CTA Form No. 8

23-000192-0065

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 11146 & 11216

IBEX GLOBAL SOLUTIONS (PHILIPPINES) INC.,
Petitioner,

- versus -

NOTICE OF DECISION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

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

ATTY. MANUEL LUIS B. CRUZ
Bureau of Internal Revenue
Legal Division, Revenue Region No. 7B
25th Floor, The Podium West Tower
ADB Avenue, Ortigas Center
Mandaluyong City

ROMULO MABANTA BUENAVENTURA SAYOC & DE LOS ANGELES
21st Floor, AIA Tower (Formerly Philamlife Tower)
8767 Paseo de Roxas, Makati City

GREETINGS:

You are hereby notified by these presents that on **July 31, 2026,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **August 3, 2026.**

Atty. Mary Grace S. Ringpis
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

IBEX GLOBAL SOLUTIONS (PHILIPPINES) INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NOS. 11146 & 11216

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:

JUL 31 2026 1:05PM

x- -x

DECISION

CUI-DAVID, J.:

In these consolidated *Petitions for Review* filed on April 28, 2023 (CTA Case No. 11146) and July 17, 2023 (CTA Case No. 11216), petitioner Ibex Global Solutions (Philippines) Inc. seeks the refund or issuance of a Tax Credit Certificate (**TCC**) in the aggregate amount of ₱25,415,769.65, allegedly representing unutilized input value-added tax (**VAT**) attributable to its zero-rated sales for the 2nd, 3rd and 4th quarters of fiscal year (**FY**) ended June 30, 2021, detailed as follows:

CTA Case No.	Period Covered	Amount of Claim
11146	2nd Quarter (FY 2021)	₱7,829,882.01
11216	3rd & 4th Quarters (FY 2021)	17,585,887.64
	TOTAL	**₱25,415,769.65**

THE PARTIES

Petitioner is a domestic corporation duly organized and existing under the laws of the Philippines, with registered address at Unit 301 Silver City Building, Tiendesitas, Frontera

Verde, Pasig City, 1605 Philippines.[1] It is a VAT registered taxpayer having been issued by the Bureau of Internal Revenue (**BIR**) a *Certificate of Registration* No. OCN126RC20230000000458 issued on March 29, 2023.[2]

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue (**CIR**), with office address at BIR Building, Diliman, Quezon City.[3]

THE FACTS
ANTECEDENTS (ADMINISTRATIVE LEVEL)

Petitioner avers that during the 2nd, 3rd, and 4th quarters of FY ended June 30, 2021, it was engaged in the business of providing business process and contact services and other facilities through employees working at its various offices located in the Philippines. Allegedly, during the said period, almost one hundred percent (100%) of its sales of such services were rendered for Ibex Global Bermuda, Ltd., a non-resident foreign corporation engaged in business outside the Philippines.

Petitioner further avers that, in the course of performing contact services during the aforesaid period, it incurred and paid input taxes on its local purchases of VATable goods and services.

Petitioner likewise avers that, for the 2nd, 3rd and 4th quarters of FY ended June 30, 2021, it filed *Quarterly VAT Returns* (BIR Form No. 2550-Q) with respondent, as follows:[4]

Quarter	Date Filed
2nd	January 22, 2021 - Original
	November 19, 2021 - Amended
3rd	April 23, 2021 - Original
	November 20, 2021 - Amended
4th	July 24, 2021 - Original
	November 20, 2021 - Amended

Allegedly, since almost 100% of petitioner's sales were made to its non-resident foreign client, Ibex Global Bermuda Ltd., which sales were subject to VAT at a 0% rate, it did not

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1 Docket (CTA Case No. 11146), p. 308, *Joint Stipulation of Fact and Issue* (JSFI), Admitted Facts, par. I.1.
2 *Id.* at 310, JSFI, Stipulated Facts, par. II.1; 228, Exhibit "P-4".
3 *Id.* at 308, JSFI, Admitted Facts, par. I.2.
4 *Id.* at 310. JSFI, Stipulated Facts, par. II.2.

have enough output taxes against which it could apply the input tax credits.

Thus, on December 27, 2022, or within two (2) years from the close of the 2nd quarter of FY ended June 30, 2021 (*i.e.*, quarter ended December 31, 3020), petitioner filed with the BIR VAT Credit Audit Division (**VCAD**) an *Application for Tax Credits/Refunds* (BIR Form No. 1914), together with the *Revised Checklist of Mandatory Requirements on Claims for VAT Credit/Refund.*[5] The application sought the refund or issuance of a TCC for unutilized and excess creditable input taxes attributable to its alleged zero-rated sales for the 2nd quarter of FY ended June 30, 2021, in the amount of ₱7,829,882.01.[6]

Similarly, on March 29, 2023, or within two years from the close of the 3rd and 4th quarters of FY ended June 30, 2021 (*i.e.*, quarters ended March 31, 2021 and June 30, 2021), petitioner filed another *Application for Tax Credits/Refunds* (BIR Form No. 1914) with the BIR VCAD, together with the *Revised Checklist of Mandatory Requirements on Claims for VAT Credit/Refund.*[7] This application covered the alleged unutilized and excess creditable input taxes attributable to its zero-rated sales for the 3rd and 4th quarters of FY ended June 30, 2021, amounting to ₱17,585,887.64.[8]

However, on March 29, 2023, petitioner received a *VAT Refund Notice*[9] dated March 1, 2023, signed by Assistant Commissioner Maria Luisa I. Belen of the Assessment Service, denying its application for VAT refund covering the 2nd quarter of FY ended June 30, 2021.

Likewise, petitioner's application for VAT refund covering the 3rd and 4th quarters of FY ended June 30, 2021, was denied through a *VAT Refund Notice*[10] dated May 18, 2023, which petitioner received on June 15, 2023.

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5 *Id.* at 256-257, Exhibits "P-10" and "P-10-A".
6 *Id.* at 310, refer to JSFI, Stipulated Facts, par. II.3.
7 *Id.* at 258-259, Exhibits "P-11" and "P-11-A".
8 *Id.* at 310, refer to JSFI, Stipulated Facts, par. II.4.
9 *Id.* at 260-264, Exhibit "P-12".
10 *Id.* at 265-279, Exhibit "P-13".

PROCEEDINGS BEFORE THE COURT

CTA Case No. 11146

On April 28, 2023, petitioner filed a *Petition for Review,*[11] docketed as CTA Case No. 11146, assailing the denial of its administrative claim for VAT refund covering the 2nd quarter of FY ended June 30, 2021.

On June 16, 2023, respondent filed a *Motion for Extension of Time to File Answer,*[12] which the Court granted in a Resolution[13] dated June 22, 2023. In the same Resolution, respondent was directed to transmit to the Court the entire BIR Records of the instant case.

On July 17, 2023, within the extended period granted by the Court, respondent filed his *Answer,*[14] interposing the following special and affirmative defenses, to wit: (**1**) Revenue Memorandum Order (**RMO**) No. 47-2020 provides for the *Revised Checklist of Mandatory Requirements on Claims for VAT Credit/Refund,* and one of the documents needed to be submitted are the official receipts (**ORs**) or invoices in support of the application for VAT credit/refund; (**2**) original duplicate copies of ORs were submitted by the petitioner, however, upon perusal of the documents submitted, it could be seen that all ORs issued on zero-rated sales from non-PEZA and some PEZA registered branches were plagued with alterations or insertions, due to this, the authenticity of the supporting ORs submitted is already questionable, which cast doubt on the validity of the zero-rated sales from non-PEZA registered branches which is the basis of the claim of refund pursuant to Section 112(A) of the National Internal Revenue Code (**NIRC**); (**3**) it is an elementary rule that the burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit; (**4**) the presence of erasures/alterations/modifications on the ORs and other invoice violations failed to comply with the invoicing requirements of Section 113 of the NIRC which is the ground in which the Revenue Officers disallowed the claim; and (**5**) tax refunds are in the nature of tax exemptions which are construed *strictissimi juris* against the taxpayer and liberally in favor of the government, since tax refunds involve a return of revenue from

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[11] *Id.* at 6-18.
[12] *Id.* at 78-80.
[13] *Id.* at 81.
[14] *Id.* at 83-87.

the government, the claimant must indubitably show the specific provision of law from which her right arises; it cannot be allowed to exist upon a mere vague implication or inference nor can it be extended beyond the ordinary and reasonable intendment of the language actually used by the legislature in granting the refund.

Also, in compliance with the Court's directive, respondent transmitted the *BIR Records* for this case, consisting of 424 pages in one (1) folder, on September 4, 2023.[15]

The Pre-Trial Conference was initially set on October 26, 2023,[16] but was cancelled until further orders from the Court.[17] Prior thereto, *Respondent's Pre-Trial Brief* was filed on October 20, 2023,[18] while petitioner's *Pre-Trial Brief* was submitted on October 23, 2023.[19]

Meanwhile, on October 18, 2023, petitioner filed a *Manifestation and Motion to Consolidate Petitions.*[20] Respondent did not file any comment thereto.[21]

In the *Notice of Resolution*[22] dated January 18, 2024, the Court granted petitioner's *Manifestation and Motion to Consolidate Petitions*, thus, resolved to consolidate the present case, the case bearing the lower docket number, with CTA Case No. 11216, considering the abovementioned cases involve the same parties and issues.

CTA Case No. 11216

On July 17, 2023, petitioner filed a *Petition for Review*,[23] docketed as CTA Case No. 11216, appealing the denial of its administrative claim for VAT refund covering the 3rd and 4th quarters of FY ended June 30, 2021.

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[15] *Id.* at 97-99, *Compliance with Manifestation and Explanation* dated August 31, 2023.
[16] *Id.* at 88-90, Notice of Pre-Trial Conference dated July 21, 2023.
[17] *Id.* at 136, Notice of Resolution dated October 27, 2023.
[18] *Id.* at 108-110.
[19] *Id.* at 128-133.
[20] *Id.* at 101-104.
[21] *Id.* at 138, Records Verification dated January 9, 2024, issued by the Judicial Records Division of this Court,
[22] *Id.* at pp. 139 to 140.
[23] Docket (CTA Case No. 11216), pp. 6-19.

On October 9, 2023, within the extended period granted by the Court,[24] respondent filed his *Answer*,[25] interposing the following special and affirmative defenses, to wit: **(1)** the denial of petitioner's claim for refund in the amount of ₱17,585,887.64 is proper, for failure to comply with the mandatory requirements for claiming refund or tax credit; and **(2)** tax refunds are strictly construed against the taxpayer and in favor of the government.

On October 18, 2023, petitioner filed a *Manifestation and Motion to Consolidate Petitions*,[26] to which respondent filed his *Comment (Re: Petitioner's Manifestation and Motion for Consolidation [of] Petitions dated 17 October 2023)* on November 20, 2023.[27]

Meanwhile, respondent transmitted the *BIR Investigation Records* for this case, consisting of 344 pages in one (1) folder on October 19, 2023.[28]

The Pre-Trial Conference was initially set on February 7, 2024.[29]

In a Resolution dated January 16, 2024,[30] the Court granted petitioner's *Manifestation and Motion to Consolidate Petitions*. Accordingly, CTA Case No. 11216 was consolidated with CTA Case No. 11146, the case bearing the lower docket number.

Proceedings After Consolidation

Following the consolidation of the cases, the Pre-Trial Conference was conducted on February 7, 2024.[31] Prior thereto, *Respondent's Consolidated Pre-Trial Brief*,[32] and petitioner's *Consolidated Pre-Trial Brief*,[33] were both submitted on February 2, 2024.

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[24] *Id.* at 98-100, Respondent's *Motion for Additional Time to File Answer* dated September 6, 2023; 102, Notice of Resolution dated September 12, 2023.

[25] *Id.* at 104-117.

[26] *Id.* at 123-126.

[27] *Id.* at 132 to 134.

[28] *Id.* at 127-129, *Compliance* dated October 17, 2023.

[29] *Id.* at 119-121, Notice of Pre-Trial Conference dated October 16, 2023.

[30] *Id.* at 140-142.

[31] Docket (CTA Case No. 11146), pp. 139-140, Notice of Resolution dated January 18, 2024; 142-144, Notice of Pre-Trial Conference dated January; 286-289, Order dated February 7, 2024.

[32] *Id.* at 167-172, attached to respondent's *Compliance with Motion to Amend Exhibit Markings and with Attached Consolidated Pre-Trial Brief* dated February 2, 2024, Docket (CTA Case No. 11146), pp. 165-167.

[33] *Id.* at 173-180.

On February 27, 2024, the parties submitted their *Joint Stipulation of Facts and Issues*,[34] which the Court approved in its Resolution dated March 13, 2024,[35] thereby terminating the pre-trial proceedings. The Pre-Trial Order was subsequently issued on April 12, 2024.[36]

Trial thereafter ensued, during which petitioner presented the testimonies of: (1) Mr. John Michael Arceo,[37] its Tax and Corporate Compliance Manager; and (2) Mr. Neil U. Sison,[38] the Court-commissioned Independent Certified Public Accountant **(ICPA)**.[39]

On August 27, 2024, petitioner filed its *Formal Offer of Evidence for Petitioner.*[40] Despite being given the opportunity, respondent failed to file any comment thereto.[41] In the Resolution dated October 15, 2024,[42] the Court admitted all of petitioner's offered exhibits.

For his part, respondent presented Revenue Officer Michele J. Alonzo-Bucayu[43] as a witness.

On April 14, 2025, *Respondent's Formal Offer of Evidence* was filed,[44] to which petitioner filed its *Comment (to Respondent's Formal Offer of Evidence)* on April 29, 2025.[45]

In the Resolution dated July 10, 2025,[46] the Court admitted all of respondent's offered exhibits. In the same Resolution, the parties were given 30 days from notice, within which to submit their respective memoranda.

On September 23, 2025, the instant case was submitted for decision, considering the filing of petitioner's *Memorandum*[47] *via* registered mail on August 14, 2025, and the *Records*

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[34] *Id.* at 308-314.
[35] *Id.* at 335-336.
[36] *Id.* at 349-367.
[37] *Id.* at 187-204, Exhibit "P-14"; 368, 370-372, Minutes of the hearing held on, and Order dated, April 25, 2024, respectively.
[38] *Id.* at 438-455, Exhibit "P-134"; 485-487, Minutes of the hearing held on, and Order dated, June 20, 2024.
[39] *Id.* at 369, *Oath of Commission* dated April 25, 2024; 368, 370-372, Minutes of the hearing held on, and Order dated, April 25, 2024, respectively.
[40] *Id.* at 512 -525.
[41] *Id.* at 541, Records Verification dated July 15, 2024, issued by the Judicial Records Division of this Court.
[42] *Id.* at 550-551.
[43] *Id.* at 113-116, Exhibit "R-16"; 157-164, Exhibit "R-15"; 568-590, Order dated, March 27, 2025.
[44] *Id.* at 577-584.
[45] *Id.* at 591-593, attached to petitioner's *Manifestation and Submission* dated April 28, 2025, Docket (CTA Case No. 11146), pp. 588-590.
[46] *Id.* at 607-608.
[47] *Id.* at 610-639.

Verification Report[48] dated August 27, 2025, stating that respondent failed to file his memorandum.[49]

THE ISSUE

As stipulated by the parties, the sole issue for the Court's resolution is:

> Whether or not Petitioner is entitled to the refund or issuance of the tax credit certificate of the alleged unutilized and/or excess input VAT in the amount of PhP25,415,769.65 attributable to its zero-rated sales for the 2nd quarter to 4th quarter of fiscal year ended 30 June 2021.[50]

Petitioner's arguments

Petitioner maintains that its sales of business process and contact center services and other facilities to IBEX Global Bermuda Ltd., a non-resident foreign corporation (**NRFC**) qualify as VAT zero-rated sales; that the performance by petitioner in the Philippines of services other than processing, manufacturing or repacking goods is rendered to a person engaged in business conducted outside the Philippines; that the payment for petitioner's services is in acceptable foreign currency accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (**BSP**); that the input VAT incurred by petitioner in the course of its business: (a) are duly paid; (b) are attributable to zero-rated or effectively zero-rated sales; and (c) have not been applied against output taxes during and in the succeeding quarters; and that petitioner timely filed with this Court the instant *Petition for Review*.

Respondent's counterarguments

In his *Answer* (for CTA Case No. 11146), respondent contends that RMO No. 47-2020 provides for the *Revised Checklist of Mandatory Requirements on Claims for VAT Credit/Refund* and one of the documents needed to be submitted are the ORs or invoices in support of the application for VAT credit/refund; that original duplicate copies of ORs were

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48 *Id.* at 644.
49 *Id.* at 645, Notice of Resolution dated September 23, 2025.
50 *Id.* at 311, JSFI, Stipulation of Issue.

submitted by the petitioner, however, upon perusal of the documents submitted, it could be seen that all ORs issued on zero-rated sales from non-PEZA and some PEZA registered branches were plagued with alterations or insertions, due to this, the authenticity of the supporting ORs submitted is already questionable, which cast doubt on the validity of the zero-rated sales from non-PEZA registered branches which is the basis of the claim of refund pursuant to Section 112 (A) of the NIRC; that it is elementary rule that the burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit; that the presence of erasures/alterations/modifications on the ORs and other invoice violations failed to comply with the invoicing requirements of Section 113 of the NIRC which is the ground in which the Revenue Officers disallowed the claim; and that tax refunds are in the nature of tax exemptions which are construed *strictissimi juris* against the taxpayer and liberally in favor of the government.

Moreover, in his *Answer* (for CTA Case No. 11216), respondent argues that the denial of petitioner's claim for refund in the amount of ₱17,585,887.64 is proper, for failure to comply with the mandatory requirements for claiming refund or tax credit; and that tax refunds are strictly construed against the taxpayer and in favor of the government.

THE COURT'S RULING

Pertinent to the resolution of these consolidated cases are Sections 112(A) and 112(C) of the NIRC of 1997, as amended by Republic Act (RA) No. 10963,[51] which provide:

> 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

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[51] 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.

case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.

. . . .

(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."

Based on the foregoing provisions, jurisprudence has laid down certain requisites that a taxpayer-applicant must comply with in order to successfully obtain a refund or tax credit of unutilized input VAT. These requisites may be classified into certain categories, as follows:

<u>As to the timeliness of the filing of the administrative and judicial claims:</u>

1. The refund claim is filed with the BIR within two (2) years after the close of the taxable quarter when the sales were made;[52]

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[52] *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callego, Sr., Third Division]; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *AT&T Communications Services Philippines,*

2. In case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act on the said claim within a period of ninety (90) days, the judicial claim has been filed with this Court, within thirty (30) days from receipt of the decision or after the expiration of the said ninety (90)-day period;[53]

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

3. The taxpayer is a VAT-registered person; [54]

In relation to the taxpayer's output VAT:

4. The taxpayer is engaged in zero-rated or effectively zero-rated sales;[55]

5. For zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2),[56] the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP); [57]

As regards the taxpayer's input VAT being refunded:

6. The input taxes are not transitional input taxes;[58]

7. The input taxes are due or paid;[59]

Inc. v. Commissioner of Internal Revenue, G.R. No. 182364, August 3, 2010 [Per J. Carpio-Morales, Third Division].

53 Refer to *Energy Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 203367, March 17, 2021 [Per J. Hernando, Third Division]; *Commissioner of Internal Revenue v. CE Casecnan Water and Energy Company, Inc.*, G.R. No. 212727, February 1, 2023 [Per J. Hernando, First Division]; *Commissioner of Internal Revenue v. Vestas Services Philippines, Inc.*, G.R. No. 255085, March 29, 2023 [Per J. Hernando, First Division].

54 *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callego, Sr., Third Division]; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010 [Per J. Carpio-Morales, Third Division].

55 *Id.*

56 Under Republic Act No. 10963, Section 106(A)(2)(a)(2) was renumbered to Section 106(A)(2)(a)(3) while Section 106(A)(2)(b) was deleted. However, there was no corresponding amendment to the subsections cited in Section 112(A) of the National Internal Revenue Code of 1997, as amended.

57 *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callego, Sr., Third Division]; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010 [Per J. Carpio-Morales, Third Division].

58 *Id.*

59 *Id.*

8. The input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume; [60] and

9. The input taxes have not been applied against output taxes during and in the succeeding quarters. [61]

In addition, claimants for VAT refunds or tax credits must satisfy the substantiation and invoicing requirements under the NIRC and its implementing rules and regulations. [62] The invoicing and substantiation requirements should be followed because they are the only way to verify the veracity of the taxpayer's claims.[63]

Strict compliance with substantiation and invoicing requirements is necessary, given VAT's nature and the VAT system's tax credit method, in which tax payments are based on output and input taxes, and the seller's output tax becomes the buyer's input tax, available as a tax credit or refund in the same transaction. It ensures the proper collection of taxes at all stages of distribution, facilitates the computation of tax credits, and provides an accurate audit trail or evidence for BIR monitoring.[64]

Furthermore, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove <u>every minute aspect</u> of their case. [65] Thus, it

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60 *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callego, Sr., Third Division]; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division].

61 *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callego, Sr., Third Division]; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010 [Per J. Carpio-Morales, Third Division].

62 *Team Energy Corporation v. Commissioner of Internal Revenue*, G.R. Nos. 197663 & 197770, March 14, 2018 [Per J. Leonen, Third Division].

63 *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018 [Per J. Martires, Third Division].

64 *Team Energy Corporation v. Commissioner of Internal Revenue* G.R. Nos. 197663 & 197770, March 14, 2018 [Per J. Leonen, Third Division].

65 *Edison (Bataan) Cogeneration Corporation v. Commissioner of Internal Revenue*, G.R. Nos. 201665 & 201668, August 30, 2017 [Per J. Del Castillo, First Division]; *Commissioner of Internal Revenue v. Philippine National Bank*, G.R. No. 180290, September 29, 2014 [Per J. Leonen, Second Division]; *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014 [Per J. Peralta, Third Division]; *Dizon v. Court of Tax Appeals*, G.R. No. 140944, April 30, 2008 [Per J. Nachura, Third Division]; *Atlas Consolidated*

behooves petitioner to show compliance with each of the foregoing requisites and invoicing requirements. As a corollary, the absence of *any* of the said requisites is a valid ground for denying the refund claim.

<u>First and second requisites</u>: Petitioner's administrative and judicial claims were timely filed.

The *first* requisite under Section 112(A) of the NIRC of 1997, as amended, requires the taxpayer to file an administrative claim for refund or tax credit within two (2) years from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

In the present case, petitioner was able to establish that its administrative claims were filed within the prescribed period, to wit:

<table>
<tr><th>Quarter (FY ended June 2021)</th><th>Period Covered</th><th>Last day for filing an administrative claim</th><th>Date of filing of administrative claim for refund</th></tr>
<tr><td>2nd Quarter</td><td>October1, 2020 to December 31, 2020</td><td>December 31, 2022</td><td>December 27, 2022[66]</td></tr>
<tr><td>3rd Quarter</td><td>January 1, 2021 to March 31, 2021</td><td>March 31, 2023</td><td rowspan="2">March 29, 2023[67]</td></tr>
<tr><td>4th Quarter</td><td>April 1, 2021 to June 30, 2021</td><td>June 30, 2023</td></tr>
</table>

Accordingly, the Court finds that petitioner's administrative claims were timely filed. Petitioner therefore complied with the *first* requisite.

As regards the *second* requisite, Section 112(C) of the NIRC of 1997, as amended, requires that the judicial claim be filed within 30 days from receipt of the Commissioner's decision denying the claim, or after the expiration of the 90-day period granted to the CIR within which to act on the administrative claim.

Notably, petitioner was also able to prove that its judicial claims for the subject quarters were seasonably filed, to wit:

Mining and Development Corporation v. Commissioner of Internal Revenue, G.R. No. 145526, March 16, 2007 [Per J. Corona, First Division]; *Commissioner of Internal Revenue v. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005 [Per J. Carpio-Morales, Third Division].

66 Docket (CTA Case No. 11146), pp. 256-257, Exhibits "P-10" and "P-10-A".

67 *Id.* at 258-259, Exhibits "P-11" and "P-11-A".

Quarter (FY ended June 2021)	Period Covered	Date of filing of administrative claim for refund	Date of Receipt of Respondent's Decision	Last day for filing Judicial Claim	Date of filing of Judicial Claim
2nd Quarter	Oct. 1, 2020 to Dec. 31, 2020	Dec. 27, 2022[68]	Mar. 29, 2023[69]	Apr. 28, 2023	Apr. 28, 2023[70]
3rd Quarter	Jan. 1, 2021 to Mar. 31, 2021	Mar. 29, 2023[71]	June 15, 2023[72]	July 17, 2023[73]	July 17, 2023[74]
4th Quarter	Apr. 1, 2021 to June 30, 2021				

Therefore, the respective *Petitions for Review* were filed within the period prescribed by law. Consequently, the Court finds that petitioner complied with both the *first* and *second* requisites.

Third requisite*: *Petitioner is a VAT-registered entity.

The *third* requisite requires that the claimant be a VAT-registered person.

In this case, it is undisputed that petitioner is a VAT-registered person/entity, with Taxpayer Identification Number (TIN) 008-028-126-00000.[75]

Accordingly, the Court finds that petitioner has satisfactorily complied with the *third* requisite.

Fourth and fifth requisites*: *Petitioner failed to establish that its sales of services qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended.

The *fourth* and *fifth* requisites require that the taxpayer be engaged in zero-rated or effectively zero-rated sales; and that for zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and

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[68] *Id.* at 256-257, Exhibits "P-10" and "P-10-A".
[69] *Id.* at 260, Exhibit "P-12".
[70] *Id.* at 6-18.
[71] *Id.* at 258-259, Exhibits "P-11" and "P-11-A".
[72] *Id.* at 265, Exhibit "P-13",
[73] July 15, 2023, the 30th day, fell on a Saturday.
[74] Docket (CTA Case No. 11216), pp. 6-19.
[75] Docket (CTA Case No. 11146), p. 228, Exhibit "P-4".

108(B)(1) and (2) of the NIRC of 1997, as amended, the proceeds thereof must have been paid in acceptable foreign currency duly accounted for in accordance with BSP rules and regulations.

In its amended *Quarterly VAT Returns* (BIR Form No. 2550-Q) for the 2nd, 3rd, and 4th quarters of FY ended June 30, 2021 covering the period from October 1, 2020 to June 30, 2021, petitioner reported total sales amounting to **₱4,165,763,434.62,** which include zero-rated sales in the amount of ₱4,153,731,806.70, as shown below:

FY 2021	Vatable Sales	Zero-Rated Sales	Total Sales
2nd Quarter[76]	₱ 223,214.25	₱ 1,693,868,900.00	₱ 1,694,092,114.25
3rd Quarter[77]	11,160.75	1,256,158,558.54	1,256,169,719.29
4th Quarter[78]	11,797,252.92	1,203,704,348.16	1,215,501,601.08
Total	**₱12,031,627.92**	**₱4,153,731,806.70**	**₱4,165,763,434.62**

Petitioner claims that its sales of services to its non-resident client, IBEX Global Bermuda Ltd., during the subject period, are subject to VAT at zero percent (0%) rate, pursuant to Section 108(B)(2) of the NIRC of 1997, as amended,[79] which reads:

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

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76 *Id.* at 528, Exhibit "P-5-A".
77 *Id.* at 532, Exhibit "P-6-A".
78 Exhibit "P-24-3", USB (Exhibit "P-135-B").
79 Docket (CTA Case No. 11146), p. 618, petitioner's *Memorandum*, Arguments and Discussions, par. 37.

> **the rules and regulations of the Bangko Sentral ng Pilipinas (BSP).** (Emphasis supplied)

As can be discerned from the foregoing provision, certain essential elements must be present for a sale or supply of services to be subject to the VAT rate of 0%, to wit:

1. The recipient of the services is a foreign corporation, and the said corporation is doing business *outside* the Philippines, or is a non-resident person not engaged in business who is outside the Philippines when the services are performed;[80]

2. The services fall under any of the categories under Section 108(B)(2), [81] or simply, the services rendered should be other than *"processing, manufacturing or repacking goods"*;[82]

3. The service must be performed in the Philippines[83] by a VAT-registered person; and

4. The payment for such services should be in acceptable foreign currency accounted for in accordance with BSP rules.[84]

For the *first* essential element, to be considered as an NRFC doing business outside the Philippines, each entity must be supported, at the very least, by **both** a *Certification of Non-Registration of Company* issued by the Philippine Securities and Exchange Commission (**SEC**), **and** proof of incorporation/registration in a foreign country (*e.g., Articles/Certificate of Incorporation/Registration* and/or *Tax Residence Certificate*). The former establishes that the recipient of the service has no registered business in the Philippines and is not engaged in trade or business within the Philippines, while the latter proves that the recipient of the service is indeed

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80 *Sitel Philippines Corporation (Formerly Clientlogic Phils. Inc.) v. Commissioner of Internal Revenue*, G.R. No. 201326, February 8, 2017 [Per J. Caguioa, First Division]; *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007 [Per J. Carpio, Second Division]; *Accenture, Inc. v. Commissioner of Internal Revenue*, G.R. No. 190102, July 11, 2012 [Per J. Sereno, Second Division].

81 *Commissioner of Internal Revenue . v. American Express International, Inc. (Philippine Branch)*, G.R. No. 152609, June 29, 2005 [Per J. Panganiban, Third Division].

82 *Commissioner of Internal Revenue . v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007 [Per J. Carpio, Second Division].

83 *Commissioner of Internal Revenue . v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007 [Per J. Carpio, Second Divison]; *Commissioner of Internal Revenue v. American Express International, Inc. (Philippine Branch)*, G.R. No. 152609, June 29, 2005 [Per J. Panganiban, Third Division].

84 *Id.*

foreign. The said documents have consistently been required by this Court for the purposes of the said *first* essential element. In fact, in *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*,[85] the Supreme Court affirmed the necessity of presenting the said documents in this wise:

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

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[85] G.R. No. 234445, July 15, 2020 [Per J. Inting, Second Division].

> **respective home countries, outside the Philippines are *prima facie* evidence that their clients are not engaged in trade or business in the Philippines.**" (Emphasis supplied, citations omitted)

In the present case, petitioner presented the following documents which undoubtedly show compliance with the *first* essential element, *i.e.*, IBEX Global Bermuda Ltd. is an NRFC not engaged in business in the Philippines for the subject periods, *viz.*:

(1) Apostilled Form No. 6 *Certificate of Incorporation* of IBEX Global Bermuda Ltd. with Registration No. 49882 dated December 30, 2014;[86] and

(2) *Certification of Non-Registration of Company* dated March 27, 2023 issued by the SEC,[87] to the effect that the records of the Commission "do not show the registration of **IBEX GLOBAL BERMUDA LIMITED** as a corporation, partnership, or One Person Corporation (OPC)."

As regards the *second* and *third* essential elements, per petitioner's *Amended Articles of Incorporation*,[88] its primary purpose is to "engage in the business of providing and exporting call/contact center and other facilities and services as may be required by the manufacturers and sellers of goods and services and the buyers and consumers thereof, particularly non-Philippine residents, through digital and electronic software applications and other services to facilitate and complete commercial transactions; and in general, to carry on and undertake such activities which may seem to the Corporation capable of being conveniently carried on in connection with the above purposes, or calculated, directly or indirectly, to enhance the value of or render profitable, any of the Corporation's property or rights."

Further, petitioner presented its Tax and Corporate Compliance Manager, Mr. John Michael Arceo, who, through his *Judicial Affidavit*,[89] testified that petitioner rendered call/contact center services and related support services to IBEX Global Bermuda Ltd., consisting primarily of inbound and outbound call, chat, and email support performed by

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86 Exhibit "P-39", USB ("Exhibit P-135-B").
87 Docket (CTA Case No. 11146), p. 227, Exhibit "P-3".
88 *Id.* at 205-215, Exhibit "P-1".
89 *Id.* at 187-204, Exhibit "P-14".

petitioner's employees in the Philippines. Pertinent portions of his testimony are reproduced below:

> Q7. Please describe Petitioner's business presence in the Philippines in second, third and fourth quarters of fiscal year ended June 30, 2021 and at the present.
>
> **A7. In the 2nd, 3rd and 4th quarters of fiscal year ended June 30, 2021 or from October 1, 2020 to June 30, 2021 and at the present, the Company performs in the Philippines its business of providing call/contact center services and other facilities as a domestic corporation.**
>
> . . . .
>
> Q10. In the period of 1 October 2020 to 30 June 2021 (the 'Claim Period'), who were its customers or clients?
>
> **A10. For the period of October 1, 2020 to June 30, 2021, the Company mostly rendered its call/contact center services and other facilities for IBEX Global Bermuda Ltd., a non-resident foreign corporation located and doing business outside the Philippines. The other customer of the Company during such period is Wall Street Courier Services Inc. but the Company provided very minimal call/contact center services and other facilities to such client.**
>
> Q11. How much of Petitioner's sales during the Claim Period were for IBEX Global Bermuda Ltd.?
>
> **A11. PhP4,211,223,909.00 out of PhP4,217,564,412.35 or 99.85% of the Company's sales during the Claim Period were for IBEX Global Bermuda, Ltd.**
>
> Q12. Please explain the nature of services rendered by petitioner to its IBEX Global Bermuda Ltd.
>
> **A12. The Company's call/contract center services and other facilities for IBEX Global Bermuda Ltd. are primarily support services for inbound/outbound calls, chat and email which are performed by the Company's employees in the Company's offices in the Philippines.** (Emphasis supplied)

However, the Court finds the foregoing evidence insufficient to establish the precise nature of the services actually rendered to IBEX Global Bermuda Ltd.

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Specifically, **no proof of any contract** or **service agreement** was adduced by petitioner other than the bare allegations of its witness. While it may be true that petitioner's primary purpose may include the alleged services rendered to IBEX Global Bermuda Ltd., the existence of a contract or service agreement between them is necessary to show that such services were agreed upon and intended to be rendered to the said NRFC.

Mere allegations without adducing documentary evidence are not sufficient. Allegation is not synonymous with proof.[90] **In claims for tax refund, which are construed strictly against the taxpayer, entitlement must be established through competent and convincing evidence.**

Consequently, the Court is unable to verify whether the services rendered by petitioner were, in fact, services "other than processing, manufacturing, or repacking of goods." For this reason alone, petitioner failed to establish compliance with the *second* and *third* elements necessary for VAT zero-rating.

With the foregoing finding, petitioner fell short of establishing that its sale of services qualifies for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended. Needless to say, it is only when the sales of a VAT-registered person are zero-rated or effectively zero-rated that he/she/it may have the option to apply for the issuance of a tax credit certificate or for a refund of creditable input tax due or paid attributable to such sales.[91]

Nonetheless, for purposes of discussion, and assuming *arguendo* that petitioner's *Amended Articles of Incorporation* and the testimony of its witness are sufficient to prove compliance with the *second* and *third* elements, the Court still finds that the present claim must fail for petitioner's failure to satisfy the *fourth* and *fifth* requisites for the grant of its refund claim, as discussed below.

Before going into the *fourth* essential element, which corresponds to the *fifth* requisite requiring that for zero-rated sales under Section 108(B)(2) of the NIRC of 1997, as amended, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and

[90] *Martin v. Court of Appeals*, G.R. No. 82248, January 30, 1992 [Per J. Cruz, First Division].
[91] *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222428, February 19, 2018 [Per J. Peralta, Second Division].

regulations, it is equally important to emphasize that the VAT zero-rated sales to which such foreign currency remittances correspond, must likewise be duly supported by VAT zero-rated ORs, in accordance with the applicable invoicing requirements. Such ORs must contain all the information required under Sections 113(A) and 113(B) of the NIRC of 1997, as amended, as implemented by Section 4.113-1(A) and (B) of Revenue Regulations No. 16-2005, as amended. Furthermore, the sales invoices (**SIs**) and ORs must be duly registered with the BIR pursuant to Section 237, in relation to Section 238, of the NIRC of 1997, as amended.

Since the reported zero-rated sales are allegedly in the nature of sale of services under Section 108(B)(2) of the NIRC of 1997, as amended, petitioner was required to issue BIR-registered VAT ORs covering the foreign currency proceeds received from each transaction. These receipts must contain all information required by law, including, among others, the notation "zero-rated sale" and petitioner's TIN-VAT number.

To support its reported zero-rated sales of services for the 2nd, 3rd, and 4th quarters of FY ended June 30, 2021 in the amount of ₱4,153,731,806.70, petitioner submitted various VAT zero-rated ORs together with the corresponding *Billing Statements*,[92] issued to its client, IBEX Global Bermuda Ltd., which were accounted for by the ICPA in the amount of ₱4,437,531,009.19, higher by ₱283,799,202.49.[93] The findings of the ICPA are presented below:[94]

Exhibit Reference[95]	Description	Valid	Invalid	Total
"P-43"	Zero-rated sales of service to entities properly substantiated by VAT ORs which complied with invoicing requirements	₱ 686,260,783.60	₱ -	₱ 686,260,783.60
"P-44"	Zero-rated sales of service to entities supported by altered VAT ORs but are	884,355,505.23	-	884,355,505.23

[92] Exhibits "P-43-1" to "P-43-17", "P-44-1" to "P-44-19", "P-45-1" to "P-45-9", "P-46-1" to "P-46-32", "P-47-1" to "P-47-15", "P-48-1" to "P-48-3", "P-49-1", "P-50-1", "P-52-1" to "P-52-4", "P-53-1" to "P-53-8" and "P-55-1" to "P-55-5", USB (Exhibit "P-135-B").

[93] ₱4,437,531,009.19 less ₱4,153,731,806.70; Based on the ICPA's findings, in the 2nd quarter of the FY ended June 30, 2021, it showed that the amount in the petition/schedule was ₱283,799,202.49 higher than the VAT Return, Docket (CTA Case No. 11146), p. 393, Exhibit "P-135", Findings and Observation, par. 4.

[94] *Id.* at 396-397, Exhibit "P-135", Review of Petitioner's Sales Transactions, par. 8.

[95] USB (Exhibit "P-135-B").

	countersigned by the Petitioner's authorized representative			
"P-45"	Zero-rated sales of service to entities supported by VAT ORs with reconciling items	363,057,895.84	-	363,057,895.84
"P-49"	Zero-rated sales of service to entities supported by altered VAT ORs but not countersigned by the Petitioner's authorized representative	-	43,993,917.82	43,993,917.82
	Total	**₱1,933,674,184.67**	**₱ 43,993,917.82**	**₱1,977,668,102.49**
"P-46"	Zero-rated sales of service to entities properly substantiated by VAT ORs which complied with invoicing requirements	₱1,127,209,179.27	₱ -	₱1,127,209,179.27
"P-47"	Zero-rated sales of service to entities supported by altered VAT ORs but are countersigned by the Petitioner's authorized representative	667,161,427.41	-	667,161,427.41
"P-48"	Zero-rated sales of service to entities supported by VAT ORs with reconciling items	110,883,751.21	-	110,883,751.21
"P-50"	Zero-rated sales of service to entities supported by VAT ORs but not within the period claimed		5,328,898.24	5,328,898.24
"P-51"	Zero-rated sales of service to entities but unsupported by Valid Document		8,854,430.33	8,854,430.33
"P-52"	Zero-rated sales of service to entities supported by altered VAT ORs but not countersigned by the Petitioner's authorized representative		94,755,827.29	94,755,827.29
"P-53"	Zero-rated sales of service to entities where the original	332,471,484.97	-	332,471,484.97

	official receipts are lost in the docket, and petitioner provided sworn declaration (Exhibit P-28)			
"P-55"	Zero-rated sales of service with VALID ORs but without billing statements	113,197,907.98	-	113,197,907.98
	Total	**₱2,350,923,750.84**	**₱108,939,155.86**	**₱2,459,862,906.70**
	Grand Total	**₱4,284,597,935.51**	**₱152,933,073.68**	**₱4,437,531,009.19**

The Court agrees with the ICPA's finding that Exhibits "P-49," "P-50," "P-51," and "P-52," totaling ₱152,933,073.68, are invalid and must therefore be disallowed.

Section 113(A) and (B) of the NIRC of 1997, as amended, reads:

> SEC. 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
>
> (2) **A VAT official receipt for every lease of goods or properties, and <u>for every sale</u>, barter or exchange <u>of</u> <u>services</u>.**
>
> (B) *Information Contained in the VAT invoice or VAT Official Receipt.* – **The following information <u>shall be</u> <u>indicated</u> in the VAT invoice or <u>VAT official receipt</u>**:
>
> (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 sales'** shall be written or printed prominently on the invoice or receipt;
>
> . . . .

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> (3) The date of transaction, quantity, unit cost and description of the goods or properties or **<u>nature of the services</u>**; and
>
> (4) In the case of sales in the amount of One thousand (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client. (Emphasis supplied)

Based on the foregoing provisions, a VAT OR must be issued for, *inter alia*, every sale of services; and such OR must indicate, among other mandatory information, **a description of the nature of the services performed**.

A review of the ICPA schedules[96] and the following ORs reveals that, while the ICPA-accounted valid zero-rated sales of ₱4,284,597,935.51[97] were supported by VAT zero-rated ORs, the same were not fully compliant with the prescribed invoicing requirements under the VAT law and regulations. Specifically, **the ORs do not indicate the <u>nature of the services</u> rendered by petitioner**:

Exhibit[98]	OR No.	OR Date (mm/dd/yyyy)	Amount Received (USD)	Conversion Rate	Amount Received (PhP)
"P-43-1"	SC OR#1076	10/15/2020	1,190,396.06	48.62	57,877,056.44
"P-43-2"	DV OR#0516	10/16/2020	1,221,668.41	48.53	59,287,567.94
"P-43-3"	SC OR#1077	10/28/2020	305,407.24	48.30	14,751,169.69
"P-43-4"	SC OR#1080	11/05/2020	844,061.72	48.23	40,709,096.76
"P-43-5"	DV OR#0517	11/05/2020	1,524,654.23	48.23	73,534,073.51
"P-43-6"	CP OR#0027	11/11/2020	1,164,317.66	48.15	56,061,895.33
"P-43-7"	CP OR#0028	11/18/2020	147,394.89	48.14	7,095,590.00
"P-43-8"	SC OR#1081	11/18/2020	443,605.11	48.14	21,355,150.00
"P-43-9"	SC OR#1082	11/23/2020	635,043.17	48.08	30,532,875.61
"P-43-10"	DV OR#0518	11/23/2020	1,494,151.25	48.08	71,838,792.10
"P-43-11"	PQ OR#0200	11/25/2020	1,367,000.00	48.00	65,616,000.00
"P-43-12"	PQ OR#0201	12/07/2020	179,224.41	47.95	8,593,810.46
"P-43-13"	CP OR#0029	12/09/2020	290,221.82	47.95	13,916,136.27
"P-43-14"	DV OR#0519	12/09/2020	309,269.83	47.95	14,829,488.35
"P-43-15"	DV OR#0520	12/17/2020	900,000.00	47.95	43,155,000.00
"P-43-16"	DV OR#0521	12/21/2020	306,684.66	47.95	14,705,529.45
"P-43-17"	PQ OR#0202	12/21/2020	1,927,039.66	47.95	92,401,551.70
"P-44-1"	PQ OR#0196	10/16/2020	1,741,131.35	48.53	84,497,104.42
"P-44-2"	SH OR#0000108	10/07/2020	1,596,131.82	48.30	77,093,166.91
"P-44-3"	BH OR #000018	10/07/2020	627,396.83	48.30	30,303,266.89
"P-44-4"	DV OR#0515	10/15/2020	193,206.80	48.62	9,393,714.62

[96] Exhibits "P-43" to "P-48", "P-53" and "P-55".
[97] ₱4,437,531,009.19 less ₱152,933,073.68.
[98] USB (Exhibit "P-135-B").

"P-44-5"	SH OR#0000109	10/16/2020	1,766,410.10	48.53	85,723,882.15
"P-44-6"	BH OR#000019	10/21/2020	605,398.02	48.50	29,361,803.97
"P-44-7"	PQ OR#0197	11/05/2020	1,366,284.05	48.23	65,895,879.73
"P-44-8"	PQ OR#0198	11/09/2020	610,105.45	48.01	29,291,162.65
"P-44-9"	SH OR#0000110	11/09/2020	1,995,390.93	48.01	95,798,718.55
"P-44-10"	AL OR#0021	11/09/2020	484,552.62	48.01	23,263,371.29
"P-44-11"	BH OR#000020	11/10/2020	586,315.31	48.15	28,231,082.18
"P-44-12"	BH OR#000021	11/11/2020	148,682.34	48.15	7,159,054.67
"P-44-13"	PQ OR#0199	11/23/2020	360,805.58	48.08	17,347,532.29
"P-44-14"	SH OR#0000111	12/07/2020	1,932,342.38	47.95	92,655,817.12
"P-44-15"	AL OR#0023	12/07/2020	388,433.21	47.95	18,625,372.42
"P-44-16"	AL OR#0024	12/09/2020	1,004,716.21	47.95	48,176,142.27
"P-44-17"	BH OR#000022	12/09/2020	886,061.97	47.95	42,486,671.46
"P-44-18"	CP OR#0030	12/09/2020	951,101.78	47.95	45,605,330.35
"P-44-19"	SC OR#1083	12/09/2020	1,114,628.39	47.95	53,446,431.30
"P-45-1"	PQ OR#0195	10/07/2020	563,555.96	48.30	27,219,752.87
"P-45-2"	AL OR#0018	10/07/2020	1,018,200.35	48.30	49,179,076.91
"P-45-3"	AL OR#0019	10/16/2020	270,790.14	48.53	13,141,445.49
"P-45-4"	AL OR#0020	10/21/2020	1,046,088.90	48.50	50,735,311.65
"P-45-5"	CP OR# 0023	10/07/2020	1,533,715.04	48.30	74,078,436.43
"P-45-6"	CP OR#0024	10/15/2020	79,397.14	48.62	3,860,288.95
"P-45-7"	CP OR#0025	10/21/2020	625,513.08	48.50	30,337,384.38
"P-45-8"	CP OR#0026	10/28/2020	707,592.76	48.30	34,176,730.31
"P-45-9"	SH OR#0000112	12/21/2020	1,675,275.68	47.95	80,329,468.86
"P-46-1"	CP 0031	01/05/2021	1,178,319.74	48.02	56,582,913.91
"P-46-2"	SC OR 1084	01/05/2021	439,367.84	48.02	21,098,443.68
"P-46-3"	SC OR 1085	01/08/2021	588,733.07	47.93	28,217,976.05
"P-46-4"	DV OR 0522	01/08/2021	703,266.93	47.93	33,707,583.95
"P-46-5"	DV OR 0523	01/18/2021	657,190.09	47.95	31,512,264.82
"P-46-6"	PQ OR 0203	01/18/2021	59,809.91	47.95	2,867,885.18
"P-46-7"	CP OR 0032	02/08/2021	1,024,018.21	47.94	49,091,432.99
"P-46-8"	SC OR 1086	02/08/2021	1,027,884.19	47.94	49,276,768.07
"P-46-9"	SC OR 1087	02/15/2021	58,740.10	47.87	2,811,888.59
"P-46-10"	DV OR 0524	02/15/2021	1,321,404.15	47.87	63,255,616.66
"P-46-11"	SH OR 0000119	03/08/2021	339,694.19	48.43	16,451,389.62
"P-46-12"	SC OR 1088	03/08/2021	658,192.61	48.43	31,876,268.10
"P-46-13"	SC OR 1089	03/12/2021	380,312.53	48.52	18,452,763.96
"P-46-14"	DV OR 0526	03/23/2021	1,220,261.83	48.50	59,182,698.76
"P-46-15"	SH OR 0000120	03/25/2021	90,636.06	48.68	4,412,163.40
"P-46-16"	SH OR 0000121	04/06/2021	1,764,975.62	48.42	85,460,119.52
"P-46-17"	CP OR 0034	04/21/2021	1,047,160.98	48.28	50,556,932.11
"P-46-18"	SC OR 1090	04/21/2021	1,029,036.36	48.28	49,681,875.46
"P-46-19"	SC OR 1091	04/22/2021	3,440.03	48.39	166,463.05
"P-46-20"	DV OR 0528	04/22/2021	511,142.97	48.39	24,734,208.32
"P-46-21"	DV OR 0529	05/06/2021	591,852.31	47.88	28,337,888.60
"P-46-22"	SH OR 0000122	05/06/2021	728,783.33	47.88	34,894,145.84
"P-46-23"	SH OR 0000123	05/12/2021	1,175,424.15	47.74	56,114,748.92
"P-46-24"	AL OR 0030	05/12/2021	635,966.85	47.74	30,361,057.42
"P-46-25"	BH OR 000028	05/21/2021	927,554.09	47.77	44,309,258.88
"P-46-26"	CP OR 0035	05/21/2021	924,187.86	47.77	44,148,454.07
"P-46-27"	CP OR 0036	05/24/2021	11,928.41	47.90	571,370.84

"P-46-28"	SC OR 1092	06/08/2021	1,112,164.52	47.58	52,916,787.86
"P-46-29"	DV OR 0530	06/08/2021	1,224,044.05	47.58	58,240,015.90
"P-46-30"	AL OR 0032	06/18/2021	857,300.65	48.28	41,390,475.38
"P-46-31"	AL OR 0033	06/22/2021	231,612.78	48.59	11,254,064.98
"P-46-32"	CP OR 0037	06/22/2021	931,740.16	48.59	45,273,254.37
"P-47-1"	AL OR 0025	01/05/2021	1,321,902.66	48.02	63,477,765.73
"P-47-2"	BH OR 000023	01/05/2021	834,803.86	48.02	40,087,281.36
"P-47-3"	PQ OR 0204	01/21/2021	1,606,611.78	47.93	77,004,902.62
"P-47-4"	SH OR 0000114	01/21/2021	895,388.22	47.93	42,915,957.38
"P-47-5"	SH OR 0000115	01/27/2021	538,000.00	48.07	25,861,660.00
"P-47-6"	SH OR 0000116	02/08/2021	440,902.33	47.94	21,136,857.70
"P-47-7"	BH OR 000024	02/08/2021	817,851.67	47.94	39,207,809.06
"P-47-8"	SH OR 0000117	02/22/2021	747,917.79	48.40	36,199,221.04
"P-47-9"	SH OR 0000118	02/26/2021	652,000.00	48.60	31,687,200.00
"P-47-10"	AL OR 0027	03/08/2021	1,167,591.67	48.43	56,546,464.58
"P-47-11"	BH OR 000025	03/08/2021	1,026,758.71	48.43	49,725,924.33
"P-47-12"	CP OR 0033	03/08/2021	994,762.82	48.43	48,176,363.37
"P-47-13"	AL OR 0028	04/06/2021	1,161,088.38	48.42	56,219,899.36
"P-47-14"	BH OR 000026	04/12/2021	1,351,234.63	48.51	65,548,391.90
"P-47-15"	DV OR 0527	04/21/2021	276,837.80	48.28	13,365,728.98
"P-48-1"	SH 0000113	01/05/2021	344,605.90	48.02	16,547,975.32
"P-48-2"	SH OR 0000124	06/11/2021	1,621,400.68	47.58	77,146,244.35
"P-48-3"	SH OR 0000125	06/18/2021	356,038.35	48.28	17,189,531.54
"P-53-1"	PQ OR 0501	02/15/2021	158,355.75	47.87	7,580,489.75
"P-53-2"	PQ OR 0502	02/22/2021	1,482,082.21	48.40	71,732,778.96
"P-53-3"	PQ OR 0503	03/23/2021	1,110,317.17	48.50	53,850,382.75
"P-53-4"	PQ OR 0504	03/25/2021	755,316.94	48.68	36,768,828.64
"P-53-5"	PQ OR 0505	05/06/2021	1,670,872.36	47.88	80,001,368.60
"P-53-6"	PQ OR 0506	06/08/2021	566,865.57	47.58	26,971,463.82
"P-53-7"	PQ OR 0507	06/09/2021	714,105.00	47.69	34,055,667.45
"P-53-8"	PQ OR 0508	06/11/2021	452,091.32	47.58	21,510,505.01
"P-55-1"	BH2 OR 0001	05/24/2021	25,775.59	47.90	1,234,650.76
"P-55-2"	BH2 OR 0002	05/25/2021	685,750.00	48.00	32,916,000.00
"P-55-3"	BH2 OR 0003	06/08/2021	100,883.86	47.58	4,800,054.06
"P-55-4"	BH OR 000029	06/22/2021	651,884.55	48.59	31,675,070.28
"P-55-5"	BH2 OR 0004	06/22/2021	876,150.09	48.59	42,572,132.87
TOTAL			**88,991,658.54**		**4,284,597,935.53**[99]

The supporting ORs show that the amounts were in partial/full payment for "INWARD," but this apparently pertains to the remittance payment from IBEX Global Bermuda Ltd. and does not specifically describe the nature of services rendered by petitioner, as required under Section 113(B)(3) of the NIRC of 1997, as amended, and its implementing regulations. As such, the ICPA-accounted valid zero-rated sales of ₱4,284,597,935.51 shall be denied VAT zero-rating.

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[99] With ₱0.02 rounding-off difference against the total valid zero-rated sales as accounted by the ICPA.

To reiterate, petitioner's compliance with all VAT invoicing requirements is required to be able to file a claim for input taxes attributable to zero-rated sales.[100] The invoicing and substantiation requirements should be followed because they are the only way to determine the veracity of the taxpayer's claims.[101] Moreover, it must be pointed out that compliance with all VAT invoicing requirements provided by tax laws and regulations is mandatory.[102]

Having failed to establish that its sale of services to IBEX Global Bermuda Ltd. during the 2nd, 3rd and 4th quarters of FY ended June 30, 2021 qualifies for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended, petitioner likewise failed to satisfy the *fourth* and *fifth* requisites for the grant of its refund claim.

Such being the case, the present claim must fail. Correspondingly, the Court finds it unnecessary to determine whether petitioner complied with the remaining requisites for the grant of a refund or tax credit of its alleged unutilized input taxes for the 2nd, 3rd, and 4th quarters of FY ended June 30, 2021.

Actions for tax refund or credit, as in the present case, are in the nature of a claim for exemption. As such, the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption must also be *strictissimi* scrutinized and must be duly proven. The burden is on the taxpayer to show that it has strictly complied with the conditions for the grant of the tax refund or credit. Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented, as they are not intended to be liberally construed.[103]

WHEREFORE, in light of the foregoing considerations, the present consolidated *Petitions for Review* are **DENIED**, for lack of merit.

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[100] *J.R.A. Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013 [Per J. Perlas-Bernabe, Second Division].

[101] *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018 [Per J. Martires, Third Division].

[102] *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015 [Per J. Reyes, Third Division].

[103] *Id.*

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

(With Separate Opinion)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ATTESTATION

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Acting Chairperson

CERTIFICATION

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

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

IBEX GLOBAL SOLUTIONS (PHILIPPINES) INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case Nos. 11146 & 11216

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:
JUL 31 2026 1:10 PM

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SEPARATE OPINION

BACORRO-VILLENA, J.:

I concur with the *ponencia* of my esteemed colleague, Associate Justice Lanee S. Cui-David, which rules that petitioner IBEX Global Solutions (Philippines) Inc. (**petitioner**) is not entitled to a refund of its excess and unutilized input value-added tax (**VAT**) for the second (2^nd^), third (3^rd^), and fourth (4^th^) quarters of the fiscal year (**FY**) ending 30 June 2021, based on the following grounds:

1. Petitioner failed to establish compliance with the ***third essential element*** for the sales to IBEX Global Bermuda Ltd. (**IGBL**) to qualify for value-added tax (**VAT**) zero-rating under Section 108(B)(2)[1] of

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[1] **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);

(2) Services other than those mentioned in the preceding paragraph, ... 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)[.] (Emphasis supplied) the National Internal Revenue Code (**NIRC**) of 1997, as amended, *i.e.*, that the services were performed in the Philippines; and

2. Petitioner failed to comply with the VAT invoicing requirements necessary for its sales of services to IGBL during the relevant taxable periods to qualify for VAT zero-rating. This failure bears directly on the ***fourth and fifth requisites*** for the grant of a refund or tax credit of unutilized input VAT, namely: (**a**) that petitioner engaged in zero-rated or effectively zero-rated sales; and (**b**) that petitioner duly accounted for the acceptable foreign currency exchange proceeds in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (**BSP**).

As to the ***first ground***, I submit that notwithstanding the undisputed testimony of petitioner's witness, John Michael Arceo (**Arceo**), who testified in her capacity as petitioner's Tax and Corporate Compliance Manager, that petitioner's employees performed inbound and outbound call, chat, and email support services for IGBL in the Philippines, such testimony, standing alone, does not sufficiently establish compliance with the ***third essential element*** by a preponderance of evidence. The testimony merely reflects petitioner's own assertion and lacks independent documentary support showing that petitioner actually performed the services in the Philippines for IGBL during the relevant taxable periods.

Notably, petitioner did not present any contract, service agreement, statement of work, or similar document identifying the services that IGBL engaged petitioner to perform, the place where petitioner would perform them, or the parties' respective obligations. Such documentary evidence would have corroborated the witness's testimony and established that petitioner and IGBL agreed that petitioner would perform the covered services in the Philippines. In the absence of such evidence, petitioner failed to sufficiently prove that the services subject of the claimed VAT zero-rating were, in fact, performed in the Philippines, as required under Section 108(B)(2)[2] of the NIRC of 1997, as amended.

With respect to the ***second ground***, I concur that the VAT official receipts (**ORs**) offered in evidence did not fully comply with the invoicing requirements prescribed under the VAT law and its implementing regulations. Specifically, the VAT ORs merely state that the amounts received constituted partial or full payment for "INWARD." This notation appears to

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[2] Supra at note 1.

refer only to remittances received from IGBL and does not describe the nature of the services petitioner rendered, as required under Sections 237 and 238 of the NIRC of 1997, as amended, *viz*:

> ...
>
> **SEC. 237.** *Issuance of Receipts or Sales or Commercial Invoices.* — All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or **for services rendered valued at Twenty-five pesos (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**[.]
>
> ...
>
> **SEC. 238.** *Printing of Receipts or* ***Sales*** *or* ***Commercial Invoices.*** — All persons who are engaged in business shall secure from the Bureau of Internal Revenue **an authority to print receipts or sales or commercial invoices before a printer can print the same.**
>
> No authority to print receipts or **sales or commercial invoices** shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and **such other information that may be required by rules and regulations** to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.[3]
>
> ...

The following information should be reflected in the VAT invoice or OR:

1. A statement that the seller is a VAT-registered person, followed by its TIN;

2. The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT, provided that: (**a**) the amount of tax shall be shown as a separate item in the invoice or receipt; (**b**) if the sale is exempt from VAT, the term "VAT exempt sale" shall be written or printed prominently on the invoice or receipt; (**c**) if the sale is subject to 0% VAT, the term "zero-rated sale" shall be written or printed prominently on the invoice or receipt; or (**d**) if the sale involves goods, properties or services, some of which are subject to and

[3] Emphasis supplied and italics in the original text.

some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the breakdown of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale;

3. In the case of sales in the amount of ₱1,000.00 or more, where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and TIN of the purchaser, customer or client;

4. Date of transaction; and

5. Quantity, unit cost and description of merchandise or **<u>nature of service</u>**.[4]

Tellingly, Revenue Memorandum Circular (**RMC**) No. 42-2003[5] expressly provides that a taxpayer's failure to comply with the invoicing requirements will result in the disallowance of the claim for input tax, as follows:

...

Q-13: *Should penalty be imposed on TCC application for failure of claimant to comply with certain* ***invoicing requirements****, (e.g., sales invoices must bear the TIN of the seller)?*

A-13: Failure by the supplier to comply with the invoicing requirements on the documents supporting the sale of goods and services will result [in] the disallowance of the claim for input tax by the purchaser-claimant.

If the claim for refund/TCC is based **on the existence of zero-rated sales by the taxpayer** but **it fails to comply with the invoicing requirements in the issuance of sales invoices (*e.g.*, failure to indicate the TIN), its claim for tax credit/refund of VAT on its purchases shall be <u>denied</u>** considering that the invoice it is issuing to its customers does not depict its being a VAT-registered taxpayer whose sales are classified as zero-rated sales. Nonetheless, this treatment is without prejudice to the right of the taxpayer to charge the input taxes to the appropriate expense account or

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4 See *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, 27 April 2007.
5 Clarifying Certain Issues Raised Relative to the Processing of Claims for Value-Added Tax (VAT) Credit/Refund, Including Those Filed with the Tax and Revenue Group, One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center, Department of Finance (OSS) by Direct Exporters.

> asset account subject to depreciation, whichever is applicable. Moreover, the case shall be referred by the processing office to the concerned BIR office for verification of other tax liabilities of the taxpayer.[6]
>
> ...

Thus, only sales of services supported by documents compliant with the above-stated requirements shall qualify for VAT zero-rating under Section 108(B)(2)[7] of the NIRC of 1997, as amended.

Accordingly, the Court cannot accord VAT zero-rating to the sales of services aggregating ₱4,284,597,935.51, which the Independent Certified Public Accountant (**ICPA**) treated as valid zero-rated sales but which petitioner failed to support with compliant VAT ORs. The Court must likewise disallow the remaining alleged zero-rated sales of services amounting to ₱152,933,073.68, which the ICPA found invalid, because the supporting VAT ORs were: (1) altered without the countersignature of petitioner's authorized representative; (2) issued outside the period covered by the claim; or (3) unsupported by valid corroborating documents.

However, as to the ***third ground***, contrary to the *ponencia*, I respectfully submit that petitioner sufficiently established compliance with the ***second essential element*** for the sales to IGBL to qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended, *i.e.*, that the services rendered by petitioner were, in fact, services "other than processing, manufacturing, or repacking of goods."

Petitioner presented its Amended Articles of Incorporation[8] (**AOI**), which state that its primary purpose is to "engage in the business of providing and exporting call/contact center and other facilities and services as may be required by the manufacturers and sellers of goods and services and the buyers and consumers thereof, particularly non-Philippine residents." Petitioner likewise presented the undisputed testimony of its witness, Arceo, who categorically testified that petitioner rendered call/contact center services and related support services to IGBL. These services primarily consisted of inbound and outbound call, chat, and email support performed by petitioner's employees in the Philippines.

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6 Italics in the original text and emphasis supplied.
7 Supra at note 1.
8 Exhibit "P-1", Division Docket (CTA Case No. 11146), pp. 205-215.

Taken together, the foregoing pieces of evidence sufficiently establish, by a preponderance of evidence, that the services petitioner rendered to IGBL were not in the nature of processing, manufacturing, or repacking of goods.

It is worth noting that the ***second essential element*** under Section 108(B)(2)[9] of the NIRC of 1997, as amended, is framed in the negative. It merely requires proof that the services rendered are **not** "processing, manufacturing, or repacking of goods." Accordingly, petitioner need not establish the precise legal classification of every service it rendered. It is sufficient that the evidence, viewed as a whole, demonstrates that the services do not fall within the excluded category contemplated by the statute.

All told, I vote to **DENY** the present consolidated Petitions for Review for lack of merit but only as to the first and second grounds discussed above.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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9 Supra at note 1.