REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

****

SCHAEFFLER PHILIPPINES, INC., Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE, Respondent.

CTA Case No. 10197

Members:

UY, *Chairperson,*
RINGPIS-LIBAN, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:

JAN 09 2023
2:00 p.m.

x - x

DECISION

UY, *J*.:

Before this Court is a *Petition for Review*[1] filed by petitioner, Schaeffler Philippines, Inc. (SPI) on October 21, 2019, against respondent, the Commissioner of Internal Revenue (CIR), praying for the refund or issuance of Tax Credit Certificate (TCC) in the amount of Ten Million Two Hundred Eighty Two Thousand Five Pesos and 99/100 Centavos (₱10,282,005.99), representing petitioner's alleged excess and unutilized input Value-Added Tax (VAT) on its local purchases of goods and services and importations attributable to its zero-rated sales for the 2nd quarter of calendar year (CY) 2017.

THE FACTS

Petitioner is a domestic corporation, duly organized and existing under Philippine laws, with principal office at 221 Salcedo Street, Legaspi Village, Makati City, Philippines. It may be served

[1] Docket – Vol. 1, pp. 6 to 27.

orders, notices, resolutions, and other processes of this Honorable Court through its counsel.[2]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR) vested under the law with the authority to carry out the functions, duties and responsibilities of said office, including the power to act upon and approve claims for the refund of or issuance of TCCs for erroneously paid or overpaid taxes, pursuant to the provisions of the National Internal Revenue Code of 1997 (the "Tax Code") and other tax laws, rules and regulations. She may be served summons, pleadings and other processes at the Legal Division, Bureau of Internal Revenue (BIR), Revenue Region No. 8A, 2nd Floor Building, 313 Sen. Gil Puyat Ave., Makati City.[3]

On June 28, 2019, petitioner filed with the BIR Revenue District Office No. 47-East Makati City an administrative claim[4] for refund or issuance of a TCC for the excess and unutilized input taxes accumulated by petitioner from its importations and domestic purchases of goods and services attributable to its zero-rated sales for the 2nd quarter of CY 2017, in the original amount of ₱14,107,157.27.[5] The claim was accompanied by Application for Tax Credits/Refunds (BIR Form No. 1914).[6]

On September 20, 2019, petitioner received a letter[7] dated September 13, 2019 from Regional Director Maridur V. Rosario of BIR, Revenue Region No. 8A–Makati City denying petitioner's administrative claim for lack of factual and legal basis.[8]

In view of respondent's denial of its administrative claim for refund, petitioner filed the instant *Petition for Review* before this Court on October 21, 2019.[9]

In its *Petition for Review,* the amount of ₱14,107,157.27 originally claimed by petitioner as refund/tax credit, was adjusted by

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[2] Joint Stipulation of Facts and Issues (JSFI), Stipulation of Facts, par. 3, Docket – Vol. 1, p. 249.
[3] JSFI, Stipulation of Facts, par. 2, Docket – Vol. 1, pp. 248 to 249.
[4] Exhibit "P-29", Docket – Vol. 2, pp. 816 to 817.
[5] JSFI, Stipulation of Facts, par. 4, Docket – Vol. 1, p. 249.
[6] Exhibit "P-30", Docket – Vol. 2, p. 818.
[7] Exhibit "P-33," Docket – Vol. 2, pp. 821 to 822.
[8] JSFI, Stipulation of Facts, par. 5, Docket – Vol. 1, p. 249.
[9] Docket – Vol. 1, pp. 6 to 27.

the petitioner,[10] which reduced the amount claimed to ₱10,282,005.99, broken down as follows:

Input VAT for April 2017	₱ 3,267,842.00
Input VAT for May 2017	3,288,713.00
Input VAT for June 2017	3,725,451.00
TOTAL	₱10,282,006.00

Respondent filed her *Answer*[11] on December 26, 2019, interposing, among others, the following special and affirmative defenses:

(1) the Petition for Review for claim for tax refund must be denied for lack of merit;

(2) petitioner's claim for refund was not fully substantiated by proper documents, such as sales invoices, official receipts, and others;

(3) petitioner failed to demonstrate that the tax subject of this case was erroneously or illegally collected; and

(4) petitioner failed to prove that the original amount of alleged unutilized input VAT paid on purchases of goods and services attributable to its zero-rated sales for the 2nd quarter of CY 2017 have not been applied against output taxes during and in the succeeding quarters.

After the *Pre-Trial Conference*[12] held on February 13, 2020, the parties filed their *Joint Stipulation of Facts and Issues (or JSFI)*[13] on February 28, 2020. The Court approved the JSFI and terminated Pre-Trial in the Resolution dated March 9, 2020.[14] Thereafter, a *Pre-Trial Order*[15] was issued on July 2, 2020.

During trial, petitioner presented the following witnesses: (1) Melany A. Belen, petitioner's Treasurer and Finance Manager;[16] (2) Ma. Fedna B. Parallag, the court-commissioned Independent

[10] Par. 22, Petition for Review, Docket – Vol. 1, p. 16; Annex 8, ICPA Report.
[11] Docket – Vol. 1, pp. 91 to 96.
[12] Minutes of Hearing, Docket – Vol. 1, p. 242; Order, Docket – Vol. 1, pp. 245 to 247.
[13] Docket – Vol. 1, pp. 248 to 260.
[14] Docket – Vol. 1, p. 262.
[15] Docket – Vol. 1, pp. 304 to 317.
[16] Exhibit "P-34", Docket – Vol. 1, pp. 109 to 133; Exhibit "P-34-b", Docket – Vol. 1, pp. 360 to 372.

Certified Public Accountant (ICPA);[17] and (3) Jonalyn V. Capinig, petitioner's Accounting Specialist.[18]

After the completion of the testimony of petitioner's last witness, Jonalyn V. Capinig, on March 4, 2021, petitioner's counsel was given until April 5, 2021 to file petitioner's Formal Offer of Evidence, while respondent's counsel was given fifteen (15) days to file Comment thereto. On the other hand, considering that respondent will not be presenting evidence, as respondent's sole evidence marked as Exhibit "R-1"[19] , was admitted by petitioner's counsel as the parties' common exhibit (petitioner's Exhibit "P-33"), respondent's counsel was given fifteen (15) days to file respondent's Formal Offer of Evidence, with the same period for petitioner's counsel to file Comment thereto. Thereafter, the Court shall resolve the parties' Formal Offer of Evidence.

Petitioner filed its *Formal Offer of Evidence*[20] on May 19, 2021, while respondent filed her *Formal Offer of Evidence*[21] on March 19, 2021. In its *Resolution*[22] dated October 28, 2021, the Court admitted the lone exhibit of respondent, while petitioner's documentary exhibits were mostly admitted, except for the following:

1. Exhibits "P-20," "P-21," "P-22," "P-23" and "P-24," for failure to lay the bases for the introduction of secondary evidence;

2. Exhibits "P-39," "P-326," "P-344," "P-345," "P-347," "P-349" to "P-351," "P-353" to "P-434," and "P-436" to "P-553," for failure to present the originals for comparison;

3. Exhibit "P-37" for not being found in the records of the case;

4. Exhibits "P-333" to "P-334," for not being found in the USB submitted by the ICPA; and

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17 Docket – Vol. 1, pp. 268 to 273; Exhibit "P-560", Docket – Vol. 1, pp. 485 to 502.
18 Exhibit "P-571", Docket – Vol. 2, pp. 541 to 558.
19 Letter from Regional Director Maridur V. Rosario dated September 13, 2019, denying the administrative claim for refund
20 Docket – Vol. 2, pp. 677 to 713.
21 Docket – Vol. 2, pp. 925 to 926.
22 Docket – Vol. 2, pp. 933 to 939.

5. Exhibit "P-435," for not being found in the USB submitted by the ICPA and for being provisionally marked per ICPA List of Exhibits.

On February 9, 2022, petitioner filed a *Tender of Excluded Evidence (of Petitioner)*[23] praying that Exhibits **"P-20", "P-21", "P-22", "P-23" and "P-24"** be attached to form part of the records of the instant case in accordance with the rule on tender of excluded evidence under Section 40, Rule 132 of the Rules of Court.

In the *Resolution* dated March 18, 2022, the Court noted petitioner's *Tender of Excluded Evidence.* Accordingly, Exhibits **"P-20", "P-21", "P-22", "P-23" and "P-24"** were made part of the records of this case[24].

Upon the filing of respondent's *Memorandum*[25] on December 16, 2021 and petitioner's *Memorandum*[26] on February 24, 2022, the instant case was submitted for Decision on March 18, 2022.[27]

Hence, this Decision.

THE ISSUE

The parties stipulated in their JSFI, a lone issue for the resolution of the Court,[28] to wit:

> " Whether or not petitioner is entitled to its claim for refund of or issuance of a TCC for the total amount of Ten Million Two Hundred Eighty-Two Thousand Five & 99/100 Pesos (₱10,282,005.99), representing petitioner's excess and unutilized input VAT on its local purchases of goods and services and importations attributable to its zero-rated sales for the 2nd quarter of CY ended December 31, 2017."

Petitioner's arguments:

Petitioner argues that it is entitled to its judicial claim for refund of, or issuance of a TCC, for the total amount of ₱10,282,005.99,

[23] Docket – Vol. 2, pp. 1019 to 1024.
[24] Docket – Vol. 2, pp. 1027 to 1029.
[25] Docket – Vol. 2, pp. 954 to 965.
[26] Docket – Vol. 2, pp. 991 to 1012.
[27] Docket – Vol. 2, pp. 1027 to 1029.
[28] JSFI, Issue To Be Resolved, Docket - Vol. 1, p. 250.

representing petitioner's excess and unutilized input VAT on its local purchases of goods and services and importations attributable to its effectively zero-rated sales for the 2nd quarter of CY 2017.

During the 2nd Quarter of CY 2017, petitioner allegedly sold services to certain exporters registered with the Board of Investments (BOI) in accordance with Executive Order No. 226 (Omnibus Investment Code of 1987 or Omnibus Investment Code), particularly, Philippine Gold Processing and Refining Corporation (or Phil. Gold) and Philex Mining Corporation (or Philex).

Allegedly, one hundred percent (100%) of the total sales volume of the foregoing BOI-registered firms are for export, as evidenced by the Certifications issued by the BOI[29] pursuant to BIR Revenue Memorandum Order (RMO) No. 9-2000 and identified by petitioner's witness Melany A. Belen during the presentation of petitioner's evidence. Thus, petitioner's sale of services to the foregoing BOI-registered firms, Phil. Gold and Philex, for the 2nd Quarter of CY 2017 are considered effectively zero-rated sales of services under Section 108(B)(3) of the Tax Code.

Moreover, during the same quarter, petitioner likewise sold goods to certain manufacturers/exporters registered with the Philippine Economic Zone Authority (PEZA) in accordance with Republic Act No. 7916, as amended by Republic Act No. 8748 (the Special Economic Zone Act of 1995 or the PEZA LAW), particularly, Asian Transmission Corporation (ATC), Honda Parts Manufacturing Corporation (HPMC), Isuzu Autoparts Manufacturing Corporation (IAMC), Mitsuba Philippines Corporation (MPC) and Toyota Autoparts Philippines, Inc. (TAPI). The status of the foregoing firms as PEZA-registered enterprises are evidenced by Certificates of Registration issued by the PEZA[30] and identified by petitioner's witness, Melany A. Belen during the presentation of petitioner's evidence.

Relative thereto, petitioner's sales of goods to the foregoing PEZA-registered firms, i.e., ATC, HPMC, IAMC, MPC and TAPI, for the 2nd Quarter of CY 2017 are allegedly considered effectively zero-rated sales of goods under Section 106(A)(2)(a)(5) and (c) of the Tax Code.

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[29] Exhibits "P-15" and "P-16", respectively.
[30] Exhibits "P-20-b"; "P-21-b"; P-22-b"; "P-23-b"; and "P-24-b", respectively.

Respondent's counter-arguments:

Respondent counter-argues that petitioner's official receipts were not authorized in violation of the invoicing requirement. Allegedly, a perusal of petitioner's official receipt shows that it does not indicate the correct ATP No. In view of this, it can allegedly be inferred that the Official Receipt of petitioner was not authorized by the Bureau of Internal Revenue (BIR), or it was printed when the petitioner has not yet secured ATP. As such, petitioner's Official Receipt in this case is questionable and has no probative value for the purpose of refund.

Respondent further avers that petitioner's sales invoices were not authorized because petitioner did not submit its permit to use computerized books of accounts and other computer-generated accounting records. Allegedly, petitioner used and issued a computer-generated Sales Invoice to its customers (Exhibit "P-25, P-26, P-27" e.g.). However, petitioner did not submit its Permit to Use Computerized Books of Accounts and Other Computer-Generated Accounting Records to prove that petitioner's Sales Invoices were authorized by the BIR or the ATP No. was not indicated therein. As such, petitioner's Sales Invoices were not authorized and has no probative value for the purpose of refund.

Respondent asserts that numerous items of petitioner's sales covered by sales invoices were actually VAT exempt sales.

THE COURT'S RULING

In filing a claim for the refund or issuance of tax credit certificate for input taxes, a taxpayer is required to prove its compliance with Section 112(A) and (C) of the Tax Code, as amended, which provides:[31]

> **"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,

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[31] The Tax Code, as amended by Republic Act No. 19063 (TRAIN Law), is the version applicable in the instant case, insofar as the period within which the refund or tax credit should be made is concerned, considering that petitioner's administrative and judicial claims for refund were filed on June 28, 2019 and October 21, 2019, respectively.

> 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 sales 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 nonzero-rated sales.
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> 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 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.
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> In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from 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."

Pursuant to the foregoing provisions, a taxpayer-claimant must comply with the following requisites, in order to successfully obtain a credit/refund of input VAT, to wit:

As to the timeliness of the filing of the administrative and judicial claims:

1. the claim is filed with the BIR within two years after the close of the taxable quarter when the sales were made;[32]
2. that in case of full or partial denial of the refund claim, rendered within a period of ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application, the judicial claim has been filed with the Court within thirty (30) days from receipt of the decision;[33]

With reference to the taxpayer's registration with the BIR:

3. the taxpayer is VAT registered;[34]

With regard to the taxpayer's output VAT:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[35]
5. for zero-rated sales under Section 106(A)(2)(1) and (2); 106(B); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations;[36]

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[32] *Commissioner of Internal Revenue vs. Chevron Holdings, Inc.*, G.R. No. 233301, February 17, 2020; *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009; and *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010.

[33] Section 112(C) of the NIRC of 1997, as amended by the TRAIN Law provides:

"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." *(Emphasis and underscoring supplied)*

[34] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue, supra; San Roque Power Corporation vs. Commissioner of Internal Revenue, supra;* and *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue, supra.*

[35] *Id.*

[36] *Id.*

<u>With regard to the taxpayer's refund claim for input VAT:</u>

6. that input taxes are not transitional input taxes;[37]
7. that the input taxes are due or paid;[38]
8. that the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume;[39] and
9. that the input taxes have not been applied against output taxes during and in the succeeding quarters.[40]

First and second requisites: timeliness of administrative and judicial claims.

As earlier stated, the law requires compliance with two (2) mandatory periods under Section 112 of the Tax Code, as amended, with regard to the filing of the taxpayer's administrative and judicial claim for refund.

The *first requisite* pertains to the filing of the administrative claim for tax credit or refund of input VAT before the BIR.

To be specific, Section 112(A) of the Tax Code, as amended, states that the *administrative claim* for refund must be filed with the BIR within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

In the instant case, petitioner's claim covers the second (2nd) quarter of CY 2017. Counting two (2) years from the close of the 2nd quarter, petitioner had until June 30, 2019, within which to file its administrative claim for tax refund or issuance of tax credit certificate for its input VAT, to wit:

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[37] *Ibid.*
[38] *Ibid.*
[39] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.
[40] *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.*, supra.

Taxable Quarter	Close of Taxable Quarter	Last Day of Filing of Administrative Claim	Filing Date of Administrative Claim
2nd Quarter (Apr. to Jun. 2017)	June 30, 2017	June 30, 2019	June 28, 2019

In this case, petitioner filed its (*Application for Tax Credits/Refunds – BIR Form No. 1914*)[41] for the said quarter with the BIR on June 28, 2019. Hence, its administrative claim was timely filed.

The *second requisite* pertains to the timeliness of the taxpayer's *judicial claim*, pursuant to Section 112(C) of the NIRC of 1997, as amended, which provides that the CIR has ninety (90) days from the date of submission of the complete documents in support of the application for refund or tax credit certificate, within which to grant or deny the claim.

The legal provision speaks of two periods: (1) the period of ninety (90) days, which serves as a waiting period to give time for the BIR Commissioner to act on the administrative claim for refund or tax credit; and (2) the period of thirty (30) days which refers to the period for filing a judicial claim with this Court.[42]

In this case, from the filing of petitioner's administrative claim on June 28, 2019, respondent had ninety (90) days, or until September 26, 2019, within which to render a decision on the said claim.

On September 20, 2019, within the said ninety (90) day period, petitioner received a letter from respondent, denying its administrative claim for refund of its excess and unutilized input VAT for the period April 1, 2017 to June 30, 2017.[43] Thus, petitioner had a period of thirty (30) days from September 20, 2019, or until October 20, 2019, to file its judicial claim. However, since the last day of the thirty (30) day period, October 20, 2019, falls on a Sunday, petitioner had until the next working day, or October 21, 2019 (Monday), within which to file to the instant *Petition for Review*, pursuant to Section 1, Rule 22 of the Rules of Court.

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[41] Exhibits "P-29" and "P-30", Docket – Vol. 2, pp. 816 to 818.
[42] *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.
[43] Exhibit "P-33" (also marked as Exhibit R-1), Docket- Vol. 2, pp. 821 to 822.

Considering that the instant *Petition for Review*[44] was filed on October 21, 2019, the judicial claim was likewise filed on time. Correspondingly, petitioner has proven compliance with the *first* and *second* requisites.

Third Requisite: Petitioner is VAT registered.

To prove its compliance with the *third requisite,* pertaining to the taxpayer's VAT registration, petitioner presented its Certificate of Registration with TIN No. 006-868-990-000, issued by the BIR, indicating that it is subject to VAT.[45] Hence, the *third requisite* has likewise been complied with.

Fourth and fifth requisites: Petitioner partially proved that it was engaged in zero-rated or effectively zero-rated sales for the second quarter of CY 2017.

The *fourth and fifth requisites*, respectively, require that the taxpayer is engaged in zero-rated or effectively zero-rated sales; and that for zero-rated sales under Section 106(A)(2)(1) and (2); 106(B); and 108(B)(1) and (2) of the Tax Code, 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 Return for the second quarter of CY 2019, petitioner declared a total sales/receipts in the aggregate amount of ₱215,438,863.61[46], broken down as follows:

	Amount
Vatable Sales /Receipt	₱ 82,144,202.73
Zero-Rated Sales/Receipts	133,294,660.88
TOTAL	₱215,438,836.61

[44] Docket – Vol. 1, pp. 6 to 27.
[45] Exhibit "P-2," Docket – Vol. 2, p. 732.
[46] Exhibit "P-3", Line 19A, Docket – Vol. 2, p. 733.

Sales to BOI-registered Entities:

Petitioner claims that for the 2nd quarter of CY 2017, it rendered services to Philex Mining Corporation ("Philex") and Philippine Gold Processing and Refining Corporation ("PGPRC"), in the aggregate amount of ₱273,410.00, and both entities are manufacturers/ producers registered with Board of Investments ("BOI") and whose products are 100% exported.

Thus, petitioner's sales of services to the foregoing BOI-registered firms, Philex and PGPRC, for the 2nd quarter of CY 2017 are considered effectively zero-rated sales of services under Section 108(B)(3) of the Tax Code, as amended, which states:

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

Petitioner's sales of services to its BOI-registered customers for the 2nd Quarter of CY 2017 should meet the requisites for VAT zero-rating under Section 3 of BIR Revenue Memorandum Order ("RMO") No. 9-2000,[47] which provides:

> "**SECTION 3.** *Sales of goods, properties or services made by a VAT-registered exporter shall be accorded automatic zero-rating, i.e., without necessity of applying for and securing approval of the application for zero-rating as provided in Revenue Regulations No. 7-95, subject to the following conditions:*

[47] *Subject:* Tax Treatment of Sales of Goods, Properties and Services Made by VAT-registered Suppliers to BOI-registered Manufacturers-Exporters With 100% Export Sales.

1. The supplier must be VAT registered;

2. The BOI-registered buyer must likewise be VAT-registered;

3. The buyer must be a BOI-registered manufacturer/ producer whose products are 100% exported. For this purpose a Certification to this effect must be issued by the Board of Investments and which certification shall be good for one year unless subsequently re-issued by the BOI;

4. The BOI-registered buyer shall furnish each of its suppliers with a copy of the aforementioned BOI Certification which shall serve as authority for the supplier to avail of the benefits of zero-rating for its sales to said BOI-registered buyers; and

5. The VAT-registered supplier shall issue for each sale to BOI-registered manufacturer/exporters a duly-registered VAT invoice/OR with the words 'zero-rated' stamped thereon in compliance with Sec.4.108-1(5) of RR 7-95. The supplier must likewise indicate in the VAT invoice the name and BOI-registry number of the buyer.

Both the supplier and buyer are VAT-registered. - As earlier stated, petitioner is VAT-registered, as evidenced by its Certificate of Registration issued by the BIR, with TIN No. 006-868-990-000.[48] Petitioner's buyers, Philex and PGPRC, are also VAT-registered, as reflected in the petitioner-issued Official Receipts[49] with TIN 000-238-731-000 and 004-498-686, respectively.

Both Philex and PGPRC are BOI-registered. – As evidenced by the following Certifications issued by the BOI, pursuant to BIR RMO No. 9-2000, a hundred percent (100%) of the total sales volume of Philex and PGPRC are for export, to wit:

Company	**BOI-ID Cert. No.**	**Validity**	**Exhibit**
Philex	2017-011	Jan. 1 to Dec. 31, 2017	"P-15"
PGPRC	2017-008	Jan. 1 to Dec. 31, 2017	"P-16"

[48] Exhibit "P-2," Docket – Vol. 2, p. 732.
[49] Exhibits "P-46" to "P-48".

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Petitioner submitted "Zero-Rated" Official Receipts. – Upon examination of the official receipts issued by the petitioner to its BOI-registered customers, petitioner was able to provide documents to prove its VAT zero-rated sales to BOI-registered entities amounting to ₱273,410.00, broken down as follows:

Buyer	Zero-Rated Sales	Date	Exhibit
PGPRC	₱128,250.00	May 22, 2017	"P-46"
Philex	80,000.00	August, 15, 2017	"P-47"
PGPRC	65,160.00	July 24, 2017	"P-48"
TOTAL	**₱273,410.00**		

<u>Sales to PEZA-registered Entities:</u>

During the same period (2nd quarter of CY 2017), petitioner likewise sold goods amounting to ₱128,025,428.72[50] to certain manufacturers/exporters registered with the Philippine Economic Zone Authority ("PEZA"), in accordance with Republic Act No. 7916, as amended by Republic Act No. 8748 (the "Special Economic Zone Act of 1995" or the "PEZA Law"), particularly:

PEZA CERT. No.	Company	Validity	Exh.
2017-0661	Asian Transmission Corp. ("ATC")	Jan. 1 to Dec. 31, 2017	"P-20"
2017-0148	Honda Parts Manufacturing Corp. ("HPMC")	Jan. 1 to Dec. 31, 2017	"P-21"
2017-0342	Isuzu Autoparts Manufacturing Corp. (IAMC")	Jan. 1 to Dec. 31, 2017	"P-22"
2017-0298	Mitsuba Philippines Corp. ("MPC")	Jan. 1 to Dec. 31, 2017	"P-23"
2017-1344	Toyota Autoparts Philippines, Inc. ("TAPI")	Jan. 1 to Dec. 31, 2017	"P-24"

In this regard, petitioner claims that its sale of goods to the foregoing PEZA-registered entities for the 2nd quarter of CY 2017 are considered effectively zero-rated sales of goods under Section 106(A)(2)(a)(5) and (c)[51] of the Tax Code, which provides:

> "**SECTION 106.** ***Value-Added Tax on Sale of Goods or Properties. –***
>
> (A) *Rate and Base of Tax. – x x x*

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[50] Exhibit "P-35", ICPA Report, Docket – Vol. 1, p. 409.
[51] The TRAIN Law only took effect on January 1, 2018.

xxx xxx xxx

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

(a) Export Sales. – The Term '*export sales*' means:

xxx xxx xxx

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

xxx xxx xxx

(c) Sales to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects such sales to zero rate."

Accordingly, petitioner's sales to the aforementioned entities for the 2nd quarter of CY 2017 qualify for VAT zero-rating, pursuant to Sections 106(A)(2)(a)(5) and (c) of the Tax Code, as amended, provided that the same are properly supported by VAT zero-rated sales invoices (SIs) [for sales of goods] and official receipts (ORs) [for sales of services] in accordance with Section 113 (A) and (B) of the NIRC of 1997, as amended, which provides:

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

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

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

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

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

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

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

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

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

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

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

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

(4) In the case of sales in the amount of One thousand pesos (₱1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client."

The foregoing provisions are further implemented by Section 4.113-1 (A) and (B) of Revenue Regulation (RR) No. 16-2005,[52] as amended, which are all quoted hereunder: *ng*

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[52] *Subject:* Consolidated Value-Added Tax Regulations of 2005.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In addition to the above requirements, the SIs and ORs must be duly registered with the BIR as prescribed under Section 237, in relation to Section 238 of the Tax Code, as amended,[53] *viz:*

"**SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices*.** - All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (₱25.00) or more, issue duly registered receipts or sale or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: xxx

xxx xxx xxx

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

No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the

[53] R.A. No. 10963, otherwise known as the TRAIN Law, only took effect on January 1, 2018.

person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner. x x x."

To prove compliance with the VAT invoicing requirements under the aforementioned law and regulations, petitioner submitted various SIs in support of its zero-rated sales to PEZA-registered entities, which were duly examined by the ICPA. Upon further examination by the Court of the submitted sales invoices in support of petitioner's sales of goods to PEZA-registered entities, the amount of ₱7,569,063.97, as detailed below, shall be denied VAT zero-rating due to the following reasons:

PEZA-Registered Entity	Amount	Exhibit	Reason
ASIAN TRANSMISSION CORPORATION	₱ 370,000.00	P-99	Not categorized as "zero-rated sales"
ASIAN TRANSMISSION CORPORATION	370,000.00	P-100	Not categorized as "zero-rated sales"
ASIAN TRANSMISSION CORPORATION	370,000.00	P-101	Not categorized as "zero-rated sales"
ISUZU AUTOPARTS MANUFACTURING CORP.	4,450,282.60	P-121	Cancelled Invoice
TOYOTA AUTOPARTS PHILIPPINES INC.	2,008,781.37	P-122	Cancelled Invoice
TOTAL	**₱7,569,063.97**		

Thus, out of the zero-rated sales to PEZA-registered entities in the total amount of ₱128,025,428.72,[54] only the amount of ₱120,456,364.75 qualify for VAT zero-rating pursuant to Section 106(A)(2)(a)(5) and (c) of the Tax Code, in relation to Sec. 4.106-5 (c) of RR No. 16-2005.

In sum, out of the total reported zero-rated sales of ₱133,294,660.88, only the amount of ₱120,729,774.75 qualify for VAT zero-rating for the second quarter of taxable year 2017, as computed below:

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[54] Annex 5, ICPA Report.

Valid Zero-Rated Sales:

BOI-Registered Entities	₱ 273,410.00	
PEZA-Registered Entities	120,456,364.75	
Total Valid Zero-Rated Sales		₱120,729,774.75
Disallowances:		
PEZA-Registered Entities (Violation of Invoicing Requirements)	₱7,569,063.97	
Without Supporting Documents	4,995,822.16	
Total Disallowances		12,564,886.13
Total Zero-Rated Sales per 2017 ITR		₱133,294,660.88

As for the *fifth* requisite, petitioner must prove that the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations under Sections 106(A)(2)(a)(1), (2) and (b), and 108(B)(1) and (2), of the Tax Code, as amended. However, considering that the legal basis for petitioner's zero-rated sales of ₱120,729,774.75, is Section 106(A)(2)(a)(5) and (c) of the Tax Code, as amended, petitioner does not need to prove compliance with the said requisite.

On the basis of Our finding that petitioner had valid VAT zero-rated sales in the total amount of **₱120,729,774.75** for the subject period of claim, We shall proceed to determine whether petitioner complied with the remaining requisites pertaining to the input VAT being claimed for refund/TCC.

Sixth requisite: The input taxes 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, as understood under Section 111(A) of the Tax Code, as amended, to wit:

> "**SEC. 111.** ***Transitional/Presumptive Input Tax Credits. –***
>
> (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 any inventory according to the rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, be allowed input tax on her 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 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.[55]

In this case, records show that petitioner is not a newly VAT-registered entity, thus, in the absence of any indication that the claimed input taxes are transitional input taxes, the Court holds that petitioner has complied with the *sixth* requisite.

Seventh Requisite: The input taxes being claimed were due or paid.

The *seventh* requisite in claiming VAT refund requires petitioner to provide supporting documents to prove that the input taxes claimed during the second quarter of CY 2017 were actually due or paid in accordance with Section 110 (A) of the Tax Code, as amended, to wit:

> "**SEC. 110.** ***Tax Credits***. –
>
> (A) *Creditable input Tax*. –
>
> (1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against output tax:
>
> (a) Purchase or importation of goods: NO

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

(i) For sale; or

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

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

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

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

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

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

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

xxx xxx xxx

Provided, That the input tax on goods purchased or imported in a calendar month for use in trade or business for which deduction for depreciation is allowed under this Code, shall be spread evenly over the month of acquisition and the fifty-nine (59) succeeding months of the aggregate acquisition cost for such goods, excluding the VAT component thereof, exceeds One million pesos (P1,000,000.00): *Provided, however,* That if the estimated useful life of the capital good is less than five (5) years, as used for depreciation purposes, then the input VAT shall be spread over such a shorter period: *Provided,* finally, That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee, or licensee upon payment of the compensation, rental, royalty or fee."

Relative thereto, Sections 4.110-1 to 4.110-3 of RR No. 16-2005, implementing the foregoing provisions, read as follows:

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

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

xxx xxx xxx

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

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

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

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

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

Where the aggregate acquisition cost (exclusive of VAT) of the existing or finished depreciable capital goods purchased or imported during any calendar month does not exceed One million pesos (P1,000,000.00), the total input taxes will be allowable as credit against output tax in the month of acquisition; *Provided, however,* that the total amount of input taxes (input tax on depreciable capital goods plus other allowable input taxes) allowed to be claimed against the output tax in the quarterly VAT Returns shall be subject to the limitation prescribed under Sec. 4-110-7 of these Regulations.

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

xxx xxx xxx

If the depreciable capital good is sold/transferred within a period of five (5) years or prior to the exhaustion of the amortizable input tax thereon, the entire unamortized input tax on the capital goods sold/transferred can be claimed as input tax credit during the month/quarter when the sale or transfer was made but subject to the limitation prescribed under Sec. 4.110-7 of these Regulations."

Moreover, Section 4.110-8 of RR No. 16-2005 provides for the substantiation requirements of input tax credits on domestic purchases of goods, properties and services, as follows:

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

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

xxx xxx xxx

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

xxx xxx xxx

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

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

In other words, in order to be entitled to input tax credits, the same must be evidenced by VAT invoices (for domestic purchases of goods or properties) or ORs (for domestic purchases of services) issued in accordance with Section 113 of the Tax Code, as amended. The invoicing requirements for a VAT-registered taxpayer as provided in the Tax Code and RR are clear.

A VAT-registered taxpayer is required to comply with all the VAT invoicing requirements to be able to file a claim for input taxes on domestic purchases for goods or services attributable to zero-rated sales.[56] In addition, the invoicing requirement is reasonable and must be strictly complied with, as it is the only way to determine the veracity of the claim.[57]

Out of the reported input VAT on domestic purchases and importation of goods other than capital goods, and domestic purchases of services amounting to ₱23,964,461.59, petitioner originally claims for refund of the excess input VAT in the amount of ₱14,107,157.27, as determined as follows:

Input VAT on:	
Domestic Purchases of Goods Other Than Capital Goods	₱ 46,247.35
Importation of Goods Other Than Capital Goods	23,188,675.00
Domestic Purchases of Services	729,539.24
Total Input VAT	23,964,461.59

rb

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56 *Microsoft Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 180173, April 6, 2011.

57 *Kepco Philippines Corporation vs. Commissioner of Internal Revenue,* G.R. No. 179961, January 31, 2011.

Less: Output VAT	9,857,304.33
Original Claim for Refund of Excess Input VAT	₱14,107,157.26

However, upon re-computation, petitioner only claims for refund, or issuance of a TCC, of its alleged excess and unutilized input VAT from ₱14,107,157.27 to ₱10,282,005.99.[58]

In support of its input VAT claim, petitioner submitted evidence such as invoices, official receipts, and other related documents,[59] which were examined by the ICPA.

In this case, the results of the ICPA's examination of the VAT invoices and ORs supporting petitioner's input VAT claim were summarized as follows:[60]

	Exhibits	Input VAT
Input VAT on Local Purchases of Goods and Services: A. Properly Substantiated		
1. Purchases supported by Compliant Documents	P-335 to P-336	1,386.62
2. Purchases supported by altered Compliant documents with supplier's countersignature and vendor certification	P-337 to P-340	42,571.68
Sub-Total B. Exceptions Noted		43,958.30
1. Purchases supported by documents which are out of period	P-341 to P-343	17,298.79
2. Purchases supported by documents reflecting incorrect address, incorrect TIN, No Vatable amount and/or VAT amount	P-344 to P-346	18,051.05
3. Purchases supported by documents reflecting the incorrect TIN of the petitioner	P-347 to P-348	33,749.62
4. Purchases supported by documents without reflecting the nature of service	P-349 to P-351	15,530.35
5. Purchases supported by documents reflecting the incorrect TIN and without the nature of service	P-352	2,757.86
6. Purchases supported by documents which are out of period and without reflecting the nature of service	P-353 to P-354	4,224.24
7. Purchases supported by documents reflecting incorrect address, incorrect TIN and without reflecting the nature of service	P-355	5.26
8. Purchases supported by documents not valid for claiming of input tax		627,015.32

[58] Par. 22, Petition for Review, Docket – Vol. 1, p. 16; Annex 8, ICPA Report.
[59] Exhibits "P-39" to "P-559", with sub-markings.
[60] ICPA Report, Exhibit "P-35", Docket – Vol. 1, pp. 415 to 416.

Sub-Total		718,632.48
C. Unsupported Purchases		13,195.81
Total Input VAT on Local Purchases of Goods and Services		**775,786.59**
Input VAT on Importation: A. Properly Substantiated		
1. Input VAT on importation duly supported by SAD & SSDT and verified through Bank Certificate	P-356 to P-545	22,722,083.00
B. Exceptions Noted		
1. Importations supported by documents that are out of period	P-546 to P-551	404,728.00
2. Importations supported by incomplete SSDT	P-552 to P-553	61,864.00
Sub-Total		466,592.00
Total Input VAT on Importation		**23,188,675.00**

The findings of the ICPA showed that the input VAT amounting to **₱22,766,041.30** (*₱43,958.30 plus ₱22,722,083.00*) were supported by compliant documents. While, the amount of **₱1,198,420.29** *(₱718,632.48 plus ₱13,195.81 plus ₱466,592.00)* should be disallowed for failure to meet the substantiation requirements under Sections 110(A), 113(A) and (B), 237 and 238 of the Tax Code, as amended, in relation to Sections 4.110-1, 4.110,3, 4.110-8, and 4.113-1 of RR No. 16-2005, as amended.

However, documents (*Exhibits "P-356" to "P-545"*) supporting input VAT on importation amounting to ₱22,722,083.00 were denied by the Court through a *Resolution*[61] dated October 28, 2021 for failure to present the originals for comparison. Therefore, input VAT on importation amounting to **₱22,722,083.00** should likewise be disallowed.

Thus, out of the total input VAT per petitioner's VAT return amounting to ₱23,964,461.59 for the second quarter of CY 2017, only the amount of **₱43,958.30**, as computed below, represents petitioner's substantiated input VAT for purchases of goods and services as well as the importation of goods other than capital goods for the same period, and to be considered for the purpose of petitioner's compliance with the remaining requisites:

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[61] Docket – Vol. 2, p. 934, par. 2.

Input VAT per ITR:		
Domestic Purchases of Goods Other than Capital Goods	₱46,247.35	
Importation of Goods Other than Capital Goods	23,188,675.00	
Domestic Purchases of Services	729,539.24	
Total Input VAT per ITR		₱23,964,461.59
Less: Disallowances		
Violation of Invoicing Requirements (Goods)	718,632.48	
Unsupported	13,195.81	
Violation of Invoicing Requirements (Importations)	466,592.00	1,198,420.29
Denied Exhibits ("P-356" to "P-545")		22,722,083.00
TOTAL Valid Input VAT		**₱ 43,958.30**

Eight Requisite: The input taxes being claimed are attributable to petitioner's zero-rated sales.

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

For the subject period of claim, petitioner reported zero-rated sales and VATable sales in its Quarterly VAT Return for the second quarter of CY 2017, in the following amounts:

Exhibit	Amount	Exhibit
Vatable Sales	₱ 82,144,202.73	"P-3", Line 15A
Zero-Rated Sales	133,294,660.88	"P-3", Line 17
TOTAL SALES	**₱215,438,863.61**	**"P-3", Line 19A**

Considering that petitioner's input VAT cannot be directly or entirely attributed to any of the transactions, the valid input VAT of **₱43,958.30** shall be allocated proportionately on the basis of the volume of its total sales, in accordance with Section 112(A) of the NIRC of 1997, as amended, thus:

VATable receipts per Quarterly VAT Return	₱ 82,144,202.73
Divided by Total Sales/Receipts per VAT Return	215,438,863.61
Multiply by total valid Input VAT	**43,958.30**
Input VAT Attributable to Total VATable Sales	**₱ 16,760.76**

Valid Zero-Rated Sales/Receipts	₱ 120,729,774.75
Divided by Total Sales/Receipts per VAT Return	215,438,863.61
Multiply by total valid Input VAT	**43,958.30**
Input VAT Attributable to valid zero-rated sales	**₱ 24,633.79**

Consequently, only the remaining excess input VAT of **₱24,633.79** can be attributed to the valid zero-rated sales of ₱120,729,774.75.

Further, petitioner incurred output VAT liability in the amount of ₱9,857,304.33.[62] Considering that petitioner's valid input VAT allocated to *VATable sales* in the amount of ₱16,760.76 is not enough to cover the output VAT liability, the input VAT attributable to petitioner's valid zero-rated sales in the amount of **₱24,633.79** shall then be utilized against the remaining output VAT liability in the amount of ₱9,840,543.57. Consequently, petitioner still has **output VAT due of ₱9,815,909.78,** computed as follows:

Output VAT Due	₱ 9,857,304.33
Less:	
Input VAT Attributable to Vatable Sales	16,760.76
Input VAT Attributable to Zero-Rated Sales	24,633.79
Output VAT Still Due	**₱ 9,815,909.78**

In fine, although petitioner has sufficiently proven its substantiated input VAT attributable to zero-rated sales in the amount of ₱24,633.79, such amount however is *not* enough to cover its output VAT liability of ₱9,857,304.33.

[62] Line 15B, Exhibit "P-3", Docket – Vol. 2, p. 733.

This being so, it becomes unnecessary to determine whether petitioner complied with the ninth requisite under Section 112 of the NIRC of 1997, that the input taxes have not been applied against output taxes during and in the succeeding quarters, considering that the petitioner's output VAT liability is higher than its substantiated input VAT attributable to its zero-rated sales.

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
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.

ERLINDA P. UY
Associate Justice
Chairperson, Special 3rd Division

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.

ROMAN G. DEL ROSARIO
Presiding Justice