REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

NEW YORK BAY PHILIPPINES, INC., Petitioner,	CTA CASE NO. 9450
	Members:
- versus -	FABON-VICTORINO, *Acting Chairperson* RINGPIS-LIBAN, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUL 3 1 2019 9:08 a.m.

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DECISION

***Fabon-Victorino, J.*:**

This *Petition for Review* [1] filed by New York Bay Philippines, Inc. on August 26, 2016, seeks to refund the amount of Thirty-Nine Million Two Hundred Ninety-Eight Thousand Two Hundred Fifty-Five Pesos and Ninety-Five Centavos (₱39,298,255.95), allegedly representing excess and unutilized input value-added tax (VAT) on domestic purchases of goods and services attributable to its zero-rated sales of services for the four quarters of calendar year (CY) 2014.

First, the facts.

Petitioner New York Bay Philippines, Inc. is a domestic corporation with principal place of business at Unit 2102, 21st Floor Antel Global Corporate Center, Julia Vargas Avenue, Pasig City. [2] It is registered with the Bureau of Internal

[1] Docket, pp. 10-18.
[2] Exhibit "P-1", docket, pp. 430-443.

Revenue (BIR), Revenue District Office (RDO) No. 43A, as a VAT taxpayer with Taxpayer Identification No. 000-217-994-000.[3]

Respondent, on the other hand, is the Commissioner of the BIR with the power to decide on disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the National Internal Revenue Code (NIRC) or other laws or portions thereof administered by the BIR. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

On March 31, 2016, petitioner filed with the BIR RDO No. 43A an administrative claim for refund, with attached Application for Tax Credits/Refunds (BIR Form No. 1914), of its alleged excess and unutilized input VAT for the four quarters of CY 2014 in the amount of ₱39,298,255.95.[4] Allegedly the said amount is attributable to its zero-rated sales of services in the Philippines for the four quarters of CY 2014 to non-resident foreign corporations not engaged in business in the country.

On August 26, 2016, petitioner, citing respondent's inability to act on its administrative claim for refund/tax credit, filed the instant *Petition for Review*.

In his *Answer*[5], respondent assails the jurisdiction of the Court to try the case on ground of premature filing. Citing Item II, Paragraph 1 of Revenue Memorandum Circular (RMC) No. 54-2014, in relation to Section 112(C) of the NIRC of 1997, as amended, respondent submits that since petitioner failed to submit the complete supporting documents upon submission of the administrative claim for VAT refund and the lapse of eighty (80) calendar days from the date of filing of the application/submission of documents, the application for tax credit/refund should be denied.

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[3] Exhibit "P-2", docket, p. 444.
[4] Exhibits "P-18", "P-18-a", and "P-18-b", docket, pp. 489-493.
[5] Docket, pp. 65-70.

Respondent further submits that in order to validly claim for tax credit/refund, petitioner must first prove its compliance with the invoicing and accounting requirements mandated under Sections 113 and 114 of the 1997 NIRC, as amended. He also invokes the principle that tax refunds/credits are in the nature of tax exemptions thus, petitioner has the burden of proving the factual and legal bases of its claim.

After the pre-trial conference, the parties filed their Joint Stipulation of Facts and Issues[6] (JSFI) on the basis of which a Pre-Trial Order[7] was issued on March 30, 2017.

To substantiate its claim for refund/tax credit, petitioner presented its Accounting Manager, Ma. Victoria Cruz and the Court-commissioned Independent Certified Public Accountant (ICPA), Madonna Mia S. Dayego.

Witness **Ma. Victoria Cruz** testified[8] that as petitioner's Accounting Manager, she is responsible for its entire accounting operations, which includes the review of tax returns for filing with the BIR. She also communicates and coordinates with petitioner's: (a) external auditors and government agency representatives for the audit of petitioner's books of accounts; and (b) legal counsel and tax consultants for statutory and tax issues. She is also the custodian of communications and notices to and from the BIR pertaining to any transactions that petitioner had with the BIR.

The instant case, according to the witness involves petitioner's claim for refund of the amount of ₱39,298,255.95, representing its excess and unutilized input VAT on purchases of goods and services attributable to zero-rated sales for the four quarters of CY 2014.

As shown in petitioner's Amended Articles of Incorporation issued on January 29, 2002, it is engaged in

[6] Docket, pp. 231-239.
[7] Docket, pp. 248-256.
[8] Exhibit "P-23", docket, pp. 113-128.

financial holding activities particularly as a remittance service provider. It utilizes and offers as services to its non-resident clients alternative delivery channels, including door-to-door, deposit to commercial bank account, pick-up from pawnshops and commercial and rural banks, credit cash cards, credit mobile phone remittance, bills payment, and telegraphic transfer.

In 2014, petitioner rendered services to two (2) non-resident clients, namely: (1) Trans-Fast Remittance LLC, a limited liability company created under the laws of Delaware, United States of America (USA) and conducts business in the USA; and (2) Trans-Fast International FZ-LLC, a company existing under the laws of Dubai, United Arab Emirates (UAE) and conducts business in UAE. The two companies are not engaged in business in the Philippines as evidenced by their Articles of Incorporation issued by their respective countries, as well as, the Certifications issued by the Securities and Exchange Commission (SEC) certifying that they are not registered or licensed to do business in the Philippines.

Per petitioner's Amended Quarterly Returns filed with the BIR, petitioner declared VATable and zero-rated sales during the four quarters of CY 2014 of ₱405,403,385.55, for which it incurred input VAT credits on its domestic purchases of goods and services in the amount of ₱39,327,313.92. A portion of the said input tax credits was applied as payment for its output tax of ₱29,057.99, thus, an excess and unutilized input VAT amounting to ₱39,298,255.95, which is the subject of the present claim.

The witness further declared that on March 31, 2016, petitioner filed with the BIR Revenue District Office (RDO) No. 43A an administrative claim for refund of the said excess and unutilized input VAT for the four quarters of CY 2014 amounting to ₱39,298,255.95, with attached supporting documents. Also attached was a Sworn Certification stating that it submitted complete documents for purposes of processing its claim for refund. Respondent allegedly failed to act on the said administrative claim for refund, prompting petitioner to file the instant case on August 26, 2016.

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ICPA **Madonna Mia S. Dayego** testified[9] that per her examination and verification of voluminous supporting documents, petitioner is entitled to refund/TCC in the amount of ₱37,488,753.67 only.

In the Resolutions dated March 7, 2018[10] and July 5, 2018[11], the Court admitted all the documents formally offered by petitioner.

During the presentation of evidence for respondent, his counsel manifested that the latter would not present any evidence. Hence, the parties were granted thirty (30) days to submit their respective memoranda. However, only petitioner complied[12], respondent did not[13]. Hence, the case was deemed submitted for decision on August 6, 2018.

THE ISSUE

The lone issue submitted for the resolution of the Court is as follows:

> WHETHER PETITIONER IS ENTITLED TO ITS CLAIM FOR REFUND OF OR ISSUANCE OF TCC FOR THE AMOUNT OF ₱39,298,255.95, REPRESENTING ITS EXCESS AND UNUTILIZED INPUT VAT FOR THE FOUR QUARTERS OF CY 2014.[14]

THE COURT'S RULING

Section 112(A) and (C) of the NIRC of 1997, as amended, which pertinently provides, thus:

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

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[9] Exhibit "P-52", docket, pp. 369-384.
[10] Docket, pp. 544-545.
[11] Docket, pp. 568-569.
[12] Docket, pp. 570-602.
[13] Docket, p. 603.
[14] JSFI, docket, pp. 231-239.

(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.

xxx xxx xxx

(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."

Per the above provision, to be entitled to a refund or tax credit of unutilized input VAT attributable to zero-rated or effectively zero-rated sales, the following requisites must be satisfied:

1. the taxpayer is VAT-registered;
2. the claim for refund was filed within the prescriptive period;
3. the taxpayer is engaged in zero-rated or effectively zero-rated sales;
4. the input taxes were incurred or paid;
5. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales; and
6. the input taxes were not applied against any output VAT liability.

1st requisite:
Petitioner is VAT-registered entity

It is undisputed that petitioner is a registered VAT taxpayer with Taxpayer Identification No. (TIN) 000-217-994-000 as shown in its Certificate of Registration No. OCN 3RC0000682520,[15] issued by the BIR on January 13, 2015.

[15] Exhibit "P-2", docket, p. 444

2nd requisite:
Petitioner's administrative and judicial claims were filed within the prescriptive period

The subject claim covers the four quarters of CY 2014, each ending as follows:

Quarter	Close of Taxable Quarter
1st	March 31, 2014
2nd	June 30, 2014
3rd	September 30, 2014
4th	December 31, 2014

Based on the express provision of Section 112(A) and as expounded in the case of *Commissioner of Internal Revenue vs. Aichi Forging Company of Asia, Inc.* (Aichi),[16] a VAT-registered person, such as petitioner, may within two (2) years from the close of the taxable quarter when the relevant sales were made, apply with respondent a claim for refund/TCC of creditable input tax attributable to such sales.

Counting two (2) years from the close of the taxable quarters, petitioner had until the following dates to file its administrative claim for refund/TCC of unutilized input VAT attributable to its zero-rated sales, to wit:

Quarter	Close of Taxable Quarter	Last Day of the Two-Year Prescriptive Period
1st	March 31, 2014	March 31, 2016
2nd	June 30, 2014	June 30, 2016
3rd	September 30, 2014	September 30, 2016
4th	December 31, 2014	December 31, 2016

Evidently, the administrative claim covering the four quarters of CY 2014 was seasonably filed on March 31, 2016.[17]

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[16] G.R. No. 184823, October 06, 2010.
[17] Exhibits "P-18", "P-18-a", and "P-18-b", docket, pp. 489-493.

As to the timeliness of petitioner's judicial appeal, Section 112(C) of the NIRC of 1997, as amended, provides that respondent has 120 days from the date of submission of the complete documents in support of the application for refund or tax credit within which to grant or deny the claim. In case of full or partial denial by respondent, the taxpayer's recourse is to file an appeal before this Court within 30 days from receipt of the adverse decision of respondent. However, if after the 120-day period, respondent fails to act on the application for refund/TCC, the taxpayer may appeal respondent's inaction to this Court within 30 days.

Thus, from the filing of petitioner's administrative claim on March 31, 2016, respondent had 120 days or until July 29, 2016 to decide on the said claim. Since respondent failed to act on petitioner's claim after the lapse of the 120-day period, petitioner had 30 days from July 29, 2016 or until August 28, 2016 within which to file its judicial claim. Indubitably, petitioner's filing of its judicial appeal on August 26, 2016 was likewise on time.

<u>3rd requisite</u>:
Petitioner had zero-rated sales

Petitioner claims that its sales of services in the Philippines to non-resident foreign corporations doing business outside the Philippines, particularly, Trans-Fast Remittance LLC and Trans-Fast International FZ-LLC, the consideration for which were paid for in acceptable foreign currency and duly accounted for in accordance with the rules and regulations of *Bangko Sentral ng Pilipinas* qualify as zero-rated sales under Section 108(B)(2) of the NIRC of 1997, as amended, which reads, thus:

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

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

In the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*[18], the Supreme Court held that in order for the supply of services to be VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the following requisites must concur:

1. the services must be other than processing, manufacturing or repacking of goods;

2. the payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations; and

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[18] G.R. No. 153205, January 22, 2007.

3. the recipient of such services is doing business outside the Philippines.

The record reveals that petitioner is duly registered with the SEC and is principally engaged in providing money remittance services either by electronic bank transfers, door-to-door, and other kinds of fund transfer[19]. The said services are certainly not under the same category as *"processing, manufacturing or repacking of goods"*. Hence, petitioner satisfied the first requisite.

Anent the third requisite, the Court has previously held that to be considered as a non-resident foreign corporation doing business outside the Philippines, each entity must be supported, at the very least, **by both** <u>SEC certificate of non-registration of corporation/partnership</u> **and** <u>certificate/articles of foreign incorporation/association/registration</u>.[20]

In the instant case, petitioner was able to establish that its clients, Trans-Fast Remittance LLC and Trans-Fast International FZ-LLC, are non-resident foreign corporations doing business outside the Philippines as evidenced by the following documents:

1. SEC Certificate of Non-registration of Company, certifying that Trans-Fast Remittance LLC is not registered as a corporation or partnership in the Philippines;[21]

2. SEC Certificate of Non-registration of Company, certifying that Trans-Fast International FZ-LLC is not registered as a corporation or partnership in the Philippines;[22]

3. Authenticated copy of Trans-Fast Remittance LLC's Articles of Incorporation, License to

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[19] Exhibit "P-29-2 (7/57)", Note 1 of the Notes to Financial Statements; Exhibit "P-1", docket, pp. 430-443.
[20] *Deutsche Knowledge Services Pte. Ltd. vs. Commissioner of Internal Revenue*, CTA EB Nos. 1244 and 1345 (CTA Case No. 8443), March 30, 2017.
[21] Exhibit "P-19", docket, p. 494.
[22] Exhibit "P-20", docket, p. 495.

Transact Business issued by the State of New York, Certificate of Formation from Delaware, and State of Delaware Certificate of Amendment;[23] and

4. Authenticated copy of Trans-Fast International FZ-LLC's Amended Memorandum of Association and Articles of Association.[24]

As regards the second requisite, Sections 113(A)(2), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended, as implemented by Sections 4.113-1(A)(2), (B)(1) and (2)(c) of Revenue Regulations (RR) No. 16-05, provide that a VAT taxpayer, like petitioner, shall for every lease of goods or properties and for every sale, barter or exchange of services, issue a VAT official receipt which must contain the following information:

> SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* –
>
> (A) *Invoicing Requirements.* – A VAT-registered person shall issue:
>
> xxx xxx xxx
>
> (2) A **VAT official receipt** for every lease of goods or properties, and **for every sale, barter or exchange of services**.
>
> (B) *Information Contained in the VAT Invoice or VAT Official Receipt.* – The following information shall be indicated in the VAT invoice or VAT official receipt:
>
> (1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);
>
> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount

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[23] Exhibit "P-21", docket, pp. 496-525.
[24] Exhibit "P-22", docket, pp. 526-541.

includes the value-added tax: *Provided*, That:

xxx xxx xxx

(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;

xxx xxx xxx

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

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

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

xxx xxx xxx

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

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

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

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> **(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:
>
> xxx xxx xxx
>
> (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; *(Emphasis supplied)*

Pursuant to the foregoing provisions, the foreign currency remittances referred to under Section 108(B)(2) of the NIRC of 1997, as amended, must also be supported by VAT zero-rated official receipts.

In its Original and Amended Quarterly VAT Returns for the four quarters of CY 2014, petitioner reported zero-rated sales of ₱405,161,235.60, as shown below:

Exhibit	Period Covered	Zero-Rated Sales/Receipts
"P-4", docket, vol. 2, p. 447	1st Quarter 2014	₱ 111,771,474.15
"P-5", docket, vol. 2, p. 449	2nd Quarter 2014	119,636,433.17
"P-7", docket, vol. 2, p. 453	3rd Quarter 2014	128,828,717.42
"P-9", docket, vol. 2, p. 457	4th Quarter 2014	44,924,610.86
Total		**₱405,161,235.60**

To prove that it rendered services to Trans-Fast Remittance LLC and Trans-Fast International FZ-LLC for the four quarters of CY 2014; and that they were paid for in acceptable foreign currency duly accounted for in accordance with the rules and regulations of the BSP, petitioner presented its VAT zero-rated official receipts (ORs)[25], bank advices[26], and passbooks[27].

Upon verification, the Court finds the foregoing supporting documents in order. Accordingly, petitioner's total reported zero-rated sales of ₱405,161,235.60 qualify for VAT zero-rating under Section 108(B)(2) of the Tax Code.

4th and 5th requisites:
Petitioner incurred and paid input taxes which are attributable to its zero-rated sales

In its Original and Amended Quarterly VAT Returns for the four quarters of CY 2014, petitioner reported input VAT in the total amount of ₱39,327,313.92, broken down as follows:

	1st Quarter *(Exhibit P-4)*	2nd Quarter *(Exhibit P-5)*	3rd Quarter *(Exhibit P-7)*	4th Quarter *(Exhibit P-9)*	Total
Purchase of Capital Goods not exceeding 1M *(Line 21B)*	₱ 98,306.11	₱ 252,843.39	₱ 22,578.77	₱ 18,702.00	₱ 392,430.27
Domestic Purchases of Goods Other than Capital Goods *(Line 21F)*	23,752.61	25,355.77	31,067.55	17,709.32	97,885.25
Domestic Purchase of Services *(Line 21J)*	8,975,316.48	9,571,240.30	9,938,570.14	10,351,871.48	38,836,998.40
Total Input Taxes for the period	**₱9,097,375.20**	**₱9,849,439.46**	**₱9,992,216.46**	**₱10,388,282.80**	**₱39,327,313.92**

To establish that petitioner incurred/paid the aforementioned input VAT, it submitted various suppliers' invoices[28] and official receipts[29]. After examination of these documents, the Court-commissioned ICPA, Madonna Mia S. Dayego, noted exceptions in the amount of ₱1,809,502.28, to wit:[30]

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25 Exhibits "P-30-21" to "P-30-40".
26 Exhibits "P-32-1" to "P-32-20".
27 Exhibits "P-32-21" to "P-32-38".
28 Exhibits "P-39-1" to "P-39-30", "P-40-1", to "P-40-2", "P-41-1" to "P-41-3", and "P-43-1" to "P-43-59".
29 Exhibits "P-46-1" to "P-46-289", "P-47-1" to "P-47-17", "P-48-1" to "P-48-20", "P-49-1" to "P-49-18", and "P-50-1" to "P-50-4".
30 Exhibit "P-53", ICPA Report, docket, pp. 305-306.

Exhibit	Particulars	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
Input VAT on Capital Goods Not Exceeding ₱1 Million						
P-40	Supported by original VAT invoices not in the Petitioner's Name	₱ -	₱ 5,910.00	₱ -	₱ -	₱ 5,910.00
P-41	Supported by original VAT invoices without the TIN of the Petitioner	9,739.28	-	-	748.93	10,488.21
P-42	Not supported	8,488.39	9,278.04	-	-	17,766.43
Input VAT on Domestic Purchases of Goods Other Than Capital Goods						
P-45	Not supported	1,913.70	4,849.33	2,020.89	3,836.36	12,620.28
Input VAT on Domestic Purchases of Services						
P-47	Supported by original VAT ORs in the name of the Petitioner not dated or issued within the taxable year	-	-	-	1,566,025.87	1,566,025.87
P-48	Supported by original VAT ORs without/invalid TIN of the Petitioner	14,256.96	1,013.56	3,039.09	18,119.81	36,429.42
P-49	Supported by non-VAT ORs in the name of the Petitioner	1,064.14	31,959.62	73,605.54	21,742.50	128,371.80
P-50	Supported by original VAT ORs without TIN and/or address of the Petitioner	-	-	-	16,233.74	16,233.74
P-51	Not supported	2,560.76	4,714.08	8,141.69	240.00	15,656.53
Total Downward Adjustments per ICPA		**₱38,023.23**	**₱57,724.63**	**₱86,807.21**	**₱1,626,947.21**	**₱1,809,502.28**

The Court finds the above findings of the ICPA in order. The said input taxes of ₱1,809,502.28 shall be disallowed from petitioner's claim as they were not properly substantiated by VAT invoices or ORs as prescribed under Sections 110(A) and 113(A) and (B) of the Tax Code, and as implemented by Sections 4.110-1, 4.110-2, 4.110-8, and 4.113-1(A) and (B) of RR No. 16-05.

Further review of the ICPA's report and petitioner's supporting documents indicates that the input VAT on domestic purchases of services in the amount of ₱144,410.50, broken down below, shall likewise be disallowed for failure to meet the substantiation requirements under the aforecited VAT law and regulations:

Supplier Name	Exhibit No.	OR No.	Input VAT	Reason for disallowance
First Quarter				
CIS Bayad Center, Inc.	P-46-13	21088	₱ 7,347.86	Supported by VAT OR without the phrase *"THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE ATP"* printed thereon as prescribed under RMO 12-2013.
CIS Bayad Center, Inc.	P-46-14	1113	6,756.43	Supported by VAT OR without the phrase *"THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE ATP"* printed thereon as prescribed under RMO 12-2013.
CIS Bayad Center, Inc.	P-46-15	1114	7,566.43	Supported by VAT OR without the phrase *"THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE ATP"* printed thereon as prescribed under RMO 12-2013.
Federal Express Pacific Inc.	P-46-24	C00037341	0.02	Amount per schedule (₱175.52) is lower than the amount per VAT OR (₱175.50)
Federal Express Pacific Inc.	P-46-26	C00039193	107.68	Supported by VAT OR with alteration on amount of VAT with countersignature but different from the signatory of said OR
Feria Tantoco Robeniol Law Offices	P-46-29	8282	420.00	Supported by VAT OR with alteration on petitioner's name but without countersignature
Global Pinoy Remittance & Services, Inc.	P-46-33	527	1,477.50	Supported by VAT OR but the amount of VAT was not separately shown
Pronto Express Distribution, Inc.	P-46-54	104205	216.96	Supported by document with notation *"THIS DOCUMENT IS NOT VALID FOR CLAIMING INPUT TAX"*
subtotal			***₱ 23,892.88***	
Second Quarter				
Cebuana Lhuillier Pera Padala	P-46-79	250534	₱ 9.64	Amount per schedule (₱1,428,406.07) is lower than the amount per VAT OR (₱1,428,396.43)
CIS Bayad Center, Inc.	P-46-80	1176	6,248.57	Supported by VAT OR without the phrase *"THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE ATP"* printed thereon as prescribed under RMO 12-2013.
CIS Bayad Center, Inc.	P-46-81	2507	10,922.14	Supported by VAT OR without the phrase *"THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE ATP"* printed thereon as prescribed under RMO 12-2013 and the amount of VAT is unreadable

CIS Bayad Center, Inc.	P-46-82	3338	13,191.43	Supported by VAT OR without the phrase *"THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE ATP"* printed thereon as prescribed under RMO 12-2013.
Deeconcrete Incorporated	P-46-88	21628	747.07	Amount per schedule (₱8,217.79) is lower than the amount per VAT OR (₱7,470.72)
Marickson Printing Services	P-46-116	3653	246.43	Supported by document with notation *"THIS DOCUMENT IS NOT VALID FOR CLAIMING INPUT TAX"*
Pronto Express Distribution, Inc.	P-46-126	104506	216.96	Supported by document with notation *"THIS DOCUMENT IS NOT VALID FOR CLAIMING INPUT TAX"*
Pronto Express Distribution, Inc.	P-46-127	104665	180.00	Supported by document with notation *"THIS DOCUMENT IS NOT VALID FOR CLAIMING INPUT TAX"*
Pronto Express Distribution, Inc.	P-46-128	104734	249.36	Supported by document with notation *"THIS DOCUMENT IS NOT VALID FOR CLAIMING INPUT TAX"*
Ronald Mark S. Daos	P-46-129	0043	1,080.00	Amount per schedule (₱2,280.00) is lower than the amount per VAT OR (₱1,200.00)
Pronto Express Distribution, Inc.	P-46-286	104308	216.96	Supported by document with notation *"THIS DOCUMENT IS NOT VALID FOR CLAIMING INPUT TAX"*
subtotal			***₱ 33,308.56***	
Third Quarter				
CIS Bayad Center, Inc.	P-46-148	3336	₱ 14,605.71	Supported by VAT OR without the phrase *"THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE ATP"* printed thereon as prescribed under RMO 12-2013.
CIS Bayad Center, Inc.	P-46-149	3337	16,945.71	Supported by VAT OR without the phrase *"THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE ATP"* printed thereon as prescribed under RMO 12-2013.
CIS Bayad Center, Inc.	P-46-150	4109	18,437.14	Supported by VAT OR without the phrase *"THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE ATP"* printed thereon as prescribed under RMO 12-2013.
Integrated Safeguard Security Agency, Inc.	P-46-180	13559	383.44	Supported by VAT OR but the amount of VAT was not separately shown
Pronto Express Distribution, Inc.	P-46-195	104907	249.36	Supported by document with notation *"THIS DOCUMENT IS NOT VALID FOR CLAIMING INPUT TAX"*

Pronto Express Distribution, Inc.	P-46-196	105054	249.36	Supported by document with notation *"THIS DOCUMENT IS NOT VALID FOR CLAIMING INPUT TAX"*
Pronto Express Distribution, Inc.	P-46-197	105198	249.36	Supported by document with notation *"THIS DOCUMENT IS NOT VALID FOR CLAIMING INPUT TAX"*
Stelsen Corporation	P-46-207	91758	432.00	Supported by VAT OR but without the TIN of petitioner
Via Express Travel & Tours Inc	P-46-208	0591	20.89	Amount per schedule (₱48.75) is lower than the amount per VAT OR (₱27.86)
subtotal			***₱ 51,572.97***	
Fourth Quarter				
Airfreight 2100, Inc.	P-46-214	2050451A	₱ 41.13	Supported by VAT OR but the amount of VAT was not separately shown
Airfreight 2100, Inc.	P-46-215	2050453A	20.79	Supported by VAT OR but the amount of VAT was not separately shown
Airfreight 2100, Inc.	P-46-216	2050452A	33.30	Supported by VAT OR but the amount of VAT was not separately shown
CIS Bayad Center, Inc.	P-46-221	4420	21,375.00	Supported by VAT OR without the phrase *"THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE ATP"* printed thereon as prescribed under RMO 12-2013.
CIS Bayad Center, Inc.	P-46-222	4906	13,474.29	Supported by VAT OR without the phrase *"THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE ATP"* printed thereon as prescribed under RMO 12-2013.
Marickson Printing Services	P-46-258	3540	192.86	Supported by VAT OR but the amount of VAT was not separately shown
Pronto Express Distribution, Inc.	P-46-267	105377	249.36	Supported by document with notation *"THIS DOCUMENT IS NOT VALID FOR CLAIMING INPUT TAX"*
Pronto Express Distribution, Inc.	P-46-268	105550	249.36	Supported by document with notation *"THIS DOCUMENT IS NOT VALID FOR CLAIMING INPUT TAX"*
subtotal			***₱ 35,636.09***	
Total			**₱144,410.50**	

Therefore, out of the reported input VAT of ₱39,327,313.92, only the amount of ₱37,373,401.14 represents petitioner's valid input VAT, computed as follows:

	1st Quarter *(Exhibit P-4)*	**2nd Quarter *(Exhibit P-5)***	**3rd Quarter *(Exhibit P-7)***	**4th Quarter *(Exhibit P-9)***	**Total**
Input VAT per VAT Returns	₱ 9,097,375.20	₱ 9,849,439.46	₱ 9,992,216.46	₱ 10,388,282.80	₱ 39,327,313.92
Less: Disallowances:					

Per ICPA Report	38,023.23	57,724.63	86,807.21	1,626,947.21	1,809,502.28
Per Court's further verification	23,892.88	33,308.56	51,572.97	35,636.09	144,410.50
Total Disallowances	₱ 61,916.11	₱ 91,033.19	₱ 138,380.18	₱ 1,662,583.30	₱ 1,953,912.78
Valid input VAT	**₱9,035,459.09**	**₱9,758,406.27**	**₱9,853,836.28**	**₱8,725,699.50**	**₱37,373,401.14**

However, a portion of the valid input VAT of ₱37,373,401.14 shall be applied against petitioner's total reported output VAT liability of ₱29,057.99. Consequently, only the remaining input VAT of ₱37,344,343.15 can be attributed to the entire zero-rated sales of ₱405,161,235.60 declared and substantiated by petitioner, as computed below:

	1st Quarter	**2nd Quarter**	**3rd Quarter**	**4th Quarter**	**Total**
Valid input VAT	₱ 9,035,459.09	₱ 9,758,406.27	₱ 9,853,836.28	₱ 8,725,699.50	₱ 37,373,401.14
Less: Output VAT	-	20,764.50	7,275.00	1,018.49	29,057.99
Excess Input VAT attributable to zero-rated sales	**₱9,035,459.09**	**₱9,737,641.77**	**₱9,846,561.28**	**₱8,724,681.01**	**₱37,344,343.15**

6th requisite:
Petitioner's excess input taxes were not applied against any output VAT liability

Petitioner was able to prove that the claimed excess input VAT of ₱39,298,255.95 for the four quarters of CY 2014 remained unutilized as the said amount was deducted as "VAT Refund/TCC claimed"[31] in its Amended Quarterly VAT Return for the fourth quarter of CY 2014. It was not also reflected as carry over in petitioner's Monthly and Quarterly VAT Returns[32] of the succeeding CY 2015. As such, it eliminates the possibility that the present claim will be applied to future output VAT liability.

In fine, petitioner was able to meet all the requisites for its claim for refund/TCC of unutilized input VAT attributable to its zero-rated sales, hence, it is entitled to the refund of the amount substantiated and not applied against output tax.

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[31] Line 23D of Exhibit "P-9", docket, p. 458.
[32] Exhibits "P-38-1" to "P-38-12".

WHEREFORE, the instant *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of **₱37,344,343.15**, representing its excess and unutilized input VAT on purchases of goods and services attributable to zero-rated sales for the four quarters of calendar year 2014.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

I concur:

MA. BELEN M. RINGPIS-LIBAN
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.

ESPERANZA R. FABON-VICTORINO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, and the Division Acting 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