REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

CARMEN COPPER CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE No. 10016

Members:

CASTAÑEDA, JR., *Chairperson, and*
BACORRO-VILLENA, ***JJ.***

Promulgated:

OCT 2 8 2020
1:00 p.m.

x - x

DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Carmen Copper Corporation (**petitioner**) praying for a cash refund in the amount of ₱36,112,921.13, representing unutilized input Value-Added Tax (**VAT**)

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[1] Pursuant to Section 3(a)(1) of Rule 4 on Jurisdiction of the Court of the *2005 Revised Rules of the CTA, as amended.*

...

Section 3. Cases within the jurisdiction of the Court in Division. – The Court in Division shall exercise:

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

(1) **Decisions of the Commissioner of Internal Revenue** in cases involving disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue. (Emphasis supplied)

...

for the third (3^{rd}) quarter of taxable year (**TY**) 2016 or for the period of 01 July to 30 September 2016, arising from domestic purchase of goods and services, as well as importations attributable to its zero-rated sales.

Petitioner is a domestic corporation duly organized and existing under Philippine laws, engaged in mining activities and the subsequent sale of minerals for domestic and foreign markets.[2] It is registered with the Bureau of Internal Revenue[3] (**BIR**) as a VAT taxpayer and with the Board of Investment[4] (**BOI**) as New Producer of Copper Concentrate.

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue (**respondent/CIR**) empowered to perform the duties of the said office; including, among others, the power to decide, approve and grant tax refunds or tax credits as provided for by law.

FACTS OF THE CASE

On 25 October 2016, petitioner filed its quarterly VAT return (BIR Form 2550-Q[5]) for the 3^{rd} quarter of TY 2016 with the BIR, showing excess and unutilized input taxes of ₱48,244,448.10, attributable to its zero-rated transactions.

On 26 September 2018 and within two (2) years from the close of the 3^{rd} quarter of 2016, petitioner filed an administrative claim[6] for cash refund with the BIR VAT Credit Audit Division (**VCAD**) amounting to ₱48,244,448.10.

On 27 December 2018, petitioner received a letter[7] dated 12 December 2018 (**denial letter**) from Assistant Commissioner of Internal Revenue Erlinda A. Simple (**ACIR Simple**), partially granting its claim for cash refund in the total amount of ₱12,131,526.97 and denying the amount of ₱36,112,921.13.

2 Exhibit "P-1", Division Docket, p. 274.
3 Exhibit "P-2", id., p. 290.
4 Exhibit "P-4", id., p. 293.
5 Exhibit "P-6", id., p. 303.
6 Exhibits "P-7" and "P-8", inclusive of submarkings, id., pp. 304-305.
7 Exhibit "P-10", id., p. 307.

PROCEEDINGS BEFORE THE COURT

Aggrieved, petitioner filed a Petition for Review before this Court on 24 January 2019 assailing the denied portion of its claim for refund in the amount of ₱36,112,921.13. Respondent filed his Answer[8] on 15 February 2019. Thereafter, the Court issued a Notice of Pre-Trial Conference[9] and the parties also subsequently filed their Pre-Trial Briefs.[10]

During the Pre-Trial Conference[11], the Court gave the parties twenty (20) days to file their Joint Stipulation of Facts and Issues (**JSFI**). The parties filed their JSFI[12], which the Court approved and adopted in the Pre-Trial Order[13] of 15 April 2019. The Pre-Trial was thereafter terminated.

Trial then ensued where petitioner presented Fernando A. Rimando[14] (**Rimando**), its Chief Financial Officer, and Joel C. Romano[15] (**Romano**), the Court-commissioned Independent Certified Public Accountant (**ICPA**), who both executed their Judicial Affidavits in lieu of their direct testimony.

As the Chief Financial Officer, Rimando supervised, among others, the preparation of petitioner's tax returns and other financial reports before their filing with the BIR and other government agencies. He identified the documents in relation to the registration of petitioner and the filed VAT return for the 3rd quarter of 2016.

Rimando also explained the nature of petitioner's business as mainly engaged in export sale of mineral products which are considered as zero-rated sale, with only minimal VATable and exempt sales. The bulk of zero-rated sales resulted in unutilized input VAT,

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8 Id., pp. 59-66.
9 Id., pp. 74-75.
10 Petitioner filed its Pre-Trial Brief on 11 March 2019, id., pp. 125-139; while respondent filed his Pre-Trial Brief on 12 March 2019, id., pp. 140-144.
11 See Order dated 14 March 2019, id., p. 197.
12 Filed 02 April 2019, id., pp. 203-212.
13 Id., pp. 218-221.
14 Exhibit "P-11", id., pp. 145-160.
15 Exhibit "P-14", id., pp. 253-260.

which became the subject of its administrative and judicial claims for refund.

Rimando also testified that the denial letter provided little information as to the factual and legal bases of the partial denial of its claim. No cross-examination was conducted.

ICPA Romano, on the other hand, affirmed that he examined documents relating to petitioner's claim for refund and that he prepared a report as to his findings. He also confirmed the contents of his ICPA Report. No cross-examination was also conducted.

After the testimony of its witnesses, petitioner filed its Formal Offer of Evidence[16] (**FOE**) on 17 June 2019. The Court admitted all of petitioner's exhibits in a Resolution[17] dated 18 July 2019, except for Exhibit "P-40-co"[18] as the same could not be found in the records.

Respondent, for his part, presented Revenue Officer Jun-Jun B. Andallo[19] (**RO Andallo**) who executed a Judicial Affidavit in lieu of his direct testimony. RO Andallo was respondent's only witness.

On the witness stand, RO Andallo declared he holds the position of Revenue Officer IV assigned at the Tax Audit Review Division (**TARD**), an office tasked to review and evaluate verification report on claims for excess input tax credits. According to him, he reviewed petitioner's claim, he recommended the refund of ₱12,131,526.97, as contained in his Memorandum Report dated 12 December 2018.[20] The Letter dated 12 December 2018, with attached computation of the amount recommended for refund, was sent to Rimando.

On cross-examination[21], when asked about his participation in the verification of petitioner's refund claim, RO Andallo explained that

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16 Id., pp. 263-273.
17 Id., pp. 315-316.
18 Part of the series formally offered as "Various documents including schedules, summaries, VAT returns, VAT invoices and official receipts ("ORs"), import entry declarations and other relevant customs documents, bills of lading and other relevant export documents pertaining to the claim for VAT refund examined by the Independent Certified Public Accountant.
19 Exhibit "R-6", Division Docket, pp. 248-252.
20 Exhibit "R-3", BIR Records, pp. 355-358.
21 TSN dated 02 September 2019.

he was tasked to review the evaluation of VCAD's ROs. Thereafter, he made his recommendation based on his findings.

In the same cross-examination, RO Andallo explained why he reduced the amount of petitioner's refund to ₱12,131,526.97 from the VCAD's recommendation of ₱47,474,884.13. He likewise stated that the bases for the reduction were already summarized in the Letter dated 12 December 2018 sent to petitioner. When asked of the taxpayers' available remedy in the event that they wish to be informed of the details of the findings, he responded that taxpayers should simply request for the same.

When inquired further about petitioner's unsupported advances, RO Andallo replied that those were deducted from the direct export sales as they were not properly documented. Moreover, RO Andallo testified that the sales to Philippine Associated Smelting and Refining Corporation (**PASAR**) were disallowed as there was no indication that petitioner submitted the Certification with the VCAD, although found in the docket.

Lastly, RO Andallo stated that he was able to compute an output VAT of ₱1,009,963.26 and a total input VAT of ₱48,367,649.00. However, the VATable sales was only .31% of the total sales. Based on his allocation, the input VAT allocable to VATable sales was only ₱149,939.00. Comparing the allocated input VAT with the total output VAT liability, a discrepancy of ₱860,023.55 resulted. Therefore, the amount of discrepancy was deducted from the zero-rated sale so that petitioner would not be liable for the output VAT.

Subsequently, respondent made an oral offer of his exhibits which the Court admitted.[22] The Court then instructed both parties to file their respective memoranda within thirty (30) days. Both parties complied and the case was thereafter submitted for decision.[23]

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22 Order dated 02 September 2019, Division Docket, p. 318.

23 Respondent filed his Memorandum on 24 September 2019, while petitioner filed its Memorandum on 17 October 2019. In view of the filing of the parties' respective memoranda, the Court submitted the case for decision in a Resolution dated 30 October 2019.

ISSUES

The parties stipulated[24] on the following issues to be resolved by the Court:

I.

WHETHER PETITIONER'S EXCESS AND UNUTILIZED INPUT TAXES ARISING FROM PURCHASES OF GOODS AND SERVICES AND IMPORTATION OF GOODS FOR THE 3RD QUARTER OF TAXABLE YEAR 2016 IN THE AMOUNT OF P36,112,921.13 ARE PROPERLY SUBSTANTIATED AND DIRECTLY ATTRIBUTABLE TO ZERO-RATED SALES, THEREBY ENTITLING PETITIONER TO ITS CLAIM FOR REFUND.

II.

WHETHER THE RESPONDENT, IN PARTIALLY DENYING A CLAIM FOR TAX REFUND, IS REQUIRED BY LAW AND THE CONSTITUTION TO PROVIDE IN ITS DECISION SUFFICIENT EXPLANATION AND SPECIFIC FACTUAL AND LEGAL BASES OF THE DENIAL IN COMPLIANCE WITH THE DUE PROCESS REQUIREMENT OF THE CONSTITUTION.

ARGUMENTS

Firstly, petitioner avers herein that it complied with all the requisites for claiming a refund and has fully substantiated its claim. It is VAT-registered whose business engages in zero-rated sales and from which arose an input VAT that remained unutilized. Since the substantive law supports its refund claim and it complied with the substantiation requirements, it insists that it should be entitled to a cash refund of its unutilized input VAT.

Secondly, petitioner argues that BIR's denial letter failed to identify from the list of input tax the items that were granted and denied, thus preventing it from intelligently appealing the partial denial with this Court. According to it, had it been provided with sufficient factual and legal bases for the partial denial of its claim, it would have limited the issues raised here. Moreover, petitioner points out that the Tax Reform for Acceleration and Inclusion Act (**TRAIN**)

24 JSFI, Division Docket, p. 204.

mandates the Commissioner to state in writing the legal and factual basis of the denial.

Petitioner contends further that the denial letter hardly complied with the due process requirement as there was no schedule indicating the reason for the denial of specific input tax. Thus, it maintains that the denial letter must be declared invalid and the claim for refund be fully granted as a necessary consequence thereof.

In opposition, respondent asserts that the instant Petition for Review must be dismissed for petitioner's failure to substantiate its administrative claim for refund. Considering that he rendered a decision, this Court acts as an appellate tribunal rather than a trial court. For respondent, the scope of judicial review is limited to the review of the process by which the decision was reached in order to assess whether that decision was flawed and should be revoked. Consequently, petitioner cannot submit documents it did not submit at the administrative level.

Respondent further remains firm on his stance that exemptions from taxation are highly disfavored in law and he who claims exemption must be able to justify his claim by the clearest grant of organic and statutory law.

<u>RULING OF THE COURT</u>

The instant Petition for Review is partly meritorious.

Petitioner anchors its claim on Section 110, correlated with Section 112 of the National Internal Revenue Code (**NIRC**) of 1997, as amended, and further amended by the TRAIN. The relevant provisions read:

> ...
> **SEC. 110.** *Tax Credits.* —
> ...
>
> (B) *Excess Output or Input Tax.* — If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output

tax, the excess shall be carried over to the succeeding quarter or quarters: ***Provided, however,* that any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.**

SEC. 112. *Refunds or Tax Credits of Input Tax.* —

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

...

(C) *Period within which Refund of Input Taxes shall be Made.* — In proper cases, the Commissioner shall grant a refund for creditable input taxes within ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof: ***Provided,* That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.**

In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals: *Provided, however,* That failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code.[25]

...

[25] Emphasis supplied.

From the foregoing, the taxpayer engaged in zero-rated transactions may opt to claim for refund of its unutilized input VAT subject to the following requirements:

1. That the taxpayer is VAT-registered;
2. The taxpayer is engaged in zero-rated or effectively zero-rated sales;
3. Input taxes were incurred or paid;
4. The creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax;
5. The input taxes were not applied against any output tax liability;
6. The claim must be filed within two years after the close of the taxable quarter when such sales were made; and,
7. In case of zero-rated sales under Section 106(A)(2)(a)(1) and (2)[26], Section 106(B)[27] and Section 108(B)(1) and (2)[28], the

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26 **Sec. 106.** *Value-Added Tax on Sale of Goods or Properties.* –

(A) *Rate and Base of Tax.* – There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, a value-added tax equivalent to twelve percent (12%) of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor.

...

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

(a) *Export Sales.* - The term 'export sales' means:

1. The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
2. Sale and delivery of goods to:
   (i) Registered enterprises within a separate customs territory as provided under special laws; and
   (ii) Registered enterprises within tourism enterprise zones as declared by the Tourism Infrastructure and Enterprise Zone Authority (TIEZA) subject to the provisions under Republic Act No. 9593 or the Tourism Act of 2009.

...

27 **Sec. 106.** *Value-Added Tax on Sale of Goods or Properties.* –

(B) *Transactions Deemed Sale.* – The following transactions shall be deemed sale:

...

28 **Sec. 108.** *Value-Added Tax on Sale of Services and Use or Lease of Properties.* –

...

(B) *Transactions Subject to Zero Percent (0%) Rate.* – The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

(1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);

> acceptable foreign currency exchange proceeds thereof shall have been duly accounted for in accordance with BSP rules and regulations.[29]

Prior to determining petitioner's compliance with the above requirements, We find it propitious to first tackle the second issue raised by the parties, that is, the supposed requirement for BIR to explain and provide specific factual and legal bases for the denial of the refund claim.

We are not convinced that the BIR's denial letter should be invalidated as petitioner so insisted. While the amendment in the TRAIN Law obligates the Commissioner to state the factual and legal basis for the denial of the refund claim, respondent's denial letter, although not as detailed as petitioner expected, could not be deemed as outright void. We do not find its brevity violative of petitioner's right to due process.

At any rate, even if We were to invalidate the denial letter, the same would not automatically result in the grant of petitioner's claim for refund. The Court conducts trial *de novo* and claimants for refund must prove every minute detail of their case. The Supreme Court in *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*[30] ruled:

> ...
>
> Under Section 8 of RA 1125, the CTA is described as a court of record. As cases filed before it are litigated *de novo*, party litigants should prove every minute aspect of their cases. No evidentiary value can be given the purchase invoices or receipts submitted to the BIR as the rules on documentary evidence require that these documents must be formally offered before the CTA.
>
> ...

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

...

[29] *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, 25 November 2009.

[30] G.R. Nos. 141104 & 148763, 08 June 2007.

It bears stressing that statutes that grant tax exemptions are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority. Tax refunds in relation to the VAT are in the nature of such tax exemptions. The general rule is that claimants of tax refunds bear the burden of proving the factual basis of their claims. Taxes are the lifeblood of the nation. Therefore, statutes that allow exemptions are construed strictly against the grantee and liberally in favor of the government.[31]

We shall now proceed in the determination of petitioner's compliance with Section 112 of the NIRC of 1997, as amended, *in seriatim*.

THE PETITION FOR REVIEW IS TIMELY FILED

As narrated earlier, petitioner filed its administrative claim for refund covering the 3rd quarter of TY 2016 on 26 September 2018 and within two (2) years, reckoned from 30 September 2016 or the close of the said taxable quarter.

In view of the amendment introduced in the TRAIN Law, respondent had ninety (90) days to decide on petitioner's claim or until 25 December 2018. Petitioner received the 12 December 2018 denial letter on 27 December 2018. Petitioner then had thirty (30) days from receipt thereof or until 26 January 2019, to file its judicial claim for refund. The instant Petition for Review was filed on 24 January 2019 and was thus timely filed.

The Court's jurisdiction over petitioner's claim for refund is clearly anchored on Section 3(a) of Rule 4 of the Revised Rules of the Court of Tax Appeals (**RRCTA**), to wit:

> ...
> **Sec. 3.** *Cases within the jurisdiction of the Court in Divisions.* – The Court in Divisions shall exercise:

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31 *Panasonic Communications Imaging Corporation of the Philippines (formerly Matsushita Business Machine Corporation of the Philippines) v. Commissioner of Internal Revenue)*, G.R. No. 178090, 08 February 2010.

(a) Exclusive original or and appellate jurisdiction to review by appeal the following:

(1) **Decisions of the Commissioner of Internal Revenue** in cases involving disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue.[32]

...

PETITIONER IS A VALUE-ADDED TAX (VAT)-REGISTERED TAXPAYER

It is undisputed that petitioner is a VAT-registered taxpayer with Tax Identification No. (**TIN**) 233-903-100-000, as evidenced by its BIR Registration No. OCN 8RC0000791446E.[33]

PETITIONER IS ENGAGED IN EXPORT SALES

Petitioner is registered with the Securities and Exchange Commission (**SEC**), with Company Registration No. CS200414509[34], and primarily engaged in mining activities and sale of minerals for domestic and foreign markets.[35] Likewise, petitioner is registered with the BOI as a "New Producer of Copper Concentrate" with BOI Certificate of Registration No. 2006-158.[36]

The pertinent provisions governing the VAT treatment for export sales under the NIRC of 1997, as amended, and further amended by the TRAIN Law, are reproduced below:

...

Section 106. *Value-Added Tax on Sale of Goods or Properties.* –

(A) *Rate and Base of Tax.* – There shall be levied, assessed and collected on every sale, barter or exchange of goods or

[32] Emphasis supplied.
[33] Exhibit "P-2", Division Docket, pp. 290-291.
[34] Exhibit "P-1", id., p. 274.
[35] Id.
[36] Exhibit "P-4", id., p. 293.

> properties, a value-added tax equivalent to twelve percent (12%) of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor.
>
> ...
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (a) *Export Sales.* - The term 'export sales' means:
>
> (1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)[.][37]
>
> ...

Guided by the foregoing, for export sales to qualify as VAT zero-rated, the following conditions must be complied with:

1. there was sale and actual shipment of goods from the Philippines to a foreign country;
2. the sale was made by a VAT registered person;
3. the sale was paid for in acceptable foreign currency or its equivalent in goods or services; and,
4. the payment was accounted for in accordance with the rules and regulations of the BSP.[38]

Corollary thereto, Sections 113(A)(1), (B)(1) and (2)(c) of the NIRC of 1997, as amended, as implemented by Sections 4.113-1(A)(1), (B)(1) and (2)(c) of Revenue Regulations (**RR**) No. 16-05[39], as amended, provide that a VAT taxpayer, like herein petitioner, shall for every sale,

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[37] Section 31 of the TRAIN.

[38] See also *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, 27 April 2007.

[39] Consolidated Value-Added Tax Regulations of 2005.

barter or exchange of goods or properties, issue a VAT invoice which must contain the following information:

> ...
>
> **Section 113.** *Invoicing and Accounting Requirements for VAT-Registered Persons.* –
>
> (A) *Invoicing Requirements.* – A VAT-registered person shall issue:
>
> (1) A VAT invoice for every sale, barter or exchange of goods or properties; and
>
> ...
>
> (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*:
>
> ...
>
> (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[.][40]
>
> ...
>
> **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
>
> ...
>
> 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.

[40] Emphasis supplied.

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*:

...

(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[.][41]

...

To substantiate the VAT zero-rating of direct export sales, it is incumbent upon the VAT-registered person to have, at the minimum, the following supporting documents:

1. Sales invoice as proof of sale of the goods;
2. Export declaration and bill of lading or airway bill as proof of actual shipment of goods from the Philippines to a foreign country; and,
3. Bank credit advice, certificate of bank remittance or any other document proving payment for the goods in acceptable foreign currency or its equivalent in goods and services.[42]

In other words, only export sales accompanied with the aforementioned documents will qualify for VAT zero-rating under Section 106(A)(2)(a)(1)[43] of the NIRC of 1997, as amended. Further, the sales invoices supporting the export sales must be registered with the BIR and should contain all the required information under the NIRC and implementing regulations, such as the imprinted word "zero-rated" and the taxpayer's TIN-VAT number.

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[41] Emphasis supplied.
[42] Supra at note 38.
[43] Supra at note 26.

In its quarterly VAT return for the 3rd quarter of TY 2016[44], petitioner reported total sales of ₱2,676,653,402.26, excluding the VAT-exempt sales amounting to ₱1,402,680.00, to wit:

VATable Sales	₱6,424,234.95
Sales to Government	1,969,803.58
Zero-Rated Sales	2,668,259,363.73
Total Sales for the Third Quarter of 2016	**₱2,676,653,402.26**

In support of its declared zero-rated sales for the 3rd quarter of TY 2016, petitioner submitted various documents such as sales invoices[45], export documents (i.e. bills of lading and export declaration)[46] and certificate of inward remittances.[47]

Petitioner's 3rd Quarter VAT return reflected zero-rated sales in the amount of ₱2,668,259,363.73[48] (equivalent to USD56,556,421.52[49]). ICPA Romano's findings verified that petitioner's zero-rated sales comprised of export sales and sale of goods to entities registered with Philippine Economic Zone Authority (**PEZA**), accounted for as follows:

Particulars	**Amount**	**Exhibit**
Export sales of goods	₱1,693,624,744.39	P-62-a to P-62-n
Sales of goods to entities registered with PEZA	974,634,619.34	P-63-a to P-63-u
Total Sales for the Third Quarter of 2016	**₱2,668,259,363.73**	

Regrettably, *per* the Court's independent verification, the following sales detailed below amounting to ₱1,851,580,627.34 (equivalent to USD39,473,953.44) do not qualify for VAT zero-rating:

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44 Exhibit "P-79", CD.
45 Exhibit "P-62" & "P-63", CD.
46 Exhibit "P-65", CD.
47 Exhibit "P-67", CD.
48 Exhibit "P-6", Line 17, Division Docket, p. 303.
49 Exhibit "P-34", CD.

Exhibit	Customer	Invoice no.	Date	Amount in USD	Amount in PHP
Zero-rated sales supported with VAT sales invoice but dated OUTSIDE the period of claim					
P-62-e	Hong Kong Yinyi Mineral Investment Limited	1810000077	10/17/2016	547,679.13	25,450,649.17
P-63-t	Philippine Associated Smelting and Refining Corporation	1810000073	10/6/2016	3,901,685.38	188,568,454.42
P-63-u	Philippine Associated Smelting and Refining Corporation	1810000073	10/10/2016	3,105,773.37	131,701,739.96
	Subtotal			7,555,137.88	345,720,843.55
Zero-rated sales supported with VAT sales invoice and export documents but CANNOT be properly TRACED to the certificate of inward remittances					
P-62-a	MRI Trading AG	1810000067	8/5/2016	6,895,225.13	324,213,485.61
P-62-b	MRI Trading AG	1810000068	8/14/2016	6,987,330.81	325,574,679.09
P-62-c	MRI Trading AG	1810000071	9/13/2016	6,921,085.77	326,398,404.91
P-62-d	MRI Trading AG	1810000072	9/16/2016	6,919,989.94	330,048,920.19
P-62-f	MRI Trading AG	1810000064	7/13/2016	7,583,164.34	358,835,336.57
P-62-g	MRI Trading AG	1820000459	9/2/2016	(387,368.24)	(18,101,717.85)
P-62-h	MRI Trading AG	1820000406	7/4/2016	157,750.93	7,400,884.87
P-62-i	MRI Trading AG	1820000407	7/4/2016	474,299.48	22,251,760.10
P-62-j	MRI Trading AG	1820000408	7/4/2016	166,611.64	7,816,585.10
P-62-k	MRI Trading AG	1820000414	8/1/2016	(98,372.91)	(4,634,347.79)
P-62-l	MRI Trading AG	1820000455	9/2/2016	(99,620.07)	(4,655,245.87)
P-62-m	MRI Trading AG	1820000456	9/2/2016	(164,871.33)	(7,704,437.26)
P-62-n	MRI Trading AG	1820000458	9/2/2016	15,617.11	729,787.55
	Subtotal			35,370,842.60	1,668,174,095.22
Zero-rated sales not supported with VAT sales invoice					
P-63	Philippine Associated Smelting and Refining Corporation			(3,452,027.04)	(162,314,311.43)
	GRAND TOTAL			39,473,953.44	1,851,580,627.34

As can be gleaned from the above, the bulk of the disallowances was due to the fact that the inward remittances cannot be traced back to the sales to which they relate, as evidenced by the sales invoice. The Court cannot thus reconcile the sales *vis-à-vis* the bank credit memo.

Additionally, while the ICPA Report contained a schedule of zero-rated sales for CY 2016 and the reconciliation of export sales and foreign currency remittances on zero-rated sale of goods, with breakdown of reference number *per* invoice, the Court could still not tally the invoice price with the indicated inward remittance reference number. It is crucial for petitioner to reconcile the amount indicated in the certificate of inward remittances with the corresponding sales.

Thus, out of the total export sales for the 3rd quarter of TY 2016 amounting to ₱2,668,259,363.73, only the amount of ₱816,678,736.39 is allowed as valid zero-rated sales computed below:

Total zero-rated sales per schedule	₱2,668,259,363.73
Less: Disallowance by the Court	1,851,580,627.34
Total Valid Zero-rated sales for the 3rd quarter of TY 2016	**₱816,678,736.39**

Moreover, the ICPA Report also provided for the summary of VATable sales for the 3rd quarter of TY 2016, as follows:

Reference	**Particulars**	**Taxable Amount**	**Output VAT**
P-69-a to P-69-bh	VATable sale of goods which are supported by VAT invoice and dated within the quarter	₱6,099,571.66	₱731,948.58
P-70-a to P-70-j	VATable sale of services which are properly supported by VAT official receipts and dated within the quarter	240,096.02	28,811.52
P-71-a to P-71-f	VATable sale of services supported by documents other than VAT official receipts	1,969,803.58	236,376.42
P-72-a to P-72-f	VATable sale of services which are properly supported by VAT official receipts but not dated within the quarter	84,567.27	10,148.08
	Total VATable Sales	**₱8,394,038.53**	**₱1,007,284.60**

The Court cannot over emphasize the importance of proper substantiation. To reiterate, Section 113(A)(2) provides for the invoicing requirements of VAT-registered persons:

...

Sec. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* —

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

...

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

...

Upon careful examination of the proffered documents, the Court finds it proper to disallow the sale of services not supported by official receipts (**ORs**) as well as those which are not dated within the period claimed. In view of the foregoing, petitioner's sales subject to 12% VAT is now adjusted to ₱6,339,667.68, broken down as follows:

Reference	Particulars	Taxable Amount
P-69-a to P-69-bh	VATable sale of goods which are supported by VAT invoice and dated within the quarter	₱6,099,571.66
P-70-a to P-70-j	VATable sale of services which are properly supported by VAT official receipts and dated within the quarter	240,096.02
	Adjusted VATable Sales	**₱6,339,667.68**

INPUT VALUE-ADDED TAX
INCURRED

Petitioner indicated in its quarterly VAT return for the 3rd quarter of TY 2016 total input taxes amounting to ₱161,662,482.86. After adjustments, it still has an allowable input VAT (for refund) for the said quarter totalling to ₱36,112,921.13, computed as follows:

Input tax as *per* 3rd Quarterly VAT Return[50]:	
Input tax on domestic purchase of goods other than capital goods	₱270,338.24
Input tax on importation of goods other than capital goods	30,217,522.00
Input tax on domestic purchase of services	499,435.90
Total Input Tax	₱161,662,482.86

50 Exhibit "P-6", Division Docket, p. 303.

Less: Input tax on purchases of capital goods exceeding ₱1 million deferred for succeeding period	112,410,750.16
Total allowable input tax	**49,251,732.70**
Less: Output tax per VAT return	1,007,284.60
Total Input Tax claimed for refund	48,244,448.10
Less: Input Tax partially granted by BIR[51]	(12,131,526.97)
Net Allowable Input VAT Refund	**₱36,112,921.13**

In support of its total reported input taxes, petitioner submitted various sales invoices, ORs, Import Entry and Internal Revenue Declarations (**IEIRDs**)[52] or Single Administrative Documents (**SADs**)[53] and Statement of Settlement of Duties and Taxes (**SSDTs**)[54].

DISALLOWANCE OF INPUT VAT NOT SUFFICIENTLY SUBSTANTIATED

Per ICPA verification, the amount of ₱1,239,828.97 should be disallowed for the reasons cited below:

Exhibit	*Description*	*Amount*
a. Input Taxes on Domestic Purchase of Goods and Services		
P-41-a to P-41-ck	Domestic purchase of goods not properly supported by VAT invoice/Purchase of services not properly supported by VAT OR	₱39,644.92
P-42-a to P-42-i	Domestic purchase of goods supported by VAT invoice/Purchase of services supported by VAT OR but without valid Authority to Print (ATP)	491.92
P-43-a to P-43-eb	Domestic purchase of goods supported by VAT invoice/Purchase of services supported by VAT OR without original copy presented	27,656.29
P-44-a to P-44-s	Domestic purchase of goods supported by VAT invoice/Purchase of services supported by VAT OR but without date	10,165.16
P-45-a to P-45-aa	Domestic purchase of goods supported by VAT invoice/Purchase of services supported by VAT OR but not dated within the same taxable year	2,522.60

51 Exhibit "P-10", id., p. 307.
52 Exhibits "P-37-a" to "P-37-cn" and "P-38-a", CD.
53 Id.
54 Id.

P-46-a to P-46-cp	Domestic purchase of goods supported by VAT invoice/Purchase of services supported by VAT OR with missing and/or incorrect Company name	12,785.10
P-47-a to P-47-fy	Domestic purchase of goods supported by VAT invoice/Purchase of services supported by VAT OR with missing and/or incorrect TIN	49,493.14
P-48-a to P-48-fm	Domestic purchase of goods supported by VAT invoice/Purchase of services supported by VAT OR with missing registered address	115,210.95
P-49-a to P-49-bv	Domestic purchase of goods supported by VAT invoice/Purchase of services supported by VAT OR where the VAT amount is not separately shown	12,625.33
P-50-a to P-50-p	Domestic purchase of goods supported by VAT invoice/Purchase of services supported by VAT OR with corrections without countersignature	678.74
P-51-a to P-51-g	Domestic purchase of goods/services where a portion of the claimed input VAT is not supported by VAT invoice/OR	291.92
P-52	Domestic purchases without supporting invoices/OR presented	62,203.97
	Subtotal	**₱333,770.04**
b. Input Taxes on Imported Capital Goods exceeding One Million from Previous Quarter/Year		
P-55-a to P-55-ar	Supported by SSDTs and IEIRDs/SADs without original copy presented	748,589.72
P-56-a to P-56-d	Not supported by SSDTs and IEIRDs/SADs	25,503.00
P-57-a to P-57-d	Supported by unreadable copies of SSDTs and IEIRDs/SADs without original copies	81,826.60
	Subtotal	**₱855,919.32**
c. Input Taxes on Domestic Purchase of Capital Goods exceeding One Million from Previous Quarter/Year		
P-60-a to P-60-b	Domestic purchase of capital goods from previous year/quarter supported by VAT invoice without original copy presented	7,358.57
P-61-a	Domestic purchase of capital goods from previous year/quarter not supported by VAT invoice	24,281.95
	Subtotal	**₱31,640.52**
Total Disallowed Input VAT		**₱1,221,329.88**

After a careful review of the supporting documents, We find the above findings in order. Hence, the above input taxes shall be disallowed for failure to meet the substantiation requirements under Sections 110(A)[55], 113(A) and (B)[56], and 237[57] of the NIRC of 1997, as

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[55] **Sec. 110.** *Tax Credits.* -

amended, in relation to Sections 4.110-1[58], 4.110-2[59], 4.110-8[60] and 4.113-1[61] of RR 16-05, as amended.

In the same vein, the Court finds that the input VAT detailed below in the aggregate amount of ₱671,011.00 must also be disallowed:

A. *Creditable Input Tax*. -

56 Supra at p. 14.

57 **Sec. 237.** *Issuance of Receipts or Sales or Commercial Invoices*. - All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: *Provided, however*, That in the case of sales, receipts or transfers in the amount of One hundred pesos (P100.00) or more, or regardless of the amount, where the sale or transfer is made by a person liable to value-added tax to another person also liable to value-added tax; or where the receipt is issued to cover payment made as rentals, commissions, compensations or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client: *Provided, further*, That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser.

The original of each receipt or invoice shall be issued to the purchaser, customer or client at the time the transaction is effected, who, if engaged in business or in the exercise of profession, shall keep and preserve the same in his place of business for a period of three (3) years from the close of the taxable year in which such invoice or receipt was issued, while the duplicate shall be kept and preserved by the issuer, also in his place of business, for a like period.

The Commissioner may, in meritorious cases, exempt any person subject to internal revenue tax from compliance with the provisions of this Section.

58 **SEC. 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[.]

...

59 **SEC. 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[.]

...

60 **SEC. 4.110-8.** ***Substantiation of Input Tax Credits***. —

...

61 Supra at pp. 14-15.

Exhibit No.	Name of Supplier	Input VAT Amount	Reason for Disallowance
a. Input Taxes on Domestic Purchase of Goods and Services			
P-39-aj	Supervalue, Inc.	461.58	Supported by VAT invoice but indicated a wrong TIN of petitioner
P-39-ak	Supervalue, Inc.	398.38	Supported by VAT invoice but indicated a wrong TIN of petitioner
P-39-ba	Rose Pharmacy, Inc.	4.45	Supported by tape receipt only with unreadable details
P-39-bl	Lourdes P. Alejandre Store	34.29	Supported by VAT invoice but VAT amount is not separately indicated
P-39-bm	Lourdes P. Alejandre Store	8.57	Supported by VAT invoice but VAT amount is not separately indicated
P-39-dt	Abacus Book & Card Corp.	557.12	Supported by tape receipt only with unreadable details
P-39-ef	People's Educational Supply, Inc.	11.25	Supported by VAT invoice without the TIN of petitioner
P-39-eg	Rose Pharmacy, Inc.	87.96	Supported by tape receipt only
P-39-ep	Rose Pharmacy, Inc.	24.48	Supported by tape receipt only
P-39-gs	Rose Pharmacy, Inc.	89.35	Supported by tape receipt only
P-39-ht	Rose Pharmacy, Inc.	66.00	Supported by tape receipt only
P-39-hu	Rose Pharmacy, Inc.	72.32	Supported by tape receipt only
P-39-ie	Watsons Personal Care Stores (Philippines) Inc.	16.31	Supported by tape receipt only
P-39-ir	JJO Enterprises Corp.	169.72	Supported by VAT invoice without the TIN of petitioner
P-39-ja	Family Health & Beauty Corp.	196.50	Supported by VAT invoice without the TIN of petitioner
P-39-jb	Family Health & Beauty Corp.	196.50	Supported by VAT invoice without the TIN of petitioner
P-39-pj	Lourdes P. Alejandre Store	18.96	Supported by VAT invoice but VAT amount is not separately indicated
P-39-pv	Rose Pharmacy, Inc.	32.11	Supported by tape receipt only
P-39-qa	Rose Pharmacy, Inc.	194.46	Supported by VAT invoice but indicated a wrong TIN of petitioner
P-39-qz	Rose Pharmacy, Inc.	23.79	Supported by tape receipt only
P-39-rd	Rose Pharmacy, Inc.	1,951.52	Supported by VAT invoice but indicated a wrong TIN of petitioner
P-39-ri	Medical & Hospital Resources Health Care, Co.	173.04	Supported by VAT invoice without the TIN of petitioner
P-39-ss	Cebu Port Authority	55.50	Supported by VAT OR with unreadable details
P-39-sv	Imelda Lagula-Bilocura – Medical Clinic	42.86	Supported by VAT OR but indicated a wrong TIN of petitioner
P-39-sw	Angara Abello Concepcion Regala & Cruz Law Offices	1,200.00	Supported by VAT OR but indicated a wrong TIN of petitioner
P-39-sx	Angara Abello Concepcion Regala & Cruz Law Offices	1,200.00	Supported by VAT OR but indicated a wrong TIN of petitioner

P-39-sy	J's Publications (The Freeman) Co., Inc.	2,021.76	Supported by VAT OR but VAT amount is not separately indicated
P-40-a to P-40-os	Various suppliers	327,259.89	Supported by VAT invoice/OR not dated within the period claim
	Subtotal	**₱336,568.67**	
b. Input taxes on previous quarter/year's Importation of Capital Goods exceeding 1 million			
P-53-br	FLSMIDTH	30,889.20	Supported by IEIRD with unreadable details
	Subtotal	**₱30,889.20**	
c. Input taxes on previous quarter/year's Domestic Purchase of Capital Goods exceeding 1 million			
P-58-a	Isuzu Cebu	4,767.86	Supported by VAT invoice with unreadable details
P-59-e to P-59-l	Isuzu Cebu	244,560.27	Supported by VAT invoice without P-59-mthe phrase "THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE ATP" printed thereon as prescribed under RMO 12-2013.
P-59-m	Webforge	54,225.00	Supported by VAT invoice without P-59-mthe phrase "THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE ATP" printed thereon as prescribed under RMO 12-2013.
	Subtotal	**₱303,553.13**	
	GRAND TOTAL	**₱671,011.00**	

Accordingly, out of the ₱49,251,732.70 reported allowable input VAT for the 3rd quarter of TY 2016, only the amount of ₱47,359,391.82 represents petitioner's valid input VAT, computed as follows:

Amount of Input VAT per 3rd Quarterly VAT Return		₱49,251,732.70
Less: Disallowances		
Per ICPA Report	₱1,221,329.88	
Per Court's further verification	671,011.00	1,892,340.88
Total Valid Input VAT (A)		**₱47,359,391.82**

Considering that petitioner is engaged in taxable sales subject to 0% and 12% rates, and its input VAT cannot be directly or entirely attributed to any of the transactions, the valid input VAT of ₱47,359,391.82 shall be allocated proportionately on the basis of the volume of its sales:

	Amount	**Percentage of Allocation**
VATable sales (**B**)	₱6,339,667.68	0.77%
Valid Zero-rated sales (**C**)	816,678,736.39	99.23%
Total Sales (D)	**₱823,018,404.07**	**100.00%**

	Input VAT Allocation
VATable sales [(**B/D**) * **A**]	₱364,806.92
Zero-rated sales [(**C/D**) * **A**]	46,994,584.90
Total Valid Input VAT	**₱47,359,391.82**

Thus, only the amount of ₱46,994,584.90 represents valid input VAT attributable to total reported zero-rated sales for the 3rd quarter of TY 2016.

INPUT TAXES WERE NOT APPLIED AGAINST ANY OUTPUT VALUE-ADDED TAX LIABILITY

Having determined that petitioner had a valid input VAT attributable to its zero-rated sales, We shall henceforth proceed to determine whether the same was not applied against its output VAT liability during and in the succeeding quarters.

For the 3rd quarter of TY 2016, petitioner had output VAT liability amounting to ₱1,077,284.60. Since petitioner's valid input VAT allocated to sales subject to 12% VAT amounted to ₱364,806.92, petitioner has still remaining output VAT liability amounting to ₱642,477.68, as shown below:

Output VAT per 3rd quarter return	₱1,077,284.60
Less: Valid input VAT allocable to VATable Sales	364,806.92
Output VAT still due	**₱642,477.68**

Upon applying the valid input VAT allocated to the total zero-rated sales in the amount of ₱47,359,391.82 against the said remaining output VAT liability of ₱642,477.68, as well as the input tax claim which the BIR partially granted in the amount of ₱12,131,526.97, the excess input VAT allocated to zero-rated sales amounted to ₱34,585,387.17. However, out of the said excess input VAT allocated to total zero-rated sales, only the remaining input VAT of ₱10,585,608.98 is attributable to its valid zero-rated sales of ₱816,678,736.39, as determined below:

Total valid Input VAT		₱47,359,391.82
Less: Output VAT still due	642,477.68	
Input tax partially granted by the BIR[62]	12,131,526.97	12,774,004.65
Excess input VAT allocated to total Zero-rated sales		34,585,387.17
Divided by: Declared Zero-rated sales		2,668,259,363.73
Multiply by: Valid Zero-rated sales		816,678,736.39
Excess input VAT attributable to valid Zero-rated sales		**₱10,585,608.98**

Finally, petitioner had no other output tax liability for the 3rd quarter of TY 2016 against which the subject input VAT claim may be applied or credited against, and petitioner did not carry-over any output tax in the succeeding quarters.[63]

In fine, petitioner has sufficiently proven its entitlement to a refund or issuance of Tax Credit Certificate (**TCC**) in the amount of ₱10,585,608.98, representing its unutilized excess input VAT for the 3rd quarter of TY 2016 (which is attributable to its zero-rated sales/receipts for the same period).

WHEREFORE, with the foregoing, petitioner Carmen Copper Corporation's Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is **ORDERED TO REFUND** petitioner the amount of **₱10,585,608.98**, representing unutilized excess input Value-Added Tax (VAT) attributable to its zero-rated sales/receipts for the 3rd quarter of taxable year 2016.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

62 Exhibit "P-10".
63 Exhibits "P-80" to "P-88", CD.

I CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

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

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice