REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

HAWORTH FURNITURE (PHILIPPINES) INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10936

Members:
MANAHAN, *Chairperson,*
REYES-FAJARDO, *and*
ANGELES, *JJ.*

Promulgated:
DEC 05 2025
1:30 p.m.

x- x

DECISION

REYES-FAJARDO, *J*.:

We resolve the Petition for Review posted on July 22, 2022, by Haworth Furniture (Philippines), Inc., assailing Commissioner of Internal Revenue's partial denial of its claim; it now seeks additional refund of ₱18,723,103.07, representing previously denied refund of its unutilized input value-added tax (VAT) attributable to its zero-rated sales for calendar year 2020.

FACTS

Petitioner Haworth Furniture (Philippines), Inc. is a corporation duly organized and existing under Philippine laws.[1] It is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer, under Tax Identification Number (TIN) 009-146-891-000.[2] It is likewise registered with the Bureau of Customs (BOC) as an importer.[3]

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1 Exhibits "P-2" and "P-3," Docket – Vol. 3, pp. 1164 to 1170.
2 Exhibit "P-5," Docket – Vol. 3, p. 1172.
3 Exhibit "P-4-1," Docket – Vol. 3, p. 1171.

Respondent is the Commissioner of the BIR who has the authority to grant tax credit/refund under the law; and he is being sued in his capacity as the head of BIR, a government agency tasked, among others, with the assessment and collection of all national internal revenue taxes.[4]

On March 31, 2022, petitioner filed with the BIR its Application for Tax Credits/Refunds (BIR Form No. 1914),[5] with the letter dated March 30, 2022,[6] requesting for issuance of a cash refund of its unutilized input VAT tax credits attributable to zero-rated sales, for the 1st to 4th quarters of calendar year (CY) 2020, in the aggregate amount of ₱28,972,987.73.

On June 22, 2022, petitioner received the VAT Refund Notice dated June 9, 2022, partially denying its application.[7]

On July 22, 2022, petitioner filed this Petition for Review.[8]

On December 12, 2022, respondent filed an Answer.[9]

On March 9, 2023, the Pre-Trial Conference was held.[10]

On March 24, 2023, the parties submitted their Joint Stipulation of Facts and Issues,[11] approved by the Court by Resolution dated April 24, 2023.[12]

On May 24, 2023, the Court issued a Pre-Trial Order.[13]

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4 Par. 1.2, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket - Vol. 1, p. 391.

5 Exhibit "P-8," BIR Records - Folder 1 of 27 (Exhibit "R-7") p. 45.

6 Exhibit "P-9," Docket - Vol. 3, pp. 1184 to 1188.

7 Par. 1.1, Stipulation of Facts, JSFI, Docket - Vol. 1, p. 391; Exhibits "P-11" to "P-11-5," Docket - Vol. 1, pp. 44 to 60.

8 Docket - Vol. 1, pp. 7 to 31.

9 Docket - Vol. 1, pp. 239 to 250.

10 Resolution dated January 12, 2023, Docket - Vol. 1, p. 297; Notice of Pre-Trial Conference dated January 16, 2023, Docket - Vol. 1, pp. 298 to 301; Minutes of the hearing held on, and Order dated, March 9, 2023, Docket - Vol. 1, pp. 349 to 351 and 356 to 358, respectively.

11 Docket - Vol. 1, pp. 391 to 403.

12 Docket - Vol. 1, pp. 406 to 407.

13 Docket - Vol. 1, pp. 559 to 574.

Trial ensued. Petitioner presented: (1) Mr. James R. Bomotano,[14] petitioner's Finance Manager; (2) Ms. Rumia Mae Dela Cruz,[15] licensed Customs Broker in GCLPI Gateway Container Line Phils. Inc.; (3) Ms. Rubielyn Bulingit,[16] Account Receivable Assistant of Top Logistics International Corporation (Top Logistics); (4) Mr. Lito T. Adona,[17] licensed Customs Broker for petitioner; (5) Mr. Ildefonso Chan,[18] President of iCONFORMA INC. (iCONFORMA); and (6) Mr. Joseph Cedric V. Calica,[19] the Court-commissioned Independent Certified Public Accountant (ICPA).[20]

On October 13, 2023, petitioner filed its Formal Offer of Evidence,[21] to which respondent filed his Comment/Opposition on November 13, 2023.[22]

By Resolution dated February 23, 2024,[23] the Court admitted petitioner's offered exhibits, except:

> (1) Exhibits "P-20-A-749" and "P-20-A-753," for failure of the documents marked to correspond with the description in the formal offer of exhibits, as petitioner offered "Official Receipts and Sales on Purchases of Goods other than Capital Goods and Services for the 1st to 4th Quarters of <u>2020</u> consisting of 898 pages," whereas the subject exhibits were issued in taxable year 2021; and (2) Exhibit "P-25-B-55," for being unreadable or improperly scanned.

Thereafter, respondent presented Revenue Officer Juvy May M. Donato, as witness.[24]

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14 Exhibit "P-14," Docket - Vol. 1, pp. 458 to 472; Minutes of the hearing held on, and Order dated, July 19, 2023, Docket - Vol. 1, pp. 611 and 613 to 615, respectively.
15 Exhibit "P-15," Docket - Vol. 1, pp. 526 to 530; Minutes of the hearing held on, and Order dated, July 19, 2023, Docket - Vol. 1, pp. 611 and 613 to 615, respectively.
16 Exhibit "P-16," Docket - Vol. 1, pp. 537 to 543; Minutes of the hearing held on, and Order dated, July 19, 2023, Docket - Vol. 1, pp. 611 and 613 to 615, respectively.
17 Exhibit "P-17," Docket - Vol. 1, pp. 546 to 550; Minutes of the hearing held on, and Order dated, September 28, 2023, Docket - Vol. 3, pp. 1065 to 1068.
18 Exhibit "P-18," Docket - Vol. 1, pp. 590 to 604; Minutes of the hearing held on, and Order dated, September 28, 2023, Docket - Vol. 3, pp. 1065 to 1068.
19 Exhibit "P-44," Docket - Vol. 3, pp. 1048 to 1061; Minutes of the hearing held on, and Order dated, September 28, 2023, Docket - Vol. 3, pp. 1065 to 1068.
20 *Oath of Commission* dated July 19, 2023, Docket - Vol. 1, p. 612; Minutes of the hearing held on, and Order dated, July 19, 2023, Docket - Vol. 1, pp. 611, and 613 to 615, respectively.
21 Docket - Vol. 3, pp. 1139 to 1161.
22 Docket - Vol. 3, pp. 1373 to 1393.
23 Docket - Vol. 3, pp. 1397 to 1399.
24 Exhibit "R-6," Docket - Vol. 1, pp. 251 to 262; Minutes of the hearing held on, and Order dated, April 25, 2024, Docket - Vol. 3, pp. 1400 to 1402.

On May 6, 2024, respondent filed a Formal Offer of Evidence,[25] to which petitioner filed its Comment on May 20, 2024.[26]

By Resolution dated October 1, 2024,[27] the Court admitted all of respondent's offered exhibits.

On November 20, 2024, this case was submitted for decision,[28] considering respondent's Memorandum filed on October 30, 2024;[29] and petitioner's Memorandum filed on November 4, 2024.[30]

ISSUE

> Is petitioner entitled to its claim for VAT refund in the amount of PhP28,972,987.73 allegedly representing Petitioner's unutilized VAT Input Tax for calendar year 2020?[31]

ARGUMENTS

Petitioner argues that (1) it complied with all the requisites for the granting of tax refund; (2) it has sufficiently established its payment for input VAT on importation; (3) none of its 2020 official receipts (ORs) or sales invoices (SIs) is tampered, as the completion of the said ORs and SIs was authorized; (4) the disallowance due to unsupported zero-rated sales is erroneous because all of its input VAT for 2020 are supported with the necessary ORs, SIs and importation documents; and (5) ORs and invoices are compliant with the invoicing requirements.

Respondent retorts that (a) petitioner failed to prove its entitlement for tax refund and compliance with all documentary and evidentiary requirements; (b) its 2020 ORs or invoices were clearly and admittedly tampered with, hence it cannot be used to claim tax refund or credit; (c) it claimed input tax beyond the allowable period;

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25 Docket - Vol. 3, pp. 1404 to 1410.
26 Docket - Vol. 3, pp. 1411 to 1425.
27 Docket - Vol. 3, pp. 1429 to 1430.
28 Minute Resolution dated November 20, 2024, Docket - Vol. 3, p. 1494.
29 Docket - Vol. 3, pp. 1432 to 1444.
30 Docket - Vol. 3, pp. 1447 to 1493.
31 Issue, JSFI, Docket - Vol. 1, p. 392.

(d) it failed to comply with invoicing requirements resulting to their claim to be denied; (e) and BIR is allowed to use Third Party Information to determine the validity of the petitioner's claim.

RULING

The Petition is partly meritorious.

Requisites for the grant of the refund or issuance of tax credit certificate under the law.

Section 112 (A) and (C) of the 1997 National Internal Revenue Code (NIRC), as amended, provides:

> 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 of Input Taxes shall be Made.* — In proper cases, the Commissioner shall grant a refund for creditable input taxes within ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof: *Provided,* That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.

> In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals: *Provided, however,* That failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code.

Jurisprudence has laid down requisites which the taxpayer-applicant must comply with to successfully obtain an input VAT refund claim, to wit:

1. the refund claim is filed with the BIR within two (2) years after the close of the taxable quarter when the sales were made;[32]

2. in case of full or partial denial of the refund claim rendered within a period of ninety (90) days from the date of submission of the ORs or invoices and other documents in support of the application, the judicial claim is filed with this Court within thirty (30) days from receipt of the decision;[33]

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

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[35]

5. for zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2),[36] the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the *Bangko Sentral ng*

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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 Refer to *Energy Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 203367, March 17, 2021; *Commissioner of Internal Revenue vs. CE Casecnan Water and Energy Company, Inc.*, G.R. No. 212727, February 1, 2023; and *Commissioner of Internal Revenue vs. Vestas Services Philippines, Inc.*, G.R. No. 255085, March 29, 2023.

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. vs. Commissioner of Internal Revenue*, supra.

35 *Ibid.*

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

Pilipinas (BSP) rules and regulations;[37]

6. the input taxes are not transitional input taxes;[38]

7. the input taxes are due or paid;[39]

8. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume;[40] and

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[41]

Relative to the *fourth* and *seventh* requisites, 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] Compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.[44]

Section 113 (A) and (B), 237, and 238 of the NIRC, as amended, in relation to Section 4.113-1 (A) and (B) of Revenue Regulations (RR) No. 16-2005,[45] provides:

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37 *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., vs. Commissioner of Internal Revenue*, supra.

38 *Ibid.*

39 *Ibid.*

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

41 *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. vs. Commissioner of Internal Revenue*, supra.

42 *J.R.A. 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 SUBJECT: Consolidated Value-Added Tax Regulations of 2005.

SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* -

(A) *Invoicing Requirements.* - A VAT-registered person shall issue:

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

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

(B) *Information Contained in the VAT Invoice or VAT Official Receipt.* - The following information shall be indicated in the VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided*, That:

(a) The amount of the tax shall be shown as a separate item in the invoice or receipt;

(b) If the sale is exempt from value-added tax, the term **'VAT-exempt sale'** shall be written or printed prominently on the invoice or receipt;

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

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: *Provided*, That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

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

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

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SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* —

(A) *Issuance.* — All persons subject to an internal revenue tax shall, at the point of each sale and transfer of merchandise or for services rendered valued at One hundred pesos (P100) or more, issue duly registered receipts or sale or commercial invoices, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: *Provided, however,* That where the receipt is issued to cover payment made as rentals, commissions, compensation or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client: *Provided, further,* That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser.

...

SEC. 238. *Printing of Receipts or Sales or Commercial Invoices.* — All persons who are engaged in business shall secure from the Bureau of Internal Revenue an authority to print receipts or sales or commercial invoices before a printer can print the same

No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.

...

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

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

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

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

Only VAT-registered persons are required to print their TIN followed by the word 'VAT' in their invoice or official receipts. Said documents shall be considered as a 'VAT Invoice' or 'VAT official receipt.' All purchases covered by invoices/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

VAT invoice/official receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records.

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

(1) A statement that the seller is a VAT-registered person, followed by his TIN;

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; *Provided*, That:

(a) The amount of tax shall be shown as a separate item in the invoice or receipt;

(b) If the sale is exempt from VAT, the term 'VAT-exempt sale' shall be written or printed prominently on the invoice or receipt;

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

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

(3) In the case of sales in the amount of one thousand peso (P1,000.00) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and TIN of the purchaser, customer or client, shall be indicated in addition to the information required in (1) and (2) of this Section.

First and Second Requisites: petitioner's administrative and judicial claims for input VAT refund were timely filed.

Section 112(A) of the NIRC, as amended, requires the taxpayer to file an administrative claim for input VAT refund, within two (2) years from the close of the taxable quarter when the sales were made.

Section 112(C) of the same Code grants the BIR a period of ninety (90) days from date of submission of the official receipts or invoices and other supporting documents, to decide on the taxpayer's administrative claim for input VAT refund. At present, said invoices, official receipts, and other supporting documents are submitted upon the filing of the taxpayer's administrative claim for input VAT refund.[46] In turn, the taxpayer, may appeal to the Court, within thirty (30) days: a) from receipt of adverse decision rendered within said ninety(90)-day period; or b) after the lapse of said ninety (90)-day period, whichever is earlier.

Petitioner's administrative claim for input VAT refund for the four (4) quarters CY 2020 or the period from January 1, 2020 to December 31, 2020 was timely filed on March 31, 2022.[47] Counting ninety (90) days from March 31, 2022, or until June 29, 2022, to act on the claim.

On June 22, 2022, petitioner received BIR's adverse decision of its administrative claim.[48] Counting thirty (30) days from June 22, 2022, petitioner had until July 22, 2022, to seek judicial redress. The timely filing of petitioner's Petition for Review on July 22, 2022,[49] clothed the Court with jurisdiction over CTA Case No. 10936.

Third Requisite: petitioner is a VAT-registered taxpayer.

Petitioner is a VAT-registered taxpayer, with TIN 009-146-891-000, as evidenced by Certificate of Registration No. OCN 9RC0000545752.[50]

Fourth and Fifth Requisites: petitioner was able to partially establish that it was engaged in zero-rated sales for CY 2020, in the amount of P423,185,704.19.

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46 See *Zuellig-Pharma Asia Pacific Ltd. Phils. ROHQ v. Commissioner of Internal Revenue* (CIR), G.R. No. 244154, July 15, 2020. Beginning June 11, 2014, or upon effectivity of Revenue Memorandum Circular (RMC) No. 54-2014, the documents are deemed complete upon filing of the taxpayer's administrative claim for input VAT refund.

47 Exhibit "P-8," BIR Records – Folder 1 of 27 (Exhibit "R-7"), p. 45; Exhibit "P-9," Docket – Vol. 3, pp. 1184 to 1188.

48 Par. 1.1, Stipulation of Facts, JSFI, Docket – Vol. 1, p. 391; Exhibits "P-11" to "P-11-5," Docket – Vol. 1, pp. 44 to 60.

49 Docket – Vol. 1, pp. 7 to 31.

50 Exhibit "P-5," Docket – Vol. 3, p. 1172.

In its Amended Quarterly Value-Added Tax Returns for CY 2020, petitioner declared an amount of ₱525,739,242.34; of which ₱427,371,104.33, are zero-rated sales:

Period Covered	Exhibit No.	VATable Sales/Receipts	Zero-rated Sales/Receipts	Total Sales/Receipts
1st Quarter	"P-7"[51]	₱ 19,428,054.01	₱ 44,830,070.79	₱ 64,258,124.80
2nd Quarter	"P-7-1"[52]	3,186,147.57	11,237,242.51	14,423,390.08
3rd Quarter	"P-7-2"[53]	63,856,419.59	262,331,765.05	326,188,184.64
4th Quarter	"P-41"[54]	11,897,516.84	108,972,025.98	120,869,542.82
	Total	**₱98,368,138.01**	**₱427,371,104.33**	**₱525,739,242.34**

ICPA traced petitioner's zero-rated sales,[55] on the following items: (a) considered export sales to entities registered with the Philippine Economic Zone Authority (PEZA); and (b) sales to persons or entities whose exemption under international agreements, to which the Philippines is a signatory, effectively subject such sales to the zero-percent VAT rate. The presentation of the ICPA is hereby adopted:

A. Considered export sales to PEZA registered entities				
No.	**Customer Name**	**Sale of Goods**	**Sale of Services**	**Total Zero-rated Sales**
1.	ADP Philippines, Inc.	₱1,477,658.00	₱809,195.00	₱2,286,853.00
2.	Concentrix Daksh Services Philippines Corporation (CDSPC)	995,808.00		995,808.00
3.	DTCC Manila	3,499,141.45		3,499,141.45
4.	EY GDS (CS) Philippines, Inc.	4,725,000.00		4,725,000.00
5.	Global Payments Process Centre Inc.	80,160,803.50		80,160,803.50
6.	ING Business Shared Services BV Branch Office	2,765,293.74		2,765,293.74
7.	Legato Health Technologies Philippines, Inc.	66,707,994.44	412,000.00	67,119,994.44
8.	Optum Global Solutions (Philippines), Inc.	1,129,870.20		1,129,870.20
9.	Partners Group Prime Services Solutions Philippines, Inc.	18,097.50	16,132.00	34,229.50
10.	Principal Global Services (Philippines) LLC	50,332,831.20		50,332,831.20
11.	Reed Elsevier Shared Services Philippines, Inc.	2,251,842.00		2,251,842.00
12.	Shell Shared Services Asia B.V.	4,722,127.78		4,722,127.78
13.	Solarwinds Software Asia Pte Ltd Phil. Branch	76,359,438.20		76,359,438.20
14.	Sykes Asia, Inc.	23,467,848.00		23,467,848.00
15.	Telus International Philippines, Inc.	14,187,306.03		14,187,306.03
16.	Tenet Global Business Center,	25,246,249.73		33,796,249.73

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51 Docket – Vol. 3, pp. 1175 to 1176.
52 Docket – Vol. 3, pp. 1177 to 1178.
53 Docket – Vol. 3, pp. 1179 to 1180.
54 Amended USB (Exhibit "P-43-3").
55 Exhibits "P-21-B" and "P-21-C," Docket – Vol. 2, pp. 706 to 711.

	Inc.		8,550,000.00	
17.	Thomson Reuters Corporation Pte. Ltd. - Phil. Branch	44,939,595.23	918,700.56	45,858,295.79
18.	Traveler's International Hotel Group, Inc.	348,915.00		348,915.00
19.	Verizon Communications Phils. Inc.	6,154,569.00		6,154,569.00
20.	Western Union Services Philippines, Inc.	10,408.00	124,070.38	134,478.38
21.	Honeywell International Philippines, Inc.		36,960.00	36,960.00
	Subtotal	**₱409,500,796.00**	**₱10,867,057.94**	**₱ 420,367,854.94**
B.	**Sales to person or entities whose exemption under international agreements to which the Philippines is a signatory effectively subject such sales to VAT at zero-percent**			
1.	Asian Development Bank (ADB)	₱6,682,431.59		₱6,682,431.59
2.	Credit Guarantee and Investment Facility (CGIF)	1,102.50		1,102.50
3.	World Health Organization (WHO)	319,715.00		319,715.00
	Subtotal	**₱ 7,003,249.09**	-	**₱ 7,003,249.09**
	Grand Total	**₱416,504,046.09**	**₱10,867,057.94**	**₱427,371,104.03**[56]

A. Considered export sales to PEZA-registered entities

Sales of goods and services by a VAT-registered taxpayer, such as petitioner, to entities located within ecozones are considered "export sales" subject to VAT zero-rating, pursuant to Sections 106(A)(2)(a)(5) and 108(B)(3) of the NIRC, as amended, and as implemented by Sections 4.106-5(a)(5) and 4.108-5 of RR No. 16-2005, as amended, which provides:

> SEC. 106. *Value-added Tax on Sale of Goods or Properties.* –
>
> (A) *Rate and Base of Tax.* – ...
>
> ...
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (a) *Export Sales.* – The term 'export sales' means:
>
> ...
>
> **(5) Those considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, and other special laws; and**[57]

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56 Lower by ₱0.30 when compared with total zero-rated sales/receipts per VAT returns of ₱427,371,104.33.

57 Emphasis supplied.

SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* –

(A) *Rate and Base of Tax.* – …

…

(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:

…

(3) **Services rendered to persons or entities whose exemption under special laws** or international agreements to which the Philippines is a signatory **effectively subjects the supply of such services to zero percent (0%) rate;** [58]

…

SEC. 4.106-5. *Zero-Rated Sales of Goods or Properties.* – …

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

(a) ***Export sales.*** – '*Export Sales*' shall mean:

…

(5) Transactions considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, and other special laws.

'Considered export sales under Executive Order No. 226' shall mean the Philippine port F.O.B. value determined from invoices, bills of lading, inward letters of credit, landing certificates, and other commercial documents, of export products exported directly by a registered export producer, or the net selling price of export products sold by a registered export producer to another export producer, or to an export trader that subsequently exports the same; *Provided,* That sales of export products to another producer or to an export trader shall only be deemed export sales when actually exported by the latter, as evidenced by landing certificates or similar commercial documents; *Provided, further,* That *pursuant to EO 226 and other special laws,* even without actual exportation, the following shall be considered constructively exported: (1) sales to bonded manufacturing warehouses of export-oriented manufacturers; (2) **sales to export processing zones *pursuant to Republic Act (RA) Nos.* 7916, *as amended,* 7903, 7922 *and other similar export processing zones*;** (3) *sale to enterprises duly registered and accredited with the Subic Bay Metropolitan Authority pursuant to RA 7227;* (4) sales to registered export traders operating bonded

[58] Emphasis supplied.

trading warehouses supplying raw materials in the manufacture of export products under guidelines to be set by the Board in consultation with the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC); (5) sales to diplomatic missions and other agencies and/or instrumentalities granted tax immunities, of locally manufactured, assembled or repacked products whether paid for in foreign currency or not.

...

(c) *Sales to Persons or Entities Deemed Tax-exempt under Special Law or International Agreement"* – Sales of goods or property to persons or entities who are tax-exempt under special laws, *e.g.* sales to enterprises duly registered and accredited with the Subic Bay Metropolitan Authority (SBMA) pursuant to R.A. No. 7227, **sales to enterprises duly registered and accredited with the Philippine Economic Zone Authority (PEZA)** or international agreements to which the Philippines is signatory, such as, Asian Development Bank (ADB), International Rice Research Institute (IRRI), etc., **shall be effectively subject to VAT at zero-rate.**"

"**SEC. 4.108-5.** *Zero-Rated Sale of Services*. –

...

(b) Transactions Subject to Zero Percent (0%) VAT Rate. - The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

...

(3) **Services rendered to persons or entities whose exemption under special laws** or international agreements to which the Philippines is a signatory **effectively subjects the supply of such services to zero percent (0%) rate;**"[59]

Based on the foregoing, in order for an export sale to qualify for VAT zero-rating under Section 106(A)(2)(a)(5) of the NIRC, as amended, the following essential elements must be present:

1. the sale was made by a VAT-registered person; and,
2. there was sale of goods or services to an entity which is entitled to incentives under Executive Order No. (EO) 226, otherwise known as the Omnibus Investment Code (OIC) of 1987, and other special laws.

As for the *first* essential element, it is already settled that petitioner is a VAT-registered person.

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[59] Emphasis supplied.

With regard to the *second* essential element, petitioner must present the following documents:

1. the SIs/ORs as proof of sale of goods and ORs as proof of sales of services; and

2. proof of entitlement to zero-rating under the OIC, other special laws, or international agreements to which the Philippines is a signatory.

In compliance with the *second* essential element, petitioner presented the following: (1) SIs; (2) ORs with the related service invoices; and (3) various certifications issued by PEZA confirming the VAT zero-rating of the transactions of petitioner's clients to its local suppliers of goods, properties and services, detailed as follows:

No.	Customer Name	Total Zero-Rated Sales/Receipts	SI, OR with the related Service Invoice Exhibit No.[60]	PEZA Certification	
				Exhibit No.[61]	Period of Validity
1.	ADP Philippines, Inc.	₱ 2,286,853.00	"P-21-B-18," "P-21-B-64," "P-21-C-2," "P-21-C-3," "P-21-C-4," "P-21-C-5," "P-21-C-8," "P-21-C-9," "P-21-C-26," "P-21-C-27," "P-21-C-28," "P-21-C-29"	"P-22-C"	Year 2020
2.	Concentrix Daksh Services Philippines Corporation (CDSPC)	995,808.00	"P-21-B-17"	"P-22-H"	Year 2020
3.	DTCC Manila	3,499,141.45	"P-21-B-8"	"P-22-K"	Year 2020
4.	EY GDS (CS) Philippines, Inc.	4,725,000.00	"P-21-B-13," "P-21-B-16," "P-21-B-27," "P-21-B-28"	"P-22-P"	Year 2020
	Global Payments Process Centre Inc.	80,160,803.50	"P-21-B-7," "P-21-B-9," "P-21-B-23," "P-21-B-24," "P-21-B-25," "P-21-B-26," "P-21-B-29," "P-21-B-30," "P-21-B-32," "P-21-B-35," "P-21-B-39," "P-21-B-42," "P-21-B-43," "P-21-B-49," "P-21-B-50," "P-21-B-60," "P-21-B-63"	"P-22-S"	Year 2020
6.	ING Business Shared Services BV Branch Office	2,765,293.74	"P-21-B-31," "P-21-B-72"	"P-22-U"	Year 2020

[60] Amended USB (Exhibit "P-43-3").
[61] Amended USB (Exhibit "P-43-3").

7.	Legato Health Technologies Philippines, Inc.	67,119,994.44	"P-21-B-6," "P-21-B-10," "P-21-B-11," "P-21-B-53," "P-21-B-54," "P-21-B-68," "P-21-B-69," "P-21-C-14," "P-21-C-15," "P-21-C-16," "P-21-C-17"	"P-22-W"	Year 2020
8.	Optum Global Solutions (Philippines), Inc.	1,129,870.20	"P-21-B-59," "P-21-B-65"	"P-22-AA"	Year 2020
9.	Partners Group Prime Services Solutions Philippines, Inc.	34,229.50	"P-21-B-4," "P-21-C-10," "P-21-C-11"	"P-22-DD"	Year 2020
10.	Principal Global Services (Philippines) LLC	50,332,831.20	"P-21-B-51," "P-21-B-52," "P-21-B-61," "P-21-B-62"	"P-22-YY"	May 5, 2020 to Dec. 31, 2020
11.	Reed Elsevier Shared Services Philippines, Inc.	2,251,842.00	"P-21-B-44," "P-21-B-45," "P-21-B-46"	"P-22-FF"	Year 2020
12.	Shell Shared Services Asia B.V.	4,722,127.78	"P-21-B-38," "P-21-B-47," "P-21-B-70," "P-21-B-79"	"P-22-HH"	Year 2020
13.	Solarwinds Software Asia Pte Ltd Phil. Branch	76,359,438.20	"P-21-B-55," "P-21-B-56," "P-21-B-66," "P-21-B-67," "P-21-B-77," "P-21-B-78"	"P-22-II"	Year 2020
14.	Sykes Asia, Inc.	23,467,848.00	"P-21-B-1"	"P-22-KK"	Year 2020
15.	Telus International Philippines, Inc.	14,187,306.03	"P-21-B-12," "P-21-B-34," "P-21-B-36," "P-21-B-37," "P-21-B-48"	"P-22-MM"	Year 2020
16.	Tenet Global Business Center, Inc.	33,796,249.73	"P-21-B-80," "P-21-B-81," "P-21-C-18," "P-21-C-19," P-21-C-20," "P-21-C-21"	"P-22-NN"	Year 2020
17.	Thomson Reuters Corporation Pte. Ltd. - Phil. Branch	45,858,295.79	"P-21-B-40," "P-21-B-41," "P-21-B-57," "P-21-B-58," "P-21-C-22," "P-21-C-23," "P-21-C-24," "P-21-C-25"	"P-22-PP"	Year 2020
18.	Traveler's International Hotel Group, Inc.	348,915.00	"P-21-B-5," "P-21-B-14," "P-21-B-15"	None	None
19.	Verizon Communications Phils. Inc.	6,154,569.00	"P-21-B-73," "P-21-B-74," "P-21-B-75," "P-21-B-76"	"P-22-RR"	Year 2020
20.	Western Union Services Philippines, Inc.	134,478.38	"P-21-B-19," "P-21-C-1," "P-21-C-30," "P-21-C-12," "P-21-C-13"	"P-22-VV"	Jan. 1 to June 30, 2020
21.	Honeywell International Philippines, Inc.	36,960.00	"P-21-C-6," P-21-C-7"	None	None
	TOTAL	**₱420,367,854.93**			

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The ICPA noted the following exceptions:

Customer Name	Exhibit No.	Sales Amount	Reason
Sale of Goods[62]			
Traveler's International Hotel Group, Inc.	None	₱ 87,456.00	No SI or OR submitted
Traveler's International Hotel Group, Inc.	"P-21-B-5,"	87,456.00	No PEZA Certification
	"P-21-B-14"	15,803.00	
	"P-21-B-15"	158,200.00	
Subtotal		**₱348,915.00**	
Sale of Service[63]			
Western Union Services Philippines, Inc.	"P-21-C-1" and "P-21-C-30"	₱ 46,138.40	Sales not classified as zero-rated sales in the OR
Subtotal		**₱ 46,138.40**	
Total		**₱395,053.40**	

We likewise found that the amount of ₱3,790,346.44 should be disallowed:

Customer Name	SI/OR		Sales Amount	Reason for Disallowance
	Exhibit No.	Date		
Sale of Goods				
Global Payment Process Centre, Inc.	"P-21-B-29"	July 21, 2020	₱ 2,611,038.90	No PEZA-issued certification of registration or VAT zero-rating
	"P-21-B-30"	July 21, 2020	1,044,415.56	
Subtotal			**₱3,655,454.46**	
Sale of Service				
Honeywell International Philippines, Inc.	"P-21-C-7"	July 29, 2020	₱ 36,960.00	No PEZA-issued certification of registration or VAT zero-rating
Western Union Services Philippines, Inc.	"P-21-C-13"	Sept. 24, 2020	77,931.98	Date per OR is beyond the validity period indicated in the corresponding PEZA certification of VAT zero-rating
ADP (Philippines), Inc.	"P-21-C-29"	October 28, 2020	20,000.00	Supported by OR with erasures but the countersignature thereon differs from that of the authorized signatory appearing on the OR; no proof of authority to validate such erasures
Subtotal			**₱ 134,891.98**	
Total			**₱3,790,346.44**	

In sum, out of the ₱420,367,854.94 reported sales to PEZA-registered entities, only the amount of ₱416,182,455.10, qualifies as VAT zero-rated sales, computed below:

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[62] Exhibits "P-24-I" and "P-24-K," *ICPA Report* (Exhibit "P-43"), Docket - Vol. 2, pp. 728 and 730, respectively.

[63] Exhibit "P-24-J," *ICPA Report* (Exhibit "P-43"), Docket - Vol. 2, p. 729.

Total reported zero-rated sales to PEZA-registered entities	₱ 420,367,854.94
Less: Disallowances	
Per *ICPA report*	₱ 395,053.40
Per this Court's further verification	₱ 3,790,346.44
Total Disallowances	₱ 4,185,399.84
Total valid zero-rated sales to PEZA-registered entities	**₱416,182,455.10**

B. Sales to person or entities whose exemption under international agreements subject such sales to VAT at zero percent (0%).

Section 106(A)(2)(a)(c) of the NIRC, as amended, categorically provides that "[s]ales to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects such sales to zero rate."

Relative thereto, Sections 4.106-5 of RR No. 16-2005, as amended by RR No. 4-2007, provides:

> SEC. 4.106-5. *Zero-Rated Sales of Goods or Properties.* — ...
>
> The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (a) Export sales. — ...
>
> ...
>
> (c) 'Sales to Persons or Entities Deemed Tax-exempt under Special Law or International Agreement' — **Sales of goods or property to persons or entities who are tax-exempt under** special laws or **international agreements to which the Philippines is signatory**, such as, **Asian Development Bank (ADB)**, International Rice Research Institute (IRRI), etc., shall be effectively subject to VAT at zero-rate.[64]

Thus, in order to be entitled to VAT zero-rating under Sections 106 (A) (2) (a) (c) of the NIRC, as amended, there is a need to comply with following essential elements:

1. the sale was made by a VAT-registered person; and,
2. there was sale of goods to an entity who is tax-exempt under international agreement to which the Philippines is a signatory.

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64 Emphasis supplied.

As for the *first* essential element, it is already settled that petitioner is a VAT-registered person.

With regard to the *second* essential element, petitioner must present the following documents:

1. proof of entitlement to zero-rating under international agreements to which the Philippines is a signatory; and
2. SIs as proof of sale of goods.

Petitioner sold goods to Asian Development Bank (ADB), Credit Guarantee and Investment Facility (CGIF), and World Health Organization (WHO).

As for ADB, the BIR has already acknowledged in Sections 4.106-5 of RR No. 16-2005, as amended, that ADB is among the entities who have international agreements with Philippines. Thus, petitioner's sale of goods to it is subject to VAT at zero-rate.

Concerning CGIF, petitioner presented the BIR Letter dated March 3, 2013.[65] It establishes that CGIF is a trust fund under the ADB without separate legal personality. Article 13.2 of its Articles of Agreement dated 27 November 2013 provides that the privileges, immunities and exemptions accorded to ADB pursuant to the Agreement Establishing the ADB shall apply to CGIF. Section 56 of the Agreement Establishing the ADB (22 August 1966) declares that "the Bank, its assets, property, income, operations, and transactions shall be exempt from all taxation and customs duties." Given these provisions, CGIF enjoys the same tax privileges as ADB. Thus, petitioner's sales to CGIF are effectively zero-rated.

With regard to WHO, petitioner presented BIR Ruling No. ITAD 103-12.[66] It confirms that WHO has a Host Agreement between the Republic of the Philippines. Sections 11 and 12, Article IV thereof, provides that WHO's assets, income and other property shall be exempt from all direct and indirect taxes. VAT being an indirect tax, cannot be passed on to WHO as a buyer, transferee, or lessee. Accordingly, the sale of goods and services, and the sale and lease of properties, in the Philippines, to WHO are subject to VAT at zero percent or exempt from VAT, as applicable.

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65 Exhibit "P-22-F," Amended USB (Exhibit "P-43-3").
66 Exhibit "P-22-WW," Amended USB (Exhibit "P-43-3").

In view of the foregoing evidence, We are convinced that the ADB, CGIF, and WHO are indeed tax-exempt entities. Thus, petitioner's sales of goods to them shall be effectively subject to VAT at zero percent (0%).

To prove its sales of goods to the foregoing VAT-exempt entities, petitioner submitted the corresponding SIs. Based on the evidence presented, the total amount of ₱7,003,249.09 qualifies for VAT zero-rating:

No.	Customer Name	Total Zero-Rated Sales	SI Exhibit No.[67]
1.	ADB	₱ 6,682,431.59	"P-21-B-20," "P-21-B-21," "P-21-B-22," "P-21-B-71"
2.	CGIF	1,102.50	"P-21-B-33"
3.	WHO	319,715.00	"P-21-B-2," "P-21-B-3"
	Total	**₱7,003,249.09**	

In sum, out of petitioner's declared zero-rated sales/receipts for CY 2020 of ₱427,371,104.33, only the amount of ₱423,185,704.19 qualifies for VAT zero-rating, computed as follows:

	1st Quarter	**2nd Quarter**	**3rd Quarter**	**4th Quarter**	**CY 2020**
Zero-rated Sales/Receipts per VAT returns	₱44,830,070.79	₱11,237,242.51	₱262,331,765.05	₱108,972,025.98	₱427,371,104.33
Less: Disallowances					
Per ICPA report					
a. No SI or OR submitted	(87,456.00)				(87,456.00)
b. No PEZA Certification	(87,456.00)	(174,003.00)[68]			(261,459.00)
c. Sales not classified as zero-rated sales in the OR	(46,138.40)				(46,138.40)
Per Court's further verification					
a. Sales made to Global Payments Asia-Pacific Philippines, Inc., which does not have a PEZA-issued certification of registration or VAT zero-rating			(3,655,454.46)		(3,655,454.46)
b. No PEZA- issued certification			(36,960.00)		(36,960.00)
c. Date per OR is beyond the validity period indicated in			(77,931.98)		(77,931.98)

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[67] Amended USB (Exhibit "P-43-3").

[68] Sum of ₱15,803.00 and ₱158,200.00, Exhibits "P-21-B-14" and "P-21-B-15."

the corresponding PEZA certification of VAT zero-rating					
d. Supported by OR with erasures but the countersignature thereon differs from that of the authorized signatory appearing on the OR				(20,000.00)	(20,000.00)
Difference between zero-rated sales/receipts per returns vs per ICPA-prepared schedules			(.30)		(.30)
Valid Zero-Rated Sales/Receipts	**₱44,609,020.39**	**₱11,063,239.51**	**₱258,561,418.31**	**₱108,952,025.98**	**₱423,185,704.19**

Sixth Requisite: The input VAT being claimed does not appear to be transitional input VAT.

Section 111(A) [69] of the NIRC, as amended, states that transitional input taxes are realized when: *one*, a person not previously liable for VAT, becomes liable for said tax; and *two*, on newly VAT-registered persons. 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.[70] None of these conditions are present in the case of the petitioner.

Seventh Requisite: Not all of petitioner's input VAT being claimed for refund were duly substantiated.

Section 110(A) of the NIRC, as amended, provides:

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[69] SEC. 111. *Transitional/Presumptive Input VAT Credits.* –

(A) *Transitional Input VAT 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 VAT 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.

[70] *Fort Bonifacio Development Corporation vs. Commissioner of Internal Revenue, et al., et seq.*, G.R. Nos. 158885 and 170680, April 2, 2009.

SEC. 110. *Tax Credits.* –

(A) *Creditable Input VAT.* –

(1) Any input VAT evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax:

(a) Purchase or importation of goods:

(i) For sale; or

(ii) For conversion into or intended to form part of a finished product for sale including packaging materials; or

(iii) For use as supplies in the course of business; or

(iv) For use as materials supplied in the sale of service; or

(v) For use in trade or business for which deduction for depreciation or amortization is allowed under this Code.

(b) Purchase of services on which a value-added tax has actually been paid.

(2) The input VAT on domestic purchase or importation of goods or properties by a VAT-registered person shall be creditable:

(a) To the purchaser upon consummation of sale and on importation of goods or properties; and

(b) To the importer upon payment of the value-added tax prior to the release of the goods from the custody of the Bureau of Customs.

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

> *Provided*, finally, That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or fee."

The above provisions are implemented by Sections 4.110-1 to 4.110-3 of RR No. 16-2005, as amended:

> "SECTION 4.110-1. *Credits for Input VAT.* — 'Input VAT' means the VAT due on or paid by a VAT-registered person on importation of goods or local purchases of goods, properties, or services, including lease or use of properties, in the course of his trade or business. It shall also include the transitional input VAT and the presumptive input VAT determined in accordance with Sec. 111 of the Tax Code.
>
> It includes input VAT which can be directly attributed to transactions subject to the VAT plus a ratable portion of any input VAT which cannot be directly attributed to either the taxable or exempt activity.
>
> Any input VAT on the following transactions evidenced by a VAT invoice or official receipt issued by a VAT-registered person in accordance with Secs. 113 and 237 of the Tax Code shall be creditable against the output tax:
>
> (a) Purchase or importation of goods:
>
> (1) For sale; or
>
> (2) For conversion into or intended to form part of a finished product for sale including packaging materials; or
>
> (3) For use as supplies in the course of business; or
>
> (4) For use as materials supplied in the sale of services; or
>
> (5) For use in trade or business for which deduction for depreciation or amortization is allowed under the Tax Code,
>
> (b) Purchase of real properties for which a VAT has actually been paid;
>
> (c) Purchase of services in which a VAT has actually been paid.
>
> (d) Transactions 'deemed sale' under Sec. 106 (B) of the Tax Code;
>
> (e) Transitional input tax allowed under Sec. 4.111 (a) of these Regulations;

(f) Presumptive input tax allowed under Sec. 4.111 (b) of these Regulations;

(g) Transitional input tax credits allowed under the transitory and other provisions of these Regulations.

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

(a) To the importer upon payment of VAT prior to the release of goods from customs custody;

(b) To the purchaser of the domestic goods or properties upon consummation of the sale; or

(c) To the purchaser of services or the lessee or licensee upon payment of the compensation, rental, royalty or fee.

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

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

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

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

Capital goods or properties refers to goods or properties with estimated useful life greater than one (1) year and which are treated as depreciable assets under Sec. 34(F) of the Tax Code, used directly or indirectly in the production or sale of taxable goods or services.

The aggregate acquisition cost of depreciable assets in any calendar month refers to the total price, excluding the VAT, agreed upon for one or more assets acquired and not on the payments actually made during the calendar month. Thus, an asset acquired on installment for an acquisition cost of more than P1,000,000.00, excluding the VAT, will be subject to the amortization of input tax despite the fact that the monthly payments/installments may not exceed P1,000,000.00.

Construction in progress (CIP) is the cost of construction work which is not yet completed. CIP is not depreciated until the asset is placed in service. Normally, upon completion, a CIP item is reclassified and the reclassified asset is capitalized and depreciated.

CIP is considered, for purposes of claiming input tax, as a purchase of service, the value of which shall be determined based on the progress billings. Until such time the construction has been completed, it will not qualify as capital goods as herein defined, in which case, input tax credit on such transaction can be recognized in the month the payment was made: *Provided*, that an official receipt of payment has been issued based on the progress billings.

In case of contract for the sale of service where only the labor will be supplied by the contractor and the materials will be purchased by the contractee from other suppliers, input VAT credit on the labor contracted shall still be recognized on the month the payment was made based on progress billings while input VAT on the purchase of materials shall be recognized at the time the materials were purchased.

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

...

Once the input VAT has already been claimed while the construction is still in progress, no additional input VAT can be claimed upon completion of the asset when it has been reclassified as a depreciable capital asset and depreciated.

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

SEC. 4.110-8. *Substantiation of Input VAT Credits*. –

(a) Input VAT for the importation of goods or the domestic purchase of goods, properties or services is made in the course of trade or business, whether such input VAT shall be credited against zero-rated sale, non-zero-rated sales, or subjected to the 5% Final Withholding VAT, must be substantiated and supported by the following documents, and must be reported in the information returns required to be submitted to the Bureau:

(1) **For the importation of goods** - import entry or other equivalent document showing actual payment of VAT on the imported goods.

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

(3) For the purchase of real property – public instrument i.e., deed of absolute sale, deed of conditional sale, contract/agreement to sell, etc., together with VAT invoice issued by the seller.

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

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

In order to prove entitlement to credits for input VAT due or paid, petitioner must not only present the supporting documents prescribed under Section 4.110-8 of RR No. 16-2005, but must likewise comply with the invoicing requirements under Sections 113(A) and (B), 237 and 238 of the NIRC, as amended, as implemented by Section 4.113-1(A) and (B) of RR No. 16-2005.

Based on petitioner's amended *Quarterly VAT Returns* for CY 2020, its excess input VAT claim of ₱28,972,987.73 emanated from the total current input VAT of ₱40,777,164.29 related to its domestic purchases of goods other than capital goods, importation of goods other than capital goods, domestic purchase of services, and services rendered by non-residents, as summarized below:

Particulars	1st Quarter (Exhibit "P-7")[71]	2nd Quarter (Exhibit "P-7-1")[72]	3rd Quarter (Exhibit "P-7-2")[73]	4th Quarter (Exhibit "P-41")[74]	Total
Input VAT on current transactions:					
Domestic purchases of goods other than capital goods	₱466.07	₱3,000.00	₱16,037.88	₱12,268.20	₱31,772.15
Domestic purchase of services	1,784,040.45	1,028,666.52	1,566,652.88	2,548,485.51	6,927,845.36
Importation of goods other than capital goods	2,299,804.00	6,288,446.26	19,320,666.16	5,108,966.26	33,017,882.68
Services rendered by Non-residents	-	-	799,664.10	-	799,664.10
Total current input VAT for taxable year 2020	**₱4,084,310.52**	**₱7,320,112.78**	**₱21,703,021.02**	**₱7,669,719.97**	**₱40,777,164.29**
Less: Output Tax	2,331,366.48	382,337.71	7,662,770.35	1,427,702.02	11,804,176.56
Claim for Refund	**₱1,752,944.04**	**₱6,937,775.07**	**₱14,040,250.67**	**₱6,242,017.95**	**₱28,972,987.73**

To support the above input VAT, petitioner submitted, among others, the following: (1) Schedule of Purchases of Goods other than Capital Goods and Purchase of Services; [75] (2) Schedule of Importations other than Capital Goods;[76] (3) Schedule of Services Rendered by Non-resident; [77] (4) ORs and SIs; [78] (5) importation documents (i.e., Single Administrative Document, Commercial Invoice, Statement of Settlement of Duties and Taxes, and Assessment Notice);[79] (6) Haworth Singapore Pte. Ltd Debit Note;[80] and (7) Monthly Remittance Return of Value Added Tax and Other Percentage Taxes Withheld (BIR Form No. 1600),[81] which were all examined and verified by the ICPA.

Respondent complains that the 2020 ORs or SIs issued by iCOFORMA and Top Logistics were clearly and admittedly tampered with. Hence, petitioner failed to prove the veracity thereof; hence, the ORs or SIs cannot be used to claim tax refund.[82]

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71 Docket – Vol. 3, pp. 1175 to 1176.
72 Docket – Vol. 3, pp. 1177 to 1178.
73 Docket – Vol. 3, pp. 1179 to 1180.
74 Amended USB (Exhibit "P-43-3").
75 Exhibit "P-20-A," *ICPA Report* (Exhibit "P-43"), Docket – Vol. 2, pp. 676 to 694.
76 Exhibit "P-20-B," *ICPA Report* (Exhibit "P-43"), Docket – Vol. 2, pp. 695 to 698.
77 Exhibit "P-20-C," *ICPA Report* (Exhibit "P-43"), Docket – Vol. 2, p. 699.
78 Exhibits "P-20-A-1" to "P-20-A-807," Amended USB (Exhibit "P-43-3").
79 Exhibits "P-20-B-1" to "P-20-B-372," Amended USB (Exhibit "P-43-3").
80 Exhibit "P-20-C-1 to "P-20-C-2," Amended USB (Exhibit "P-43-3").
81 Exhibits "P-20-C-3," Amended USB (Exhibit "P-43-3").
82 Respondent's *Memorandum*, Docket – Vol. 3, at p. 1435.

Petitioner counters that none of its 2020 ORs or SIs was tampered with, as the completion (modifications with countersignatures) of the same were made by the President of iCONFORMA, Mr. Ildefonso Chan, and the Accounting Assistant of Top Logistics, Ms. Rubielyn Bulingit, whose authority cannot be denied.[83]

We find for the petitioner.

First, there is no law prohibiting taxpayers with non-compliant invoices or receipts from requesting their suppliers to indicate the required information therein.

Second, the corrections made by Mr. Chan and Ms. Bulingit appeared to be minor, involving only the completion of the petitioner's business name. Specifically, Mr. Chan corrected petitioner's name from "Phil" to "Philippines" and "U" to "Unit,"[84] while Ms. Bulingit completed the missing business name of petitioner in the subject ORs.[85]

Third, the 2020 ORs and SIs issued by iCONFORMA and Top Logistics are deemed valid, as the completion thereof was authorized and ratified by their respective Board of Directors. Both Mr. Chan and Ms. Bulingit explained and confirmed that they countersigned the same, upon petitioner's request, and such acts were confirmed and ratified by no less than their Boards of Directors, as evidenced in their respective Secretary's Certificates.[86]

Lastly, petitioner benefits from the disputable presumption that the ordinary course of business has been observed in the correction of the subject ORs, pursuant to Section 3(q), Rule 131 of the Rules of Court.[87] Respondent, on the other hand, failed to present any evidence to overcome this presumption or to show that the said corrections were fraudulent or falsified.

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83 Par. 126, *Memorandum [For Petitioner Haworth Furniture (Philippines) Inc.]*, Docket – Vol. 3, p. 1487.

84 Transcript of the Stenographic Notes (TSN) during the hearing held on September 28, 2023, p. 20.

85 TSN during the hearing held on July 19, 2023, pp. 49 to 50.

86 Exhibits "P-16-3" and "P-18-2," Docket – Vol. 3, pp. 1256 and 1280.

87 **Section 3.** Disputable presumptions. — The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

...

(q) That the ordinary course of business has been followed;

From the foregoing, We are convinced of the veracity of subject ORs and SIs.

Section 1, Rule 131[88] of the Rules of Court, as amended,[89] embodies, *inter alia*, the principle of burden of evidence. To be precise, when a *prima facie* case was established by a party through satisfactory evidence, the burden of evidence is shifted to the other party to negate the same, via presentation of sufficient countervailing evidence. It is determined by the progress of the trial, and shifts to one party when the other party has produced sufficient evidence to be entitled as a matter of law to a ruling in his [or her] favor. *People v. Mirandilla, Jr. (Mirandilla, Jr.)*[90] explained:

> **Burden of evidence is that logical necessity which rests on a party at any particular time during the trial to create a *prima facie* case in his [or her] favor or to overthrow one when created against him [or her].** A *prima facie* case arises when the party having the burden of proof has produced evidence sufficient to support a finding and adjudication for him [or her] of the issue in litigation.[91]

In retrospect, the evidence presented by petitioner imprinted in our mind the validity of the subject ORs and SIs. Consistent with Section 1, Rule 131 of the Rules of Court, as amended, as interpreted in *Mirandilla, Jr.*, the burden of evidence is shifted to respondent, who is tasked to counteract our impression, through its presentation of countervailing evidence. Yet, no such evidence was produced. On that account, we conclude that the 2020 ORs and SIs issued by iCONFORMA and Top Logistics are deemed valid and may be used to claim input VAT refund.

Upon scrutiny and verification of the evidence submitted by petitioner, the ICPA found that the input VAT in the total amount of ₱500,894.11 should be disallowed for failure to comply with the substantiation and invoicing requirements under the VAT law and regulations, itemized as follows:

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88 Section 1. Burden of proof and burden of evidence. - ...

Burden of evidence is the duty of a party to present evidence sufficient to establish or rebut a fact in issue to establish a *prima facie* case. Burden of evidence may shift from one party to the other in the course of the proceedings, depending on the exigencies of the case. (1a)

89 A.M. 19-08-15-SC.

90 G.R. No. 186417, July 27, 2011.

91 Emphasis supplied.

Reason for disallowance	Summary Reference	Input VAT from domestic purchases of goods other than capital goods and input VAT from domestic purchase of services[92]				
		1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
No valid supporting documents	Exhibit "P-24-A"[93]	₱52,543.05	₱1,370.27	₱23,288.19	₱26,129.40	₱103,330.91
No TIN of the petitioner	Exhibit "P-24-B"[94]	33,219.72	-	-	-	33,219.72
Wrong TIN of the petitioner	Exhibit "P-24-C"[95]	753.63	-	-	-	753.63
No business style	Exhibit "P-24-D"[96]	1,652.55	-	-	-	1,652.55
VAT amount not separately shown in the supporting documents	Exhibit "P-24-E"[97]	-	30,271.99	-	3,000.00	33,271.99
Incomplete name of petitioner	Exhibit "P-24-F"[98]	-	6,723.11	5,646.68	207,772.10	220,141.89
Not in the period of claim	Exhibit "P-24-G"[99]	-	-	-	61,806.00	61,806.00
No sales invoices/official receipts submitted	Exhibit "P-24-H"[100]	9,838.93	3,000.00	24,610.29	9,268.20	46,717.42
Total disallowances by the ICPA		**₱98,007.88**	**₱41,365.37**	**₱53,545.16**	**₱307,975.70**	**₱500,894.11**

We agree with the above ICPA findings, except for the observation under Exhibit "P-24-F."[101] The ICPA disallowed input VAT amounting to ₱220,141.89 on petitioner's purchase of services, citing the incomplete name of petitioner (*i.e.*, the omission of the word "Inc.") in the ORs.

Upon further verification, We also find the following input VAT in the amount of ₱205,656.58 valid:

SIs/ORs Exhibit No.	INPUT VAT				
	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	CY 2020
"P-20-A-432"/"P-20-A-435"	-	-	₱331.53	-	₱331.53

92 Exhibit "P-20-A," *ICPA Report* (Exhibit "P-43"), Docket – Vol. 2, pp. 676 to 694.
93 Exhibit "P-43," Docket – Vol. 2, p. 720.
94 Exhibit "P-43," Docket – Vol. 2, p. 721.
95 Exhibit "P-43," Docket – Vol. 2, p. 722.
96 Exhibit "P-43," Docket – Vol. 2, p. 723.
97 Exhibit "P-43," Docket – Vol. 2, p. 724.
98 Exhibit "P-43," Docket – Vol. 2, p. 725.
99 Exhibit "P-43," Docket – Vol. 2, p. 726.
100 Exhibit "P-43," Docket – Vol. 2, p. 727.
101 Exhibit "P-43," Docket – Vol. 2, p. 725.

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"P-20-A-433/ "P-20-A-435"	-	-	131.55	-	131.55
"P-20-A-434"/"P-20-A-435"	-	-	742.58	-	742.58
"P-20-A-603"/"P-20-A-807"	-	-	-	₱13,608.00	13,608.00
"P-20-A-604"/"P-20-A-807"	-	-	-	45,878.40	45,878.40
"P-20-A-605"/"P-20-A-807"	-	-	-	119,838.92	119,838.92
"P-20-A-606"/"P-20-A-807"	-	-	-	22,550.40	22,550.40
"P-20-A-607"/"P-20-A-807"	-	-	-	2,575.20	2,575.20
Total	-	-	**₱1,205.66**	**₱204,450.92**	**₱205,656.58**

Although petitioner's name, as indicated in the ORs supporting the input VAT of ₱220,141.89 and ₱205,656.58 does not include the word "Inc.," the TIN reflected therein establishes that "Haworth Furniture (Philippines), Inc." and "Haworth Furniture (Philippines)" refer to the same entity. Thus, despite the omission of the word "Inc.," the ORs may still be considered compliant with the invoicing requirements.

As to the remaining amount, We find that the disallowance of input VAT in the amount of ₱14,485.31[102] is proper, but on the ground that the official receipts lack information regarding the nature of the service rendered.

Thus, the disallowed input VAT of ₱220,141.89, as found by the ICPA under Exhibit "P-24-F," should be reduced to ₱14,485.31. Accordingly, the total disallowed input VAT by the ICPA is modified to ₱295,237.53,[103] as computed below:

Reason for disallowance	Summary Reference	Input VAT from domestic purchases of goods other than capital goods and input VAT from domestic purchase of services[104]				
		1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	CY 2020
No valid supporting documents	Exhibit "P-24-A"[105]	₱52,543.05	₱1,370.27	₱23,288.19	₱26,129.40	₱103,330.91
No TIN of the petitioner	Exhibit "P-24-B"[106]	33,219.72	-	-	-	33,219.72
Wrong TIN of the petitioner	Exhibit "P-24-C"[107]	753.63	-	-	-	753.63
No business style	Exhibit "P-24-D"[108]	1,652.55	-	-	-	1,652.55
VAT amount not separately shown	Exhibit "P-24-E"[109]	-	30,271.99	-	3,000.00	33,271.99

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102 Total input VAT disallowed by the ICPA under Exhibit "P-24-F" amounting to ₱220,141.89 less verified valid input VAT of ₱205,656.58.

103 Total input VAT disallowed by the ICPA of ₱500,894.11 less valid input VAT of ₱205,656.58.

104 Exhibit "P-20-A," *ICPA Report* (Exhibit "P-43"), Docket - Vol. 2, pp. 676 to 694.

105 Exhibit "P-43," Docket - Vol. 2, p. 720.

106 Exhibit "P-43," Docket - Vol. 2, p. 721.

107 Exhibit "P-43," Docket - Vol. 2, p. 722.

108 Exhibit "P-43," Docket - Vol. 2, p. 723.

109 Exhibit "P-43," Docket - Vol. 2, p. 724.

in the supporting documents						
Incomplete name of petitioner	Exhibit "P-24-F"[110]	-	6,723.11	5,646.68	207,772.10	220,141.89
Not in the period of claim	Exhibit "P-24-G"[111]	-	-	-	61,806.00	61,806.00
No sales invoices/official receipts submitted	Exhibit "P-24-H"[112]	9,838.93	3,000.00	24,610.29	9,268.20	46,717.42
Total disallowances by the ICPA		**₱98,007.88**	**₱41,365.37**	**₱53,545.16**	**₱307,975.70**	**₱500,894.11**
Less: Adjustment made to Exhibit "P-24-F"		-	-	1,205.66	204,450.92	205,656.58
Adjusted disallowances		**₱98,007.88**	**₱41,365.37**	**₱52,339.50**	**₱103,524.78**	**₱295,237.53**

Moreover, out of the total valid input VAT of ₱40,276,270.18[113] as determined by the ICPA, We find that the input VAT of ₱2,779,019.65 should additionally be disallowed, for the following reasons:

Name of Supplier	Invoice/OR Exhibit No.	Input VAT from domestic purchases of goods other than capital goods and input VAT from domestic purchase of services[114]				
		1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	CY 2020
1. *Domestic purchase of services supported by ORs but the nature of services rendered was not indicated therein*						
DHL Express Philippines Corp.	"P-20-A-1," "P-20-A-2"	₱ 1,165.13	-	-	-	₱ 1,165.13
	"P-20-A-14," "P-20-A-16"	686.73	-	-	-	686.73
	"P-20-A-16" to "P-20-A-20, "P-20-A-21"	5,613.21	-	-	-	5,613.21
	"P-20-A-22," "P-20-A-23"	278.83	-	-	-	278.83
	"P-20-A-30" to "P-20-A-32"	617.75	-	-	-	617.75
Iconforma, Inc.	"P-20-A-48" to "P-20-A-143," "P-20-A-144"	894,503.40	-	-	-	894,503.40
	"P-20-A-145" to "P-20-A-157," "P-20-A-158	30,776.64	-	-	-	30,776.64
	"P-20-A-159" to "P-20-A-171," "P-20-A-172"	35,838.24	-	-	-	35,838.24
	"P-20-A-173," "P-20-A-174"	576.00	-	-	-	576.00
	"P-20-A-175" to" P-20-A-180," "P-20-A-181"	8,717.40	-	-	-	8,717.40
	"P-20-A-323" to "P-20-A-338," "P-20-A-339"	-	₱ 34,884.72	-	-	34,884.72
	"P-20-A-340" to "P-	-	122,576.88	-	-	122,576.88

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110 Exhibit "P-43," Docket - Vol. 2, p. 725.

111 Exhibit "P-43," Docket - Vol. 2, p. 726.

112 Exhibit "P-43" Docket - Vol. 2, p. 727.

113 Total input VAT for taxable year 2020 of ₱40,777,164.29 less total input VAT disallowed by the ICPA of ₱500,894.11.

114 Exhibit "P-20-A," *ICPA Report* (Exhibit "P-43"), Docket - Vol. 2, pp. 676 to 694.

	20-A-352," "P-20-A-353"					
	"P-20-A-354" to "P-20-A-375," "P-20-A-376"	-	181,716.29	-	-	181,716.29
	"P-20-A-443" to "P-20-A-455," "P-20-A-456"	-	-	₱ 63,844.30	-	63,844.30
	"P-20-A-457" to "P-20-A-475," "P-20-A-476"	-	-	141,620.77	-	141,620.77
	"P-20-A-477" to "P-20-A-488," "P-20-A-489"	-	-	61,078.44	-	61,078.44
	"P-20-A-490" to "P-20-A-520," "P-20-A-521"	-	-	306,734.20	-	306,734.20
	"P-20-A-643" to "P-20-A-663," "P-20-A-664"	-	-	-	₱ 182,741.70	182,741.70
	"P-20-A-665" to "P-20-A-675," "P-20-A-676"	-	-	-	74,337.60	74,337.60
	"P-20-A-677" to "P-20-A-698," "P-20-A-699"	-	-	-	265,393.20	265,393.20
	"P-20-A-700" to "P-20-A-714," "P-20-A-715"	-	-	-	352,589.40	352,589.40
	"P-20-A-716" to "P-20-A-718," "P-20-A-719"	-	-	-	2,063.52	2,063.52
Wide Wide World Express Corporation	"P-20-A-610"	-	-	-	536.72	536.72
	Subtotal	**₱978,773.33**	**₱339,177.89**	**₱573,277.71**	**₱877,662.14**	**₱2,768,891.07**
2. *Domestic purchase of services supported by a billing invoice only*						
DHL Express Philippines Corp.	"P-20-A-636"	-	-	-	₱ 107.56	₱ 107.56
	"P-20-A-637"	-	-	-	102.98	102.98
	"P-20-A-638"	-	-	-	260.87	260.87
	"P-20-A-639"	-	-	-	131.78	131.78
	"P-20-A-640"	-	-	-	1,074.41	1,074.41
Fuji Xerox Philippines, Inc.	"P-20-A-641"	-	-	-	1,121.77	1,121.77
	"P-20-A-642"	-	-	-	1,389.21	1,389.21
	Subtotal	**-**	**-**	**-**	**₱ 4,188.58**	**₱ 4,188.58**
3. *Domestic purchases of goods or services without supporting documents*						
Payroll Services Provider, Inc.	-	-	-	-	₱ 5,940.00	₱ 5,940.00
	Subtotal	**-**	**-**	**-**	**₱ 5,940.00**	**₱ 5,940.00**
	Total	**₱978,773.33**	**₱339,177.89**	**₱573,277.71**	**₱887,790.72**	**₱2,779,019.65**

Based on the foregoing, relative to petitioner's compliance with the *seventh* requisite, out of the ₱40,777,164.29 total input VAT claim, only the amount of ₱37,702,907.11 represents petitioner's valid input VAT, as computed below:

CY 2020	Input VAT Claim	Disallowances		Valid Input VAT
		Per *ICPA Report*	Per the Court's further verification	
1st Quarter	₱ 4,084,310.52	₱ 98,007.88	₱ 978,773.33	₱ 3,007,529.31
2nd Quarter	7,320,112.78	41,365.37	339,177.89	6,939,569.52

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3rd Quarter	21,703,021.02	52,339.50	573,277.71	21,077,403.81
4th Quarter	7,669,719.97	103,524.78	887,790.72	6,678,404.47
Total	**₱40,777,164.29**	**₱ 295,237.53**	**₱2,779,019.65**	**₱37,702,907.11**

A portion of the valid input VAT of P37,702,907.11 is attributable to petitioner's zero-rated sales/receipts for CY 2020.

The *eighth* requisite is to the effect that the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume.

As stated earlier, for the four (4) quarters of CY 2020, petitioner's reported total sales/receipts consisted of both VATables sales/receipts and zero-rated sales/receipts. However, considering that petitioner's input VAT cannot be directly identified with specific sales, this Court shall allocate the valid input VAT of ₱37,702,907.11 proportionately on the basis of the volume of its sales, as follows:

	1st Quarter	**2nd Quarter**	**3rd Quarter**	**4th Quarter**	**CY 2020**
Sales per VAT return					
VATable Sales/Receipts	₱19,428,054.01	₱3,186,147.57	₱63,856,419.59	₱11,897,516.84	₱98,368,138.01
Zero-rated Sales/Receipts	44,830,070.79	11,237,242.51	262,331,765.05	108,972,025.98	427,371,104.33
Total	₱64,258,124.80	₱14,423,390.08	₱326,188,184.64	₱120,869,542.82	₱525,739,242.34
Allocation Factor (Percentage of each type of sales to total sales)					
VATable Sales/Receipts	30.2343930%	22.0901435%	19.5765581%	9.8432712%	
Zero-rated Sales/Receipts	69.7656070%	77.9098565%	80.4234419%	90.1567288%	
Total	100.0000000%	100.0000000%	100.0000000%	100.0000000%	
Valid Input VAT	₱ 3,007,529.31	₱ 6,939,569.52	₱21,077,403.81	₱ 6,678,404.47	₱ 37,702,907.11
Input VAT Allocation Per Each Type of Sales (Allocation factor multiplied by valid input VAT)					
VATable Sales/Receipts	**₱ 909,308.23**	**₱ 1,532,960.87**	**₱ 4,126,230.20**	**₱ 657,373.46**	**₱ 7,225,872.76**
Zero-Rated Sales/Receipts	**2,098,221.08**	**5,406,608.65**	**16,951,173.61**	**6,021,031.01**	**30,477,034.35**
Total	₱ 3,007,529.31	₱ 6,939,569.52	₱ 21,077,403.81	₱ 6,678,404.47	₱ 37,702,907.11

Thus, with regard to petitioner's compliance with the *eighth* requisite, only the amount of ₱30,477,034.35 represents its valid input VAT attributable to its total reported zero-rated sales/receipts for CY 2020.

The input VAT has not been applied against output taxes during and in the succeeding quarters.

With respect to input taxes attributable to zero-rated sales, it is the taxpayer who is given the option to either: (1) charge a portion of its input taxes attributable to zero-rated sales to the output taxes, and refund the balance, if any; *or* (2) refund all of the input taxes attributable to zero-rated sales. The Supreme Court in *Chevron Holdings, Inc. (Formerly: Caltex Asia Limited) vs. Commissioner of Internal Revenue*[115] *(Chevron)* ruled that:

> ..., the input tax attributable to zero-rated sales may, at the option of the VAT-registered taxpayer, be: (1) **charged against output tax from regular 12% VAT-able sales, and any unutilized or 'excess' input tax may be claimed for refund or the issuance of tax credit certificate;** or **(2) claimed for refund or tax credit in its entirety.** It must be stressed that the remedies of charging the input tax against the output tax and applying for a refund or tax credit are alternative and cumulative. Furthermore, **the option is vested with the taxpayer-claimant. It goes without saying that the CTA, and even the Court may not, on its own, deduct the input tax attributable to zero-rated sales from the output tax derived from the regular twelve percent (12%) VAT-able sales first and use the resultant amount as the basis in computing the allowable amount for refund.** The courts cannot condition the refund of input taxes allocable to zero-rated sales on the existence of 'excess' creditable input taxes, which includes the input taxes carried over from the previous periods, from the output taxes. These procedures find no basis in law and jurisprudence.[116]

Here, Petitioner chose the *first* option as it opted to claim a refund of its excess input tax of ₱28,972,987.73 after charging its aggregate output VAT in the amount of ₱11,804,176.56 against its total input VAT for the period in the amount of ₱40,777,164.29.

Following the same computation, since the valid input VAT allocated to VATable sales/receipts is not enough to cover petitioner's output tax due for each quarter except for the 2nd quarter,

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115 G.R. No. 215159, July 5, 2022.
116 Emphasis supplied.

the input VAT allocated to zero-rated sales/receipts shall be utilized to pay for the remaining output tax, as shown below:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	CY 2020
Output VAT Due[117]	₱2,331,366.48	₱382,337.71	₱7,662,770.35	₱ 1,427,702.02	₱ 11,804,176.56
Less: Input VAT Attributable to Declared VATable Sales/Receipts	909,308.23	1,532,960.87	4,126,230.20	657,373.46	7,225,872.76
Output VAT Still Due (Excess Input VAT)	₱ 1,422,058.25	₱ (1,150,623.16)	₱ 3,536,540.15	₱ 770,328.56	₱ 4,578,303.80
Less: Input VAT Attributable to Declared Zero-Rated Sales/Receipts	2,098,221.08	5,406,608.65	16,951,173.61	6,021,031.01	30,477,034.35
Excess Input VAT Attributable to Declared Zero-Rated Sales/Receipts	**₱(676,162.83)**	**₱(6,557,231.81)**	**₱(13,414,633.46)**	**₱(5,250,702.45)**	**₱(25,898,730.55)**

Based on the foregoing, petitioner had excess input VAT for the CY 2020 in the amount of ₱25,898,730.55, which can be attributed to its entire declared zero-rated sales/receipts in the amount of ₱427,371,104.33.

However, as stated earlier, petitioner was able to properly substantiate only the amount of ₱423,185,704.19 out of its total declared zero-rated sales/receipts of ₱427,371,104.33. Thus, the input VAT attributable to petitioner's valid zero-rated sales/receipts of ₱423,185,704.19 amounts only to ₱25,600,096.42, as computed below:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	CY 2020
Excess Input VAT Attributable to Declared Zero-Rated Sales/Receipts	₱ 676,162.83	₱6,557,231.81	₱ 13,414,633.46	₱ 5,250,702.45	₱25,898,730.55
Divided by Declared Zero-Rated Sales/Receipts	44,830,070.79	11,237,242.51	262,331,765.05	108,972,025.98	427,371,104.33
Multiplied by Valid Zero-Rated	44,609,020.39	11,063,239.51	258,561,418.31	108,952,025.98	423,185,704.19

117 Line 15B, Exhibits "P-7," "P-7-1," "P-7-2," Docket - Vol. 3, pp. 1175, 1177 and 1179, respectively; Exhibit "P-41," Amended USB (Exhibit "P-43-3").

Sales/Receipts					
Excess Input VAT Attributable to Valid Zero-Rated Sales/Receipts	**₱672,828.77**	**₱6,455,696.40**	**₱13,221,832.48**	**₱5,249,738.77**	**₱25,600,096.42**[118]

Finally, it was established that although the input VAT claim of ₱28,972,987.73 (including the valid excess input VAT of ₱25,600,096.42) was carried over by petitioner in its Amended Quarterly Value Added Tax Return for the 1st quarter of CY 2021, the same remained unutilized as it was deducted as "VAT Refund/TCC claimed" in the same Return,[119] preventing the carry-over of the said amount in the succeeding taxable quarters. Hence, petitioner is deemed to have fulfilled the *ninth* requisite for the refund/tax credit of input VAT under Section 112(A) of the NIRC, as amended.

Correspondingly, petitioner has sufficiently proven its entitlement to the refund or issuance of tax credit certificate in the amount of ₱25,600,096.42, representing excess and unutilized input VAT attributable to its zero-rated sales/receipts for the four (4) quarters of CY 2020.

However, considering that respondent has partially granted petitioner's claim in the amount of ₱10,249,884.66 per VAT Refund Notice dated January 9, 2022,[120] only the amount of ₱15,350,211.76 shall be granted to petitioner as an additional refund, thus:

Refundable excess input VAT per the Court's computation	₱ 25,600,096.42
Less: Amount refunded by respondent per *VAT Refund Notice* dated June 9, 2022	(10,249,884.66)
Additional excess input VAT for refund	**₱15,350,211.76**

WHEREFORE, premises considered, the present Petition for Review is **PARTIALLY GRANTED**. Respondent is **ORDERED TO REFUND** to petitioner the amount of **₱15,350,211.76**, representing its excess and unutilized input VAT attributable to zero-rated sales for the 1st to 4th quarters of CY 2020.

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118 Summation of the excess input VAT attributable to valid zero-rated sales/receipts for the four quarters of CY 2020 (₱672,828.77 + ₱6,455,696.40 + ₱13,221,832.48 + ₱5,249,738.77).

119 Line 23D, Exhibit "P-13," Docket - Vol. 3, p. 1217.

120 Exhibit "P-11," Docket - Vol. 2, p. 44.

SO ORDERED.

Marian Ivy F. Reyes - Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

With Separate Concurring and Dissenting Opinion
HENRY S. ANGELES
Associate Justice

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.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice
Chairperson

CERTIFICATION

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

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

HAWORTH FURNITURE (PHILIPPINES) INC.,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10936

Members:

MANAHAN, Chairperson,
REYES-FAJARDO, and
ANGELES, *JJ.*

Promulgated:

DEC 05 2025
1:32 p.m.

x - x

SEPARATE CONCURRING AND DISSENTING OPINION

ANGELES, *J.*:

The *ponencia* in the instant case partially grants the *Petition for Review*, directing the refund of ₱15,350,211.76 to the petitioner, representing its excess and unutilized input value-added tax (VAT) attributable to zero-rated sales for the 1st to 4th quarters of calendar year (CY) 2020.[1] The computation of said amount is detailed as follows:

Refundable excess input VAT per the Court's computation	₱25,600,096.42
Less: Amount refunded by respondent per *VAT Refund Notice* dated June 9, 2022	(10,249,884.66)
Additional excess input VAT for refund	**₱15,350,211.76**[2]

With due respect, I join the majority's Decision, **subject to the payment of additional docket fees** corresponding to ₱10,249,884.66, comprising the portion previously granted by the respondent Commissioner of Internal Revenue (CIR). In elaborating

[1] Decision, p. 38.
[2] *Ibid.*

my concurrence, I find it necessary to underscore this Court's acquisition of jurisdiction over the subject matter, and the proper exercise thereof in the present case.

The Court's acquisition of jurisdiction over the subject matter

Settled is the rule that jurisdiction over the subject matter or nature of the action refers to the power of a court to hear and determine cases of a general class to which the proceedings in question belong.[3] **It is conferred only by law.**[4] **It cannot be fixed by the will of the parties nor can it be acquired, enlarged or diminished by any act of the parties.**[5] It is axiomatic that what determines the nature of an action, as well as which court has jurisdiction over it, are the allegations in the complaint and the character of the relief sought,[6] irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein.[7]

In this case, the Court's jurisdiction over the subject matter is anchored in Section 112 of the Tax Code, as amended by Republic Act (R.A.) No. 10963, otherwise known as the *Tax Reform for Acceleration and Inclusion (TRAIN) Act,* which prescribes the applicable rules governing the refund of input taxes. It reads:

> "*SEC. 112. Refunds of Input Tax.* -
>
> x x x
>
> "(C) *Period within which Refund of Input Taxes shall be Made.* — In proper cases, the Commissioner shall grant a refund for creditable input taxes within ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof: *Provided,* That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.
>
> "**In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the**

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3 *Heirs of Concha, Sr. v. Spouses Lumocso*, G.R. No. 158121, December 12, 2007 [Per C.J. Puno, First Division].

4 *City of Lapu-Lapu v. Phil. Economic Zone Authority*, G.R. Nos. 184203 & 187583, November 26, 2014 [Per J. Leonen, Second Division].

5 *Municipality of Sogod v. Rosal*, G.R. No. 38204, September 24, 1991 [Per J. Medialdea, First Division].

6 *Cubero v. Laguna West Multi-Purpose Cooperative, Inc.*, G.R. No. 166833, November 30, 2006 [Per J. Carpio Morales, Third Division].

7 *Platinum Tours and Travel Inc. v. Panlilio*, G.R. No. 133365, September 16, 2003 [Per J. Corona, Third Division].

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> **decision with the Court of Tax Appeals**: *Provided, however,* That failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code. (Emphasis and underscoring supplied)

Complementing this, Section 7 of R.A. No. 1125,[8] as amended by RA No. 9282,[9] unequivocally confers upon the Court of Tax Appeals (CTA) with exclusive appellate jurisdiction over decisions of the CIR concerning tax refund claims, as follows:

> "SEC. 7. Jurisdiction. — The CTA shall exercise:
>
> "(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> > "(1) **Decisions of the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue; (Emphasis and underscoring supplied)

From the foregoing statutory provisions, it is clear that the CTA is vested with exclusive appellate jurisdiction over **decisions** of the CIR denying claims for refund of internal revenue taxes. Accordingly, it is the **decision** itself of the CIR denying the tax refund claim that is subject to appeal before the CTA, **rather than the specific amount disallowed** in the claim.

Consequently, for purposes of invoking the CTA's jurisdiction over the subject matter in cases of partial denial of a tax refund application, the taxpayer-claimant cannot selectively appeal to the CTA only the portion of the claim that was disallowed or otherwise adverse to its interest. It bears emphasis that a **partial denial is inseparable from a partial grant**, such that the act of disallowing a portion of the claim inherently encompasses the portion that was allowed. Put differently, for purposes of determining the CTA's jurisdiction, the CIR's decision on a tax refund application must be treated as **indivisible** and considered in its entirety.

Here, the Court in Division holds exclusive appellate jurisdiction over the subject matter, as the proceedings involve the CIR's partial

8 An Act Creating the Court of Tax Appeals.
9 An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), elevating its rank to the level of a Collegiate Court with Special Jurisdiction and enlarging its membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, As Amended, otherwise known as the Law Creating the Court of Tax Appeals, and for other purposes.

denial of the petitioner's administrative claim for refund of unutilized input VAT. While the petitioner, in its *Petition*,[10] confines its challenge to the denied portion of **₱18,732,103.07**, this limitation in no way restricts the Court's jurisdiction to take cognizance of the CIR's **entire decision** on the petitioner's tax refund claim for CY 2020, totaling ₱28,972,987.73. This conclusion adheres to the well-settled principle that jurisdiction over the subject matter is conferred solely by law, and is not contingent upon the acts, omissions, or limitations of the parties.

The Court's exercise of jurisdiction

Having ascertained that this Court has properly acquired jurisdiction over the subject matter, it becomes imperative to examine whether the Court lawfully exercises its authority in resolving the issue framed by the pleadings or stipulated by the parties. This inquiry ensures that the Court's exercise of jurisdiction in the present case is both lawful and proper.

In evaluating the scope of this Court's authority, it is crucial to distinguish between **jurisdiction over the subject matter** and **jurisdiction over the issue**. As previously noted, the *former* refers to the court's power to hear and adjudicate cases of the general class to which the proceedings belong—a power conferred solely by law, and independent of any consent or waiver by the parties. The *latter*, on the other hand, pertains to the court's authority to resolve specific questions properly raised in the pleadings or tried with the express or implied consent of the parties. Unlike jurisdiction over the subject matter, which is fundamental and cannot be conferred by agreement, jurisdiction over the issue arises from the acts or omissions of the parties, particularly through their pleadings or failure to timely object to evidence beyond the issues raised. This distinction was eloquently articulated in *Bernabe v. Vergara*,[11] where the Supreme Court held:

x x x

> And, furthermore, the question of jurisdiction attempted to be raised in this case is not the kind of question that confers jurisdiction upon this Court. The jurisdiction involved is not one over the subject-matter but at most over the issue or over the persons of the parties. A Court of First Instance has jurisdiction over a case involving P200 or more, and therefore the Court of First Instance of Nueva Ecija had jurisdiction to render judgment in the amount of P350. The question of whether or not there was a proper issue raised in the pleading as to said amount, is not a question of jurisdiction over the subject-matter, but jurisdiction over the issue. In this regard we reiterate

[10] Docket – Vol. I, p. 7, par. 1; p. 27.
[11] G.R. No. 48652, September 16, 1942 [Per J. Moran, *En Banc*].

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what we have said in Reyes vs. Diaz, G. R. No. 48754, November 26, 1941:

> "There is in our Constitution or in the law aforecited nothing which may lend the word 'jurisdiction' therein used a broader meaning than jurisdiction over the subject-matter. On the contrary, having due regard to the manifest purpose of the law, which is to confine the appellate jurisdiction of this Court to cases of vital importance involving questions of fundamental character, such, for instance, as the question of validity of statute, treaty or ordinance, or the legality of any tax, import or assessment which may affect the very existence of the government, or criminal cases wherein life imprisonment or death penalty is imposed, we are of the opinion and so hold, that the issue of jurisdiction which confers appellate powers upon this Court in a given case is not such question as is dependent exclusively upon minor matters of fact or upon a mere construction of the pleadings, but that which has reference to the more important question of jurisdiction of the trial court over the subject-matter as determined by law.
>
> "Jurisdiction over the subject-matter is the power to hear and determine cases of the general class to which the proceedings in question belong (C. J. S. p. 36) and is conferred by the sovereign authority which organizes the court and defines its powers (Banco Español Filipino *vs.* Palanca, 37 Phil., 921; Perkins *vs.* Dizon, 40 Off. Gaz., No. 7, 3d Sup., p., 216; Ñg Si Chok *vs.* Vera, G.R. No. 45674). The question, therefore, of whether a court has jurisdiction over the subject-matter, calls for interpretation and application of the law of jurisdiction which distributes the judicial power among the different courts in the Philippines and since the ruling on the matter is of far-reaching consequences, affecting, as it may, the very life and structure of our judicial system, the law has deemed it wise to place the power and authority to act thereon in the highest court of the land."
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> xxx xxx xxx
>
> . . . Whether certain ballots are or are not pertinent to the issue raised in the pleadings, is merely a question of relevancy of evidence. It may be true that the court by an erroneous ruling on such question may encroach upon issues completely foreign to those defined in the pleadings, but in such case the question of jurisdiction that may arise would not be one of jurisdiction over the subject-matter but of jurisdiction over the issue. In order that a court may validly try and decide a case, it must have jurisdiction over the subject-matter and jurisdiction over the persons of the parties. (Banco Español Filipino *vs.* Palanca, 37 Phil., 921; Perkins *vs.* Dizon, 40 Off. Gaz., No. 7, 3d Sup., p., 216.) But in some

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> instances it is said that the court should also have jurisdiction over the issue (15 C. J., 734; Hutts *vs.* Martin, 134 Ind., 587; 33 N. E., 676), meaning thereby that the issue being tried and decided by the court be within the issues raised in the pleadings. But this kind of jurisdiction should be distinguished from jurisdiction over the subject-matter, the latter being conferred by law and the former by the pleadings. **Jurisdiction over the issue, unlike jurisdiction over the subject-matter, may be conferred by consent either express or implied of the parties.** (Rule 17, sec. 4, Rules of Court.) **Although an issue is not duly pleaded it may validly be tried and decided if no timely objection is made thereto by the parties.** This cannot be done when jurisdiction over the subject-matter is involved. In truth, jurisdiction over the issue is an expression of a principle that is involved in jurisdiction over the persons of the parties. Where, for instance, an issue is not duly pleaded in the complaint, the defendant cannot be said to have been served with process as to that issue. (Cf. Atkins, Kroll & Co. *vs.* Domingo, 44 Phil., 680.) **At any rate, whether or not the court has jurisdiction over a specific issue is a question that requires nothing except an examination of the pleadings, and this function is without such importance as to call for the intervention of this court.**" (Emphasis and underscoring supplied)

Here, although the petitioner elevated to this Court only the denial of ₱18,723,103.07, the parties nonetheless **stipulated** that the issue to be resolved by the Court encompasses the entirety of the original refund claim filed with the Bureau of Internal Revenue for CY 2020, to wit:

> Whether petitioner is entitled to its claim for VAT refund in the amount of **Php28,972,987.73** allegedly representing petitioner's unutilized VAT Input Tax for calendar year 2020.[12]

This stipulation was reflected in the *Pre-Trial Order*,[13] and the full amount was subjected to examination by the Independent Certified Public Accountant.[14] Accordingly, the Court's review naturally extends to the entire refund claim of ₱28,972,987.73, and not merely the portion denied, amounting to ₱18,723,103.07.

Given that the parties have stipulated that the entirety of the original refund claim of ₱28,972,987.73 constitutes the issue for the

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[12] Division Docket – Vol. I, Joint Stipulation of Facts and Issues, p. 392; Emphasis supplied.
[13] *Id.*, Pre-Trial Order, p. 567.
[14] Division Docket – Vol. II, ICPA Report, pp. 655-674.

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Court's resolution, and that this issue was duly tried by the parties, it would, at first glance, appear that the Court is properly exercising its jurisdiction. Nevertheless, in my considered view, the Court's exercise of jurisdiction in this case is circumscribed by the fact that the petitioner has paid docket fees corresponding only to the denied portion of ₱18,723,103.07.[15]

While payment of the prescribed docket fees is a jurisdictional requirement, ideally tendered upon the filing of the initiatory pleading, I am mindful that prevailing jurisprudence reflects a liberal approach, whereby the Supreme Court refrains from outright dismissal of the action in cases where a deficiency in payment exists, so long as such deficiency is promptly rectified. In *Fedman Development Corp. v. Agcaoili*,[16] the High Court held:

> The non-payment of the prescribed filing fees at the time of the filing of the complaint or other initiatory pleading fails to vest jurisdiction over the case in the trial court. Yet, **where the plaintiff has paid the amount of filing fees assessed by the clerk of court, and the amount paid turns out to be deficient, the trial court still acquires jurisdiction over the case, subject to the payment by the plaintiff of the deficiency assessment.** (Emphasis supplied)

Similarly, in *Camaso v. TSM Shipping (Phils), Inc.*,[17] the Supreme Court ruled that the non-payment of prescribed docket fees does not, in itself, warrant the outright dismissal of the case, provided that the fees are subsequently paid within a reasonable period, and that there is no showing of intent on the part of the claimant to defraud the government, *viz.*:

> Verily, the failure to pay the required docket fees *per se* should not necessarily lead to the dismissal of a case. It has long been settled that while the court acquires jurisdiction over any case only upon the payment of the prescribed docket fees, its non-payment at the time of filing of the initiatory pleading does not automatically cause its dismissal provided that: *(a)* the fees are paid within a reasonable period; and *(b)* there was no intention on the part of the claimant to defraud the government.

In this case, it is evident that the petitioner acted in good faith and harbored no intention to defraud the government, having duly paid the docket fees corresponding to the denied portion of its refund claim, which coincides with the amount specifically alleged in its *Petition* as the subject of its appeal before this Court.[18]

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[15] Division Docket – Vol. I, pp. 2-6.
[16] G.R. No. 165025, August 31, 2011 [Per J. Bersamin, First Division].
[17] G.R. No. 223290, November 07, 2016 [Per J. Perlas-Bernabe, First Division].
[18] Division Docket – Vol. I, p. 7; p. 27.

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All told, I concur with the *ponencia*, albeit strictly conditioned upon the inclusion, in its dispositive portion, of an order directing:

(1) The Third Division Clerk of Court to assess and determine the additional docket fees to be paid by the petitioner corresponding to ₱10,249,884.66; and

(2) The petitioner to promptly remit said fees.

Accordingly, only upon compliance with the foregoing shall the respondent be mandated to refund ₱15,350,211.76 in favor of the petitioner, as determined by the *ponencia* to constitute the petitioner's excess and unutilized input VAT attributable to zero-rated sales for CY 2020.

HENRY S. ANGELES
Associate Justice