REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

NCH CUSTOMER SUPPORT SERVICES, INC., Petitioner,	**CTA CASE NO. 10933**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: __________________

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DECISION

4:10 p.m.

FERRER-FLORES, J.:

THE CASE

The *Petition for Review* prays that judgment be rendered:

1. declaring petitioner entitled to a refund in the amount of **₱40,260,421.94**, representing unutilized input value-added tax (VAT) arising from petitioner's domestic purchases of goods (other than capital goods) and services, purchase of capital goods, which are attributable to zero-rated transactions for the period first to fourth quarters of taxable year (TY) 2020; and,

2. ordering respondent to grant petitioner a refund or issue a tax credit certificate in the said amount of ₱40,260,421.94.[1]

[1] Statement of the Case, Pre-Trial Order dated May 22, 2023, Docket – Vol. I, p. 350.

THE PARTIES

Petitioner **NCH Customer Support Services, Inc.** (**NCH**) is a corporation duly organized and existing under and by virtue of Philippine laws.[2] It is registered with the Bureau of Internal Revenue (BIR) - Revenue District No. 112, under Tax Identification Number (TIN) 009-216-572-000, with address at 6/F Tower 3 Double Dragon Plaza Edsa Ext. Cor. Macapagal, Pasay City.[3]

Respondent is the duly appointed **Commissioner of Internal Revenue** (**CIR**) who has the authority under Section 4 of the National Internal Revenue Code (NIRC) of 1997, as amended, to assess and collect internal revenue taxes, as well as to decide disputed assessments, subject to the exclusive appellate jurisdiction of this Court.[4]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

Petitioner filed its Amended *Quarterly VAT Returns* (BIR Form No. 2550-Q) for the first to fourth quarters of TY 2020 on the following dates:

Period (Taxable Year 2020)	**Date of Filing**
1st Quarter (January 1 to March 31)[5]	March 19, 2022
2nd Quarter (April 1 to June 30)[6]	March 19, 2022
3rd Quarter (July 1 to September 30)[7]	March 19, 2022
4th Quarter (October 1 to December 31)[8]	March 20, 2022

On March 29, 2022, petitioner filed with the VAT Credit Audit Division (VCAD) of the BIR National Office an *Application for Tax Credits/Refunds* (BIR Form No. 1914)[9] for refund or tax credit of input tax, amounting to ₱40,260,421.94, for the period from January 1 to December 31, 2020, with attached Revised Checklist of Mandatory Requirements on Claims for VAT Credit/Refund.[10] ly

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2 Exhibit "P-1", USB (Exhibit "P-26-2").
3 Exhibit "P-2", Docket – Vol. II, p. 618.
4 Par. 1, Stipulation of Facts, Joint Stipulation of Facts and Issues, *Joint Stipulation of Facts and Issues*, Docket – Vol. I, p. 333.
5 Exhibit "P-3", USB (Exhibit "P-26-2").
6 Exhibit "P-3-1", *Id.*
7 Exhibit "P-3-2", *Id.*
8 Exhibit "P-3-3", *Id.*
9 Exhibit "P-12", *Id.*
10 Exhibit "R-2", BIR Records (Exhibit "R-6"), p. 286.

Consequently, the Tax Verification Notice No. TVN201800190743 dated March 29, 2022 was issued by the BIR,[11] authorizing Revenue Officers (ROs) Jonathan G. Simon, Kevin L. Fernandez and Fei Ann Marie S. Nazar, to verify the supporting documents and/or pertinent records relative to petitioner's claim for VAT credit or refund for the period covering the subject claim.

On June 23, 2022, petitioner received the VAT Refund Notice dated June 7, 2022[12] denying in full petitioner's VAT refund application, signed by Assistant Commissioner, Assessment Service, Maria Luisa I. Belen.

PROCEEDINGS BEFORE THIS COURT

Petitioner filed the present *Petition for Review* on July 22, 2022.[13]

On September 7, 2022, respondent filed his *Answer*.[14]

Respondent then transmitted the *BIR Records* of this case on September 12, 2022.[15]

The Pre-Trial Conference was initially set on November 15, 2022, but was reset to, and held on, February 28, 2023.[16] Prior thereto, *Respondent's Pre-Trial Brief* was filed on September 23, 2022,[17] while the *Pre-Trial Brief for Petitioner* was submitted on November 10, 2022.[18]

On March 30, 2023, the parties submitted their *Joint Stipulation of Facts and Issues*,[19] which was admitted and approved by the Court in its Minute Resolution dated April 4, 2023,[20] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order dated May 22, 2023 was then issued.[21]

As trial ensued, the parties presented their respective testimonial and documentary evidence.

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[11] Exhibit "R-1", BIR Records (Exhibit "R-6"), p. 288.
[12] Exhibit "P-13", USB (Exhibit "P-26-2"); Exhibit "R-4", BIR Records (Exhibit "R-6"), pp. 430 to 431.
[13] Docket – Vol. I, pp. 6 to 33.
[14] *Id.* at 199 to 206.
[15] *Compliance* dated September 8, 2022, Docket – Vol. I, pp. 241 to 243.
[16] Resolution dated November 23, 2022, Docket – Vol. I, p. 290; Minutes of the hearing held on, and Order dated, February 28, 2023, Docket – Vol. I, pp. 293 to 295.
[17] Docket – Vol. I, pp. 247 to 250.
[18] *Id.* at 253 to 273.
[19] *Id.* at 333 to 346.
[20] *Id.* at 348.
[21] *Id.* at 350 to 357.

Petitioner offered the testimonies of the following individuals, namely: (1) Ms. Melissa Cabrera,[22] petitioner's Financial Controller; and, (2) Mr. Nikkolai F. Canceran,[23] the Court-commissioned Independent Certified Public Accountant (ICPA).[24]

The *Report* of the ICPA was submitted on August 29, 2023.[25]

On October 12, 2023, petitioner filed its *Formal Offer of Evidence with Motion to Mark and Transfer Marking*,[26] to which respondent filed his *Comment (Re: Formal Offer of Evidence)* on October 13, 2023.[27] In the Resolution dated February 2, 2024,[28] the Court granted petitioner's *Motion to Mark and Transfer Marking.*

Subsequently, in the Resolution dated April 30, 2024,[29] the Court admitted all of petitioner's offered exhibits.

For his part, respondent offered the testimony of RO Jonathan G. Simon.[30]

On July 10, 2024, respondent's *Formal Offer of Evidence* was filed,[31] to which petitioner filed its *Comment [To the Respondent's Formal Offer of Evidence dated 09 July 2024]* on July 26, 2024.[32] In the Resolution dated October 2, 2024,[33] the Court admitted all of respondent's offered exhibits.

The *Memorandum for Petitioner with Notice of Counsels' Email Addresses* was filed on November 8, 2024;[34] while respondent's *Memorandum* was submitted on November 11, 2024.[35]

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[22] Exhibit "P-17", Docket – Vol. I, pp. 34 to 51; Minutes of the hearing held on May 23, 2023, Docket – Vol. I, p. 358.
[23] Exhibit "P-25", Docket – Vol. I, pp. 437 to 441; Minutes of the hearing held on, and Order dated, September 12, 2023, Docket – Vol. I, pp. 443 (and the following pages numbered "603" and "604").
[24] *Oath of Commission* dated July 13, 2023, Docket – Vol. I, p. 364; Minutes of the hearing held on, and Order dated, July 13, 2023, Docket – Vol. I, pp. 363 and the following page.
[25] Exhibit "P-26", ICPA Report Folder.
[26] Docket – Vol. II, pp. 448 to 595.
[27] *Id.* at 598 to 600.
[28] *Id.* at 607 to 609.
[29] *Id.* at 626 to 632.
[30] Exhibit "R-7", Docket – Vol. I, pp. 212 to 216; Minutes of the hearing held on, and Order dated, July 9, 2024, Docket – Vol. II, pp. 658 to 658-A.
[31] Docket – Vol. II, pp. 659 to 662.
[32] *Id.* at 664 to 666.
[33] *Id.* at 671 to 672.
[34] *Id.* at 674 to 705.
[35] *Id.* at 710 to 716.

The present case was considered submitted for decision on November 26, 2024.[36] Hence, this Decision.

THE STIPULATED ISSUE

As stipulated by the parties, the issue for this Court's resolution is as follows:

> Whether or not Petitioner is entitled to a refund of its alleged unutilized input VAT arising from purchases of goods (other than capital goods) and services, and purchases of capital goods, attributable to zero-rated sales for the 1st to 4th quarters of taxable year 2020 in the amount of Forty Million Two Hundred Sixty Thousand Four Hundred Twenty-One and 94/100 (₱40,260,421.94).[37]

Petitioner's arguments:

Petitioner argues that the instant claim for refund is timely filed as it complies with the prescribed period under Section 112(A) of the NIRC of 1997, as amended. Petitioner claims that it sufficiently complied with the requisites laid down in the case of *San Roque Power Corporation vs. Commissioner of Internal Revenue*; thus, it is entitled to a refund of its unutilized input VAT in the amount of ₱40,260,421.94. Petitioner avers that to deny a legitimate and appropriate refund claim is absolutely inimical to the best interest of the country. Finally, petitioner highlights the principle of *solutio indebiti,* which warrants petitioner's right to its claim for refund of input VAT passed on to it.

Respondent's counter-arguments:

Respondent contends that the petition must be dismissed for failure of petitioner to substantiate its administrative claim for refund and insists that petitioner is not entitled to refund in the amount of ₱40,260,421.94.

THE COURT'S RULING

The present *Petition for Review* is partly meritorious.

[36] Minute Resolution dated November 26, 2024, Docket – Vol. II.
[37] Stipulated Issue, Pre-Trial Order dated May 22, 2023, Docket – Vol. I, p. 351.

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

Section 112 of the NIRC of 1997, as amended by Republic Act (R.A.) No. 10963,[38] provides, in part, as follows:

> SEC. 112. *Refunds or Tax Credits of Input Tax.* —
>
> (A) *Zero-Rated or Effectively Zero-Rated Sales.* — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however*, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP): *Provided, further*, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally*, That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
>
> xxx xxx xxx
>
> (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.

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

Based on the foregoing provision, jurisprudence has laid down certain requisites which the taxpayer-applicant must comply with to successfully obtain a credit/refund of input VAT. Said requisites are classified into certain categories, to wit:

> <u>As to the timeliness of the filing of the administrative and judicial claims:</u>
>
> 1. the refund claim is filed with the BIR within two years after the close of the taxable quarter when the sales were made;[39]
>
> 2. in case of full or partial denial of the refund claim rendered within a period of 90 days from the date of submission of the official receipts (ORs) or invoices and other documents in support of the application, the judicial claim shall be filed with this Court within 30 days from receipt of the decision,[40] or after the expiration of the 90-day period;[41]
>
> <u>With reference to the taxpayer's registration with the BIR</u>:
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> 3. the taxpayer is a VAT-registered person;[42]
>
> <u>In relation to the taxpayer's output VAT</u>:
>
> 4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[43]
>
> 5. for zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2),[44] the acceptable foreign currency exchange proceeds have been duly accounted for in

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[39] *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.

[40] 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.

[41] *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 182737, March 2, 2016.

[42] *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.*

[43] *Id.*

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

accordance with the *Bangko Sentral ng Pilipinas* (BSP) rules and regulations;[45]

<u>As regards the taxpayer's input VAT being refunded:</u>

6. the input taxes are not transitional input taxes;[46]

7. the input taxes are due or paid;[47]

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;[48] and,

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[49]

In addition, in claims for VAT refund/credit, applicants must satisfy the substantiation and invoicing requirements under the NIRC of 1997, as amended, and other implementing rules and regulations.[50] Petitioner's compliance with all the VAT invoicing requirements is, thus, required to be able to file a claim for input taxes attributable to zero-rated sales.[51] The invoicing and substantiation requirements should be followed because it is the only way to determine the veracity of the taxpayer's claims.[52] Moreover, it must be pointed out that compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.[53]

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[45] *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.*
[46] *Id.*
[47] *Id.*
[48] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.
[49] *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.
[50] *Team Energy Corporation vs. Commissioner of Internal Revenue, et seq.*, G.R. Nos. 197663 and 197770, March 14, 2018.
[51] *J.R.A. Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013.
[52] *Nippon Express (Philippines) Corporation vs. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018.
[53] *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.

Strict compliance with substantiation and invoicing requirements is necessary considering VAT's nature and VAT system's tax credit method, where tax payments are based on output and input taxes and where the seller's output tax becomes the buyer's input tax that is available as tax credit or refund in the same transaction. It ensures the proper collection of taxes at all stages of distribution, facilitates computation of tax credits, and provides accurate audit trail or evidence for BIR monitoring purposes.[54]

Furthermore, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove every minute aspect of their case.[55] Thus, it behooves petitioner to show compliance with each of the foregoing requisites and invoicing requirements. As a corollary, the absence of *any* of the said requisites is already a valid ground to deny the refund claim.

Petitioner's administrative and judicial claims were timely filed.

The *first* requisite provided in Section 112(A) of the NIRC of 1997, as amended, commands the taxpayer to file an administrative claim for input VAT refund within two years from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim covers the taxable period from January 1 to December 31, 2020. Counting two years from the close of the subject taxable quarters, petitioner had until the following dates to file its administrative claim:

Period Covered (2020)	Close of Taxable Quarter	Last Day to File Administrative Claim
1st Quarter	March 31, 2020	March 31, 2022
2nd Quarter	June 30, 2020	June 30, 2022
3rd Quarter	September 30, 2020	September 30, 2022
4th Quarter	December 31, 2020	December 31, 2022

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

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

Hence, petitioner timely filed its administrative claim for VAT refund in the amount of ₱40,260,421.94, for the period January 1 to December 31, 2020, with the BIR-VCAD on March 29, 2022.[56]

As regards the *second* requisite, the same necessitates that the judicial claim must have been filed within 30 days from receipt of respondent's decision or after the expiration of the 90-day period under Section 112(C) of the NIRC of 1997, as amended.

Correspondingly, from the filing of petitioner's administrative claim on March 29, 2022, respondent had 90 days therefrom, or until June 27, 2022, to decide on the petitioner's claim for refund.

In the present case, the letter dated June 7, 2022, denying petitioner's entire claim for refund was received by petitioner only on June 23, 2022.[57] Such being the case, petitioner had 30 days from receipt thereof, or until July 25, 2022,[58] to file an appeal before this Court.

Therefore, the filing of the present *Petition on Review* on July 22, 2022[59] was likewise timely made.

The Court, thus, finds that petitioner complied with the above-stated first and second requisites.

Petitioner is a VAT-registered person/entity.

Anent the third requisite, it is also undisputed that petitioner is a VAT-registered person/entity, under TIN 009-216-572-000.[60] Petitioner, thus, complied with the said requisite.

Petitioner had zero-rated sales or effectively zero-rated sales, but only in the amount of ₱847,310,964.47.

The fourth and fifth requisites require that the taxpayer be engaged in zero-rated or effectively zero-rated sales and for zero-rated sales under

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56 Exhibit "P-12", USB (Exhibit "P-26-2").
57 Exhibit "P-13", USB (Exhibit "P-26-2"); Exhibit "R-4", BIR Records (Exhibit "R-6"), pp. 430 to 431.
58 July 23, 2022 (The 30th day) fell on Saturday.
59 Docket – Vol. I, pp. 6 to 33.
60 Exhibit "P-2", Docket – Vol. II, p. 618.

Sections 106(A)(2)(a)(1), (2), and (b),[61] and 108(B)(1) and (2) of the NIRC of 1997, as amended, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations.

In its amended Quarterly VAT Returns for the first to fourth quarters of TY 2020, petitioner reported total sales amounting to ₱866,647,514.73, which comprised of sales subject to 12% VAT ("vatable sales" for brevity) of ₱18,858,050.26 and zero-rated sales of ₱847,789,464.47, summarized as follows:

Period Covered (2020)	Exhibit No.	Vatable Sales	Zero-rated Sales	Total Sales
1st Quarter	"P-3"[62]	₱ 11,100,356.67	₱ 240,707,925.37	₱ 251,808,282.04
2nd Quarter	"P-3-1"[63]	-	184,050,363.90	184,050,363.90
3rd Quarter	"P-3-2"[64]	4,645,784.76	210,609,964.40	215,255,749.16
4th Quarter	"P-3-3"[65]	3,111,908.83	212,421,210.80	215,533,119.63
	Total	**₱ 18,858,050.26**	**₱ 847,789,464.47**	**₱ 866,647,514.73**

The zero-rated sales amounting to ₱847,789,464.47 allegedly pertain to petitioner's sale of services to its non-resident affiliates doing business outside of the Philippines. According to petitioner, the service performed are customer support services, payments verification, business intelligence, creative/design team, CRM coordination and quality control, among others, the nature of the activities are performed in the Philippines; and that, payment for the services in foreign currency are then inwardly remitted and credited to petitioner's various foreign currency accounts in BDO Unionbank, Inc.[66] Thus, its sale of services to its various non-resident affiliates is subject to zero percent VAT, pursuant to Section 108(B)(2) of the NIRC of 1997, as amended,[67] which reads as follows:

> SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* –
>
> xxx xxx xxx
>
> (B) *Transactions Subject to Zero Percent (0%) Rate.* – The following **services performed in the Philippines** by VAT-registered persons shall be subject to zero percent (0%) rate:

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[61] Under Republic Act No. 10963 "Tax Reform for Acceleration and Inclusion (TRAIN)", 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.

[62] USB (Exhibit "P-26-2").

[63] *Id.*

[64] *Id.*

[65] *Id.*

[66] Q&A Nos. 35, 37, and 45, Exhibit "P-17", Docket – Vol. I, pp. 41, 43 and 69, respectively.

[67] Par. 47, *Memorandum for Petitioner*, Docket – Vol. II, p. 686.

> (1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
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> (2) **Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a non-resident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)**; *(Emphases added)*

It is settled that certain essential elements must be complied with for a sale or supply of services to be subject to the VAT rate of zero percent under the foregoing provision, to wit:

1. The recipient of the services is a foreign corporation, and the said corporation is doing business outside the Philippines, or is a non-resident person not engaged in business who is outside the Philippines when the services are performed;[68]

2. The services fall under any of the categories under Section 108(B)(2),[69] or simply, the services rendered should be other than "processing, manufacturing or repacking goods";[70]

3. The service must be performed in the Philippines[71] by a VAT-registered person; and,

4. The payment for such services should be in acceptable foreign currency accounted for in accordance with BSP rules.[72]

Anent the first essential element, in order to be considered as a non-resident foreign corporation (NRFC) doing business outside the Philippines,

[68] *Sitel Philippines Corporation (Formerly Clientlogic Phils. Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 201326, February 8, 2017; *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007; *Accenture, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 190102, July 11,2012.

[69] *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, G.R. No. 152609, June 29, 2005.

[70] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra.

[71] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra; *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, supra.

[72] *Ibid.*

each entity must be supported, at the very least, by **both** a Certification of Non-Registration of Corporation/Partnership issued by the Securities and Exchange Commission (SEC), **and** proof of incorporation/registration in a foreign country (*e.g.*, Articles/Certificate of Incorporation/Registration and/or Tax Residence Certificate). The former establishes that the recipient of the service has no registered business in the Philippines, and that it is not engaged in trade or business within the Philippines; while the latter proves that the said recipient of the service is indeed foreign. The said documents have been consistently required by this Court for purposes of the said *first* essential element. In the case of *Commissioner of Internal Revenue vs. Deutsche Knowledge Services Pte. Ltd.*,[73] the Supreme Court affirmed the necessity of presenting the said documents in this wise:

> **For purposes of zero-rating under Section 108(B)(2) of the Tax Code, the claimant must establish the two components of a client's NRFC status, *viz.*: (1) that their client was established under the laws of a country not the Philippines or, simply, is not a domestic corporation; and (2) that it is not engaged in trade or business in the Philippines. To be sure, there must be sufficient proof of both of these components: showing not only that the clients are foreign corporations, but also are not doing business in the Philippines.**
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> Such proof must be especially required from ROHQs such as DKS. That the law expressly authorizes ROHQs to render services to local and foreign affiliates alike only stresses the ROHQ's burden to distinguish among their clients' nationalities and actual places of business operations and establish that they are seeking refund or credit of input VAT only to the extent of their sales of services to foreign clients doing business outside the Philippines.
>
> To recall, the CTA found that the SEC Certification of Non-Registration of Company and Authenticated Articles of Association and/or Certificates of Registration/Good Standing/Incorporation sufficiently established the NRFC status of 11 of DKS's affiliates clients.
>
> The Court upholds these findings.
>
> The Court accords the CTA's factual findings with utmost respect, if not finality, because the Court recognizes that it has necessarily developed an expertise on tax matters. Significantly, both the CTA Division and CTA *En Banc* gave credence to the aforementioned documents as sufficient proof of NRFC status. The Court shall not disturb its findings without any showing of grave abuse of discretion considering that the members of the tax court are in the best position to analyze the documents presented by the parties.
>
> In any case, after a judicious review of the records, the Court still do not find any reason to deviate from the court *a quo's* findings. **To the Court's mind, the SEC Certifications of Non-Registration show that these affiliates are foreign corporations. On the other hand, the**

[73] G.R. No. 234445, July 15, 2020.

articles of association/certificates of incorporation stating that these affiliates are registered to operate in their respective home countries, outside the Philippines are *prima facie* evidence that their clients are not engaged in trade or business in the Philippines. *(Emphases added)*

In the present case, petitioner satisfied the first essential element as it proved that its clients for the subject period of claim are NRFCs doing business outside the Philippines, as evidenced by the following documents, viz.:

Company Name	**Certification of Non-Registration of Company issued by the SEC *(Exhibit reference)***	**Proof of incorporation/ registration in a foreign country Certificate of Incorporation of a Company *(Exhibit reference)***
1. LC International Limited	"P-8"[74]	"P-7"[75]
2. GVC Australia Pty. Ltd. (now Entain Group Pty. Ltd.)[76]	"P-8-1"[77]	"P-7-1"[78]

With regard to the second essential element, petitioner submitted the following agreements indicating therein the services to be provided by petitioner, i.e., "customer support services, payment verification, business intelligence, creative/design team, CRM coordination and quality control":

1. Intra-group Customer Services Agreement between LC International Limited and petitioner made on June 3, 2019;[79]

2. Services Agreement entered into between petitioner and Ladbrokes Digital Australia Pty. Ltd. made on December 2018;[80] and,

3. Amendment to the Services Agreement between GVC Australia Pty. Ltd. (formerly Ladbrokes Digital Australia Pty. Ltd.) and petitioner made on January 10, 2020.[81]

The services provided by petitioner clearly fall within the scope of "services other than processing, manufacturing or repacking goods"; hence, petitioner satisfactorily complied with the second essential element.

74 Exhibit "P-8", USB (Exhibit "P-26-2").
75 Exhibit "P-7", *Id.*
76 Q&A No. 43, Exhibit "P-17", Docket – Vol. I, p. 42.
77 Exhibit "P-8-1", USB (Exhibit "P-26-2").
78 Exhibit "P-7-1", *Id.*
79 Exhibit "P-5", *Id.*
80 Exhibit "P-5-1", *Id.*
81 Exhibit "P-5-2", *Id.*

Anent the third essential element, i.e., the services must be performed in the Philippines by a VAT-registered person, the articles/clauses of the Agreements for Services,[82] reveals that the same do not categorically state that the contracted services shall be performed by the petitioner in the Philippines. Petitioner's witness, Ms. Cabrera, however, testified as follows:

> Q-37: **Where are the services performed?**
> A-37: **The services are performed in the Philippines.** Considering the services performed by [petitioner] NHC are customer support services, payments verification, business intelligence, creative/design team, CRM coordination and quality control, among others, the nature of the activities are performed in the Philippines. Moreover, the personnel in charge are all based in the Philippines.[83] *(Emphases added)*

In view of the foregoing unrefuted testimony, petitioner is considered to have complied with the said third essential element.

Before going into the fourth essential element, which corresponds to the fifth requisite that requires that for zero-rated sales under Section 108(B)(2) of the NIRC of 1997, as amended, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations, it is equally important to consider that the VAT zero-rated sales, to which the foreign currency remittances correspond, must be duly supported by VAT zero-rated ORs in accordance with the pertinent invoicing requirements, and containing all the required information under Section 113(A) and (B) of the NIRC of 1997, as amended, and as implemented by Section 4.113-1(A) and (B) of Revenue Regulations (RR) No. 16-2005, as amended. Further, the same ORs must be duly registered with the BIR as prescribed under Section 237, in relation to Section 238 of the NIRC of 1997, as amended.

Since petitioner's reported zero-rated sales are allegedly in the nature of sale of services under Section 108(B)(2) of the NIRC of 1997, as amended, petitioner is required to issue BIR-registered VAT ORs for the foreign currency proceeds of each sales transaction, the information contained therein must be in compliance with the applicable provisions previously mentioned, such as the word "zero-rated", and the taxpayer's TIN-VAT number.

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[82] Exhibits "P-5", "P-5-1" and "P-5-2", USB (Exhibit "P-26-2").
[83] Exhibits "P-17", Docket – Vol. I, at p. 41.

To support its reported total zero-rated sales amounting to ₱847,789,464.47 for TY 2020, petitioner submitted its VAT zero-rated ORs issued to its clients, LC International Limited and GVC Australia Pty. Ltd. Upon scrutiny of the supporting documents submitted, the undersigned finds that the amount of ₱478,500.00 (US$10,000.00) shall be disallowed for being unreceipted or unsubstantiated, to wit:[84]

Particulars	**Amount in USD**	**Amount in Php**
per VAT Returns	250,000.00	11,962,500.00
per OR 0100 ("P-20-40"	240,000.00	11,484,000.00
Difference	**10,000.00**	**478,500.00**

Thus, only the zero-rated sales amounting to ₱847,310,964.47 were duly substantiated by VAT zero-rated ORs, which are compliant with the invoicing requirements provided under the law and regulations, as computed below:

Zero-rated per VAT Returns	₱	847,789,464.47
Less: Unsubstantiated Zero-Rated Sales		478,500.00
Substantiated Zero-Rated Sales	**₱**	**847,310,964.47**

Furthermore, a perusal of the Certification of inward remittances issued by BDO[85] to petitioner revealed that the foreign currency proceeds of the duly substantiated zero-rated sales of ₱872,113,522.20 were inwardly remitted and properly accounted for in accordance with BSP rules and regulations.

For purposes of compliance with the fourth and fifth requisites, petitioner was, thus, able to establish that its sales of services to NRFCs for the TY 2020, in the aggregate amount of ₱847,310,964.47, qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended.

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

The sixth requisite provides that the claimed input taxes do not appear to be transitional input taxes, pursuant to Section 111(A) of the NIRC of 1997, as amended, to wit:

SEC. 111. *Transitional/Presumptive Input Tax Credits.* –

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[84] Annex D, Pages 26 to 29 of the ICPA Report (Exhibit "P-26").
[85] Exhibits "P-9", USB (Exhibit "P-26-2).

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

Transitional input tax credit operates to benefit newly VAT-registered persons, whether or not they previously paid taxes in the acquisitions of their beginning inventory of goods, materials and supplies. During the period of transition from non-VAT to VAT status, the transitional input tax credit serves to alleviate the impact of the VAT on the taxpayer.[86]

Based on petitioner's amended Quarterly VAT Returns for TY 2020, petitioner reported total current input VAT of ₱42,523,287.96. This amount arose from domestic purchases of goods other than capital goods, purchase of capital goods exceeding 1M, purchase of capital goods not exceeding 1M, and domestic purchase of services. Out of this total input VAT, ₱40,260,321.93[87] is the subject of the present claim, detailed as follows:

Particulars	1st Quarter Exhibit "P-3"[88]	2nd Quarter Exhibit "P-3-1"[89]	3rd Quarter Exhibit "P-3-2"[90]	4th Quarter Exhibit "P-3-3"[91]	Total
Purchase of Capital Goods not exceeding 1M	₱ 19,927.50	₱ 186,003.33	₱ 7,414.07	₱ 33,492.84	₱ 246,837.74
Purchase of Capital Goods exceeding 1M	409,539.44	659,598.15	326,464.28	771,629.22	2,167,231.09
Domestic purchases of goods other than capital goods	151,604.24	346,938.74	184,134.61	310,237.69	992,915.28
Domestic purchase of services	9,605,668.42	5,646,361.75	8,756,037.04	8,722,492.78	32,730,559.99
Input VAT deferred on capital goods exceeding 1M from previous quarter	15,803,279.18	14,144,958.38	12,699,509.98	10,867,731.60	15,803,279.18
Less: Input VAT on purchases of capital goods exceeding 1M deferred for the succeeding period	(14,144,958.38)	(12,699,509.98)	(10,867,731.60)	(9,417,535.32)	(9,417,535.32)
Total current input VAT for taxable	**₱ 11,845,060.40**	**₱ 8,284,350.37**	**₱ 11,105,828.38**	**₱ 11,288,048.81**	**₱ 42,523,287.96**

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

87 The ₱100.01 difference between the excess input VAT per amended VAT returns of ₱40,260,321.93 and the input VAT per judicial claim of ₱40,260,421.94 is attributable to an overclaimed input VAT of ₱100.00 and a rounding-off adjustment of ₱0.01 to the nearest peso; BIR Records (Exhibit "R-6"), p. 411.

88 USB (Exhibit "P-26-2").

89 *Id.*

90 *Id.*

91 *Id.*

year 2020					
Less: Output Tax	1,332,042.80	-	557,494.17	373,429.06	2,262,966.03
Claim for Refund	**₱10,513,017.60**	**₱ 8,284,350.37**	**₱ 10,548,334.21**	**₱ 10,914,619.75**	**₱ 40,260,321.93**

Since there is no showing that the above-stated input VAT are transitional input VAT, petitioner has complied with the sixth requisite for the grant of an input VAT refund.

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

Anent the seventh requisite in claiming VAT refund, it is of fatal importance for petitioner to provide supporting documents to prove that the input taxes claimed were actually due or paid in accordance with Section 110(A) of the NIRC of 1997, as amended, as implemented by Sections 4.110-1 to 4.110-3 and 4.110-8 of RR No. 16-2005, as amended. In addition, the said documents must likewise comply with the invoicing requirements under Sections 113(A) and (B), 237 and 238 of the NIRC of 1997, as amended, and as implemented by Section 4.113-1(A) and (B) of RR No. 16-2005, as amended.

To support the above input VAT of ₱42,523,287.96, petitioner submitted, among others, the following: (1) Summary List of Purchases;[92] and, (2) ORs, Billing Statements, and Sales Invoices issued by its suppliers,[93] which were all examined and verified by the ICPA.

Out of the total reported current input VAT of ₱42,523,287.96, petitioner was able to provide schedules and/or supporting documents for its current input VAT amounting to ₱35,453,927.00 only, as summarized below:[94]

Particulars	Annexed to the ICPA Report		Amount
Total current input VAT per returns			**₱ 42,523,287.96**
Less: Input VAT per petitioner's schedule			
a. Input VAT on big ticket purchases	F[95]	₱19,501,483.55	
b. Input VAT on non-big-ticket purchases	G[96]	13,859,089.72	
c. Input VAT on purchases of capital goods exceeding 1 million	H[97]	1,784,545.15	

[92] Exhibit "P-10", USB (Exhibit "P-26-2").
[93] Exhibits "P-23-1" to "P-23-505", USB (Exhibit "P-26-2").
[94] Exhibit "P-26", ICPA Report Folder, p.16.
[95] *Id.* at 32 to 33.
[96] *Id.* at 34 to 44.
[97] *Id.* at 45 to 46.

d. Input VAT with valid support but not in the schedule	I[98]	308,808.58	(35,453,927.00)
Input VAT with no schedule and no supporting documents provided			**₱ 7,069,360.96**

The Court finds the ICPA's outright disallowance of the input VAT amounting to ₱7,069,360.96 due to the absence of schedule and/or supporting documents proper, thus, the same shall be disallowed.

Moreover, upon further review of the findings of the ICPA[99] and petitioner's supporting documents, the input VAT of ₱3,502,957.99 must also be disallowed due to petitioner's failure to comply with the substantiation and invoicing requirements under the VAT law and regulations, as detailed below:

Date	Supplier Name	Annexed to ICPA Report[100]	Exhibit No.	Input VAT
1. Input VAT included in the schedule, but no supporting documents were provided				
Jan. 3, 2020	DD Meridian Park Development Corp.	F	-	₱ 98,479.48
June 27, 2018	Jump Solutions, Inc.	G	-	13,028.57
Jan. 29, 2020	Unified Forces Security & Investigation Agency, Inc.	G	-	4,958.75
Jan. 31, 2020	Filtek Safeway Corporation	G	-	1,044.64
Feb. 15, 2020	Star Communications Holdings Corporation	G	-	69,984.00
Feb. 20, 2020	Advance Solutions, Inc.	G	-	41,513.57
Feb. 28, 2020	Rustan Supercenters, Inc.	G	-	723.35
Mar. 4, 2020	Advance Solutions, Inc.	G	-	20,635.71
Apr. 13, 2020	Lantrovision, Inc.	G	-	4,508.64
May 27, 2020	Productivity Technologies Services, Incorporated	G	-	9,016.07
May 27, 2020	Productivity Technologies Services, Incorporated	G	-	7,328.57
May 27, 2020	Productivity Technologies Services, Incorporated	G	-	7,328.57
May 27, 2020	Productivity Technologies Services, Incorporated	G	-	7,328.57
May 30, 2020	Spectrum Graphilx, Inc.	G	-	3,255.00
July 14, 2020	Lantrovision, Inc.	G	-	451,449.60
	Storage Development, Inc.	G	-	5,250.00
	Storage Development, Inc.	G	-	5,250.00
	Careworx Services and Management Corporation	G	-	5,639.92
	E & J Fire Fighting Equipment Co.	G	-	1,677.60
	Hiltax Manufacturing and Trading Inc.	G	-	4,719.64
	Double Dragon Property	G	-	65,654.10

98 *Id.* at 47.
99 *Id.*
100 Exhibit "P-26", ICPA Report Folder, pp. 32 to 47.

	Management Corporation.			
Dec. 13, 2018	Star Communications Holdings Corporation	H	-	18,910.86
Dec. 29, 2018	Star Communications Holdings Corporation	H	-	18,910.86
May 21, 2019	Star Communications Holdings Corporation	H	-	7,600.00
May 30, 2019	Star Communications Holdings Corporation	H	-	7,600.00
			Subtotal	**₱ 881,796.07**
2. Input VAT supported by invoices/ORs that are dated prior to the covered period of claim				
Feb. 14, 2018	CWC International Corporation	G	"P-23-412"	₱ 1,709.36
Feb. 27, 2018	CWC International Corporation	G	"P-23-413"	1,709.36
May 25, 2018	Nexus Technologies, Inc.	G	"P-23-414"	18,008.57
Jan. 25, 2019	AVLS All Visual & Lights System Corp.	G	"P-23-415"	19,980.00
Jan. 25, 2019	AVLS All Visual & Lights System Corp.	G	"P-23-416"	10,832.40
Feb. 18, 2019	CWC International Corporation	G	"P-23-417"	7,199.55
Feb. 28, 2019	Unison Computer Systems, Inc.	G	"P-23-418"	62,142.86
Mar. 15, 2019	CWC International Corporation	G	"P-23-419"	29,367.60
Mar. 23, 2019	Unison Computer Systems, Inc.	G	"P-23-420"	9,095.36
Mar. 27, 2019	Unison Computer Systems, Inc.	G	"P-23-421"	4,017.86
July 8, 2019	CWC International Corporation	G	"P-23-422"	11,226.60
July 19, 2019	Arayem Trade	G	"P-23-423"	17,142.86
Dec. 11, 2019	Unison Computer Systems, Inc.	G	"P-23-424"	5,625.00
Dec. 19, 2019	Unison Computer Systems, Inc.	G	"P-23-425"	1,285.71
			Subtotal	**₱ 199,343.09**
3. Input VAT supported by invoices/ORs that are dated after the covered period of claim				
Jan. 6, 2021	Briones Pest Control Services	G	"P-23-53"	₱ 3,504.00
Jan. 8, 2021	Accent Micro Technologies, Inc.	G	"P-23-56"	5,464.29
Jan. 15, 2021	U-Travel Services, Inc.	G	"P-23-66"	495.36
			Subtotal	**₱ 9,463.65**
4. Input VAT supported by invoices/ORs that have expired or invalid Authority To Print				
Mar. 6, 2020	Accent Micro Technologies, Inc.	G	"P-23-134"	₱ 80,357.14
Mar. 7, 2020	Caljoza Transport Services	G	"P-23-136"	4,011.00
Apr. 6, 2020	Caljoza Transport Services	G	"P-23-184"	22,230.00
Apr. 6, 2020	Caljoza Transport Services	G	"P-23-185"	22,680.00
Apr. 6, 2020	Caljoza Transport Services	G	"P-23-186"	25,200.00
June 11, 2020	Caljoza Transport Services	G	"P-23-190"	63,000.00
June 15, 2020	Caljoza Transport Services	G	"P-23-194"	6,966.00
July 9, 2020	Caljoza Transport Services	G	"P-23-210"	13,308.43
July 23, 2020	Caljoza Transport Services	G	"P-23-219"	4,308.00
Aug. 14, 2020	Caljoza Transport Services	G	"P-23-241"	29,193.00
Aug. 14, 2020	Caljoza Transport Services	G	"P-23-242"	33,600.00
Aug. 19, 2020	Caljoza Transport Services	G	"P-23-244"	113,400.00
Sept. 7, 2020	Caljoza Transport Services	G	"P-23-251"	42,000.00
Sept. 7, 2020	Caljoza Transport Services	G	"P-23-252	37,800.00
Sept. 29, 2020	Michelle A. Musni	G	"P-23-278"	64,800.00
Nov. 9, 2020	Caljoza Transport Services	G	"P-23-311"	60,480.00
Nov. 9, 2020	Caljoza Transport Services	G	"P-23-312"	45,084.00
Nov. 9, 2020	Caljoza Transport Services	G	"P-23-313"	48,720.00
Nov. 9, 2020	Caljoza Transport Services	G	"P-23-314"	50,400.00

Nov. 9, 2020	Caljoza Transport Services	G	"P-23-315"	50,400.00
			Subtotal	**₱ 817,937.57**
5. Input VAT supported by invoices/ORs containing corrections that were countersigned, but no proof of authorization was provided				
Dec. 19, 2018	P2RO, Inc.	H	"P-23-468"	₱ 4,607.14
Jan. 21, 2020	SMJ Furnishing Philippines, Inc.	G	"P-23-102"	109,285.71
Feb. 14, 2020	The Heritage Manila	G	"P-23-468"	7,737.84
			Subtotal	**₱ 121,630.70**
6. Input VAT supported by invoices/ORs containing corrections that were not countersigned by supplier's authorized representative				
Jan. 7, 2020	JK Commerce, Inc.	G	"P-23-54"	₱ 381.64
Jan. 23, 2020	Mrs. Fields	G	"P-23-72"	843.75
Jan. 24, 2020	Anis Trans Service (A.T.S) Corporation	G	"P-23-75"	28,936.80
Jan. 27, 2020	Ecoshift Corporation	G	"P-23-80"	2,689.29
Jan. 31, 2020	JK Commerce, Inc.	G	"P-23-83"	628.07
Feb. 7, 2020	Filtek Safeway Corporation	G	"P-23-94"	1,044.64
Feb. 11, 2020	Innove Communications, Inc.	G	"P-23-99"	1,080.00
Aug. 4, 2020	Roadmax Marketing Corporation	G	"P-23-228"	3,482.15
Sept. 11, 2020	Supermax Janitorial & General Services, Inc.	G	"P-23-264"	21,380.84
Nov. 20, 2020	Lane Archive Technologies Corporation	G	"P-23-323"	333.60
Nov. 24, 2020	Filtek Safeway Corporation	G	"P-23-326"	2,512.50
Dec. 4, 2020	AHC Certified Public Accountants Limited Co.	G	"P-23-339"	16,800.00
			Subtotal	**₱ 80,113.28**
7. Input VAT supported by invoices/ORs that reflect an address different from petitioner's registered address				
Aug. 8, 2020	Arayem Trade	G	"P-23-243"	₱ 12,857.14
Nov. 17, 2020	Microbase Incorporated	G	"P-23-319"	471.43
Nov. 20, 2020	Microbase Incorporated	G	"P-23-321"	4,178.57
Apr. 10, 2018	Advance Solutions, Inc.	H	"P-23-428"	18,728.57
Sept. 6, 2018	Advance Solutions, Inc.	H	"P-23-446"	4,186.25
Sept. 6, 2018	Advance Solutions, Inc.	H	"P-23-447"	4,435.71
Sept. 13, 2018	Advance Solutions, Inc.	H	"P-23-449"	15,010.71
Nov. 27, 2018	Advance Solutions, Inc.	H	"P-23-467"	7,942.86
			Subtotal	**₱ 67,811.24**
8. Input VAT supported by invoices/ORs containing corrections with countersignature and authorization letter, but without an accompanying Identification Card of the affiant				
Sept. 11, 2020	Extinguished, Inc.	G	"P-23-269"	₱ 21,428.57
Apr. 12, 2019	Advance Solutions, Inc.	H	"P-23-472"	35,182.14
			Subtotal	**₱ 56,610.71**
9. Input VAT supported by invoices/ORs where VAT was not separately indicated				
Feb. 28, 2020	Santos Knight Frank	G	"P-23-122"	₱ 14,680.38
			Subtotal	**₱ 14,680.38**
10. Input VAT supported by invoices/ORs that either lack TIN or reflect an incorrect TIN				
Feb. 7, 2020	Productivity Technologies Services, Incorporated	G	"P-23-90"	₱ 6,291.96
Oct. 3, 2018	Productivity Technologies Services, Incorporated	H	"P-23-452"	6,250.00

			Subtotal	**₱ 12,541.96**
11. Input VAT supported by invoices/ORs not issued in petitioner's name				
July 24, 2020	Malayan Insurance	G	"P-23-220"	₱ 321.41
Dec. 3, 2020	Sky Cable Corporation	G	"P-23-338"	376.42
			Subtotal	**₱ 697.83**
12. Input VAT supported by ORs that do not indicate the nature of the service or lack a supporting billing invoice				
Jan. 14, 2020	Space IT Interior Solution	G	"P-23-63"	₱ 46,543.63
Jan. 14, 2020	Space IT Interior Solution	G	"P-23-64"	84,396.96
Jan. 17, 2020	Unified Forces Security & Investigation Agency, Inc.	G	"P-23-68"	826.46
Feb. 17, 2020	Extinguished, Inc.	G	"P-23-92"	85,714.29
Feb. 14, 2020	Accent Micro Technologies, Inc.	G	"P-23-108"	160,714.28
Feb. 26, 2020	Telstra Philippines, Inc.	G	"P-23-120"	39,931.08
Feb. 26, 2020	Wok2Go	G	"P-23-119"	12,878.49
May 7, 2020	Telstra Philippines, Inc.	G	"P-23-167"	142,369.36
June 2, 2020	Space IT Interior Solution	G	"P-23-183"	127,944.00
June 24, 2020	Telstra Philippines, Inc.	G	"P-23-199"	105,860.62
July 6, 2020	Telstra Philippines, Inc.	G	"P-23-207"	93,455.27
Aug. 1, 2020	Space IT Interior Solution	G	"P-23-224"	22,354.37
Aug. 26, 2020	CIBI Information, Inc.	G	"P-23-246"	2,400.00
Sept. 11, 2020	Space IT Interior Solution	G	"P-23-260"	23,271.82
Sept. 11, 2020	Space IT Interior Solution	G	"P-23-266"	42,198.48
Sept. 11, 2020	Space IT Interior Solution	G	"P-23-265"	29,568.00
Oct. 9, 2020	Fitness Gourmet Ph, Inc.	G	"P-23-284"	36,446.79
Oct. 30, 2020	Fitness Gourmet Ph, Inc.	G	"P-23-302"	42,979.29
Nov. 6, 2020	Careworx Services and Management Corporation	G	"P-23-305"	22,217.32
Nov. 6, 2020	Fitness Gourmet Ph, Inc.	G	"P-23-309"	44,344.29
Nov. 27, 2020	Unified Forces Security & Investigation Agency, Inc.	G	"P-23-330"	1,652.92
Nov. 27, 2020	Fitness Gourmet Ph, Inc.	G	"P-23-334"	61,174.28
Dec. 15, 2020	Home Health Care Placements, Inc.	G	"P-23-354"	11,089.52
			Subtotal	**₱ 1,240,331.52**
			TOTAL	**₱ 3,502,957.99**

Summarizing the above findings relative to petitioner's compliance with the seventh requisite, this Court finds that out of the total reported input VAT of ₱42,523,287.96, only the total amount of **₱31,950,969.01**, represents petitioner's valid input VAT, computed as follows:

Input VAT for taxable year 2020		₱ 42,523,287.96
Less: Disallowances		
Per ICPA findings	₱ 7,069,360.96	
Per Court's further verification	3,502,957.99	10,572,318.95
Substantiated valid input VAT		**₱ 31,950,969.01**

A portion of petitioner's valid input VAT of ₱31,950,969.01 is attributable to its zero-rated sales.

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 directly and entirely be attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume.

To reiterate, petitioner declared in its amended Quarterly VAT Returns for TY 2020 total vatable sales amounting to ₱18,858,050.26, and total zero-rated sales of ₱847,789,464.47, as found by this Court.

However, since petitioner's valid input VAT for the TY 2020 in the total amount of ₱31,950,969.01 cannot directly or entirely be attributed to any of the transactions, the said valid input VAT shall be allocated on the basis of the volume of petitioner's sales, thus:

Nature of Sales	**Amount**		**Allocation Factor**	**Allocated Valid Input VAT**	
	[a]		*[c = a ÷ b]*	*[e = c x d]*	
VATable Sales	₱ 18,858,050.26		2.1760%	₱ 695,245.72	
Zero-Rated Sales	847,789,464.47		97.8240%	31,255,723.29	
Total Sales	**₱ 866,647,514.73**	*[b]*	100.00%	**₱ 31,950,969.01**	*[d]*

Thus, for purposes of, and with regard to petitioner's compliance with the eighth requisite, only the amount of ₱31,255,723.29 represents valid input VAT attributable to its total zero-rated sales for TY 2020.

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

Having determined that petitioner had valid input VAT attributable to its zero-rated sales, the Court shall now determine whether the same was not applied against its output VAT liability during and in the succeeding quarters, relative to the ninth requisite for the successful prosecution of an input VAT refund claim.

For the first to fourth quarters of TY 2020, petitioner reported output VAT from its taxable sales in the aggregate amount of ₱2,262,966.03, to wit:

Taxable Year 2020	Output VAT	Exhibit No.
1st Quarter	₱1,332,042.80	"P-3"[101]
2nd Quarter	-	"P-3-1"[102]
3rd Quarter	557,494.17	"P-3-2"[103]
4th Quarter	373,429.06	"P-3-3"[104]
Total	**₱2,262,966.03**	

In *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) vs. Commissioner of Internal Revenue*,[105] the Supreme Court held that the input tax attributable to zero-rated sales, may, at the option of the VAT-registered taxpayer, be: (1) charged against output tax from regular 12% 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, and such option is vested with the taxpayer-claimant, to wit:

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

Applying the foregoing, records show that petitioner chose the first option, i.e., it computed its claim for refund in the aggregate amount of ₱40,260,321.93 by offsetting its output VAT from taxable sales against its available input VAT for the TY 2020, as shown hereafter:

Purchase of Capital Goods not exceeding 1M	₱ 246,837.74
Purchase of Capital Goods exceeding 1M	2,167,231.09
Domestic purchases of goods other than capital goods	992,915.28
Domestic purchase of services	32,730,559.99
Input VAT deferred on capital goods exceeding 1M from previous quarter	15,803,279.18
Less: Input VAT on purchases of capital goods exceeding 1M deferred for the succeeding period	(9,417,535.32)

[101] Line 15B, USB (Exhibit "P-26-2").
[102] *Id.*
[103] *Id.*
[104] *Id.*
[105] G.R. No. 215159, July 5, 2022.

Total current input VAT for taxable year 2020	**₱ 42,523,287.96**
Less: Output Tax	2,262,966.03
Claim for Refund	**₱ 40,260,321.93**

Following the same computation, since petitioner's valid input VAT allocated to vatable sales in the amount of ₱695,245.72, as earlier determined, is not enough to cover its output VAT liability amounting to ₱2,262,966.03, the valid input VAT allocated to total zero-rated sales in the amount of ₱31,255,723.29 shall then be utilized against the remaining output VAT due of ₱1,587,063.93. Thus, only the remaining input VAT of ₱29,688,002.98 can be attributed to petitioner's entire zero-rated sales in the amount of ₱847,789,464.47, as computed below:

Output VAT	₱ 2,262,966.03
Less: Valid input VAT allocated to vatable sales	695,245.72
Output VAT Still Due	**₱ 1,567,720.31**
Valid input VAT allocated to zero-rated sales	₱ 31,255,723.29
Less: Output VAT Still Due	1,567,720.31
Excess Input VAT attributable to zero-rated sales	**₱ 29,688,002.98**

As discussed earlier, however, petitioner was able to properly substantiate only the total amount of ₱847,310,964.47 out of its total zero-rated sales of ₱847,789,464.47; consequently, only the input VAT of ₱29,671,246.80 is attributable to the said valid zero-rated sales of ₱847,310,964.47, as computed below, and thus, must be refunded in favor of petitioner:

Excess input VAT attributable to total zero-rated sales	₱ 29,688,002.98
Divided by total zero-rated sales	847,789,464.47
Multiplied by valid zero-rated sales	847,310,964.47
Excess input VAT attributable to valid zero-rated sales	**₱ 29,671,246.80**

Although the claimed amount of ₱40,260,421.94[106] was carried over by petitioner in its succeeding quarters/period, the same remained unutilized as it was deducted as "VAT Refund/TCC claimed" [107] in its amended Quarterly VAT Return for the fourth quarter of TY ending December 31, 2021. Accordingly, the subject claim no longer form part of the excess input VAT of ₱74,317,357.13[108] as of the end of the fourth quarter of TY ending

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[106] The ₱100.01 difference between the excess input VAT per amended VAT returns of ₱40,260,321.93 and the input VAT per judicial claim of ₱40,260,421.94 is attributable to an overclaimed input VAT of ₱100.00 and a rounding-off adjustment of ₱0.01 to the nearest peso; BIR Records (Exhibit "R-6"), p. 411.

[107] Line 23D, Exhibit "P-11", USB (Exhibit "P-26-2").

[108] Line 29, *Id.*

December 31, 2021, that was carried over to the succeeding quarter of TY 2022[109]. 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 of 1997, as amended, and has sufficiently proven its entitlement to the refund or issuance of tax credit certificate in the amount of **₱29,671,246.80**, representing excess and unutilized input VAT attributable to its valid zero-rated sales for TY 2020.

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**.

Accordingly, respondent is **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner, the amount of **₱29,671,246.80**, representing the latter's excess and unutilized input VAT for the four quarters of taxable year 2020.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

We Concur:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

[109] Line 20A, Exhibit "P-27", Docket – Vol. II, pp. 619 to 620.

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.

Ma. Belen M. Ringpis-Liban

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Division Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 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.

Ma. Belen M. Ringpis-Liban

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice