22-000049-0056

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10758

BOEHRINGER INGELHEIM (PHILIPINES), INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. BRYAN ANTONY C. DIEGO
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

CASTILLO LAMAN TAN PANTALEON & SAN JOSE
2nd to 5th and 9th Floors, The Valero Tower
122 Valero Street, Salcedo Village
Makati City

GREETINGS:

You are hereby notified by these presents that on **October 22, 2024,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **October 28, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

BOEHRINGER INGELHEIM (PHILIPPINES), INC., *Petitioner,*	**CTA CASE NO. 10758**
	Members:
- versus -	**DEL ROSARIO**, *P.J., Chairperson,* **BACORRO-VILLENA**, *and* **CUI-DAVID**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: OCT 22 2024 1:20 p

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DECISION

CUI-DAVID, J.:

Before the Court is the *Petition for Review* [1] filed by petitioner Boehringer Ingelheim (Philippines), Inc. on February 2, 2022, praying for the Court to render judgment ordering respondent Commissioner of Internal Revenue (CIR) to refund the amount of ₱89,760,906.71, representing petitioner's alleged erroneously paid and/or collected value-added tax (VAT) on its importation of prescription drugs and medicines for diabetes, high cholesterol, and hypertension from January 23, 2020 to April 20, 2020.

THE PARTIES

Petitioner Boehringer Ingelheim (Philippines), Inc. is a domestic corporation with principal office address at the 23rd floor, BDO Towers (formerly Citibank Tower) Valero Building, 8741 Paseo de Roxas, Bel-Air, Makati City, Philippines.[2] It is registered with the Bureau of Internal Revenue (BIR) under Tax Identification Number (TIN) 000-110-015-000.[3]

[1] Docket – Vol. I, pp. 15–51.
[2] Docket – Vol. III, p. 967, *Joint Stipulation of Facts and Issues* (JSFI), Stipulated Facts, par. 2.
[3] Docket – Vol. I, p. 111, Exhibit "P-4".

Pursuant to the Amended Articles of Incorporation[4] of petitioner, the primary purposes for which it was formed are "to import, export, manufacture, process, compound, repack, prepared for market, buy, sell at wholesale, distribute, transport and promote general merchandise, goods and wares of all kinds and descriptions, particularly but not limited to pharmaceutical preparation, drugs, medicines, veterinary medicines, agricultural chemical, pesticides, fungicides, insecticides, chemicals, compounds, druggists' sundries and supplies, cosmetics, perfumeries, toilet articles, scientific apparatus, and physicians and hospital supplies; and likewise to apply for, obtain, register, purchase, lease or otherwise, acquire, and to hold, use, exercise, develop, operate and introduce, and to sell, assign, grant licenses or territorial rights in respect of, or otherwise to turn to account or dispose of, any trademarks, trade names, brands, labels, patents, inventions, formulas or processes for such products."

Respondent is the Commissioner of the BIR, vested by law to enforce and implement the provisions of the Tax Code, as amended, as well as related statutes and their implementing rules and regulations. He holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.[5]

THE FACTS AND THE PROCEEDINGS

From January 17, 2020 to April 20, 2020, petitioner imported various prescription drugs and medicines for the treatment of diabetes, high cholesterol, and hypertension. These products were subjected to VAT on importation, which petitioner paid per relevant importation from January 23, 2020 to April 20, 2020.[6]

On January 22, 2020, the President of the Philippines approved Republic Act (RA) No. 11467,[7] which amended certain sections of the National Internal Revenue Code (NIRC) of 1997, as amended.[8] Section 15 of RA No. 11467 states that the law shall "take effect on January 1, 2020, after its complete

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[4] *Id.* at 74–82, Exhibit "P-1".
[5] Docket – Vol. III, p. 967, JSFI, Stipulated Facts, par. 1.
[6] *Id.* at 967–968, JSFI, Stipulated Facts, par. 3.
[7] AN ACT AMENDING SECTIONS 109,141, 142, 143,144, 147, 152, 263, 263-A, 265, AND 288-A, AND ADDING A NEW SECTION 290-A TO REPUBLIC ACT NO. 8424, AS AMENDED, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AND FOR OTHER PURPOSES
[8] Docket – Vol. III, p. 968, JSFI, Stipulated Facts, par. 4.

publication either in the Official Gazette or in a newspaper of general circulation."[9]

Subsequently, on June 8, 2020, respondent issued Revenue Memorandum Circular (RMC) No. 62-2020,[10] which published the full text of a letter from the Food and Drug Administration (FDA) of the Department of Health (DOH), listing prescription drugs and medicines exempt from VAT pursuant to RA No. 11467. The RMC also stated that the listed medicines would be exempt from VAT beginning January 27, 2020.[11]

On June 26, 2020, the Secretary of Finance issued Revenue Regulations (RR) No. 18-2020,[12] implementing RA No. 11467.[13]

Thereafter, on October 14, 2020, respondent issued RMC No. 113-2020,[14] which amended RMC No. 65-2020,[15] and published the full text of a letter from the Department of Finance (DOF) clarifying the effective date of RA No. 11467. The issuance confirmed that the law took effect on January 23, 2020, instead of January 27, 2020, due to its publication on the Official Gazette website on that date.[16]

On October 15, 2020, respondent issued Revenue Memorandum Order (RMO) No. 36-2020,[17] laying down the guidelines and procedures for the refund of erroneously paid VAT on imported prescription drugs pursuant to RR No. 18-2020 and Section 204(c) of the NIRC of 1997, as amended.[18]

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9 *Id.* at 968, JSFI, Stipulated Facts, par. 5.

10 SUBJECT: Publishing the Full Text of the Letter from the Food and Drug Administration (FDA) of the Department of Health (DOH) Containing the "List of Prescription Drugs and Medicines for Diabetes, High-Cholesterol and Hypertension Exempt from VAT Beginning January 27, 2020" Pursuant to Section 1 of Republic Act No. 11467.

11 Docket – Vol. III, p. 968, JSFI, Stipulated Facts, par. 6.

12 SUBJECT: Regulations to Implement Section 1 of Republic Act (R.A.) No. 11467, Further Amending Section 109 (AA) of the National Internal Revenue Code (Tax Code) of 1997, as Amended by Republic Act (R.A.) No. 10963 or the "TRAIN Law," Providing for Value-Added Tax (VAT) Exemption on the Sales and Importation of Drugs and Medicines Prescribed for Diabetes, High Cholesterol. Hypertension, Cancer, Mental Illness, Tuberculosis, and Kidney Diseases.

13 Docket – Vol. III, p. 968, JSFI, Stipulated Facts, par. 7.

14 SUBJECT: Publishes the full text of the letter from the Department of Finance to amend the effectivity date of RA No. 11467, as circularized under RMC No. 65-2020

15 SUBJECT: Circularizes the effectivity date of Republic Act (RA) No. 11467 entitled "An Act Amending Sections 109, 141, 142, 143, 144, 147, 152, 263, 263-A, 265 and 288-A, and Adding a New Section 290-A to RA No. 8424 as Amended, Otherwise Known as the National Internal Revenue Code of 1997, and for Other Purposes"

16 Docket – Vol. III, p. 968, JSFI, Stipulated Facts, par. 8.

17 SUBJECT: Providing Guidelines and Procedures in the Refund of Erroneously Paid Value Added Tax (VAT) on Imported Drugs Prescribed for Diabetes, High Cholesterol and Hypertension as Implemented Under Revenue Regulations (RR) No. 18-2020 Pursuant to Section 204(C) of the Tax Code of 1997, as Amended.

18 Docket – Vol. III, p. 969, JSFI, Stipulated Facts, par. 10.

Petitioner's total VAT paid on the importation of medicines covered by RA No. 11467, as listed in the DOH-FDA's letter published under RMC No. 62-2020, within the relevant period of the claim, amounted to ₱89,760,906.71.[19]

Hence, on December 15, 2020, petitioner filed an administrative claim[20] for a refund with the Large Taxpayer Audit Division (LTAD) 1 of the BIR, requesting a refund of the erroneously paid VAT amounting to ₱89,760,906.71.

In a letter dated January 7, 2021, the BIR LTAD 1 required petitioner to submit: (a) wet-ink signed originals of BIR Form No. 1914, and (b) Bureau of Customs (BOC)-authenticated copies of the Single Administrative Document (SAD) and Statement of Settlement of Duties and Taxes (SSDT), which were already attached to the claim for refund. Petitioner complied on January 20 and 21, 2021.[21]

Thereafter, the BIR's Large Taxpayers Service, through OIC-Assistant Commissioner (OIC-ACIR) Manuel V. Mapoy, issued a letter dated February 8, 2021, denying petitioner's administrative claim for a refund.[22] Petitioner filed a request for reconsideration[23] which was denied through a letter dated June 3, 2021.[24]

Petitioner then filed a Request for Reconsideration with respondent on July 9, 2021.[25]

Alleging inaction, petitioner elevated its claim to the Court *via* the instant *Petition for Review* filed on February 2, 2022.

In his *Answer (Re: Petition for Review dated 31 January 2022)* filed on April 19, 2022, respondent argued that the instant *Petition for Review* should be denied, citing petitioner's failure to substantiate its claim for refund at the administrative level.

According to respondent, tax refunds are subject to administrative and routine investigation and are not *ipso facto* granted. The BIR still had to investigate and ascertain the validity of the claim. The BIR must investigate and verify the

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19 *Id.* at 968, JSFI, Stipulated Facts, par. 9.
20 Docket – Vol. I, pp. 103 to 110, Exhibit "P-3".
21 Docket – Vol. III, p. 969, JSFI, Stipulated Facts, par. 12.
22 Docket – Vol. III, p. 969, JSFI, Stipulated Facts, par. 13; Docket – Vol. I, pp. 144–145, Exhibit "P-19".
23 *Id.* at 969, JSFI, Stipulated Facts, par. 14; *Id.* at 146–154, Exhibit "P-20".
24 *Id.* at 969, JSFI, Stipulated Facts, par. 15; *Id.* at 163–164, Exhibit "P-24".
25 *Id.* at 969, JSFI, Stipulated Facts, par. 16; *Id.* at 165–174, Exhibit "P-25".

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validity of the claim. Moreover, the taxpayer-claimant bears the heavy burden of proving compliance with all statutory and administrative requirements to be entitled to a tax refund.

Allegedly, petitioner failed to demonstrate its entitlement to refund the alleged erroneously paid VAT on its importation of prescription drugs and medicines, in the amount of ₱89,760,906.71, at the administrative level. Since a decision had been rendered at the administrative level, petitioner could not submit documents not previously submitted. Moreover, the Court is confined to reviewing whether the denial was proper, given the evidence submitted during the administrative proceedings.

On June 16, 2022, respondent transmitted to this Court the *BIR Records* of the case,[26] consisting of 153 pages in one folder.

After the *Pre-Trial Conference* on September 12, 2022, the parties submitted a *Joint Stipulation of Facts and Issues*[27] on October 12, 2022, which served as the basis for the *Pre-Trial Order*[28] issued on November 7, 2022.

The trial then ensued, during which petitioner presented its witnesses, including: (1) Mr. Ermel N. Teodoro,[29] petitioner's Head of Finance and Administration; (2) Ms. Mylene P. Salindong-Vicmudo, [30] petitioner's Central Accounting Manager; (3) Mr. Marlon L. Sesante,[31] petitioner's Commercial Supply Chain Lead; and (4) Mr. Ericson D. Tadeja,[32] the Court-commissioned independent certified public accountant (ICPA).[33]

On April 14, 2023, petitioner filed its *Offer of Documentary of Evidence*,[34] to which respondent filed his *Comment (Re: Offer of Documentary Evidence dated 14 April 2023)* on April 19, 2023.[35]

[26] *Id.* at 905–907, *Compliance* dated June 16, 2022.
[27] *Id.* at 967–978.
[28] *Id.* at 992–999.
[29] Docket – Vol. I, pp. 55–73, Exhibit "P-30"; Docket – Vol. III, pp. 1005–1007, Minutes of the hearing held on, and Order dated, February 15, 2023.
[30] Docket – Vol. II, pp. 846–855, Exhibit "P-32"; Docket – Vol. III, pp. 1005–1007, Minutes of the hearing held on, and Order dated, February 15, 2023.
[31] Docket – Vol. I, pp. 184–190, Exhibit "P-31"; Docket – Vol. III, pp. 1042–1044, Minutes of the hearing held on, and Order dated, March 30, 2023.
[32] Docket – Vol. III, pp. 1027–1040, Exhibit "P-37" (offered as Exhibit "P-34"); 1042–1044, Minutes of the hearing held on, and Order dated, March 30, 2023.
[33] Docket – Vol. III, p. 1001, *Oath of Commission* dated January 26, 2023; 1002–1004, Minutes of the hearing held on, and Order dated, January 26, 2023.
[34] Docket – Vol. III, pp. 1045–1054.
[35] *Id.* at 1056–1058.

In a Resolution dated May 5, 2023,[36] the Court admitted petitioner's offered exhibits, *except* Exhibits "P-16-139" and "P-16-195", for not being found in the records of the case; and Exhibit "P-17," for failure to submit the duly marked exhibit.

On May 18, 2023, petitioner filed a *Motion for Partial Reconsideration*,[37] praying the Court to partially reconsider its Resolution dated May 5, 2023, and to admit into evidence petitioner's Exhibits "P-17", "P-16-139", "P-35", "P-1-ICPA", "P-2-ICPA", "P-3-ICPA", "P-4-ICPA", "P-5-ICPA", "P-6-A-ICPA", "P-6-B-ICPA", "P-7-ICPA series", Annex "A.1-ICPA" and "P-36". Respondent filed a *Comment (Re: Petitioner's Motion for Partial Reconsideration dated 18 May 2023)* on June 5, 2023.[38]

In the Resolution promulgated on July 6, 2023,[39] the Court admitted Exhibits "P-16-139" and "P-17", *except* Exhibits "P-1-ICPA", "P-2-ICPA", "P-3-ICPA", "P-4-ICPA", "P-5-ICPA", "P-6-A-ICPA", "P-6-B-ICPA", "P-7-ICPA series" and Annex "A.1-ICPA", for not being properly offered.

For his part, respondent offered the testimony of Revenue Officer (RO) Ellen TS. Espiritu.[40]

After presenting his lone witness, respondent filed a *Formal Offer of Evidence*[41] on August 9, 2023, to which petitioner filed a *Comment/Opposition (re: respondent's Formal Offer of Evidence dated August 9, 2023)* on August 22, 2023.[42]

On September 13, 2023, the Court issued a Resolution[43] admitting all of respondent's offered exhibits. In the same Resolution, the parties were given thirty (30) days from notice to file their respective memoranda.

With the filing of petitioner's *Memorandum* on October 18, 2023[44] and respondent's *Manifestation* on October 23, 2023,[45] adopting his arguments in his *Answer* dated April 19, 2022 as his *Memorandum*, the instant case was submitted for decision on November 9, 2023.

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[36] *Id.* at 1061–1064.
[37] *Id.* at 1067–1070.
[38] *Id.* at 1080 to 1082.
[39] *Id.* at 1087–1091.
[40] *Id.* at 897–904, Exhibit "R-8"; 1099–1100, Order dated August 8, 2023.
[41] *Id.* at 1104–1107.
[42] *Id.* at 1111–1115.
[43] *Id.* at 1119–1120.
[44] *Id.* at 1154–1180.
[45] *Id.* at 1184–1186.

THE ISSUE

As stipulated by the parties,[46] the lone issue for this Court's resolution is:

> WHETHER PETITIONER IS ENTITLED TO A REFUND IN THE AMOUNT OF EIGHTY-NINE MILLION SEVEN HUNDRED SIXTY THOUSAND NINE HUNDRED SIX PESOS AND SEVENTY-ONE CENTAVOS (₱89,760,906.71) REPRESENTING ERRONEOUSLY PAID VAT FOR THE PERIOD JANUARY 23, 2020 TO APRIL 30, 2020.

Petitioner's arguments:

Petitioner asserts that its importation of prescription drugs and medicines for diabetes, high cholesterol, and hypertension are exempt from VAT; that in good faith, petitioner duly substantiated its claim for refund based on the prevailing issuances at the time of filing of the said claim; that RMC No. 99-2021 does not apply to its refund claim; and that the taxes erroneously collected by the BIR must be refunded under the principle of *solutio indebiti*.

Respondent's counter-arguments:

Respondent contends that the instant claim should be denied for petitioner's failure to substantiate its claim for refund at the administrative level; that it is incumbent upon petitioner to prove its entitlement to the refund, as a refund is not *ipso facto* granted upon filing; that tax refunds are subject to administrative routinary investigation and are strictly construed against the taxpayer and in favor of the government.

THE COURT'S RULING

Pertinent to the resolution of the issue at hand are Sections 204(C) and 229 of the NIRC of 1997, as amended, which read as follows:

> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* — The Commissioner may x x x

[46] Docket – Vol. III, p. 970, JSFI, Stipulated Issue, par. 20.

> (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty**: *Provided, however,* that a return filed showing an overpayment shall be considered as a written claim for credit or refund. xxx
>
> SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* — No suit or proceeding shall be maintained in any court for the recovery of any **national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected**, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> **In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment**: *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid. (*Emphasis supplied*)

Pursuant to the aforementioned provisions, to be entitled to a refund of erroneously or illegally collected taxes, the following requisites must be satisfied and established:

1. that the tax has been erroneously or illegally collected, or the penalty has been collected without authority, and/or any sum has been excessively or in any manner wrongfully collected; and

2. that the claim for refund or credit has been filed within two years from the date of payment of tax, or penalty, regardless of any supervening cause that may arise after payment.

As in other refund cases, the Court must first determine the timeliness of petitioner's administrative and judicial claims for a refund.

Both Sections 204 and 229 of the NIRC of 1997, as amended, govern the refund of erroneously or illegally collected taxes. Section 204 applies to administrative claims for refund, while Section 229 pertains to judicial claims for refund. In both instances, the claim must be filed within two (2) years from the date of tax payment or penalty. Notably, Section 229 requires that an administrative claim for refund must first be lodged with the CIR before the taxpayer may seek judicial intervention for the claim for refund or credit.[47] The two (2)-year prescriptive period is mandatory, regardless of any supervening cause that may arise after payment.[48]

In other words, filing the claim for refund with respondent is a pre-requisite to filing a Petition for Review with this Court. However, both the administrative and judicial claims must be filed within two (2) years from the date of the tax payment being refunded.

Petitioner's administrative and judicial claims for refund were filed within the 2-year prescriptive period.

Record shows that petitioner, on various dates from January 23, 2020 to April 20, 2020, paid VAT on its importation of prescription drugs and medicines for diabetes, high cholesterol, and hypertension, covering the period from January 17, 2020, to April 20, 2020. [49] Counting from the earliest payment on January 23, 2020,[50] petitioner had until January 23, 2022, to file its administrative and judicial claims for a refund.

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[47] *CBK Power Company Limited v. Commissioner of Internal Revenue*, G.R. Nos. 193383-84 & 193407-08, January 14, 2015 [Per J. Perlas-Bernabe, First Division].

[48] *Commissioner of Internal Revenue v. Manila Electric Company (MERALCO)*, G.R. No. 181459, June 9, 2014 [Per J. Peralta, Third Division].

[49] Docket – Vol. III, pp. 967–968, JSFI, Stipulated Facts, par. 3.

[50] *Id.*; Exhibit "P-14", BIR Records, p. 1.

However, due to the alarming increase in COVID-19 infections, the Supreme Court issued Administrative Circular No. 01-2022 on January 10, 2022,[51] extending "the filing periods of any and all pleading and other court submissions falling due in the month of January 2022 in all courts" until February 1, 2022. Notably, February 1, 2022,[52] was declared a special non-working day under Presidential Proclamation No. 1236, dated October 29, 2021.[53] Consequently, petitioner had until February 2, 2022, to file its judicial claim.

Evidently, petitioner's administrative claim for a refund, filed on December 15, 2020, with the BIR,[54] and the *Petition for Review* filed with this Court on February 2, 2022,[55] are well within the two (2)-year prescriptive period.

The importation of prescription drugs and medicines for diabetes, high cholesterol, and hypertension from January 23, 2020, to April 20, 2020, is exempt from VAT; hence, petitioner successfully proved that the VAT payment was erroneous.

Section 109(1)(AA)(i) of the NIRC of 1997, as amended by RA No. 10963,[56] otherwise known as the Tax Reform for Acceleration and Inclusion Act (TRAIN), and further amended by RA No. 11467,[57] provides that the importation of prescription drugs and medicines for diabetes, among others, is exempt from VAT, as follows:

> "SEC. 109. *Exempt Transactions.* – (1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be **exempt from the value-added tax**:
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> xxx xxx xxx

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[51] Extension of the deadline for the filing of any and all pleadings and other court submissions falling due in the month of January 2022 in all courts.
[52] Chinese New Year was observed on February 1, 2022 (Tuesday).
[53] Declaring the regular holidays and special (working/non-working) days for the year 2022.
[54] Docket – Vol. I, pp. 103–110, Exhibit "P-3".
[55] Docket – Vol. I, pp. 7–54; Docket – Vol. III, p. 970, JSFI, Stipulated Facts, par. 19.
[56] AN ACT AMENDING SECTIONS 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35,62, AND 89; ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.
[57] *Supra* note 7.

> (AA) Sale or **importation of prescription drugs and medicines** for:
>
> i. **Diabetes, high cholesterol, and hypertension beginning January 1, 2020**; and
> ii. Cancer, mental illness, tuberculosis, and kidney diseases beginning January 1, 2023:
>
> Provided, That the DOH shall issue a list of approved drugs and medicines for this purpose within sixty (60) days from the effectivity of this Act: xxx *(Emphases and underscoring added)*

Pursuant to the foregoing provision, RMC No. 62-2020[58] was issued on June 8, 2020, following the release of a letter dated March 2, 2020, by the DOH-FDA with an approved list of medicines for diabetes, high cholesterol, and hypertension that qualified for VAT exemption beginning January 27, 2020. Furthermore, on October 14, 2020, respondent issued RMC No. 113-2020,[59] clarifying that the effectivity date of RA No. 11467 was January 23, 2020, rather than January 27, 2020, based on the law's publication in the Official Gazette via its website on that date.[60]

It is worth noting, however, that while RMC No. 113-2020 indicates that the exemption begins on January 23, 2020, RA No. 11467 explicitly provides for an effectivity date of January 1, 2020.

The time-honored doctrine in case of conflict is that the law prevails over the administrative regulations implementing it. The authority to promulgate implementing rules proceeds from the law itself. To be valid, a rule or regulation must conform to and be consistent with the provisions of the enabling statute.[61] Thus, if a discrepancy occurs between the law and an implementing rule or regulation, the law prevails because the law cannot be broadened by a mere administrative issuance — an administrative agency certainly cannot amend an act of Congress.[62]

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58 SUBJECT: Publishing the full text of the letter from the Food and Drug Administration (FDA) of the Department of Health (DOH) containing the "List of Prescription Drugs and Medicines for Diabetes, High-Cholesterol and Hypertension Exempt from VAT beginning January 27, 2020" pursuant to Section 1 of Republic Act No. 11467.

59 SUBJECT: Publishing the full text of the letter from the Food Publishing the Full Text of the Letter from the Department of Finance (DOF) to Amend the Effectivity Date of Republic Act (R.A.) No. 11467, as Circularized Under Revenue Memorandum Circular No. 65-2020.

60 Docket – Vol. III, p. 968, JSFI, Stipulated Facts, par. 8.

61 *Perez v. Philippine Telegraph and Telephone Company*, G.R. No. 152048, April 7, 2009 [Per J. Corona, *En Banc*].

62 *MCC Industrial Sales Corporation v. Ssangyong Corporation*, G.R. No. 170633, October 17, 2007 [Per J. Nachura, Third Division].

Administrative issuances must not override, supplant, or modify the law; they must remain consistent with the law intended to carry out.[63] Particularly, administrative issuances such as revenue memorandum circulars cannot amend or modify the law.[64]

In the recent case of *Manila Peninsula Manila Hotel, Inc. v. Commissioner of Internal Revenue,*[65] the Supreme Court cited *Philippine Bank of Communications v. Commissioner of Internal Revenue,*[66] where it upheld the nullification of RMC No. 7-85 for being inconsistent with Section 230 of the 1977 NIRC. In so doing, the Supreme Court stated that the BIR did not simply interpret the law; instead, it legislated guidelines contrary to the statute passed by Congress. Thus, the Court held as follows:

> "It bears repeating that Revenue [Memorandum Circulars] are considered administrative rulings (in the sense of more specific and less general interpretations of tax laws) which are issued from time to time by the Commissioner of Internal Revenue. It is widely accepted that the interpretation placed upon a statute by the executive officers, whose duty is to enforce it, is entitled to great respect by the courts. Nevertheless, such interpretation is not conclusive and will be ignored if judicially found to be erroneous. Thus, **courts will not countenance administrative issuances that override, instead of remaining consistent and in harmony with, the law they seek to apply and implement**." *(Emphasis added)*

Similarly, in *Saint Wealth Ltd. v. Bureau of Internal Revenue,*[67] the Supreme Court *En Banc* declared certain parts of RMC No. 102-2017 and RMC No. 78-2018 invalid and unconstitutional for being issued without any statutory basis and for encroaching upon the legislative power to enact laws.

Applying these jurisprudential pronouncements to the present case, the Court holds that the importation of prescription drugs and medicines for diabetes, high cholesterol, and hypertension is exempt from VAT beginning January 1, 2020.

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[63] *Bureau of Internal Revenue v. First E-Bank Tower Condominium Corp.*, G.R. No. 215801 & 218924, January 15, [Per J. Lazaro-Javier, First Division].

[64] *ING Bank N.V. v. Commissioner of Internal Revenue*, G.R. No. 167679 (Resolution), April 20, 2016 [Per J. Leonen, Second Division].

[65] G.R. No. 229338, April 17, 2024 [Per J. Caguioa, Third Division].

[66] G.R. No. 112024, January 28, 1999 [Per J. Quisumbing, Second Division].

[67] G.R. Nos. 252965 and 254102, December 7, 2021 [Per J. Gaerlan, *En Banc*].

Notably, the parties have already stipulated that petitioner imported various prescription drugs and medicines for diabetes, high cholesterol, and hypertension from January 17, 2020 to April 20, 2020 and that these imported products were subjected to VAT on importation, which petitioner paid per relevant importations from January 23, 2020 to April 20, 2020.[68] Furthermore, they stipulated that the total VAT paid by petitioner during the relevant period for the medicines covered by RA No. 11467, as listed in the DOH-FDA's letter published under RMC No. 62-2020, amounted to ₱89,760,906.71.[69]

Nevertheless, petitioner submitted in evidence the related BOC SADs, SSDTs, and suppliers' invoices which reflected VAT payments in the total amount of ₱95,308,789.42, which is higher by a net amount of ₱5,547,882.71, when compared with that of petitioner's claim of ₱89,760,906.71, as summarized below:

Invoice	SAD	SSDT	SSDT Date	Item Description	VAT Payment		Discrepancy/ Claim is (higher)/lower
					Per SAD/SSDT	Per Claim	
Exhibit "P-16-3"	Exhibit "P-16-1"	Exhibit "P-16-2"	29 January 2020	20188 PCS TRAJENTA, FICTA	₱ 500,325.00	₱ 500,325.00	-
Exhibit "P-16-6"	Exhibit "P-16-4"	Exhibit "P-16-5"	29 January 2020	CATAPRESAN , TABS/100/0.075MG BLI RP	4,324,043.00	4,324,043.00	-
Exhibit "P-16-9"	Exhibit "P-16-7"	Exhibit "P-16-8"	30 January 2020	MICARDIS , TABS/30/40MG BLI RP JARDIANCE , FICTA / 10/25MG BLI PH	2,788,265.00	2,788,265.00	-
Exhibit "P-16-12"	Exhibit "P-16-10"	Exhibit "P-16-11"	23 January 2020	MICARDIS , TABS/30/40MG BLI RP	2,728,295.00	2,728,295.00	-
Exhibit "P-16-15"	Exhibit "P-16-13"	Exhibit "P-16-14"	24 February 2020	11899 PCS TWYNSTA,LTAB/30/ 40/10 MG	874,928.00	874,928.00	-
Exhibit "P-16-18"	Exhibit "P-16-16"	Exhibit "P-16-17"	24 February 2020	19188 PCS TWYNSTA LTAB/30/80/10MG	1,995,626.00	1,995,626.00	-
Exhibit "P-16-21"	Exhibit "P-16-19"	Exhibit "P-16-20"	24 February 2020	5457 PCS JARDIANCE DUO,FICTA	188,973.00	188,973.00	-
Exhibit "P-16-24"	Exhibit "P-16-22"	Exhibit "P-16-23"	5 February 2020	JARDIANCE FICTA 30/10MG RP	2,840,734.80[70]	2,845,227.71	(4,492.91)

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68 Docket – Vol. III, pp. 967–968, JSFI, Stipulated Facts, par. 3.
69 *Id.* at 968, JSFI, Stipulated Facts, par. 9.
70 xxx

	Dutiable Value per SAD (Annex A.1 ICPA Report, Exh. "P-27", USB)	Gross Weight in KG per SAD	Allocation of the difference between Dutiable Value and VATable Value per SAD	VATable Value (Landed Cost) per SAD	12% VAT per SAD
Jardiance Ficta 30/10MG RP	₱21,781,312.95				
Jardiance Duo, Ficta/10/12.5+500MG	762,096.41				
Subtotal	₱22,543,409.36	1,636,000	₱1,129,380.62	₱23,672,789.98	₱2,840,734.80
Pradaxa, Capsu/ 30/110 MG	890,130.76	94,000	64,891.06	955,021.82	114,602.62

				JARDIANCE DUO, FICTA/10/12.5+500 MG BLI			
				PRADAXA, CAPSU/ 30/110 MG	114,602.62[71]		114,602.62
				GLYXAMBI, FICTA/10/10+5MG BLI RP	406,744.00	405,725.00	1,019.00
				SPIRIVA OTHER MED. AIDS HANDIHALER	18,318.00		18,318.00
Exhibit "P-16-27"	"Exhibit P-16-25"	Exhibit "P-16-26"	19 February 2020	JARDIANCE DUO , FICTA/30/12.5/1000MG RP GLYXAMBI FICTA/30/10/5MG RP	9,924,683.00	9,924,683.00	-
Exhibit "P-16-30"	Exhibit "P-16-28"	Exhibit "P-16-29"	10 February 2020	7600 PCS TRAJENTA DUO FICTA	509,511.00	509,511.00	-
Exhibit "P-16-33"	Exhibit "P-16-31"	Exhibit "P-16-32"	7 February 2020	20886 PCS TWYNSTA, LTAB	2,188,419.00	2,188,419.00	-
Exhibit "P-16-36"	Exhibit "P-16-34"	Exhibit "P-16-35"	12 February 2020	24480 PCS MICARDIS,TABS/30 /80MG BLI RP	1,892,552.00	1,892,552.00	-
Exhibit "P-16-39"	Exhibit "P-16-37"	Exhibit "P-16-38"	17 February 2020	7972 PCS TRAJENTA DUO,FICTA	506,452.00	506,452.00	-
Exhibit "P-16-42"	Exhibit "P-16-40"	Exhibit "P-16-41"	19 February 2020	17280 PCS TWYNSTA,LTAB/30/ 40/5MG RP	1,266,186.00	1,266,186.00	-
Exhibit "P-16-45"	Exhibit "P-16-43"	Exhibit "P-16-44"	17 February 2020	16647 PCS TWYNSTA,LTAB/30/ 40/5MG RP	1,221,437.00	1,221,437.00	-
Exhibit "P-16-48"	Exhibit "P-16-46"	Exhibit "P-16-47"	19 February 2020	17895 PCS TWYNSTA,LTAB730/ 40/5MG RP	1,312,056.00	1,312,056.00	-
Exhibit "P-16-51"	Exhibit "P-16-49"	Exhibit "P-16-50"	21 February 2020	12816 PCS JARDIANCE FICTA/10/25MG	474,244.00	474,244.00	-
Exhibit "P-16-54"	Exhibit "P-16-52"	Exhibit "P-16-53"	27 February 2020	GLYXAMBI FICTA/10/10+5MG BLI RP JARDIANCE , FICTA/30/25MG RP	5,710,729.00	5,710,729.00	-
Exhibit "P-16-57"	Exhibit "P-16-55"	Exhibit "P-16-56"	27 February 2020	SPIRIVA , INHCA/ 30/18UG REFILL RP	1,767,397.00		1,767,397.00
				JARDIANCE, FICTA/ 10/10MG	399,283.00	398,184.00	1,099.00
Exhibit "P-16-60"	Exhibit "P-16-58"	Exhibit "P-16-59"	26 February 2020	19440 PCS TWYNSTA LTAB 30/80/10MG	2,020,229.00	2,020,229.00	-
Exhibit "P-16-63"	Exhibit "P-16-61"	Exhibit "P-16-62"	28 February 2020	35187 PCS TRAJENTA DUO FICTA	2,352,135.00	2,352,135.00	-
Exhibit "P-16-66"	Exhibit "P-16-64"	Exhibit "P-16-65"	28 February 2020	14676 PCS JARDIANCE DUO FICTA /10/12.5 +1000MG	724,905.00	724,905.00	-
Exhibit "P-16-69"	Exhibit "P-16-67"	Exhibit "P-16-68"	12 March 2020	15387 PCS TWYNSTA,LTAB/30/ 40/5MG	1,130,147.00	1,130,147.00	-
Exhibit "P-16-72"	Exhibit "P-16-70"	Exhibit "P-16-71"	11 March 2020	14400 PCS TWYNSTA, LTAB 30/40/5MG RP	1,069,583.00	1,069,583.00	-
Exhibit "P-16-75"	Exhibit "P-16-73"	Exhibit "P-16-74"	11 March 2020	7354 PCS TWYNSTA,LTAB/30/ 40/5MG RP	540,972.00	540,972.00	-
Exhibit "P-16-78"	Exhibit "P-16-76"	Exhibit "P-16-77"	5 March 2020	GIOTRIF ,FICTA/28/30MG BLI RP	1,642,891.00		1,642,891.00
				JARDIANCE , FICTA/30/25MG RP	5,368,840.00	5,371,285.00	(2,445.00)

Total	**₱23,433,540.12**	**1,730,000**	**₱1,194,271.68**	**₱24,627,811.80**	**₱2,955,337.42**

71 *Id.*

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				GLYXAMBI,FICTA/30/25/5MG	4,483,479.00	4,484,821.00	(1,342.00)
				TRAIN-KIT=PLAC, DOSLI/4ML 1/+RSP GB	2,010,836.00		2,010,836.00
Exhibit "P-16-81"	Exhibit "P-16-79"	Exhibit "P-16-80"	11 March 2020	MICARDIS , TABS/30/40MG BLI RP	2,552,961.00	2,552,961.00	-
Exhibit "P-16-84"	Exhibit "P-16-82"	Exhibit "P-16-83"	10 March 2020	MICARDIS , TABS/30/40MG BLI RP	2,436,939.00	2,436,939.00	-
Exhibit "P-16-87"	Exhibit "P-16-85"	Exhibit "P-16-86"	13 March 2020	6323 PCS TWYNSTA, LTAB/30/40/5MG	472,021.00	472,021.00	-
Exhibit "P-16-90"	Exhibit "P-16-88"	Exhibit "P-16-89"	25 March 2020	14027 PCS TWYNSTA,LTAB/30/40/10 MG	1,032,225.00	1,032,225.00	-
Exhibit "P-16-198"	Exhibit "P-16-196"	Exhibit "P-16-197"	3 April 2020	MICARDIS PLUS, TABS/30/40+12,5MG BLI RP	2,704,709.00	2,704,709.00	-
Exhibit "P-16-201"	Exhibit "P-16-199"	Exhibit "P-16-200"	3 April 2020	MICARDIS , TABS/30/40MG BLI RP	2,672,798.00	2,672,798.00	-
Exhibit "P-16-204"	Exhibit "P-16-202"	Exhibit "P-16-203"	6 April 2020	GLYXAMBI FICTA/30/25/5MG RP 1	5,846,959.00	5,846,959.00	-
Exhibit "P-16-207"	Exhibit "P-16-205"	Exhibit "P-16-206"	6 April 2020	MICARDIS PLUS TABS/30/4+12, 5MG BLI RP	837,084.00	837,084.00	-
Exhibit "P-16-210"	Exhibit "P-16-208"	Exhibit "P-16-209"	3 April 2020	MICARDIS, TABS/30/80MG BLI RP| JARDIANCE DUO, FICTA/20/12.5/500 MG RP	5,100,086.00	5,100,086.00	-
Exhibit "P-16-213"	Exhibit "P-16-211"	Exhibit "P-16-212"	16 April 2020	MICARDIS , TABS/30/40MG BLI RP	2,636,812.00	2,636,812.00	-
Exhibit "P-16-216"	Exhibit "P-16-214"	Exhibit "P-16-215"	17 April 2020	7,844 PCS TWYNSTA,LTAB/30/80+5MG	862,205.00	862,205.00	-
Exhibit "P-16-219"	Exhibit "P-16-217"	Exhibit "P-16-218"	17 April 2020	9,432 PCS TRAJENTA DUO, FICTA/30/2.5+1000 MG	637,594.00	637,594.00	-
Exhibit "P-16-222"	Exhibit "P-16-220"	Exhibit "P-16-221"	20 April 2020	20,160 PCS TWYNSTA,LTAB/30/80/10MG	2,218,576.00	2,218,576.00	-
				TOTAL	**₱95,308,789.42**	**₱89,760,906.71**	**₱5,547,882.71**

It is important to note that the following discrepancy amounting to ₱5,554,044.62 does not form part of petitioner's claim, as this represents VAT paid on prescription drugs and medicines that are not included in the DOH-FDA approved list of VAT-exempt prescription drugs and medicines:

Invoice	**SAD**	**SSDT**	**SSDT Date**	**Item Description**	**Discrepancy**
Exhibit "P-16-24"	Exhibit "P-16-22"	Exhibit "P-16-23"	5 February 2020	PRADAXA, CAPSU/ 30/110 MG	₱ 114,602.62
				SPIRIVA OTHER MED. AIDS HANDIHALER	18,318.00
Exhibit "P-16-57"	Exhibit "P-16-55"	Exhibit "P-16-56"	27 February 2020	SPIRIVA, INHCA/ 30/18UG REFILL RP	1,767,397.00
Exhibit "P-16-78"	Exhibit "P-16-76"	Exhibit "P-16-77"	5 March 2020	GIOTRIF, FICTA/28/30MG BLI RP	1,642,891.00
				TRAIN-KIT=PLAC, DOSLI/4ML 1/+RSP GB	2,010,836.00
				Total	**₱5,554,044.62**

Anent the discrepancies involving petitioner's claim, the Court finds instances where the claimed amount exceeded the payment reflected per SAD/SSDT or vice-versa. Therefore, in line with the principle that tax refunds are strictly construed, this Court shall only consider the lesser of the two amounts. Accordingly, petitioner's claim for a refund requires a downward adjustment of ₱8,279.91, broken down as follows:

Invoice	SAD	SSDT	SSDT Date	Item Description	VAT Payment		Claim is higher
					Per SAD/SSDT	Per Claim	
Exhibit "P-16-24"	Exhibit "P-16-22"	Exhibit "P-16-23"	5 February 2020	JARDIANCE FICTA 30/10MG RP JARDIANCE DUO, FICTA/10/12.5+500MG BLI	₱2,840,734.80	₱2,845,227.71	₱ (4,492.91)
				JARDIANCE FICTA/30/25MG RP	5,368,840.00	5,371,285.00	(2,445.00)
				GLYXAMBI,FICTA/30/25/5MG	4,483,479.00	4,484,821.00	(1,342.00)
						Total	**₱ (8,279.91)**

The requirement that the input tax on imported items must not have been reported or claimed as an input tax credit in the monthly and/or quarterly VAT returns should not apply to petitioner's refund claim.

Petitioner argues that RMC No. 99-2021,[72] issued on **August 16, 2021,** does not apply to its refund claim, which was already filed on **<u>December 15, 2020</u>**. In other words, according to petitioner, the requirement to reflect the importation as part of the *"Purchases not Qualified for Input Tax"* row in the Quarterly VAT Return and Monthly VAT Declaration did not exist at the time petitioner filed its refund.

The Court agrees with petitioner.

The denial by OIC-ACIR Manuel V. Mapoy of petitioner's administrative claim, as stated in his letters dated February 8,

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72 SUBJECT: Clarifying Issues Relative to the Value-Added Tax (VAT) Exemption of Certain Medicines and other Medical Devices for COVID-19 Under Sections 109(1)(AA) and 109(l)(BB)(ii) of the National Internal Revenue Code of 1997 (Tax Code), as Amended by Republic Act (RA) Nos. 10963 (TRAIN Law), 11467 and 11534 (CREATE Act).

2021[73] and June 3, 2021,[74] is anchored on Section 3 of RR No. 18-2021,[75] issued on June 26, 2020,[76] to wit:

> "SECTION 3. *Transitory Provisions.* — **VAT on importation of prescription drugs and medicines for diabetes, high cholesterol, and hypertension included in the Department of Health-Food and Drug Administration (DOH-FDA) approved list from the effectivity of R.A. No. 11467 on January 27, 2020 until the effectivity of these Regulations, shall be refunded pursuant to Section 204 (C) of the Tax Code of 1997, as amended, in accordance with the existing procedures for refund of VAT on importation, <u>provided that the input tax on the imported items have not been reported and claimed as input tax credit in the monthly and/or quarterly VAT returns</u>**. The same shall not be allowed as input tax credit pursuant to Section 110 of the Tax Code of 1997, as amended, for purposes of computing the VAT payable of the concerned taxpayer/s for the said period." *(Emphases and underscoring added)*

Subsequently, RMC No. 99-2021[77] was issued on August 16, 2021. Q6/A6 therein provides:

> **"Q6: In relation to RR No. 18-2020, please further clarify the meaning of the phrase, '*provided that the input tax on the imported items have not been reported as input tax credit in the monthly and/or quarterly VAT returns*', found in Section 3 (Transitory Provisions) thereof, in order to refund the erroneously paid VAT on importation of VAT-exempt drugs?**
>
> A6: **The above-mentioned phrase was included therein to ensure that the imported items have not been reported and claimed as input tax credit in the monthly and quarterly VAT returns pursuant to Section 110 of the Tax Code of 1997, as amended, for purposes of computing the VAT payable.** However, the taxpayer may be allowed to reflect the said importation as part of the 'Purchases not Qualified for Input Tax' row of the monthly and quarterly VAT returns

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73 Docket – Vol. III, p. 969, JSFI, Stipulated Facts, par. 13; Docket - Vol. I, pp. 144–145, Exhibit "P-19".
74 *Id.* at 969, JSFI, Stipulated Facts, par. 15; *Id.* at 163–164, Exhibit "P-24".
75 SUBJECT: Regulations to Implement Section 1 of Republic Act (R.A.) No. 11467, Further Amending Section 109(AA) of the National Internal Revenue Code (Tax Code) of 1997, as Amended by Republic Act (R.A.) No. 10963 or the "TRAIN Law", Providing for Value-Added Tax (VAT) Exemption on the Sales and Importation of Drugs and Medicines Prescribed for Diabetes, High Cholesterol, Hypertension, Cancer, Mental Illness, Tuberculosis, and Kidney Diseases.
76 Docket – Vol. III, p. 968, JSFI, Stipulated Facts, par. 7.
77 SUBJECT: Clarifying Issues Relative to the Value-Added Tax (VAT) Exemption of Certain Medicines and other Medical Devices for COVID-19 Under Sections 109(1)(AA) and 109(l)(BB)(ii) of the National Internal Revenue Code of 1997 (Tax Code), as Amended by Republic Act (RA) Nos. 10963 (TRAIN Law), 11467 and 11534 (CREATE Act).

> to properly show the amount of purchases for a certain period." *(Emphasis added)*

Notably, the phrase *"provided that the input tax on the imported items have not been reported and claimed as input tax credit in the monthly and/or quarterly VAT returns"* found in RR No. 18-2020, does not appear in the law itself, *i.e.*, RA No. 11467. As a corollary, before the effectivity of RR No. 18-2020, no such requirement or condition existed in any BIR administrative issuance.

It is a well-established principle that statutes, **including administrative rules and regulations**, **operate prospectively** unless a clear legislative intent to the contrary is manifest by express terms or necessary implication.[78] There is no clear indication of a legislative intent to apply the requirement that *"the input tax on the imported items have not been reported and claimed as input tax credit in the monthly and/or quarterly VAT returns"* to transactions that already transpired prior to the issuance of RR No. 18-2020 on **June 26, 2020,** and RMC No. 99-2021 on **August 16, 2021**. Thus, this requirement cannot be applied to petitioner's refund claim, which covers transactions from **January 23, 2020 to April 20, 2020**.

Be that as it may, the input tax on the imported items has not been claimed as an input tax credit in the monthly and/or quarterly VAT returns.

A perusal of petitioner's Amended Quarterly VAT Return for the 1st quarter of the calendar year 2020 and Amended Monthly VAT Declaration for April 2020 reveals that while the claimed amount of ₱89,760,906.71 was included in the reported input VAT for *"Importation of Goods Other Than Capital Goods"*,[79] it remained unutilized in the computation of the VAT payable, because it was also deducted as *"VAT Refund/TCC claimed"* in that same VAT return and declaration, in the amounts of ₱66,244,083.71 [80] and ₱23,516,823.00, [81] respectively. Consequently, this claim no longer formed part of the excess input VAT of ₱6,434,932.90 as of April 30, 2020,

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78 *BPI Leasing Corporation v. Court of Appeals*, G.R. No. 127624, November 18, 2003 [Per J. Azcuna, First Division].
79 Exhibit "P-27", Line 21H (₱142,931,815.99) and Exhibit "P-28", Line 18H (₱28,941,024.82) as summarized in Exhibit "P-16", USB.
80 Exhibit "P-27", Line 23D, USB.
81 Exhibit "P-28", Line 20D, USB.

which was to be carried over to the succeeding months/quarters. Thus, on this score, petitioner must be deemed to have satisfied the wisdom behind above-stated requirement under RR No. 18-2020, as articulated in the above-quoted A6 of RMC No. 99-2021, which aims *"to ensure that the imported items have not been reported and claimed as input tax credit in the monthly and quarterly VAT returns pursuant to Section 110 of the Tax Code of 1997, as amended, for purposes of computing the VAT payable."*

In summary, petitioner has sufficiently demonstrated that the claimed amount of ₱89,760,906.71 was not claimed as an input tax credit in its VAT returns for the subject period of claim and in the succeeding months/quarters.

Verily, the amount of ₱89,752,626.80, as computed below, constitutes erroneously paid VAT that is refundable pursuant to Sections 204 and 229(C) of the NIRC of 1997, *viz.*:

Amount of VAT Claim	₱ 89,760,906.71
Less: Overstatement of Claim	8,279.91
Refundable VAT Claim	**₱89,752,626.80**

WHEREFORE, in light of the foregoing considerations, the *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND** to petitioner the amount of **₱89,752,626.80**, representing the erroneously paid value-added tax on its importation of prescription drugs and medicines for diabetes, high cholesterol, and hypertension from January 23, 2020 to April 20, 2020.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice