REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

SONY MOBILE COMMUNICATIONS INTERNATIONAL AB (formerly known as SONY ERICSSON MOBILE COMMUNICATIONS INTERNATIONAL AB), *Petitioner,*	**CTA CASE NO. 8874**
-versus-	**Members:** **BAUTISTA,** Chairperson; **FABON-VICTORINO, RINGPIS-LIBAN,** ***JJ.***
COMMISSIONER OF INTERNAL REVENUE *Respondent.*	**Promulgated:** AUG 18 2017 10:24 a.m.

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DECISION

RINGPIS-LIBAN, J.:

The Case

This Petition for Review filed by Sony Mobile Communications International AB prays for the refund of its alleged unutilized input value-added tax (VAT) related to zero-rated sales/receipts for the four taxable quarters of calendar year (CY) 2012 in the total amount of Two Million Three Hundred Forty-Two Thousand Ninety-Nine Pesos and 75/100 (₱2,342,099.75).[1]

The Facts

1 Pre-Trial Order, docket, vol. 1, p. 277.

Petitioner Sony Mobile Communications International AB is a branch office of Sony Ericsson Mobile Communications AB[2] (SEMCAB), which is a foreign corporation duly organized and existing under the laws of Sweden.[3] It is licensed to do business in the Philippines.[4] Petitioner's primary objectives are to market and support the sale of products, primarily within the areas of public telecommunications and mobile radio communications as well as other operations related thereto.[5] The corporate name of Petitioner has been amended from Sony Ericsson Mobile Communications International AB to Sony Mobile Communications International AB.[6] It is a registered taxpayer with the Bureau of Internal Revenue (BIR), with Taxpayer's Identification Number (TIN) 219-660-821-000 under Certificate of Registration No. OCN3RC0000600810.[7]

Petitioner and SEMCAB has a Sales Promotion and Marketing Services Agreement[8] that started on January 1, 2006.

On the other hand, Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue empowered to perform the duties of his office, including, among others, the duty to act upon and approve claims for refund or tax credit as provided by law. He holds office at the 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.

The Quarterly VAT Returns of Petitioner for the 1st, 2nd, 3rd, and 4th quarters of calendar year 2012 were filed on April 25, 2012[9], on July 20, 2012[10], on October 23, 2012[11], and on January 25, 2013[12], respectively.

On March 28, 2014, Petitioner filed with the BIR an administrative claim for refund for the four taxable quarters of calendar year 2012, allegedly representing its unutilized input VAT in the amount of ₱2,342,099.75.[13]

Due to Respondent's inaction on the administrative claim, Petitioner filed this Petition for Review[14] on August 20, 2014.

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2 Presently known as "Sony Mobile Communications AB".
3 Exhibits "P-1" and "P-2", docket, vol. 2, p. 686 and pp. 688 to 700, respectively.
4 Exhibits "P-1" and "P-2", *ibid.*
5 Exhibit "P-3", docket, vol. 2, pp. 701 to 704.
6 Exhibits "P-4", "P-5", and "P-6", docket, vol. 2, pp. 716 to 719, pp. 705 to 711, and p. 713, respectively.
7 Exhibits "P-7" and "P-8", docket, vol. 2, p. 721 and p. 722, respectively.
8 Exhibit "P-9", docket, vol. 2, pp. 723 to 732.
9 Exhibit "P-15", docket, vol. 2, p. 767.
10 Exhibit "P-19", docket, vol. 2, p. 781.
11 Exhibit "P-21", docket, vol. 2, p. 790.
12 Exhibit "P-23", docket, vol. 2, p. 798.
13 Exhibits "P-13" and "P-14", docket, vol. 2, pp. 741 to 749 and p. 753, respectively.
14 Docket, vol. 1, pp. 7 to 19.

After the Court granted Respondent's Motion for Extension of Time to File Answer on September 23, 2014,[15] Respondent filed his Answer[16] on October 15, 2014 and interposed the following special and affirmative defenses:

"4. Petitioner's alleged claim for tax refund/credit is subject to administrative investigation/examination by the Respondent's Bureau.

5. Petitioner failed to demonstrate that the tax subject of this case was erroneously or illegally collected.

6. Taxes paid and collected are presumed to have been paid in accordance with law and regulations, hence, not refundable.

7. Petitioner failed to prove compliance with the governing rules relative to tax recovery or refund as provided for under Sections 204(C) and 229 of the National Internal Revenue Code of 1997, as amended.

8. In an action for tax refund/credit, the burden of proof rests upon the taxpayer to establish by sufficient and competent evidence its entitlement to a claim for refund/credit, and failure to adduce sufficient proof is fatal to the action for tax refund/credit (*Commissioner of Internal Revenue vs. Tokyo Shipping Co., Ltd., 244 SCRA 336*).

9. It cannot be over-emphasized that *tax exemption represents a loss of revenue to the government* and must, therefore, not rest on vague inference. When claimed, it must be *strictly construed against the taxpayer* who must prove that he falls under the exception. And if an exemption is found to exist, it must not be enlarged by construction, since the reasonable presumption is that the State has granted in express terms all it intended to grant at all, and that, unless the privilege is limited to the very terms of the statute, the favor would be extended beyond dispute in ordinary cases.

10. Finally, basic is the rule that tax refunds are in the nature of tax exemptions and are to be construed *strictissimi juris* against the entity claiming the same (*Philippine Geothermal, Inc. vs. Commissioner of Internal Revenue, G.R. No. 154028, July 27, 2005*). Moreover, statutes in derogation of sovereignty such as those containing exemption

[15] Resolution, docket, vol. 1, p. 77.
[16] Docket, vol. 1, pp. 78 to 80.

from taxation should be *strictly construed* in favor of the State (*PLDT vs. City of Davao, 399 SCRA 442*)."

Respondent and Petitioner both filed their respective Pre-Trial Briefs[17] on November 20, 2014.

The parties submitted their Joint Stipulation of Facts and Issues[18] on December 5, 2014. Subsequently, the Court issued a Pre-Trial Order[19] on January 14, 2015, terminating the pre-trial.

Upon motion of Petitioner,[20] the Court commissioned Atty. Clifford E. Chua as the Independent Certified Public Accountant (ICPA) for the case on March 16, 2015.[21]

Petitioner presented Ms. Jocelyn B. Remo, Ms. Jocelyn P. Calma, Atty. Clifford E. Chua, and Mr. Roberto Santillan as its witnesses. Thereafter, Petitioner formally offered its documentary and testimonial evidence. The Court admitted all of Petitioner's offered evidence, except for Exhibits "P-85" to "P-91", "P-102", "P-160" to "P-179", and "P-227" to "P-227-a".[22]

On the other hand, Respondent presented Revenue Officer Mayrose M. Vega as his sole witness. Then, Respondent formally offered his testimonial and documentary evidence, which were all admitted by the Court.[23]

The instant case was declared submitted for decision on August 25, 2016,[24] after Respondent filed his Memorandum[25] on August 8, 2016 and Petitioner filed its Memorandum[26] on August 15, 2016.

The Issues

The following issues[27] were presented by the parties to be resolved by the Court:

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17 Docket, vol. 1, pp. 83 to 86 and 87 to 97.
18 Docket, vol. 1, pp. 266 to 272.
19 Docket, vol. 1, pp. 277 to 284.
20 Motion to Avail the Provisions of Rule 13 of the Revised Rules of the Court of Tax Appeals, docket, vol. 1, pp. 294 to 298.
21 Oath of Commission and Resolution, docket, vol. 1, p. 310 and pp. 312 to 313, respectively.
22 Resolution dated December 17, 2015, docket, vol. 2, pp. 862 to 863.
23 Resolution dated June 7, 2016, docket, vol. 2, pp. 914 to 915.
24 Resolution, docket, vol. 1, p. 955.
25 Docket, vol. 2, pp. 927 to 931.
26 Docket, vol. 2, pp. 932 to 953.
27 JSFI, docket, vol. 1, pp. 268 to 269.

1. Whether Petitioner is entitled to refund for the unutilized VAT input taxes in the total amount of **Two Million Three Hundred Forty Two Thousand Ninety Nine and 75/100 Pesos (₱2,342,099.75)**, representing unutilized VAT input taxes for the 1st, 2nd, 3rd, and 4th quarters of the taxable year 2012.

   A. Whether Petitioner is engaged in zero-rated or effectively zero-rated sales.

   B. Whether the input taxes being claimed are due or paid.

   C. Whether the input taxes being claimed have not been applied against output taxes during and in the succeeding quarters.

   D. Whether the input taxes claimed are attributable to zero-rated or effectively zero-rated sales.

   E. Whether the claim is filed within two years after the close of the taxable quarter when such sales were made.

   F. Whether or not Petitioner has complied with the invoicing and accounting requirements for VAT-registered persons, as well as the filing and payment of VAT pursuant to the provisions of Sections 113 and 114 of the NIRC, as amended.

The foregoing issues may be summarized into one main issue:

Whether Petitioner is entitled to a refund of the total amount of ₱2,342,099.75, allegedly representing its unutilized input VAT for the four taxable quarters of calendar year 2012.

Discussion/Ruling

Pertinent to the resolution of the present case is the provision of Section 112(A) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended, which provides:

> "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.
>
> xxx xxx xxx
>
> (C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* – In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.
>
> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals."

Based on the foregoing, in order to be entitled to a refund or tax credit of excess input VAT attributable to zero-rated or effectively zero-rated sales, the following requisites must be satisfied:

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

Petitioner is a VAT-registered entity.

Petitioner is registered with the Bureau of Internal Revenue as a VAT taxpayer with TIN 219-660-821-000 under the Certificate of Registration No. OCN 3RC0000600810 dated August 28, 2002.[28]

Administrative and judicial claims were filed within the period prescribed by law.

The subject claim covers the four quarters of calendar year 2012, each ending as follows:

Quarter	Close of Taxable Quarter
1st	March 31, 2012
2nd	June 30, 2012
3rd	September 30, 2012
4th	December 31, 2012

As categorically stated in Section 112(A) of the NIRC of 1997, as amended, the application for the issuance of tax credit certificate or refund of creditable input tax due or paid attributable to zero-rated or effectively zero-rated sales must be filed within two (2) years after the close of the taxable quarter when such sales were made.

Counting from the close of the taxable quarters, Petitioner had until the following dates to file its administrative claim for issuance of tax credit certificate or refund of unutilized input VAT attributable to its zero-rated sales:

[28] Exhibit "P-8", docket, vol. 2, p. 722.

Quarter	Close of Taxable Quarter	Two-year Prescriptive Period
1st	March 31, 2012	March 31, 2014
2nd	June 30, 2012	June 30, 2014
3rd	September 30, 2012	September 30, 2014
4th	December 31, 2012	December 31, 2014

Since the administrative claim covering the 1st to 4th quarters of CY 2012 was filed on March 28, 2014, the same was timely filed.[29]

On the other hand, the determination of the timeliness of Petitioner's judicial claim is governed by Section 112(C) of the NIRC of 1997, as amended, which provides that the Commissioner of Internal Revenue (CIR) has one hundred twenty (120) days from the date of submission of the complete documents in support of the application for tax refund/credit within which to grant or deny the claim. In case of full or partial denial by the CIR, the taxpayer's recourse is to file an appeal before the Court of Tax Appeals within thirty (30) days from receipt of the decision of the CIR. However, if after the 120-day period the CIR fails to act on the application for tax refund/credit, the remedy of the taxpayer is to appeal the inaction of the CIR to the Court of Tax Appeals within thirty (30) days.

Applying the same to the present claim, when Petitioner filed its administrative claim and submitted its complete documents in support of its application for refund or tax credit on March 28, 2014, Respondent had 120 days therefrom or until July 26, 2014 within which to decide on Petitioner's claim. Due to the inaction of Respondent, Petitioner had thirty days from July 26, 2014 or until August 25, 2014 within which to file its judicial claim.

Since Petitioner filed the Petition for Review on August 20, 2014, it is clear that Petitioner seasonably filed its judicial claim.

Petitioner had effectively zero-rated sales.

Petitioner avers that for CY 2012, its sales of services to its foreign affiliate, SEMCAB[30], which is engaged in business outside the Philippines, qualify

[29] Exhibits "P-13" to "P-14", docket, vol. 2, pp. 741 to 753.
[30] Presently known as "Sony Mobile Communications AB".

as zero-rated sales pursuant to Section 108(B)(2) of the NIRC of 1997, as amended, which states:

> "SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* –
>
> xxx xxx xxx
>
> (B) *Transactions Subject to Zero Percent (0%) Rate.* – The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);
>
> (2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);"

In the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*[31], the Supreme Court held that in order for the supply of services to be VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the following requisites must be satisfied:

1. the services must be other than processing, manufacturing or repacking of goods;
2. the payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations; and
3. the recipient of such services is doing business outside the Philippines.

After a careful evaluation of the evidence presented, the Court finds that Petitioner complied with the above-enumerated first and third requisites.

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

Pursuant to the Sales Promotion and Marketing Services Agreement, Petitioner would perform sales promotion services, implementation of marketing strategies and other related services to SEMCAB.[32] Such services are not in the same category as "processing, manufacturing or repacking of goods".

Petitioner avers that it rendered services to SEMCAB, which is a foreign corporation registered in Sweden and is engaged in business outside Philippines.

The Court has previously held that to be considered as a non-resident foreign corporation doing business outside the Philippines, each entity must be supported, at the very least, by **both** a certificate of non-registration of corporation/partnership issued by the Philippine Securities and Exchange Commission (SEC) **and** certificate/articles of foreign incorporation/association/registration, and that there is no other indication that the recipient of the services is doing business in the Philippines.[33]

To support this claim, Petitioner presented the SEC Certificate of Non-Registration of SEMCAB[34] and the Authenticated Certificate of Registration of SEMCAB[35] issued by the Swedish Companies Registration Office.

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

> "SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* –
>
> (A) *Invoicing Requirements.* – A VAT-registered person shall issue:
>
> xxx xxx xxx

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32 Exhibit "P-9", docket, vol. 2, pp. 723 to 732.

33 *Deutsche Knowledge Services Pte. Ltd. vs Commissioner of Internal Revenue*, CTA EB Nos. 1244 and 1345 (CTA Case No. 8443), March 30, 2017.

34 Exhibit "P-10", docket, vol. 2, p. 733.

35 Exhibit "P-12", docket, vol. 2, pp. 735 to 740.

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

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

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

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

xxx xxx xxx

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

xxx xxx xxx

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

"SECTION 4.113-1. *Invoicing Requirements.* –

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

xxx xxx xxx

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

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

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

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

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

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

xxx xxx xxx

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

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

In order to prove that it rendered services to SEMCAB and was paid in foreign currency duly accounted for in accordance with the rules and regulations of the BSP for the 1st to 4th quarters of CY 2012 in the amount of US$793,030.76 with peso equivalent of ₱34,562,770.21,[36] Petitioner submitted its zero-rated official receipts and invoices,[37] its bank statements,[38] as well as the Certificate of fund transfers and inward remittances issued by Citibank NA.[39]

Evidently, Petitioner's sales of services for the subject period of claim in the amount of ₱34,562,770.21, which were duly reported in its 2012 Quarterly

[36] Annex A, Amended ICPA Report, Exhibit "P-229", docket, vol. 2, p. 641.
[37] Exhibits "P-29" to "36-a".
[38] Exhibits "P-39" to "P-39-k".
[39] Exhibits "P-38".

VAT Returns[40], qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended.

Input taxes were incurred or paid.

In its Quarterly VAT Returns for calendar year 2012, Petitioner reported total input VAT of ₱2,342,099.75, broken down as follows:

Input VAT on:	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Domestic purchases of goods other capital goods	₱620.95	₱ -	₱ -	₱ -	₱620.95
Importation of goods other capital goods	46,834.00	32,589.00	-	-	79,423.00
Domestic purchases of services	1,480,535.22	553,207.64	166,073.02	62,239.92	2,262,055.80
Total	**₱1,527,990.17**	**₱585,796.64**	**₱166,073.02**	**₱62,239.92**	**₱2,342,099.75**

To prove that Petitioner incurred/paid said input VAT, it submitted various suppliers' invoices and official receipts[41] that were examined by the ICPA, Mr. Clifford E. Chua.

The ICPA findings are summarized as follows:

	Findings	Annexed to Exhibit P-229	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
A.	Purchases and importation with appropriate supporting documents (no exceptions noted)	D, CC, L, U, Z	₱1,311,174.11	₱205,694.64	₱81,754.03	₱28,579.92	₱1,627,202.70
B.	Exceptions Noted						
1	Summary of input VAT from local purchases without proper supporting documents	E, M	₱25,288.82	₱212,584.31			₱237,873.13

[40] Exhibits "P-17", "P-20", "P-22", and "P-23".

[41] Exhibits "P-40" to "P-226-a".

2	Summary of input VAT from importations without proper supporting documents	DD		27,380.00			27,380.00
3	Summary of input VAT from local purchases where the TIN of the customer is not indicated in the supporting documents or the TIN indicated is incorrect	F, N, V	4,676.79	21,284.53	666.32		26,627.64
4	Summary of input VAT where there are noted alterations in the supporting documents	G, O, W, AA	44,178.35	86,706.04	50,524.54	13,860.00	195,268.93
5	Summary of input VAT where the amount indicated in the schedule of purchases is different from the amount in the supporting documents	H, P, BB	13,436.24	8,511.18		19,800.00	41,747.42
6	Summary of input VAT outside the period of claim	I	100,103.64				100,103.64
7	Summary of input VAT where the amount in words is not indicated	Q		439.18			439.18
8	Summary of input VAT where the address of the Company is not indicated	R		6,964.29			6,964.29
9	Summary of Non-VAT local purchases	J, S, X	26,785.71	18,000.00	33,116.02		77,901.73
Sub-total			*₱214,469.55*	*₱381,869.53*	*₱84,306.88*	*₱33,660.00*	*₱714,305.96*
TOTAL			**₱1,525,643.66**	**₱587,564.17**	**₱166,060.91**	**₱62,239.92**	**₱2,341,508.66**

It should be noted that the ICPA failed to account for the difference of ₱591.09 (₱2,342,099.75 less ₱2,341,508.66); thus, the same shall be disallowed instantaneously.

Likewise, the exceptions noted by the ICPA in the amount of ₱694,505.96 (₱714,305.96 less ₱19,800.00[42]) shall be disallowed for Petitioner's failure to meet the substantiation requirements under Sections 110(A) and 113(A) and (B) of the NIRC of 1997, as amended, and as implemented by Sections 4.110-2, 4.110-8, and 4.113-1 of Revenue Regulations No. 16-05.

In addition, Petitioner's claimed input VAT in the amount of ₱13,132.82, as detailed below, should also be disallowed for non-compliance with the substantiation requirements provided by law and revenue regulations:

Findings	ICPA Report Annex	Exhibit No.	Input VAT Amount
1 Input VAT on purchases of services supported by VAT Exempt OR			
DHL Global Forwarding (Phils.) Inc.	D	P-43	₱9,019.35
DHL Global Forwarding (Phils.) Inc.	D	P-44	967.08
Sub-total			***₱9,986.43***
2 Input VAT on purchase of services supported by OR but Petitioner's TIN was not indicated			
UFLC Value Plus Rentals Corp.	D	P-63	₱873.57
Sub-total			***₱873.57***
3 Input VAT on purchase of services supported by OR but Petitioner's TIN indicated was incorrect			
Schenker Philippines, Inc.	D	P-81	₱1,970.64
Sub-total			***₱1,970.64***
4 Input VAT on purchases of services supported by computerized OR without BIR permit to print and with incorrect or without Petitioner's TIN			
PLDT	L	P-152	₱151.09
PLDT	L	P-153	151.09
Sub-total			***₱302.18***
TOTAL			**₱13,132.82**

In sum, out of Petitioner's unutilized input VAT claimed for refund amounting to ₱2,342,099.75, only the amount of ₱1,633,869.88 represents Petitioner's substantiated and valid input VAT for the four quarters of CY 2012, as computed below:

[42] The claimed input VAT of ₱19,800.00 for the 4th quarter of 2012 *(item 5, Annex BB)* tallies with the purported supporting OR marked as Exhibit "P-223", thus should not be disallowed.

Input VAT claimed for refund		₱ 2,342,099.75
Less: Disallowances		
Unaccounted input VAT	₱ 591.09	
Exceptions noted per ICPA Report	694,505.96	
Additional disallowances found by the Court	13,132.82	708,229.87
Substantiated Input VAT		**₱1,633,869.88**

Petitioner's input taxes were attributable to effectively zero-rated sales and were not applied to any output tax liability.

Since Petitioner reported 100% zero-rated sales for CY 2012, the substantiated input VAT of ₱1,633,869.88 is wholly attributable thereto.

Moreover, although the claimed input VAT was carried over by Petitioner in its succeeding Quarterly VAT Returns[43], the same remained unutilized until it was deducted as "VAT Refund/TCC Claimed" in its Quarterly VAT Return for the third quarter of taxable year 2013[44]. Consequently, the subject claim no longer formed part of the excess input VAT of ₱2,566,710.17[45] as of the end of the third quarter of 2013, which was carried over/applied to the succeeding fourth quarter of 2013[46].

WHEREFORE, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, Respondent is **ORDERED TO REFUND** in favor of Petitioner the amount of ₱1,633,869.88, representing Petitioner's unutilized input taxes attributable to zero-rated sales for calendar year 2012.

SO ORDERED.

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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43 Exhibits "P-24", "P-25", and "P-27".
44 Exhibit "P-27", Line 23D, docket, vol. 2, p. 819.
45 Exhibit "P-27", Line 29, docket, vol. 2, p. 819.
46 Exhibit "P-28", Line 20A, docket, vol. 2, p. 826.

Input VAT claimed for refund		₱ 2,342,099.75
Less: Disallowances		
Unaccounted input VAT	₱ 591.09	
Exceptions noted per ICPA Report	694,505.96	
Additional disallowances found by the Court	13,132.82	708,229.87
Substantiated Input VAT		**₱1,633,869.88**

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Since Petitioner reported 100% zero-rated sales for CY 2012, the substantiated input VAT of ₱1,633,869.88 is wholly attributable thereto.

Moreover, although the claimed input VAT was carried over by Petitioner in its succeeding Quarterly VAT Returns[43], the same remained unutilized until it was deducted as "VAT Refund/TCC Claimed" in its Quarterly VAT Return for the third quarter of taxable year 2013[44]. Consequently, the subject claim no longer formed part of the excess input VAT of ₱2,566,710.17[45] as of the end of the third quarter of 2013, which was carried over/applied to the succeeding fourth quarter of 2013[46].

WHEREFORE, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, Respondent is **ORDERED TO REFUND** in favor of Petitioner the amount of ₱1,633,869.88, representing Petitioner's unutilized input taxes attributable to zero-rated sales for calendar year 2012.

SO ORDERED.

Ma. Belen M. Ringpis-Liban

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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43 Exhibits "P-24", "P-25", and "P-27".
44 Exhibit "P-27", Line 23D, docket, vol. 2, p. 819.
45 Exhibit "P-27", Line 29, docket, vol. 2, p. 819.
46 Exhibit "P-28", Line 20A, docket, vol. 2, p. 826.

Input VAT claimed for refund		₱ 2,342,099.75
Less: Disallowances		
Unaccounted input VAT	₱ 591.09	
Exceptions noted per ICPA Report	694,505.96	
Additional disallowances found by the Court	13,132.82	708,229.87
Substantiated Input VAT		**₱1,633,869.88**

Petitioner's input taxes were attributable to effectively zero-rated sales and were not applied to any output tax liability.

Since Petitioner reported 100% zero-rated sales for CY 2012, the substantiated input VAT of ₱1,633,869.88 is wholly attributable thereto.

Moreover, although the claimed input VAT was carried over by Petitioner in its succeeding Quarterly VAT Returns[43], the same remained unutilized until it was deducted as "VAT Refund/TCC Claimed" in its Quarterly VAT Return for the third quarter of taxable year 2013[44]. Consequently, the subject claim no longer formed part of the excess input VAT of ₱2,566,710.17[45] as of the end of the third quarter of 2013, which was carried over/applied to the succeeding fourth quarter of 2013[46].

WHEREFORE, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, Respondent is **ORDERED TO REFUND** in favor of Petitioner the amount of ₱1,633,869.88, representing Petitioner's unutilized input taxes attributable to zero-rated sales for calendar year 2012.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[43] Exhibits "P-24", "P-25", and "P-27".
[44] Exhibit "P-27", Line 23D, docket, vol. 2, p. 819.
[45] Exhibit "P-27", Line 29, docket, vol. 2, p. 819.
[46] Exhibit "P-28", Line 20A, docket, vol. 2, p. 826.

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
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.

LOVELL R. BAUTISTA
Associate Justice
Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice