foreign corporation may be regarded as doing business within a State, there must be continuity of conduct and intention to

[22] Commissioner of Internal Revenue vs. British Overseas Airways Corporation, G.R. No. L-65773-74, April 30, 1987.

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> establish a continuous business, such as the appointment of a local agent, and not one of a temporary character. (Emphases and underscoring supplied)"

Simply stated, it is not enough that the recipient of the service be shown to be a foreign corporation, it must likewise be established that the said recipient is a "nonresident foreign corporation".

Relative thereto, the Court in Division explained that the service-recipient must also be not doing business in the Philippines. Otherwise, the transaction will be subject to the VAT at the then rate of 10%,[23] and not at the 0% VAT rate. As correctly cited by the Court in Division, We reiterate the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc,* which reads as follows:

> "In this case, the payer-recipient of respondent's services is the Consortium which is a joint-venture doing business in the Philippines. While the Consortium's principal members are non-resident foreign corporations, the Consortium itself is doing business in the Philippines. This is shown clearly in BIR Ruling No. 023-95 which states that the contract between the Consortium and NAPOCOR is for a 15-year term, thus:
>
> > 'This refers to your letter dated January 14, 1994 requesting for a clarification of the tax implications of a contract between a consortium composed of Burmeister & Wain Scandinavian Contractor NS ('BWSC'), Mitsui Engineering & Shipbuilding, Ltd. (MES), and Mitsui & Co., Ltd. ('MITSUI'), all referred to hereinafter as the 'Consortium', and the National Power Corporation ('NAPOCOR') for the operation and maintenance of two 100- Megawatt power barges ('Power Barges') acquired by NAPOCOR for a 15-year term. (Emphasis supplied)

[23] Revenue Memorandum Circular No. 7-2006 dated January 31,2006 amended the VAT Rate to 12%.

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> Considering this length of time, the Consortium's operation and maintenance of NAPOCOR's power barges cannot be classified as a single or isolated transaction. The Consortium does not fall under Section 102(b)(2) which requires that the recipient of the services must be a person doing business outside the Philippines. Therefore, respondent's services to the Consortium, not being supplied to a person doing business outside the Philippines, cannot legally qualify for 0% VAT." (Underscoring supplied)

We agree with the Court in Division that to be considered as a non-resident foreign corporation doing business outside the Philippines, each entity must be supported, at the very least, by **BOTH** a Certificate of Non-registration of Corporation/ Partnership issued by the Philippine Securities and Exchange Commission (SEC) **AND** Certificate/Articles of Foreign Incorporation/ Association.

These documents are necessary for the following reasons:

1. The SEC's negative certification establishes that the recipient of the service has no registered business in the Philippines; and

2. The Certificate/ Articles of incorporation/ Association will prove that the recipient is indeed foreign.

Applying the foregoing in the case at bar, while the Intra Group Service Agreements show the names of Deutsche's customers to whom it rendered services, nevertheless, it does not establish that such service recipients are non-resident foreign corporations doing business outside the Philippines.

Pursuant to Section 108(B)(2) of the NIRC of 1997, as amended by RA No. 9337, only the sales of service by Deutsche to entities which have the said two (2) required documents will be treated as subject to the 0% VAT rate.

In the same vein, the Court is not convinced that the AMinet database,[24] offered as evidence, are sufficient to establish the fact that the service recipients are non-resident foreign corporations doing business outside the Philippines.

Following the above disquisitions, only the amount of €28,324,387.08 or its peso equivalent, P1,691,367,779.99 of Deutsche's sales of services for the four quarters of 2011, would qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended by RA No. 9337, computed as follows[25]:

Customer's Name	O.R. Date	O.R. No.	OR Exhibit No.	OR Amount (in Euro)	Amount in Peso
Deutsche Asia Pacific Holdings Pte Ltd	12-Jan-11	1176	P-51	8,742.50	498,916.99
Deutsche Asia Pacific Holdings Pte Ltd	24-Jan-11	1208	P-79	8,742.50	528,279.55
Deutsche Asia Pacific Holdings Pte Ltd	6-Apr-11	1387	P-250	38,467.07	2,369,559.97
Deutsche Asia Pacific Holdings Pte Ltd	7-Jul-11	1578	P-419	38,467.08	2,360,305.41
Deutsche Asia Pacific Holdings Pte Ltd	4-Oct-11	1708	P-540	64,216.80	3,759,125.80
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	5-Jan-11	1164	P-40	86,210.13	5,017,731.30
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	12-Jan-11	1178	P-53	70,855.00	4,075,367.04
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	12-Jan-11	1179	P-54	34,640.00	1,992,388.88
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	12-Jan-11	1180	P-55	16,140.00	928,324.38
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	12-Jan-11	1181	P-56	13,784.25	792,828.71
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	12-Jan-11	1182	P-57	18,157.50	1,044,364.93
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	12-Jan-11	1183	P-58	8,847.41	508,876.48
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	12-Jan-11	1184	P-59	8,070.00	464,162.19
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	7-Feb-11	1246	P-114	8,733.74	518,247.90
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	7-Feb-11	1247	P-115	8,742.50	518,767.71
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	7-Feb-11	1248	P-116	18,157.50	1,077,440.63
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	7-Feb-11	1249	P-117	106,039.80	6,292,253.28
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	9-Feb-11	1261	P-128	347,187.05	20,608,606.66
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	3-Mar-11	1293	P-157	731,092.86	44,139,512.09
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	3-Mar-11	1294	P-158	344,808.75	20,817,724.84
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	3-Mar-11	1295	P-159	29,988.26	1,810,532.20
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	11-Mar-11	1321	P-184	319.94	19,199.92
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	11-Mar-11	1322	P-185	26,900.00	1,614,295.90
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	11-Mar-11	1323	P-186	103,349.80	6,202,124.85
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	11-Mar-11	1324	P-187	16,140.00	968,577.54

[24] Division Docket, Exhibits "P-13", "P-6065" to "P-6112" and "P-6170" to "P-6171".
[25] Table of Computation of Petitioner's sales of services for CY 2011 qualified for VAT Zero-rating, En Banc Docket, pp. 67-71.

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Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	11-Mar-11	1325	P-188	26,900.00	1,614,295.90
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	11-Mar-11	1326	P-189	8,070.00	484,288.77
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	11-Mar-11	1327	P-190	96,581.41	5,795,947.00
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	11-Mar-11	1328	P-191	8,847.41	530,941.92
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	11-Mar-11	1329	P-192	18,157.50	1,089,649.73
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	11-Mar-11	1330	P-193	3,257.59	195,491.23
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	11-Mar-11	1331	P-194	16,140.00	968,577.54
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	11-Mar-11	1332	P-195	35,104.59	2,106,661.55
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	11-Mar-11	1333	P-196	6,298.02	377,950.48
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	11-Mar-11	1334	P-197	31,204.08	1,872,588.04
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	11-Mar-11	1336	P-199	262,500.21	15,752,900.10
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	11-Mar-11	1337	P-200	9,153.11	549,287.28
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	11-Mar-11	1338	P-201	209,180.30	12,553,118.98
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	4-Apr-11	1382	P-245	13,903.53	852,817.50
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	14-Apr-11	1401	P-262	766,230.31	48,046,394.97
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	9-May-11	1459	P-310	27,081.03	1,658,664.34
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	9-May-11	1460	P-311	12,976.22	794,770.12
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	9-May-11	1461	P-312	23,672.04	1,449,869.84
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	9-May-11	1462	P-313	13,778.06	843,881.37
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	9-May-11	1463	P-314	152,566.30	9,344,411.26
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	9-May-11	1464	P-315	4,777.81	292,632.26
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	9-May-11	1465	P-316	744,023.10	45,570,075.63
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	2-Jun-11	1507	P-353	12,976.22	807,316.82
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	2-Jun-11	1508	P-354	17,754.03	1,104,568.75
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	2-Jun-11	1509	P-355	4,777.81	297,251.93
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	10-Jun-11	1526	P-366	21,731.19	1,364,464.48
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	5-Jul-11	1576	P-417	17,530.57	1,091,667.16
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	2-Sep-11	1653	P-482	4,777.81	286,037.45
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	2-Sep-11	1654	P-483	12,976.22	776,859.04
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	2-Sep-11	1655	P-484	148,620.96	8,897,624.77
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	2-Sep-11	1656	P-485	17,754.03	1,062,896.49
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	2-Sep-11	1657	P-486	8,346.59	499,692.82
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	6-Sep-11	1668	P-497	131,616.75	7,835,526.82
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	20-Sep-11	1682	P-510	737,573.83	43,968,251.15
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	20-Sep-11	1683	P-511	695,023.94	41,431,767.11
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	20-Sep-11	1684	P-512	541,450.26	32,276,932.90
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	20-Sep-11	1685	P-513	632,036.99	37,676,989.05
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	20-Sep-11	1686	P-514	8,696.54	518,179.69
Deutsche Bank Aktiengesellschaft, Asia Pacific	20-Sep-11	1687	P-515		

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Head Office				11,670.84	695,722.11
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1737	P-566	152,566.30	9,053,177.14
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1740	P-569	26,542.11	1,574,990.17
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1743	P-572	23,672.04	1,404,682.24
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1746	P-575	20,763.12	1,232,068.97
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1747	P-576	8,226.05	488,128.03
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1748	P-577	6,473.94	384,159.05
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1749	P-578	20,713.04	1,229,097.25
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1750	P-579	23,672.04	1,404,682.24
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1751	P-580	23,672.04	1,404,682.24
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1752	P-581	3,195.73	3,195.73
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1754	P-583	4,429.53	262,845.20
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1755	P-584	25,628.58	1,520,781.95
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1756	P-585	19,819.31	1,176,063.94
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1757	P-586	12,908.50	765,981.33
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1758	P-587	141,673.23	8,406,790.01
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1760	P-589	152,566.30	9,053,177.14
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1761	P-590	21,502.09	1,275,918.93
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1762	P-591	4,777.81	283,511.89
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1763	P-592	25,115.15	1,490,315.37
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Oct-11	1765	P-594	3,515.30	208,595.43
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	8-Nov-11	1815	P-631	29,074.77	1,715,019.62
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	8-Nov-11	1816	P-632	309,621.67	18,263,506.07
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	8-Nov-11	1817	P-633	126.29	7,449.41
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	8-Nov-11	1818	P-634	4,312.37	254,371.72
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	8-Nov-11	1819	P-635	19,079.16	1,125,413.33
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	8-Nov-11	1820	P-636	25,628.58	1,511,740.85
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	8-Nov-11	1821	P-637	8,226.05	485,226.10
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	8-Nov-11	1822	P-638	25,115.15	1,481,455.40
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	8-Nov-11	1823	P-639	12,610.97	743,877.28
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	8-Nov-11	1824	P-640	2,162.05	127,531.81
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	8-Nov-11	1825	P-641	141,673.23	8,356,811.38
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	8-Nov-11	1826	P-642	12,908.50	761,427.55
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Nov-11	1855	P-669	123,970.09	7,289,840.63
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Nov-11	1857	P-671	1,001,938.81	58,755,587.49
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	18-Nov-11	1858	P-672	3,151.73	184,823.41
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	9-Dec-11	1893	P-703	3,140.08	180,934.99
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	14-Dec-11	1928	P-736	16,824.66	966,245.44
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	14-Dec-11	1929	P-737	16,885.18	969,721.12

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Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	14-Dec-11	1930	P-738	145,395.12	8,350,086.81
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	14-Dec-11	1931	P-739	30,320.33	1,741,305.95
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	14-Dec-11	1932	P-740	18,105.83	1,039,823.43
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	14-Dec-11	1933	P-741	27,617.38	1,586,074.69
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	14-Dec-11	1934	P-742	255,808.23	14,691,145.95
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	14-Dec-11	1935	P-743	8,325.06	478,110.78
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	14-Dec-11	1936	P-744	8,489.36	487,546.58
Deutsche Bank Aktiengesellschaft, Asia Pacific Head Office	8-Nov-11	1814	P-781	7,503.79	442,622.49
Deutsche Bank Aktiengesellschaft, Filiale Jakarta	7-Jan-11	1166	P-231	16,650.05	953,237.01
Deutsche Bank Aktiengesellschaft, Filiale Jakarta	9-Feb-11	1255	P-122	15,942.04	946,300.36
Deutsche Bank Aktiengesellschaft, Filiale Jakarta	9-Feb-11	1256	P-123	4,842.00	287,415.31
Deutsche Bank Aktiengesellschaft, Filiale Jakarta	9-Feb-11	1258	P-125	2,690.00	159,675.17
Deutsche Bank Aktiengesellschaft, Filiale Jakarta	9-Feb-11	1254	P-232	16,650.05	988,326.99
Deutsche Bank Aktiengesellschaft, Filiale Jakarta	12-Dec-11	1897	P-705	8,164.33	476,198.03
Deutsche Bank Aktiengesellschaft, Filiale Jakarta	12-Dec-11	1898	P-706	8,115.61	473,356.35
Deutsche Bank Aktiengesellschaft, Filiale Jakarta	12-Dec-11	1899	P-707	7,101.62	414,213.71
Deutsche Bank Aktiengesellschaft, Filiale Jakarta	12-Dec-11	1900	P-708	9,361.22	546,008.61
Deutsche Bank Aktiengesellschaft, Filiale Jakarta	12-Dec-11	1901	P-709	4,842.00	282,417.64
Deutsche Bank Aktiengesellschaft, Filiale Jakarta	13-Dec-11	1902	P-710	7,101.61	414,213.13
Deutsche Bank Aktiengesellschaft, Filiale Jakarta	13-Dec-11	1903	P-711	7,101.61	414,213.13
Deutsche Bank Aktiengesellschaft, Filiale Jakarta	13-Dec-11	1904	P-712	8,115.61	473,356.35
Deutsche Bank Aktiengesellschaft, Filiale Jakarta	13-Dec-11	1905	P-713	7,101.61	414,213.13
Deutsche Bank Aktiengesellschaft, Filiale New York	10-Jan-11	1172	P-47	441,832.23	25,327,060.55
Deutsche Bank Aktiengesellschaft, Filiale New York	20-Jan-11	1195	P-67	1,228.87	73,407.16
Deutsche Bank Aktiengesellschaft, Filiale New York	24-Jan-11	1209	P-80	145,393.46	8,785,632.45
Deutsche Bank Aktiengesellschaft, Filiale New York	18-Feb-11	1276	P-141	6,610.27	389,578.91
Deutsche Bank Aktiengesellschaft, Filiale New York	3-Mar-11	1298	P-162	1,464,237.13	88,402,877.45
Deutsche Bank Aktiengesellschaft, Filiale New York	7-Apr-11	1389	P-252	7,479.53	460,722.59
Deutsche Bank Aktiengesellschaft, Filiale New York	5-May-11	1440	P-293	9,524.43	607,697.68
Deutsche Bank Aktiengesellschaft, Filiale New York	15-Jun-11	1531	P-371	1,091,949.00	68,422,725.48
Deutsche Bank Aktiengesellschaft, Filiale New York	24-Jun-11	1547	P-384	30,254.52	1,861,158.23
Deutsche Bank Aktiengesellschaft, Filiale New York	4-Jul-11	1570	P-414	1,339,442.14	83,751,566.58
Deutsche Bank Aktiengesellschaft, Filiale New York	23-Aug-11	1637	P-468	31,083.38	1,899,514.67
Deutsche Bank Aktiengesellschaft, Filiale New York	2-Sep-11	1650	P-479	1,920,418.99	115,602,885.81
Deutsche Bank Aktiengesellschaft, Filiale New York	23-Sep-11	1694	P-521	62,916.13	3,709,566.48
Deutsche Bank Aktiengesellschaft, Filiale New York	26-Sep-11	1696	P-523	689,090.12	40,598,279.84
Deutsche Bank Aktiengesellschaft, Filiale New York	25-Oct-11	1783	P-608	1,071,419.83	64,377,412.23
Deutsche Bank Aktiengesellschaft, Filiale New York	2-Nov-11	1801	P-623	629,013.40	36,676,676.87
Deutsche Bank Aktiengesellschaft, Filiale New York	24-Nov-11	1875	P-688	3,335.04	193,988.60
Deutsche Bank Aktiengesellschaft, Filiale New York	28-Nov-11	1883	P-694	626,365.95	36,513,078.54
Deutsche Bank Aktiengesellschaft, Filiale New York	16-Dec-11	1948	P-756	621,062.04	35,602,282.69
Deutsche Bank Aktiengesellschaft, Filiale New York	20-Dec-11	1963	P-767	1,047,662.31	60,013,512.49

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Deutsche Securities Inc.	10-Feb-11	1265	P-132	2,367,688.53	141,384,626.42
Deutsche Securities Inc.	18-Feb-11	1278	P-143	713,521.06	42,051,649.08
Deutsche Securities Inc.	15-Apr-11	1409	P-270	358,026.33	22,376,645.63
Deutsche Securities Inc.	12-Sep-11	1671	P-500	516,744.23	30,131,614.42
Deutsche Securities Inc.	12-Dec-11	1906	P-714	1,870,536.33	109,102,119.70
Deutsche Securities Inc.	11-Jul-11	1581	P-422	481,808.18	28,923,330.49
TOTAL VALID ZERO-RATED SALES				**28,324,387.08**	**1,691,367,779.99**

We proceed. Deutsche likewise questions the disallowances made by the Court in Division in the total amount of P73,793,995.98, broken down as follows[26]:

		Reference (Annex 9 of ICPA Reports)	**Original Amount (Exhibit P-29)**	**Supplemental Amount (Exhibit P-6172)**	**TOTAL**
OTHER FINDINGS - Purchases of Goods					
1	Purchases of goods supported by TIN VAT REG invoices but not dated within the quarter of claim and without BIR permit to print	4Q-e	₱ 124,347.80		₱ 124,347.80
2	Purchases of goods supported by REG VAT TIN invoices but not dated within the year of claim and/or petitioner's TIN is not indicated	1Q-f; 2Q-f	4,144.98		4,144.98
3	Purchases of goods supported by VAT REG TIN invoices but date is not clearly visible, without petitioner's TIN and VAT amount is not shown separately	1Q-g; 4Q-g	5,364.10		5,364.10
4	Purchases of goods supported by VAT REG TIN invoices but not dated within the year of claim, and/or without petitioner's TIN and/or incorrect petitioner's TIN and/or VAT amount is not shown separately	1Q-h; 2Q-h; 3Q-h; 4Q-h	500,588.39	₱ 189,417.16	690,005.55
5	Purchases of goods supported by VAT REG TIN invoices but no date indicated and without petitioner's TIN	1Q-I; 3Q-I; 4Q-i	3,158.40	192.86	3,351.26
6	Purchases of goods supported by VAT REG TIN invoices but date is written on a computer generated invoice and petitioner's TIN is not indicated	3Q-j	2,362.50		2,362.50
7	Purchases of goods supported by VAT REG TIN invoices but amount per OR is not tie-up with the amount per schedule	2Q-k	825.00		825.00

[26] Table of Computation of Petitioner's input VAT for CY 2011 without proper substantiation of VAT receipts or official receipts, En Banc Docket, pp. 72-77.

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8	Purchases of goods supported by VAT REG TIN invoices without BIR Permit to Print and/or printing date	2Q-l; 4Q-l	58,007.15		58,007.15
9	Purchases of goods supported by TIN invoices	3Q-m[27]	6,029.83		6,029.83
10	Purchases of goods supported by TIN VAT invoices but not dated within the year of claim and/or without petitioner's TIN	1Q-n; 2Q-n; 3Q-n	63,866.32		63,866.32
11	Purchases of goods supported by TIN VAT invoices with incorrect petitioner's TIN	1Q-o	15,953.22		15,953.22
12	Purchases of goods supported by TIN VAT invoices with incorrect petitioner's TIN and/or VAT amount is not tie-up with the amount per schedule	1Q-p; 3Q-p	24,812.15		24,812.15
13	Purchases of goods supported by documents other than VAT invoices	1Q-q; 2Q-q; 4Q-q	319,313.37	48,882.06	368,195.43
14	Purchases of goods supported by REG VAT TIN invoices where petitioner's TIN is not indicated	1Q-bu; 3Q-bu		3,294.76	3,294.76
15	Purchases of goods supported by TIN VAT invoices but petitioner's TIN is not indicated and VAT amount is not shown separately	1Q-bv; 3Q-bv; 4Q-bv		169,007.81	169,007.81
16	Purchases of goods supported by photocopied invoices	2Q-r; 3Q-r; 4Q-r	936,422.44	(817,898.61)	118,523.83
	Sub-total		***₱ 2,065,195.65***	***₱ (407,103.96)***	***₱ 1,658,091.69***
OTHER FINDINGS - Purchases of Services					-
1	Purchases of services supported by BIR TIN ORs with no BIR permit to print	2Q-w	₱ 26,756.57		₱ 26,756.57
2	Purchases of services supported by VAT REG ORs but VAT amount is not shown separately	1Q-x; 3Q-x	27,487.02	₱ 1,019.60	28,506.62
3	Purchases of services supported by VAT REG ORs but not dated within the quarter of claim with incorrect petitioner's TIN and VAT amount is not tied-up with the amount per schedule	3Q-y	33.60		33.60
4	Purchases of services supported by VAT REG ORs with incorrect petitioner's TIN and VAT amount is not tied-up with the amount per schedule	1Q-z	1,982.20		1,982.20
5	Purchases of services supported by VAT REG ORs with incorrect petitioner's TIN and VAT amount is not tied-up with the amount per schedule	1Q-aa; 2Q-aa; 3Q-aa	40,793.14		40,793.14
6	Purchases of services supported by VAT REG TIN VAT ORs without petitioner's TIN and VAT amount is not shown separately	1Q-ab	273,908.52		273,908.52

[27] The annex referred to cannot actually be found.

7	Purchases of services supported by VAT REG TIN ORs but not dated within the quarter of claim and/or petitioner's TIN and/or VAT amount is not shown separately	1Q-ac; 2Q-ac; 3Q-ac	488,515.17		488,515.17
8	Purchases of services supported by VAT REG TIN ORs but not dated within the quarter of claim and incorrect petitioner's TIN and VAT amount per OR is not tied-up with the amount per schedule	3Q-ad	3,756.70		3,756.70
9	Purchases of services supported by VAT REG TIN ORs but not dated within the quarter of claim and VAT amount per OR is not tied-up with the amount per schedule	1Q-ae; 2Q-ae; 3Q-ae; 4Q-ae	261,114.17		261,114.17
10	Purchases of services supported by VAT REG TIN ORs but not dated within the year of claim	4Q-af	2,565,815.39	167,658.21	2,733,473.60
11	Purchases of services supported by VAT REG TIN ORs but no date indicated and/or without petitioner's TIN	1Q-ag; 4Q-ag	58,134.59		58,134.59
12	Purchases of services supported by VAT REG TIN ORs but no date indicated and with incorrect petitioner's TIN and VAT amount per OR is not tied-up with the amount per schedule	1Q-ah	9,076.28		9,076.28
13	Purchases of services supported by VAT REG TIN ORs but no date indicated and VAT amount per OR is not tied-up with the amount per schedule	2Q-ai	2,090.98		2,090.98
14	Purchases of services supported by VAT REG TIN ORs but no year indicated in the date	2Q-aj	182.04		182.04
15	Purchases of services supported by VAT REG TIN ORs but without petitioner's TIN and/or incorrect petitioner's TIN and/or VAT not shown separately	1Q-ak; 2Q-ak; 3Q-ak; 4Q-ak	11,523,808.61	4,403,506.66	15,927,315.27
16	Purchases of services supported by VAT REG TIN ORs without petitioner's TIN and VAT amount is not tied-up with the amount per schedule	1Q-al; 2Q-al; 3Q-al; 4Q-al	280,752.84		280,752.84
17	Purchases of services supported by VAT REG TIN ORs but incorrect petitioner's TIN and VAT amount per OR is not tied-up with the amount per schedule	1Q-am; 2Q-am; 3Q-am	3,768,597.09		3,768,597.09
18	Purchases of services supported by VAT REG TIN ORs but without countersignature on the alteration in the petitioner's TIN	3Q-an	78,019.20		78,019.20
19	Purchases of services supported by VAT REG TIN ORs but VAT amount per OR is not tied-up with the amount per schedule	1Q-ap; 2Q-ap; 3Q-ap; 4Q-ap	2,225,215.82		2,225,215.82

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20	Purchases of services supported by TIN ORs without petitioner's TIN and VAT amount is not shown separately	1Q-aq; 3Q-aq; 4Q-aq	117,843.23	44,536.85	162,380.08
21	Purchases of services supported by TIN ORs	1Q-ar	32,350.37		32,350.37
22	Purchases of services supported by TIN ORs but incorrect petitioner's TIN and VAT amount per OR is not tied-up with the amount per schedule	1Q-as	28,382.14		28,382.14
23	Purchases of services supported by TIN ORs but VAT amount per OR is not tied-up with the amount per schedule	1Q-at; 2Q-at; 4Q-at	85,146.42		85,146.42
24	Purchases of services supported by TIN NON VAT and/or NON VAT REG TIN ORs and/or TIN VAT ZERO RATED	1Q-au; 2Q-au; 4Q-au	147,102.74		147,102.74
25	Purchases of services supported by TIN VAT ORs but not dated in the quarter of claim and/or without petitioner's TIN and/or VAT not shown separately	1Q-av; 2Q-av; 3Q-av	361,750.33		361,750.33
26	Purchases of services supported by TIN VAT ORs but not dated in the quarter of claim and VAT amount is not tied-up with the amount per schedule	2Q-aw; 3Q-aw	19,529.67		19,529.67
27	Purchases of services supported by TIN VAT ORs but not dated in the year of the claim and/or VAT amount is not shown separately	1Q-ax; 4Q-ax	41,344.20	1,712.68	43,056.88
28	Purchases of services supported by TIN VAT ORs but without petitioner's TIN or incorrect petitioner's TIN and/or VAT amount is not shown separately	1Q-ay; 2Q-ay; 3Q-ay; 4Q-ay	2,563,712.39	4,650,934.98	7,214,647.37
29	Purchases of services supported by TIN VAT ORs but without petitioner's TIN and VAT amount is not tied-up with the amount per schedule	1Q-az; 2Q-az; 4Q-az	483,858.45		483,858.45
30	Purchases of services supported by TIN VAT ORs but incorrect petitioner's TIN and VAT amount is not tied-up with the amount per schedule	1Q-ba	132,252.83		132,252.83
31	Purchases of services supported by TIN VAT ORs but without countersignature on the alteration in the petitioner's TIN	3Q-bb	18,543.75		18,543.75
32	Purchases of services supported by TIN VAT ORs but without BIR permit to print and VAT amount is not tied-up with the amount per schedule	2Q-bc	32,749.82		32,749.82
33	Purchases of services supported by TIN VAT ORs but VAT amount is not tied-up with the amount per schedule	1Q-bd; 2Q-bd; 3Q-bd; 4Q-bd	1,011,678.34		1,011,678.34
34	Purchases of services supported by tape receipts	1Q-be; 2Q-be; 3Q-be	238,504.92	97,598.70	336,103.62

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35	Purchases of services supported by other than OR	1Q-bf; 2Q-bf; 3Q-bf; 4Q-bf	2,722,422.65	701,738.73	3,424,161.38
36	Purchases of services supported by photocopied OR	1Q-bg; 2Q-bg; 3Q-bg; 4Q-bg	47,754,185.11	(27,122,791.74)	20,631,393.37
37	Purchases of services supported by VAT REG TIN ORs but no date indicated and/or VAT amount is not shown separately	4Q-bw		27,540.00	27,540.00
38	Purchases of services supported by NON VAT REG TIN ORs and VAT amount is not shown separately	4Q-bx		7,170.00	7,170.00
39	Purchases of services supported by TIN NON VAT ORs and VAT amount is not shown separately	3Q-by; 4Q-by		2,829.75	2,829.75
40	Purchases of services supported by TIN VAT ORs but no date indicated and VAT amount is not shown separately	3Q-bz; 4Q-bz		224,318.09	224,318.09
41	Purchases of services supported by TIN VAT ZERO Rated ORs and VAT amount is not shown separately	3Q-ca		24,130.00	24,130.00
42	Purchases of services supported by VAT REG TIN ORs/TIN VAT ORs representing overstated VAT amount	1Q-bt; 2Q-bt; 3Q-bt; 4Q-bt		348,115.17	348,115.17
	Sub-total		***₱77,427,397.29***	***₱(16,419,982.32)***	***₱61,007,414.97***
OTHER FINDINGS - Purchases of Capital Goods not exceeding ₱1 Million					-
1	Purchases of capital goods not exceeding one million supported with TIN VAT invoices dated not within the year of claim	1Q-bj	₱ 72,581.79		₱ 72,581.79
2	Purchases of capital goods not exceeding one million supported with TIN VAT invoices not dated within the quarter of claim	2Q-bk	1,500.00		1,500.00
3	Purchases of capital goods not exceeding one million supported by VAT REG TIN invoices not dated within the quarter of claim	4Q-bl	9,000.00		9,000.00
4	Purchases of capital goods not exceeding one million supported by documents other than VAT invoices	1Q-bm; 2Q-bm; 4Q-bm	(91,686.42)		(91,686.42)
5	Purchases of capital goods not exceeding one million supported by documents other than VAT invoices	1Q-bn; 2Q-bn; 4Q-bn	177,070.37		177,070.37
	Sub-total		***₱ 168,465.74***	-	***₱ 168,465.74***
	Purchases of services without supporting documents		10,960,023.58		10,960,023.58
GRAND TOTAL			**₱90,621,082.26**	**₱(16,827,086.28)**	**₱73,793,995.98**

Deutsche argues that the foregoing amount must not be disallowed based on the following grounds:

1. The input VAT claimed from these supporting documents may be readily computed;

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2. These supporting documents were issued by Deutsche Knowledge's clients over which it had no participation and control whatsoever; and

3. Non-compliance with the invoicing requirements attracts the applicable administrative penalties, not the disallowance of the claim.

This Court finds the foregoing arguments untenable.

Statutes that grant tax exemptions are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority. It therefore bears emphasis that tax refunds in relation to the VAT are in the nature of tax exemptions.[28] Consequently, the taxpayer claiming the tax credit or refund has the burden of proving that he is entitled to the refund or credit, in this case input VAT, by submitting evidence that he has complied with the requirements laid down in the Tax Code and the BIR's revenue regulations under which such privilege of credit or refund is accorded.

Clearly, 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.[29]

In the case at bar, Deutsche as a refund claimant for input VAT, it is mandatory under the law to show that the VAT invoices or official receipts issued to it by its suppliers, as the case may be, complied with Section 113(B)(2)(a) of the NIRC of 1997, as amended by RA No. 9337, which provides as follows:

> "SEC. 113. Invoicing and Accounting Requirements for VAT-registered Persons. –
>
> xxx xxx xxx
>
> (B) Information Contained in the VAT Invoice or VAT Official Receipt. - **The following**

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[28] Panasonic Communications Imaging Corporation of the Philippines vs. Commissioner of Internal Revenue, G.R. No. 178090, February 8, 2010.
[29] Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 183531, March 25,2015.

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> **information shall be indicated in the VAT invoice or VAT official receipt**:
>
> (1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
>
> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: Provided, That:
>
> (a) **The amount of the tax shall be shown as a separate item in the invoice or receipt**; xxx." (Emphases supplied)

Based on the foregoing, the VAT invoice or VAT official receipt, as the case may be, must state, *inter alia*, the amount of the tax as a separate item therein. Strict adherence to this requirement must be shown.

On this note, if it is shown that the said VAT invoice or VAT official receipt does not indicate the said requirements, it must not be included as part of the taxpayer-claimant's refundable amount.

Correspondingly, Deutsche's allegation that the input VAT claimed from the supporting documents may be readily computed has no leg to stand on, since the indication of the input VAT in the VAT invoice or VAT official receipt, as the case may be, is a mandatory legal requirement.

Furthermore, the reasoning that the subject VAT invoices or official receipts were issued without its participation and control is specious. While it may be true that the said VAT invoices or official receipts were issued without its participation and control, it was incumbent upon Deutsche to require its suppliers of goods and services to issue the pertinent VAT invoice or official receipt, as the case may be, which bears all the information required by the NIRC and corresponding revenue regulations.

In other words, having been charged with the burden to prove its claim for refund, Deutsche should have been

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vigilant in ensuring that every purchase of goods or services is supported by a legally compliant VAT official receipt or invoice.

Deutsche attempts to persuade this Court by arguing that by submitting to the Court-commissioned Independent Certified Public Accountant (ICPA) all documents supporting input VAT for the CY 2011, the ICPA could not have come up with his findings, unless he has examined the relevant VAT invoices supporting Deutsche's purchases of goods.

In several pronouncements by this Court, We have repetitively stated that refund claims of input VAT must be supported by pertinent documents. Thus, Deutsche's claim that the denial of the amount P5,382,960.55[30] constitutes as a double deduction of its allowable input VAT is without merit.

A VAT-registered taxpayer is required to comply with all the VAT invoicing requirements to be able to file for a claim for input taxes on domestic purchases for goods or services attributable to zero-rated sales.[31] To reiterate, compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.[32]

Under Sections 110(A)(1)(a) and (b), and 113(A) of the NIRC of 1997, as amended by RA No. 9337, a creditable input VAT should be evidenced by a VAT invoice or official receipt. Said provisions read as follows:

> "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: xxx

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[30] Table of Computation of Petitioner's input VAT for CY 2011 without the required VAT receipts or official receipts, En Banc Docket, pp. 77-81.
[31] Microsoft Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 180173, April 6, 2011.
[32] Supra, Note 20.

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(b) Purchase of services on which a value added tax has actually been paid." (Emphasis and underscoring supplied)

"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

(3) **A VAT official receipt** for every lease of goods or properties, and for every sale, barter or exchange of services."

Relative thereto, Section 4.11 0-8(a)(2), (4), and (d), of RR No. 16-2005 provides as follows:

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

xxx xxx xxx

(2) **For the domestic purchase of goods and properties** - **invoice** showing the information required under Secs. 113 and 237 of the Tax Code.

xxx xxx xxx

(4) **For the purchase of services** - **official receipt** showing the information required under Secs. 113 and 237 of the Tax Code.

xxx xxx xxx

(d) Input tax from payments made to non-residents (such as for services, rentals and royalties) shall be supported by a copy of the Monthly Remittance Return of Value Added Tax Withheld (BIR Form 1600) filed by the resident payor in behalf of the non-resident evidencing remittance of VAT due

> which was withheld by the payor." (Emphases and underscoring supplied)

Clearly, under Sections 110(A) and 113(A) of the NIRC, any input tax that is subject of a claim for refund must be evidenced by a VAT invoice or official receipt.[33] Under the law, a VAT invoice is necessary for every sale, barter or exchange of goods or properties while a VAT official receipt properly pertains to every lease of goods or properties, and for every sale, barter or exchange of services.[34] With regard to refund of the input VAT from the payments made to non-residents, the above-quoted provision of RR No. 16-2005 requires that it must be substantiated by a copy of the subject Monthly Remittance Return of VAT Withheld (BIR Form 1600) filed by the refund claimant on behalf of the non-resident.

Although the Court-commissioned ICPA is of the view that certain amounts of input VAT are refundable, despite not being supported or substantiated by the above-stated documents, the Court in Division is not bound by the findings of the ICPA. It must be emphasized that the said documents under Sections 110(A)(1)(a) and (b), and 113(A) of the NIRC of 1997, as amended by RA No. 9337, in relation to Section 4.110-8 (a)(2), (4), and (d), of RR No. 16-2005, are subject to the Court's own thorough consideration and evaluation.

Lastly, anent Deutsche's insistence that out-of-period claims should be allowed, in the view that said claims are specifically allowed under Revenue Memorandum Circular (RMC) No. 42-03[35], the Court also disagrees.

We submit that RMCs, such as RMC No. 42-03, are considered administrative rulings which are issued from time to time by the CIR;[36] and, that these administrative issuances have the force and effect of law, and benefit from the same presumption of validity and constitutionality

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[33] Taganito Mining Corporation vs. Commissioner of Internal Revenue, G.R. No. 201195, November 26, 2014.

[34] Kepco Philippines Corporation vs. Commissioner of Internal Revenue, G.R. No. 181858, November 24, 2010.

[35] REVENUE MEMORANDUM CIRCULAR NO. 42-2003: Clarifying Certain Issues Raised Relative to the Processing of Claims for Value-Added Tax (VAT) Credit/Refund, Including Those Filed with the Tax and Revenue Group, One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center, Department of Finance (OSS) by Direct Exporters, July 15, 2013.

[36] Asia International Auctioneers, Inc., et al. vs. Parayno, et al., G.R. No. 163445, December 18, 2007.

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enjoyed by statutes.[37] However, it must be remembered that BIR circulars and rulings cannot prevail over the clear and plain language of the NIRC, as amended.[38]

Even for the sake of argument that indeed RMC No. 42-03 allows out-of-period claims of input VAT, the same cannot be adhered to, because it contravenes Section 110(2) of the NIRC of 1997, as amended by RA No. 9337, which is one of the pertinent provisions applicable to Deutsche's claim for refund. Further, the afore-mentioned provision lays down the rules as to when the input VAT is creditable against the output VAT, to wit:

> "SEC. 110. Tax Credits.-
>
> xxx xxx xxx
>
> (2) The input tax on domestic purchases or importation of goods or properties by a VAT-registered person **<u>shall be creditable</u>**:
>
> (a) To the purchaser **<u>upon consummation</u> of sale and on importation of goods or properties; and**
>
> (b) To the importer **<u>upon payment of the value added tax</u> prior to the release of the goods** from the custody of the Bureau of Customs. xxx, That in case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee **<u>upon payment of the compensation, rental, royalty or fee</u>**." (Emphases and underscoring supplied)

The foregoing law is clear. As to the purchaser of goods or properties, the input VAT is creditable against the output VAT, upon consummation of the sale; as to the importer, upon payment of the VAT; and as to the purchaser of services, lease or use of properties, the input VAT therefor is creditable upon payment of the compensation, rental, royalty or fee. With the use of the word "upon", it can be

[37] Chevron Phils, Inc. vs. Bases Conversion and Development Authority, et. al., G.R. No. 173863, September 15,2010.
[38] Security Bank Corporation (formerly Security Bank and Trust Company) vs. The Commissioner of Internal Revenue, G.R. No. 130838, August 22, 2006.

easily discerned from the said provisions that the creditability of the pertinent input VAT against the output VAT must be made as it happens, and not to be made at any other time.

All told, no error was committed by the Court in Division in the assailed Decision and Resolution. Thus, there is no reason to disturb its findings.

WHEREFORE, the petitions are **DENIED**. The Decision of the Third Division of this Court in CTA Case Nos. 8623, 8656, 8661 & 8685 dated 04 August 2017, and its Resolution dated 15 December 2017, are **AFFIRMED**. No pronouncement as to costs.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

(On Leave)
MA. BELEN M. RINGPIS LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
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 these cases were assigned to the writer of the opinion of the Court En Banc.

ROMAN G. DEL ROSARIO
Presiding Justice