REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PHILIPPINE GEOTHERMAL PRODUCTION COMPANY, INC., Petitioner,	**CTA CASE NO. 9663**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson, and* **BACORRO-VILLENA, *JJ*.**
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: OCT 28 2020 1:15 p.m.

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DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by Philippine Geothermal Production Company, Inc. (**petitioner/PGPCI**) pursuant to Rule 4, Section 3[2] of the Revised Rules of the Court of Tax Appeals (**RRCTA**).

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[1] Filed on 25 August 2017, Division Docket, pp. 10-33.

[2] **SEC. 3**. *Cases within the jurisdiction of the Court in Divisions*.- The Court in Divisions shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
(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;
(2) Inaction by 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, where the National Internal Revenue Code or other applicable law

It seeks the refund of petitioner's alleged overpaid unutilized input taxes for the taxable year (**TY**) 2015 in the amount of Twenty-Four Million Five Hundred Forty-Eight Thousand Forty-One Pesos and Eighty-Two Centavos (**₱24,548,041.82**).

THE PARTIES

Petitioner is a domestic corporation, duly organized and existing under and by virtue of the laws of the Republic of the Philippines. On the other hand, respondent is the duly appointed Commissioner of Internal Revenue (**respondent/CIR**) vested with the authority to carry out the functions and duties of said office, among which, is to decide and grant claims of tax refund and execute and implement tax laws, rules and regulations.

FACTS OF THE CASE

On 30 March 2017, petitioner filed with the Bureau of Internal Revenue (**BIR**) its Application for Tax Credits or Refunds[3] (BIR Form No. 1914) for its unutilized input taxes for all four (4) quarters of TY 2015 in the aggregate amount of ₱24,548,041.82.

Before the BIR, petitioner claimed that, for the same TY, it incurred input taxes which were reported in its Value-Added Tax (**VAT**) returns for TY 2015. The input taxes were for its purchases during TY 2015 and were attributable to its zero-rated sales/receipts. According to petitioner, the same have not been fully utilized in the same quarter since it did not have any output tax liabilities during the 1st to 3rd quarters of 2015; while for the 4th quarter of 2015, its output VAT liabilities did not exceed the input tax it incurred and/or paid

provides a specific period for action: *Provided*, that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; *Provided, further*, that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules; and *Provided, still further*, that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code.

3 Exhibit "P-24", Division Docket, Volume IV, pp. 1496-1509.

during the same quarter. Likewise, it claimed that said input VAT were not used against its output taxes in the subsequent periods.

After the expiration of the 120-day period within which respondent may decide on petitioner's claim, the BIR issued a letter[4] to the Commissioner of the Bureau of Customs (**BOC**) informing the latter the grant and allowance of petitioner's claim up to the amount of ₱3,589,914.20 only. Attached to the letter was the Authority to Issue VAT/Credit Refund authorizing the OIC-Assistant Commissioner of the Large Taxpayers Service to issue the tax credit certificate (**TCC**) for the period of 01 January 2015 to 31 December 2015.

Unsatisfied with the BIR's action, petitioner elevated its case to this Court and filed the instant petition on 25 August 2017. On 27 October 2017[5], respondent filed his Answer.

Thereafter, on 02 November 2017, the Court issued a Notice of Pre-Trial Conference. Accordingly, both parties filed their respective Pre-trial Briefs (**PTB**) on 01 December 2017.[6]

During the pre-trial held on 18 January 2018[7], the Court granted both parties fifteen (15) days within which to file its Joint Stipulation of Facts and Issues (**JSFI**). On 02 February 2018, the parties submitted their JSFI.[8] Approving the same, the Court issued its Pre-Trial Order on 14 February 2018.[9]

Trial ensued thereafter where petitioner presented its first witness, Rosaluz Feliciano (**Feliciano**), petitioner's Accounting Supervisor. Her testimony revolved around the preparation of petitioner's tax returns and other pertinent documents, as well as petitioner's right to the refund being claimed.[10]

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4 Exhibit "P-26", BIR Records.
5 Division Docket, Volume I, pp. 92-96.
6 Petitioner's PTB, id., pp. 113-127; Respondent's PTB, id., pp. 109-112.
7 Id., Volume III, p. 713.
8 Id., pp. 786-791.
9 Id., pp. 806-816.
10 Judicial Affidavit, Exhibit "P-92", id., Volume I, pp. 134-149.

Petitioner's Legal Counsel and Corporate Secretary, Ma. Fe Concepcion L. Guirnalda-Lucero (**Lucero**), also assumed the witness stand where she testified primarily on the fact of petitioner's status as a Renewable Energy (**RE**) Developer.[11]

Lastly, the testimony of Katherine O. Constantino (**Constantino**), the Court-appointed Independent Certified Public Accountant (**ICPA**) was offered. She testified to verifying petitioner's various documents, including the contents of her ICPA Report[12] wherein she stated that petitioner has an excess unutilized input VAT at ₱13,462,715.02.[13]

Later, petitioner filed its Formal Offer of Evidence[14] (**FOE**) on 06 February 2019, which the Court eventually resolved to admit[15], except Exhibits **"P-47"**, **"P-118"**, **"P-129"**, **"P-250"**, **"P-251"**, **"P-285"**, **"P-323"**, **"P-335"**, **"P-336"**, **"P-349"**, **"P-350"**, **"P-372"**, **"P-410"** and **"P-778"**.[16] With respondent's previous manifestation that he will not be presenting evidence in the case, the Court ordered the parties to submit their respective Memoranda.

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11 Judicial Affidavit, Exhibit "P-93", id., Volume II, pp. 399-413.
12 Exhibit "P-100".
13 Judicial Affidavit, Exhibit "P-95", Division Docket, Volume III, pp. 854-915.
14 Id., Volume IV, pp. 1141-1171.
15 Resolution dated 08 March 2019, id., Volume V, pp. 1841-1843; Resolution dated 06 August 2019, id., pp. 1907-1911.
16

P-47	Monthly Value-Added Tax Declaration for the Month of July 2015 filed on August 24, 2015 with reference number 091500012364014 (amended).
P-118 to P-129	Statement of Accounts.
P-250	Statement of Settlement of Duties and Taxes (SSDTs).
P-251	Statement of Settlement of Duties and Taxes (SSDTs).
P-285	Statement of Settlement of Duties and Taxes (SSDTs).
P-323	Statement of Settlement of Duties and Taxes (SSDTs).
P-335	Assessment Notice.
P-336	Assessment Notice.
P-349	Assessment Notice.
P-350	Assessment Notice.
P-372	Assessment Notice.
P-410	Assessment Notice.
P-778	Documents supporting the input on domestic purchases of goods and services other than capital goods for the 3rd quarter of CY 2015.

Respondent filed his Memorandum on 12 September 2019[17] while, petitioner filed its Memorandum on 15 October 2019[18].

Finally, in a Resolution dated 30 October 2019[19], the case was considered submitted for decision.

ISSUE

WHETHER PETITIONER IS ENTITLED TO A REFUND OR TO THE ISSUANCE OF TAX CREDIT CERTIFICATE FOR ITS UNUTILIZED INPUT TAXES FOR ALL QUARTERS OF TAXABLE YEAR 2015 IN THE *FULL* AMOUNT OF ₱24,548,041.82.

ARGUMENTS

In support of the above issue, petitioner argues that, as an RE Developer, it is subject to zero-rated VAT on the local purchases under Republic Act (**RA**) No. 9513.[20] Under this law, RE Developers are entitled to zero-rating treatment of its sale of fuel or power generated from renewable sources of energy and its purchases of local supply of goods, properties and services related to the development, construction and installation of its power facilities.

Petitioner further cites Section 108(B)(7)[21] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, subjecting its transactions of geothermal energy resources to zero percent rate.

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17 Division Docket, Volume V, pp. 1917-1926.

18 Id., pp. 1933-1981.

19 Id., p. 1982.

20 AN ACT PROMOTING THE DEVELOPMENT, UTILIZATION AND COMMERCIALIZATION OF RENEWABLE ENERGY RESOURCES AND FOR OTHER PURPOSES.

21 **Sec. 108.** *Value-added Tax on Sale of Services and Use or Lease of Properties.* —

...

(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:

...

(7) Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels.

Petitioner also claims that, since its transactions with its suppliers are subject to zero-rated VAT, it is entitled to a refund or credit of these unutilized input taxes in accordance with Section 112(A)[22] of the NIRC of 1997, as amended.

Respondent, on the other hand, essentially challenges petitioner's right to a full refund or tax credit on the ground that the latter has failed to substantiate that the input VAT claimed is directly attributable to its zero-rated sales. He invokes the case of *Coral Bay Nickel Corporation v. Commissioner of Internal Revenue*[23] (**Coral Bay**), wherein the Supreme Court ruled for the disallowance of a refund of unutilized input VAT, resulting from supposedly VAT zero-rated purchases.

RULING OF THE COURT

After a careful review of the records, the Court finds the petition partly meritorious.

At the onset, it must be stated that respondent's reliance on *Coral Bay* is misplaced. In *Coral Bay,* the Supreme Court held:

> ...
>
> ... Verily, **if the petitioner had paid the input VAT, the CTA was correct in holding that the petitioner's proper recourse was not against the Government but against the seller who had shifted to it the output VAT** following RMC No. 42-03, which provides:
>
> > In case the supplier alleges that it reported such sale as a taxable sale, the substantiation of remittance of the output taxes of the seller (input taxes of the exporter-buyer) can only be established upon the thorough audit of the suppliers' VAT returns and corresponding books and records. It is, therefore, imperative that the processing office recommends to the concerned BIR Office the audit of the records of the seller.

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[22] **Sec. 112.** *Refunds or Tax Credits of Input Tax. —*
(A) *Zero-Rated or Effectively Zero-Rated Sales.*

[23] G.R. No. 190506, 13 June 2016.

> In the meantime, the claim for input tax credit by the exporter-buyer should be denied without prejudice to the claimant's right to seek reimbursement of the VAT paid, if any, from its supplier.

> We should also take into consideration the nature of VAT as an indirect tax. Although the seller is statutorily liable for the payment of VAT, the amount of the tax is allowed to be shifted or passed on to the buyer. **However, reporting and remittance of the VAT paid to the BIR remained to be the seller/supplier's obligation. Hence, the proper party to seek the tax refund or credit should be the suppliers, not the petitioner.**[24]
> ...

As an RE Developer, petitioner is governed by the provisions of RA 9513 otherwise known as "An Act Promoting the Development, Utilization and Commercialization of Renewable Energy Resources and for other Purposes". Under said law, petitioner is entitled to a zero-rated VAT on its local purchases, to wit:

> ...
>
> CHAPTER VII
> GENERAL INCENTIVES
>
> **Section 15.** *Incentives for Renewable Energy Projects and Activities.* - RE Developers of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications, as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives:
> ...
>
> (g) *Zero Percent Value-Added Tax Rate. – ...*
> ...
> **All RE Developers shall be entitled to zero-rated value-added tax on its purchases of local supply of goods, properties and services needed for the <u>development</u>, <u>construction</u> and <u>installation</u> of its plant facilities.**
>
> **This provision shall also apply to the whole process of exploring and developing renewable energy sources up to its**

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24 Citations omitted and emphasis supplied.

> **conversion into power, including but not limited to the services performed by subcontractors and/or contractors.**[25]
>
> ...

In *Coral Bay,* it becomes clear that, in cases wherein VAT is shifted to a taxpayer who enjoys a zero-rated preference, the proper recourse of the former is to claim from its suppliers the amount of VAT erroneously shifted by it.

In petitioner's case, under RA 9513, its zero-rated purchases are only to be limited to those necessary for the **development, construction and installation of petitioner's plant facilities.** However, the sources of input VAT in the instant case are local regular purchases consisting of office supplies, utilities, and communication expenses for the operation of the plant facilities. Hence, *Coral Bay* is inapplicable insofar as petitioner's *local* purchases are concerned.

Furthermore, the enjoyment of zero-rating on petitioner's purchases are, as stated, limited only to local supplies but *not* to international purchases. A perusal of the records show that part of the unutilized input VAT sought to be refunded were shifted by petitioner's foreign suppliers.

As regards petitioner's sales, the same are subject to zero-rated VAT in accordance with the NIRC of 1997, as amended, to wit:

> ...
> **Sec. 108.** *Value-added Tax on Sale of Services and Use or Lease of Properties.* -
>
> ...
>
> (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:
>
> ...
>
> (7) Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and

25 Emphasis and underscoring supplied.

other emerging energy sources using technologies such as fuel cells and hydrogen fuels.

...

Thus, a portion of petitioner's unutilized input VAT attributable to its zero-rated sales may still be refunded depending on its compliance with the provisions of the NIRC of 1997, as amended, and other related laws and regulations. Section 112(A) and (C) of the NIRC of 1997, 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.

...

(C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* — In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.

In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the

> decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.
>
> ...

Indisputably, petitioner is registered with the BIR as a VAT taxpayer with Taxpayer Identification No. (TIN) 214-127-981-000, as evidenced by its Certificate of Registration Number OCN 8RC0000038356 dated October 30, 2001.[26]

Summarizing further the requirements provided in Section 108 of the NIRC of 1997, as amended, the Supreme Court in *Commissioner of Internal Revenue v. Team Sual Corporation (formerly Mirant Sual Corporation)*[27], citing this Court's decision in CTA EB No. 768[28], held that there are five (5) requirements to be entitled to refund or issuance of TCC of input VAT, to wit:

> ...
> 1. That there must be zero-rated or effectively zero-rated sales;
> 2. That input taxes were incurred or paid;
> 3. That such input taxes are attributable to zero-rated sales or effectively zero-rated sales;
> 4. That the input taxes were not applied against any output VAT liability; and[,]
> 5. That the claim for refund was filed within the two-year prescriptive period.[29]
>
> ...

First, petitioner has effectively zero-rated sales. As indicated in its Articles of Incorporation, petitioner is primarily engaged in the exploration, development and exploitation of geothermal energy and similar resources.[30] According to Section 108(B)(7)[31] of the NIRC of 1997, as amended, its sale of power or fuel generated through renewable sources are subject to zero-rated VAT.

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26 Exhibit "P-4", Division Docket, Volume IV, p. 1192.
27 G.R. No. 205055, 18 July 2014.
28 *Commissioner of Internal Revenue v. Team Sual Corporation (Formerly: Mirant Sual Corporation)*, 27 July 2012.
29 Citation omitted.
30 Exhibits "P-1" to "P-3", Division Docket, Volume I, pp. 1172-1191.
31 Supra at note 21.

In addition, under RA 9513[32], RE Developers are entitled to VAT zero-rating treatment of their sale of fuel or power generated from renewable sources of energy:

> ...
>
> CHAPTER VII
> GENERAL INCENTIVES
>
> **Section 15**. *Incentives for Renewable Energy Projects and Activities.* - RE developers of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications, **as duly certified by the DOE**, in consultation with the BOI, shall be entitled to the following incentives:
>
> ...
>
> (g) *Zero Percent Value-Added Tax Rate.* - **The sale of fuel or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code** (NIRC) of 1997, as amended by Republic Act No. 9337.[33]
>
> ...

Pursuant to the abovementioned provision, an RE Developer must be duly certified by the Department of Energy (**DOE**) in order to avail of the incentives for renewable energy projects and activities. More specifically, in order to avail of these incentives, an RE Developer under the Implementing Rules and Regulations[34] (**IRR**) of RA 9513 must comply with the following:

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32 **Section 4**. *Definition of Terms*. - As used in this Act, the following terms are herein defined.
...
(pp) "Renewable Energy (Systems) Developers" or "RE Developers" refers to individual/s or a group of individuals formed in accordance with existing Philippine Laws engaged in the exploration, development and utilization of RE resources and actual operation of RE systems/facilities.
...

33 Emphasis supplied.

34 Department Circular No. DC2009-05-0008, 25 May 2009.

> ...
> **Section 18**. *Conditions for Availment of Incentives and Other Privileges.* —
>
> ***A. Registration/Accreditation with the DOE***
>
> For purposes of entitlement to the incentives and privileges under the Act, existing and new RE Developers, and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall register with the DOE, through the Renewable Energy Management Bureau (REMB). The following certifications shall be issued:
>
> ***(1) DOE Certificate of Registration*** – ...
>
> ...
> ***B. Registration with the Board of Investments (BOI)***
>
> ...
> To qualify for the availment of the incentives under Sections 13 and 15 of this IRR, RE Developers, and manufacturers, fabricators, and suppliers of locally-produced RE equipment, shall register with the BOI.
>
> ...
>
> ***C. Certificate of Endorsement by the DOE***
>
> RE Developers, and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall be qualified to avail of the incentives provided in the Act only after securing a Certificate of Endorsement from the DOE, through the REMB, on a per transaction basis.
>
> ...

Herein petitioner is registered with the DOE as "RE Developer of Geothermal Energy Resources" under Certificate of Registration (**COR**) No. GSC 2013-04-045.[35] The Board of Investments (**BOI**) likewise issued COR No. 2014-067[36] recognizing petitioner as an RE Developer of 236 MW Geothermal Resources (Makiling-Banahaw [Mak-Ban] Geothermal Production Field) and 136 MW Geothermal Resources (Tiwi Geothermal Production Field)[37], in accordance with the provisions of the Omnibus Investment Code of 1987.

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35 Exhibit "P-5", Division Docket, Volume IV, p. 1193.
36 Exhibit "P-7", id., p. 1269.
37 Exhibit "P-10", id., p. 1276.

As to the DOE Certificate of Endorsement (**COE**), the records do not yield that petitioner considered this to be one of its pieces of evidence in its bid to seek full refund of its input VAT. Had this been disputed, the Court would have been inclined to deny a refund. However, to underscore, respondent had already granted partially petitioner's claimed refund[38], BIR's prior action thus is indicative of petitioner's compliance with all necessary documentation requirements. Consistent with the presumption of regularity[39] in the discharge of respondent's official duties, the Court finds no reason to doubt that it has verified the completeness of petitioner's documents before granting a partial refund of its claimed input VAT. Therefore, there being no contest as to whether it complied with the COE requirement, petitioner's sales of energy could only be deemed to be undoubtedly subject to zero-rated VAT.

In the 1st to 4th quarters of 2015, petitioner reported total sales of ₱3,964,370,061.25 as shown below:

	1st Quarter of 2015[40]	2nd Quarter of 2015[41]	3rd Quarter of 2015[42]	4th Quarter of 2015[43]	Total
VATable Sales	₱ -	₱ -	₱ -	₱333,522.83	₱333,522.83
Zero-Rated Sales	1,124,722,498.83	1,087,929,494.98	891,692,975.82	859,691,568.79	3,964,036,538.42
Total	**₱1,124,722,498.83**	**₱1,087,929,494.98**	**₱891,692,975.82**	**₱860,025,091.62**	**₱3,964,370,061.25**

The Court-commissioned ICPA verified that petitioner's zero-rated sales were attributed primarily to steam sales. In support of its declared zero-rated sales, petitioner submitted documents such as Summary List of Sales[44] (**SLS**) and official receipts[45] (**ORs**). The ICPA likewise found that only the sales to AP Renewables, Inc., in the amount of ₱3,430,617,952.28[46], were supported with ORs and should qualify as valid zero-rated sales. The details are shown as follows[47]:

38 Supra at note 4.
39 *The People of the Philippines v. Jolliffe*, G.R. No. L-9553, 13 May 1959.
40 Exhibit "P-35", Division Docket, Volume IV, p. 1528.
41 Exhibit "P-42", id., p. 1542.
42 Exhibit "P-52", id., p. 1560.
43 Exhibit "P-60", id., p. 1576.
44 Exhibits "P-102" to "P-105", CD.
45 Exhibits "P-106" to "P-117", CD.
46 Annex 2, ICPA Report, p. 19.
47 Figures are gross of 2% withholding tax.

Exhibit	OR No.	1st Quarter of 2015	2nd Quarter of 2015	3rd Quarter of 2015	4th Quarter of 2015	Total
P-106	01272	₱330,122,457.35	₱ -	₱ -	₱ -	₱330,122,457.35
P-107	01274	421,965,214.15	-	-	-	421,965,214.15
P-108	01275	356,225,122.02	-	-	-	356,225,122.02
P-109	01276	-	364,547,600.65	-	-	364,547,600.65
P-110	01277	-	349,519,687.56	-	-	349,519,687.56
P-111	01278	-	397,961,907.90	-	-	397,961,907.90
P-112	01279	-	-	₱310,024,977.08	-	310,024,977.08
P-113	01282	-	-	321,407,032.45	-	321,407,032.45
P-114	01283	-	-	281,979,644.36	-	281,979,644.36
P-115	01284	-	-	-	₱296,864,308.76	296,864,308.76
		₱1,108,312,793.52	**₱1,112,029,196.11**	**₱913,411,653.89**	**₱296,864,308.76**	**₱3,430,617,952.28**

After a careful examination and verification of the records and report submitted, the Court concurs that, out of the declared zero-rated sales of ₱3,964,370,061.25, only the amount of ₱3,430,617,952.28 was fully substantiated with valid ORs.

Second, petitioner has proven that it incurred and paid the corresponding input taxes.

In its Amended Quarterly VAT Returns for the four (4) quarters of 2015, petitioner reported its input taxes in the amount of ₱24,588,064.56. The entire amount of which is the subject of petitioner's claim, as follows:

	1st Quarter of 2015[48]	2nd Quarter of 2015[49]	3rd Quarter of 2015[50]	4th Quarter of 2015[51]	Total
Domestic purchase of goods other than capital goods	₱399,313.08	₱26,900.41	₱31,843.32	₱21,022.52	₱479,079.33
Importation of goods other than capital goods	527,952.00	3,871,239.00	4,344,825.00	13,857,744.00	22,601,760.00
Domestic purchase of services	303,055.32	390,686.27	303,703.08	509,780.56	1.507,225.23
Total Input Tax for the period	**1,230,320.40**	**4,288,825.68**	**4,680,371.40**	**14,388,547.08**	**₱24,588,064.56**

48 Supra at note 40.
49 Supra at note 41.
50 Supra at note 42.
51 Supra at note 43.

As represented by petitioner, the domestic purchase of goods and services mainly include office supplies, utilities and communication expenses which are necessary for the operation of plant facilities. These are substantiated by purchase documents such as sales invoices and ORs while the importation of goods other than capital goods are supported by original printouts of Schedule of Importations, Statement of Settlement of Duties and Taxes (**SSDT**), Single Administrative Document (**SAD**), Import Entry and Internal Revenue Declaration (**IEIRD**) and bank certifications.

With regard to petitioner's importation of goods other than capital goods, the ICPA recommended the following disallowances in the total amount of ₱910,028.00, due to the succeeding reasons:

Particulars	**1st Quarter of 2015**	**2nd Quarter of 2015**	**3rd Quarter of 2015**	**4th Quarter of 2015**	**Total**
Supported by SSDT, Assessment Notice and bank certification but photocopied manual IEIRD *(Annex 5-2Q-b)*	₱ -	₱374,862.00	₱ -	₱ -	₱374,862.00
Supported by photocopied SAD and Assessment Notice *(Annex 5-4Q-c)*	-	-	-	259,179.00	259,179.00
Supported by photocopied SSDT, manual IEIRD and Assessment Notice *(Annex 5-1Q-c and Annex 5-4Q-d)*	17,964.00	-	-	108,105.00	126,069.00
Supported by photocopied SSDT and Assessment Notice *(Annex 5-3Q-d)*	-	-	72,151.00	-	72,151.00
Supported by SAD, SSDT and Assessment Notice not supported by Bank Certifications *(Annex 5-1Q-d)*	62,046.00	-	-	-	62,046.00
Supported by photocopied manual IEIRD and Assessment Notice *(Annex 5-2Q-c)*	-	15,721.00	-	-	15,721.00
Total	**₱80,010.00**	**₱390,583.00**	**₱72,151.00**	**₱367,284.00**	**₱910,028.00**

Upon verification of petitioner's supporting documents, the Court finds the above disallowances proper. In sum, out of the total input tax on importation of goods other than capital goods of ₱22,601,760.00, only the amount of ₱21,691,732.00 was valid and properly substantiated with the relevant documents.

As regards petitioner's domestic purchases of goods other than capital goods and purchase of services, *per* independent verification and examination of the documents submitted by petitioner, the Court finds that only ₱1,077,817.77 of the total input VAT on local purchases (i.e., ₱1,986,304.55)[52] is properly substantiated and compliant with invoicing requirements pursuant to Sections 113[53] and Section 237[54] of the NIRC of 1997, as implemented by Section 4.113-1[55] of RR 16-2005, as summarized below:

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52 Results of Verification, ICPA Report, pp. 34-35.

53 SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* —
(A) Invoicing Requirements. — A VAT-registered person shall issue:
(1) A VAT invoice for every sale, barter or exchange of goods or properties; and
(2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.
(B) Information Contained in the VAT Invoice or VAT Official Receipt. — **The following information shall be indicated in the VAT invoice or VAT official receipt**:
(1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN); and
(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax. Provided, That:
(a) **The amount of the tax shall be known as a separate item in the invoice or receipt;**
(b) If the sale is exempt from value-added tax, the term "VAT-exempt sale" shall be written or printed prominently on the invoice or receipt;
(c) If the sale is subject to zero percent (0%) value-added tax, the term "zero-rated sale" shall be written or printed prominently on the invoice or receipt;
(d) If the sale involved goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT exempt, **the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be known on the invoice or receipt: Provided, That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.**
(3) **The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service**; and
(4) **In the case of sales in the amount of One thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client**. (Emphasis supplied)

54 SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* — All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: *Provided*, however, That where the receipt is issued to cover payment made as rentals, commissions, compensations, fees, receipts or invoices **shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client: *Provided, further*, That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser**. (Emphasis supplied)

55 SECTION 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**

	1st Quarter of CY2015	2nd Quarter of CY2015	3rd Quarter of CY2015	4th Quarter of CY2015	TOTAL
a. Input Tax on purchases of goods other than capital goods	₱97,920.00	₱-	₱-	₱-	₱97,920.00
b. Input tax on purchases of services	38,861.69	272,898.45	216,994.34	451,143.29	979,897.77
TOTAL	₱136,781.69	₱272,898.45	₱216,994.34	₱451,143.29	₱1,077,817.77

The total disallowed input VAT on local purchases amounting to ₱908,486.78 is broken down as follows:

A. Purchase of Goods other than Capital Goods	1st Quarter of CY2015	2nd Quarter of CY2015	3rd Quarter of CY2015	4th Quarter of CY2015	TOTAL
VAT Reg. TIN invoice dated not within the period of claim and with incomplete Petitioner's name *(Annex 7-1Q-f)*	461.17	-	-	-	461.17
VAT Reg. TIN invoice dated not within the period of claim and with alteration in VAT breakdown without countersign *(Annex 7-1Q-h)*	108,576.00	-	-	-	108,576.00
VAT breakdown not shown separately *(Annex 7-1Q-g)*	168,000.00	-	-	-	168,000.00

Invoice/VAT Official Receipt shall not give rise to any input tax. VAT invoice/official receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records.
(B) Information contained in VAT invoice or VAT official receipt. — The following information shall be indicated in VAT invoice or VAT official receipt:
(1) A statement that the seller is a VAT-registered person, followed by his TIN;
(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; Provided, That:

(a) **The amount of tax shall be shown as a separate item in the invoice or receipt;**
(b) If the sale is exempt from VAT, the term "VAT-exempt sale" shall be written or printed prominently on the invoice or receipt;
(c) If the sale is subject to zero percent (0%) VAT, the term 'zero-rated sale' shall be written or printed prominently on the invoice or receipt;
(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

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

VAT Reg. TIN invoices dated not within the quarter but within the period of claim without Petitioner's name, TIN and address and VAT breakdown was not shown separately *(Annex 7-4Q-d)*	-	-	-	80.04	80.04
Supported by other than VAT invoice *(Annex 7-1Q-l, Annex 7-2Q-e, Annex 7-3Q-e, Annex 7-4Q-e, Annex 7-3Q-f, Annex 7-3Q-g)*	24,355.90	26,900.41	31,232.61	20,942.48	103,431.40
Domestic purchase of goods without supporting documents *(Annex 7-3Q-h)*	-	-	610.71	-	610.71
Subtotal	***301,393.07***	***26,900.41***	***31,843.32***	***21,022.52***	***381,159.32***
B. Purchase of Services					
Overclaimed VAT amount *(Annex 7-1Q-e, Annex 7-2Q-d, Annex 7-3Q-d, Annex 7-4Q-c, Annex 7-2Q-g, Annex 7-3Q-x, Annex 7-3Q-r)*	0.04	1,184.37	6,292.68	567.76	8,044.85
VAT Reg. TIN ORs with VAT breakdown not shown separately and without nature of payment indicated *(Annex 7-1Q-k, Annex 7-2Q-i)*	34,734.49	35,005.77	-	-	69,740.26
VAT Reg. TIN ORs with VAT breakdown not shown separately *(Annex 7-1Q-l, Annex 7-2Q-j, Annex 7-3Q-w, Annex 7-1Q-m, Annex 7-1Q-n, Annex 7-2Q-k)*	158,963.82	59,686.52	6,243.62	-	224,893.96
VAT Reg. TIN ORs with incomplete petitioner's name, with incorrect VAT amount claimed, without nature of payment indicated, and with no business style indicated *(Annex 7-1Q-q, Annex 7-1Q-r, Annex 7-2Q-l)*	5,376.56	2,587.94	-	-	7,964.50
VAT Reg. TIN ORs with incomplete petitioner's address with VAT breakdown not shown separately and without nature of payment indicated *(Annex 7-1Q-o)*	1,103.36	-	-	-	1,103.36
VAT Reg. TIN ORs with incomplete petitioner's address with VAT breakdown not shown separately *(Annex 7-1Q-p)*	85.71	-	-	-	85.71
VAT Reg. TIN ORs with abbreviated petitioner's name with VAT not shown separately and without nature of payment indicated *(Annex 7-1Q-t, Annex 7-2Q-m)*	376.31	268.13	-	-	644.44
VAT Reg. TIN ORs with abbreviated petitioner's name and with VAT breakdown not shown separately *(Annex 7-1Q-u, Annex 7-2Q-n)*	46,761.36	3,334.88	-	-	50,096.24
VAT Reg. TIN ORs with incomplete petitioner's name and with VAT breakdown not shown separately *(Annex 7-1Q-v)*	9,120.00	-	-	-	9,120.00
VAT Reg. TIN ORs with incomplete petitioner's name, with incorrect petitioner's address, without nature of payment indicated and with VAT breakdown not shown separately *(Annex 7-1Q-w)*	117.86	-	-	-	117.86
VAT Reg. TIN ORs with incomplete petitioner's name and address and with VAT breakdown not shown separately *(Annex 7-1Q-x)*	60.95	-	-	-	60.95
VAT Reg. TIN ORs not in petitioner's name, wrong petitioner's TIN, incorrect petitioner's address and with overclaimed VAT amount *(Annex 7-1Q-y, Annex 7-2Q-p, Annex 7-3Q-p, Annex 7-4Q-r, Annex 7-1Q-ab)*	1,503.19	775.16	1,050.82	962.08	4,291.25
VAT Reg. TIN ORs dated not within the quarter but within the period of claim, with abbreviated petitioner's name, without nature of payment indicated and with VAT breakdown not shown separately *(Annex 7-1Q-z)*	5,040.00	-	-	-	5,040.00
VAT Reg. TIN ORs dated not within the quarter but within the period of claim, with abbreviated petitioner's name and with VAT breakdown not shown separately *(Annex 7-1Q-aa)*	900.00	-	-	-	900.00
VAT Reg. TIN ORs with altered date without countersign *(Annex 7-2Q-q)*	-	9,831.43	-	-	9,831.43
VAT Reg. TIN ORs dated not within the quarter but within the period of claim, without nature of payment indicated and with VAT breakdown not shown separately *(Annex 7-2Q-r)*	-	540.00	-	-	540.00

VAT Reg. TIN ORs dated not within the quarter but within the period of claim and with VAT breakdown not shown separately *(Annex 7-2Q-s, Annex 7-4Q-f)*	-	246.23	-	110.71	356.94
VAT Reg. TIN ORs dated not within the quarter but within the period of claim, with altered petitioner's address and VAT breakdown without countersign and with overclaimed VAT amount *(Annex 7-2Q-t)*	-	323.98	-	-	323.98
VAT Reg. TIN ORs dated not within the quarter but within the period of claim, with alteration in petitioner's TIN without countersign and with incorrect Petitioner's address *(Annex 7-2Q-u)*	-	1,240.57	-	-	1,240.57
VAT Reg. TIN ORs dated not within the quarter but within the period of claim, with incomplete petitioner's name and address and without nature of payment indicated *(Annex 7-2Q-v)*	-	30.99	-	-	30.99
Supported by other than VAT OR *(Annex 7-2Q-w, Annex 7-3Q-ab, Annex 7-4Q-z)*	-	2,731.83	2,935.48	427.71	6,095.02
VAT Reg. TIN ORs dated not within the quarter but within the period of claim with abbreviated Petitioner's name and with alteration on VAT breakdown without countersign *(Annex 7-3Q-j)*	-	-	85.71	-	85.71
VAT Reg. TIN ORs dated not within the quarter but within the period of claim with abbreviated petitioner's name with overclaimed VAT amount and without nature of payment indicated *(Annex 7-3Q-k)*	-	-	938.14	-	938.14
VAT Reg. TIN ORs dated not within the quarter but within the period of claim without petitioner's TIN *(Annex 7-3Q-l)*	-	-	428.57	-	428.57
VAT Reg. TIN ORs dated not within the quarter but within the period of claim with incorrect petitioner's address indicated *(Annex 7-3Q-m)*	-	-	1,665.01	-	1,665.01
VAT Reg. TIN ORs dated not within the quarter but within the period of claim with alteration on VAT breakdown without countersign *(Annex 7-3Q-o)*	-	-	1.10	-	1.10
VAT Reg. TIN ORs with incomplete petitioner's name indicated and without petitioner's TIN indicated with incorrect petitioner's address and with VAT breakdown not shown separately *(Annex 7-3Q-q)*	-	-	58.76	-	58.76
VAT Reg. TIN ORs with alteration on the petitioner's TIN without countersign *(Annex 7-3Q-s, Annex 7-3Q-t)*	-	-	11,582.67	-	11,582.67
VAT Reg. TIN ORs with incorrect petitioner's address indicated and with alteration on VAT breakdown without countersign *(Annex 7-3Q-u)*	-	-	125.55	-	125.55
VAT Reg. TIN ORs with incorrect petitioner's address indicated *(Annex 7-3Q-v, Annex 7-4Q-w)*	-	-	1,698.14	2,313.73	4,011.87
VAT Reg. TIN ORs with alteration on VAT breakdown with countersign and without nature of payment indicated *(Annex 7-3Q-y)*	-	-	1,080.00	-	1,080.00
VAT Reg. TIN ORs with alteration on VAT breakdown without countersign *(Annex 7-3Q-z, Annex 7-4Q-y)*	-	-	1,824.00	33,104.16	34,928.16
VAT Reg. TIN ORs without nature of payment indicated *(Annex 7-3Q-aa)*	-	-	50,698.49		50,698.49
No supporting documents *(Annex 7-4Q-aa)*	50.00	-	-	3,889.51	3,939.51
VAT Reg. TIN ORs not dated within the year (or period of claim) with alteration on petitioner's name without countersign and with incorrect Petitioner's address indicated *(Annex 7-4Q-g)*	-	-	-	128.46	128.46
VAT Reg. TIN ORs not dated within the year (or period of claim) with incomplete petitioner's name, without indicated petitioner's TIN with incorrect petitioner's address, with underclaimed VAT amount and without nature of payment indicated *(Annex 7-4Q-h)*	-	-	-	62.73	62.73

Domestic purchase of services supported by VAT Reg. TIN ORs not dated within the year (or period of claim) *(Annex 7-4Q-i to 7-4Q-p)*	-	-	-	11,603.61	11,603.61
VAT Reg. TIN ORs with alteration on the date without countersign and with incorrect petitioner's address indicated *(Annex 7-4Q-q)*	-	-	-	128.46	128.46
VAT Reg. TIN ORs with alteration on petitioner's name without countersign and with incorrect petitioner's address indicated *(Annex 7-4Q-s)*	-	-	-	128.46	128.46
VAT Reg. TIN ORs with incomplete petitioner's name, without petitioner's TIN, with incorrect petitioner's address and with overclaimed VAT amount *(Annex 7-4Q-t)*	-	-	-	75.38	75.38
VAT Reg. TIN ORs with abbreviated petitioner's name and without nature of payment indicated *(Annex 7-4Q-t)*	-	-	-	1,707.43	1,707.43
VAT Reg. TIN ORs with incorrect petitioner's TIN indicated and with VAT breakdown not shown separately *(Annex 7-4Q-v)*	-	-	-	136.83	136.83
VAT Reg. TIN ORs with alteration on VAT breakdown without countersign and with overclaimed VAT amount *(Annex 7-4Q-x)*	-	-	-	3,290.25	3,290.25
Subtotal	***264,193.65***	***117,787.80***	***86,708.74***	***58,637.27***	***527,327.46***
TOTAL	**565,586.72**	**144,688.21**	**118,552.06**	**79,659.79**	**908,486.78**

Accordingly, out of petitioner's total declared input VAT of ₱24,588,064.56 for the four (4) quarters of CY 2015, only the amount of ₱22,769,549.78 represents valid input VAT, as detailed below:

	1st Quarter of CY2015	**2nd Quarter of CY2015**	**3rd Quarter of CY2015**	**4th Quarter of CY2015**	**Total**
Input VAT claim	1,230,320.40	4,288,825.68	4,680,371.40	14,388,547.08	24,588,064.56
Less: Disallowances					
Importation of goods other than capital goods	80,010.00	390,583.00	72,151.00	367,284.00	910,028.00
Domestic purchase of goods and services	565,586.72	144,688.21	118,552.06	79,659.79	908,486.78
Total Valid Input VAT	**584,723.68**	**3,753,554.47**	**4,489,668.34**	**13,941,603.29**	**22,769,549.78**

__Third,__ petitioner has input VAT attributable to its zero-rated sales. Although petitioner has a total valid input VAT of ₱22,769,549.78, the same, however, is not entirely attributable to zero-rated sales since petitioner also had VATable sales. Hence, the same shall be allocated based on the volume of total sales as computed below:

	1st Quarter CY2015	2nd Quarter CY2015	3rd Quarter CY2015	4th Quarter CY2015	TOTAL
Zero-rated sales [A]	1,124,722,498.83	1,087,929,494.98	891,692,975.82	859,691,568.79	3,964,036,538.42
Valid zero-rated sales [B]	1,108,312,793.52	1,087,929,494.98	891,692,975.82	296,864,308.76	3,384,799,573.08
Percentage of valid zero-rated sales [C=B/A]	98.54%	100.00%	100.00%	34.53%	
Valid Input VAT [D]	584,723.68	3,753,554.47	4,489,668.34	13,941,603.29	22,769,549.78
Output VAT [E]	-	-	-	40,022.74	40,022.74
Valid less Output [F=D-E]	584,723.68	3,753,554.47	4,489,668.34	13,901,580.55	22,729,527.04
Input VAT for refund [F x C]	576,186.71	3,753,554.47	4,489,668.34	4,800,215.76	13,619,625.28

Due to the BIR's previous partial approval of petitioner's claim up to the amount of ₱3,589,914.20[56], the excess input VAT attributable to valid zero-rated sales of ₱13,619,625.28 should be further reduced. Hence, petitioner is entitled to a lesser input VAT claim of ₱10,029,711.08 after taking into consideration the BIR's partial grant of its claim, as shown below:

Excess Input VAT attributable to Valid Zero-Rated Sales	₱13,619,625.28
Less: Input VAT partially granted by BIR	3,589,914.20
Net Input VAT attributable to Zero-Rated Sales	**₱10,029,711.08**

Fourth, petitioner's input VAT claimed was not applied to any output VAT liability. As can be seen from the above computation, petitioner did not have any output VAT liabilities during the 1st to 3rd quarters of 2015 leaving the input VAT unutilized; while for the 4th quarter of 2015, petitioner's output VAT liability did not exceed the input tax it incurred or paid during the same quarter. The same remained unutilized until it was deducted as "VAT Refund/TCC Claimed" in its Amended Quarterly VAT Return for the 4th quarter of CY 2016[57]. Apparently, the subject claim no longer formed part of the excess input VAT as of the end of the 4th quarter of CY 2016 that was to be carried over or applied to the succeeding quarters. As such, it eliminates the possibility that the present claim would be applied to future output VAT liability.

[56] Exhibit "P-26", Division Docket, Volume IV, p. 1514.
[57] Exhibit "P-88", id., pp. 1632-1633.

__Fifth__, petitioner's claim for refund was filed on time. Pursuant to Section 112(A)[58] of the NIRC of 1997, as amended, the administrative claim for the issuance of TCC or refund of input VAT must also be filed with the BIR within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim covers the 1st to 4th quarters of TY 2015. Thus, petitioner's last day for the filing of its administrative claim for the four (4) quarters of TY 2015 fell on the following dates:

Period covered	**Last day of the two-year period**
January to March 2015 (1st Quarter)	March 31, 2017
April to June 2015 (2nd Quarter)	June 30, 2017
July to September 2015 (3rd Quarter)	September 30, 2017
October to December 2015 (4th Quarter)	December 31, 2017

Petitioner filed its administrative claim for refund and Application for Tax Credits or Refunds (BIR Form No. 1914) in the amount of ₱24,548,041.82 on March 30, 2017.[59] Evidently, petitioner's administrative claim was filed well within the two-year prescriptive period.

In addition to the timeliness of petitioner's judicial claim, Section 112(C)[60] of the NIRC of 1997, as amended, also requires that respondent in 120 days from the date of submission of the complete documents (in support of the application for refund or tax credit certificate) within which to grant or deny the claim. Counting 120 days from submission and filing of the administrative claim, respondent had until July 28, 2017 to decide on the claim.

In the present case, after the expiration of the said 120-day period, respondent issued a letter addressed to the Commissioner of the BOC informing the latter that only the amount of ₱3,589,914.20 has been approved in its claim for refund.[61]

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58 Supra at note 22.
59 Exhibits "P-24" & "P-25", Division Docket, Volume IV, pp. 1496-1510.
60 Supra at page 9.
61 Supra at note 57.

Section 112 of the NIRC of 1997, as amended, provides further that a taxpayer aggrieved by either the decision or inaction of the CIR in its claim for refund may appeal to the CTA within a period of thirty (30) days from the receipt of the decision or after expiration of the 120-day period. Therefore, petitioner's judicial claim on 25 August 2017 was timely filed.

WHEREFORE, the foregoing considered, petitioner Philippine Geothermal Production Company, Inc.'s Petition for Review filed on 25 August 2017 is **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is **ORDERED** to **REFUND** or **ISSUE** a **TAX CREDIT CERTIFICATE** in favor of petitioner Philippine Geothermal Production Company, Inc. in the amount of **₱10,029,711.08**, representing its excess and unutilized input VAT attributable to zero-rated sales for the four quarters of CY 2015.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

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

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
2nd Division Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice