REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

MANULIFE DATA SERVICES, INC., Petitioner,	**CTA CASE NO. 10666** Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: 4:10 p.m.

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AMENDED DECISION

***FERRER-FLORES, J.*:**

Before this Court is the *Motion for Reconsideration* filed by petitioner **Manulife Data Services, Inc. (Manulife)** on August 15, 2024, with respondent's *Opposition (Re: Motion for Reconsideration of the Decision dated 2 August 2024)* filed on September 23, 2024.

In the instant *Motion*, petitioner prays for the Court to vacate the Decision dated August 2, 2024 (assailed Decision) dismissing its *Petition for Review* and to grant its claim for refund in the total amount of ₱102,991,135.71, representing its excess and unutilized input tax for the first to fourth quarters of calendar year (CY) 2019.

The dispositive portion of the assailed Decision reads as follows:

> **WHEREFORE**, the instant **Petition for Review** is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED.**

To recall, the Court, in the assailed Decision, dismissed the *Petition for Review* for being filed out of time. The Court found that petitioner timely filed its administrative claim for refund on May 10, 2021. Petitioner, however, filed its judicial claim only on November 8, 2021, which is within 30 days from its receipt of the *VAT Refund Notice* on October 7, 2021, instead of filing it within 30 days from the expiration of the 90-day period.

In support of its *Motion*, petitioner raised the following arguments:

1. the amendment of Section 112(C) of the National Internal Revenue Code (NIRC) of 1997 by Republic Act (R.A.) No. 10963 deleted "inaction" as a prerequisite to a judicial claim; and,

2. respondent's administrative determination period was interrupted as a consequence of regulation issued by the respondent and other competent authorities. Respondent's VAT Refund Notice was issued within the time allowed, accounting for the suspensions.

On the other hand, respondent, in his *Opposition*, avers that, partaking the nature of exemptions, claims for refund are strictly construed against the claimant and cannot be allowed unless granted in the most explicit and categorical language.

RULING OF THE COURT

After a careful re-evaluation of the case and consideration of the arguments raised by the parties, the Court finds the instant motion partly meritorious.

Requisites under the law for the refund or issuance of tax credit certificate of input VAT.

As discussed in the assailed Decision, the following are the requisites for claims for refund under Section 112 of the NIRC of 1997, as last amended by R.A. Nos. 10963[1] and 11976:[2]

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1 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 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

2 AN ACT INTRODUCING ADMINISTRATIVE TAX REFORMS, AMENDING SECTIONS 21, 22, 51, 56, 57, 58, 76, 77, 81, 90, 91, 103, 106, 108, 109, 110, 112, 113, 114, 115, 116, 117, 118, 119, 120,

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

1. the refund claim is filed with the BIR within two years after the close of the taxable quarter when the sales were made;[3]

2. in case of full or partial denial of the refund claim rendered within a period of 90 days from the date of submission of the official receipts (ORs) or invoices and other documents in support of the application, the judicial claim shall be filed with this Court within 30 days from receipt of the decision,[4] or after the expiration of the 90-day period;[5]

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

3. the taxpayer is a VAT-registered person;[6]

In relation to the taxpayer's output VAT:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[7]

5. for zero-rated sales under Sections 106(A)(2)(1) and (2); 106(B); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the *Bangko Sentral ng Pilipinas* (BSP) rules and regulations;[8]

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[9]

7. the input taxes are due or paid;[10]

128, 200, 204, 229, 235, 236, 237, 238, 241, 242, 243, 245, 248, AND 269; AND REPEALING SECTION 34 (K) OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES (Ease of Paying Taxes Act, Republic Act No. 11976, [January 5, 2024]).

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

4 Refer to *Energy Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 203367, March 17, 2021; *Commissioner of Internal Revenue vs. CE Casecnan Water And Energy Company, Inc.*, G.R. No. 212727, February 1, 2023; and *Commissioner of Internal Revenue vs. Vestas Services Philippines, Inc.*, G.R. No. 255085, March 29, 2023.

5 Ease of Paying Taxes, R.A. No. 11976, January 5, 2024.

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

7 *Id.*

8 *Id.*

9 *Id.*

10 *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;[11] and,

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[12]

Petitioner timely filed its administrative claim.

In the assailed Decision, the Court already found that petitioner timely filed its administrative claim for refund on May 10, 2021, in view of the extensions granted under Section 5 of Revenue Regulations (RR) No. 27-20,[13] to wit:

> **SECTION 5. Suspension Beyond the Effectivity of R.A. No. 11494.** – In areas where the Enhanced Community Quarantine (ECQ) or the Modified ECQ (MECQ) is in force after the effectivity of R.A. No. 11494, the following shall be observed:
>
> 1. If the deadline for the filing of the VAT refund claim falls within the ECQ or MECQ period, filing of the claim shall be **extended for thirty (30) days after the lifting of the ECQ or MECQ**. This applies to affected areas of the processing offices or to the registered business address of the taxpayer-claimant where the restrictions are strictly enforced.
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> xxx xxx xxx. *(Emphasis added)*

In the assailed Decision, the Court noted the following close of taxable quarters and the last day for the filing of the administrative claim:

2019	Close of taxable quarter	Last day for filing administrative claim	Date of filing of claim for refund
1st quarter	March 31, 2019	March 31, 2021	May 10, 2021[14]
2nd quarter	June 30, 2019	June 30, 2021	
3rd quarter	September 30, 2019	September 30, 2021	
4th quarter	December 31, 2019	December 31, 2021	

[11] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.

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

[13] Regulations Suspending the Filing and Ninety (90)-Day Processing of Value-Added Tax (VAT) Refund Claims Anchored Under Section 112 of the Tax Code of 1997, as Amended, in Relation to Section 4 (tt) of Republic Act (R.A.) No. 11494, Otherwise Known as the "Bayanihan to Recover as One Act", October 6, 2020.

[14] Exhibits "P-38", and "P-39", Docket – Vol. 3, pp. 1198 to 638 to 640.

As found by the Court, the first quarter administrative claim should have been filed on March 31, 2021. Nevertheless, the period to file the administrative claim for refund was extended by RR No. 27-20 in relation to the Resolutions issued by the Inter-Agency Task Force for the Management of Emerging Infections Diseases (IATF-EID), particularly, IATF Resolution Nos. 107-A, 109-A and 115-A, putting the National Capital Region (NCR), where the VAT Credit Audit Division (VCAD) of the Bureau of Internal Revenue (BIR) holds office, under Enhanced Community Quarantine (ECQ) or the Modified ECQ (MECQ) until from March 29 to April 30, 2021.

Since the filing of the administrative claim for refund was extended for 30 days after the lifting of the MECQ, the filing resumed on May 30, 2021. Clearly, the filing of the administrative claim for refund on May 10, 2021 was timely.

Petitioner likewise timely filed its judicial claim.

The *second* requisite is to the effect that the judicial claim must have been filed within 30 days from receipt of respondent's decision or after the expiration of the 90-day period under Section 112(C) of the NIRC of 1997, as amended by R.A. No. 10963.[15]

In the case of *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*,[16] the Supreme Court held that a judicial claim shall be filed within a period of 30 days after the receipt of respondent's decision or ruling **or** after the expiration of the 120-day [now 90-day][17] period, whichever is sooner. Aside from a specific exception to the mandatory and jurisdictional nature of the periods provided by the law, any claim filed in a period less than or beyond the 120+30 [now 90+30] days provided by the NIRC is outside the jurisdiction of the CTA.

In the assailed Decision, the Court dismissed the instant case when petitioner filed the instant *Petition for Review* 30 days after its receipt of the *VAT Refund Notice* dated July 30, 2021[18] from respondent on October 7, 2021[19] for lack of jurisdiction, as there was no decision that was communicated to the taxpayer within the 90-day period. Thus, there is no decision appealable to this Court to speak of.

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[15] Tax Reform for Acceleration and Inclusion (TRAIN Law).
[16] G.R. No. 182737, March 2, 2016.
[17] TRAIN Law, which took effect on January 1, 2018.
[18] Exhibit "R-4", BIR Records, pp. 254 to 302.
[19] Par. 21, Facts, *Petition for Review*, Docket – Vol. 1, p. 12; Exhibit "P-41", Docket – Vol. 3, pp. 1204 to 1237.

Petitioner claims that the provision on the inaction was deleted upon the enactment of R.A. No. 10963. Moreover, petitioner asserts that the 90-day period given to respondent to decide was suspended by the COVID-era regulations issued by respondent and the IATF-EID. Accordingly, the 90-day period had not yet lapsed.

Section 5(2) of RR No. 27-20 provides that the 90-day period of processing VAT refund claims is suspended during the declaration of ECQ or MECQ in the area and shall resume 30 days after the same has been lifted, viz.:

> **SECTION 5. Suspension Beyond the Effectivity of R.A. No. 11494.** – In areas where the Enhanced Community Quarantine (ECQ) or the Modified ECQ (MECQ) is in force after the effectivity of R.A. No. 11494, the following shall be observed:
>
> xxx xxx xxx
>
> 2. **The 90-day period of processing VAT refund claims is suspended during the declaration of ECQ or MECQ in the area and shall resume thirty (30) days after the same has been lifted.**
>
> xxx xxx xxx. *(Emphasis ours)*

On July 29, 2021, the risk classification of NCR was elevated to ECQ from August 6 to 20, 2021, pursuant to IATF Resolution No. 130-A. From August 21 to 31, 2021, the NCR and Laguna was put under MECQ classification.[20] On August 26, 2021, the NCR was still placed under MECQ until September 7, 2021.[21] The risk level classification of NCR as MECQ was maintained until September 15, 2021 upon the issuance of IATF Resolution No. 137 on September 7, 2021.

Based on the foregoing, respondent may resume with the 90-day period to decide on the claims for refund on October 15, 2021, which is summarized as follows:

IATF RESOLUTION	ECQ/MECQ SUSPENSION PERIOD
130-a (July 29, 2021)	August 6 to 20, 2021
134 (August 19, 2021)	August 21 to 31, 2021
135-A (August 26, 2021)	August 31 to September 7, 2021
137 (September 7, 2021)	Until September 15, 2021

[20] IATF Resolution No. 134, August 19, 2021.
[21] IATF Resolution No. 135-A, August 26, 2021.

Since MECQ was lifted on September 15, 2021, the 90-day period resumed on October 15, 2021. Clearly, petitioner's receipt of the *VAT Refund Notice* dated July 30, 2021[22] from respondent on October 7, 2021 was within the 90-day period to decide on the claim for refund; hence, the filing of the instant *Petition for Review* on November 8, 2021 was likewise timely made.

Petitioner is a VAT-registered entity.

It is undisputed that petitioner also satisfied the *third* requisite since it is duly registered with the BIR as a VAT taxpayer with TIN 244-027-271-00000.[23]

Petitioner had zero-rated sales or effectively zero-rated sales.

The *fourth* and *fifth* requisites mandate that the taxpayer be engaged in zero-rated or effectively zero-rated sales and for zero-rated sales under Sections 106(A)(2)(a)(1), (2) and (b), and 108(B)(1) and (2) of the NIRC of 1997, as amended, and that the acceptable foreign currency exchange proceeds thereof have been duly accounted for in accordance with BSP rules and regulations.

Petitioner avers that its sales of services, which were rendered to non-resident foreign clients engaged in business outside the Philippines and paid for in acceptable foreign currency inwardly remitted into the Philippine banking system in accordance with the rules and regulations of the BSP, are subject to zero-percent value-added tax (VAT), pursuant to Section 108(B)(2) of the NIRC of 1997, as amended, which reads as follows:

> 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);

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[22] Exhibit "R-4", BIR Records, pp. 254 to 302.
[23] BIR Certificate of Registration, Exhibit "P-8", Docket – Vol. 3, p. 948.

> (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)**; *(Emphases added)*

Based on the foregoing provision, certain essential elements must be present for a sale or supply of services to be subject to the VAT rate of zero percent, under Section 108(B)(2) of the NIRC of 1997, as amended, 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;[24]

2. The services fall under any of the categories under Section 108(B)(2),[25] or simply, the services rendered should be other than "processing, manufacturing or repacking goods";[26]

3. The service must be performed in the Philippines[27] 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.[28]

In its Quarterly VAT Returns (BIR Form No. 2550-Q) for the first to fourth quarters of CY 2019, petitioner reported total sales of ₱5,417,053,759.51, which included zero-rated sales of ₱5,303,129,822.20, broken down as follows:

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24 *Sitel Philippines Corporation (Formerly Clientlogic Phils. Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 201326, February 08, 2017; *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007; *Accenture, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 190102, July 11,2012.

25 *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, G.R. No. 152609, June 29, 2005.

26 *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007.

27 *Id.*

28 *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra; *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, supra.

Exhibit	Period Covered (CY 2019)	VATable Sales	Zero-Rated Sales	Total Sales
"P-13"[29]	1st Quarter	₱ 29,088,650.75	₱ 1,341,065,918.45	₱ 1,370,154,569.20
"P-14"[30]	2nd Quarter	29,118,718.73	1,318,236,349.16	1,347,355,067.89
"P-15-a"[31]	3rd Quarter	28,841,313.81	1,297,657,640.71	1,326,498,954.52
"P-16"[32]	4th Quarter	26,875,254.02	1,346,169,913.88	1,373,045,167.90
	Total	**₱113,923,937.31**	**₱5,303,129,822.20**	**₱5,417,053,759.51**

Petitioner claims that the VAT zero-rated sales were services rendered to the following non-resident foreign corporations (NRFCs):[33]

1. THE MANUFACTURERS LIFE INSURANCE COMPANY
2. MANULIFE (SINGAPORE) PTE. LTD.
3. JOHN HANCOCK LIFE INSURANCE CO. (USA)
4. MANULIFE (INTERNATIONAL) LTD.
5. MANULIFE BANK
6. JH INVESTMENT MANAGEMENT DISTRIBUTORS LLC
7. MANULIFE INSURANCE BHD.
8. MANULIFE ASSET MANAGEMENT LTD.
9. PT. MANULIFE ASET MANAJEMEN INDONESIA
10. MANULIFE ASSET MANAGEMENT SERVICES BHD.
11. MANULIFE JAPAN
12. MANULIFE INFORMATION & TECHNOLOGIES SERVICES (CHENGDU) CO., LTD.
13. MANULIFE (VIETNAM) LTD.
14. MANULIFE INVESTMENT MANAGEMENT (US) LLC
15. MANULIFE ASSET MANAGEMENT (HONG KONG) LTD.
16. MANULIFE INSURANCE (THAILAND) PUBLIC COMPANY LTD.
17. MANULIFE FINANCIAL ASIA LTD.

As to the *first* essential element, in order to be considered an NRFC doing business outside the Philippines, each entity must be supported, at the very least, by **both** a *Certification of Non-Registration of Corporation/Partnership* 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 document establishes that the recipient of the service has no registered business in the Philippines, and that it is not engaged in trade or business within the Philippines; while the latter document proves that the said recipient of the service is indeed foreign. The said documents have been consistently required by this Court for purposes of the said *first* essential element. In fact, in *Commissioner of Internal Revenue*

29 Docket – Vol. 3, pp. 1025 to 1027.
30 *Id.* at 1028 to 1030.
31 *Id.* at 1034 to 1036.
32 *Id.* at 1037 to 1039.
33 Par. 12, IV. Facts, *Petition for Review*, Docket – Vol. 1, p. 8.

vs. Deutsche Knowledge Services Pte. Ltd.,[34] 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[35] 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 ROHQ's 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 respective home countries, outside the Philippines are *prima facie* evidence that their clients are not engaged in trade or business in the Philippines.** *(Emphasis added)*

In the present case, petitioner satisfied the *first* essential element only insofar as the clients below which were proven to be NRFCs doing business outside the Philippines, as evidenced by the following documents:

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[34] G.R. No. 234445, July 15, 2020.
[35] That is, "Nonresident foreign corporation".

Company Name	Certification of Non-Registration of Company issued by the SEC (*Exhibit No.*)	Proof of incorporation/ registration in a foreign country (*Exhibit No.*)
THE MANUFACTURERS LIFE INSURANCE COMPANY	"P-6-1"[36]	"P-5-1" to "P-5-1-d"[37]
MANULIFE (SINGAPORE) PTE. LTD.	"P-6-2"[38]	"P-5-2" to "P-5-2-c"[39]
JOHN HANCOCK LIFE INSURANCE CO. (USA)	"P-6-3"[40]	"P-5-3" to "P-5-3-a"[41]
MANULIFE (INTERNATIONAL) LIMITED.	"P-6-4"[42]	"P-5-4" to "P-5-4-c"[43]
JH INVESTMENT MANAGEMENT DISTRIBUTORS LLC	"P-6-6"[44]	"P-5-6"[45]
MANULIFE INVESTMENT MANAGEMENT (US) LLC	"P-6-14"[46]	"P-5-14"[47]
MANULIFE ASSET MANAGEMENT (HONG KONG) LTD.	"P-6-15"[48]	"P-5-15" to "P-5-15-a"[49]
MANULIFE INSURANCE (THAILAND) PUBLIC COMPANY LTD.	"P-6-16"[50]	"P-5-16"[51]
MANULIFE FINANCIAL ASIA LTD.	"P-6-17"[52]	"P-5-17"[53]

Relative to the *second* essential element, among the foregoing clients considered as NRFCs doing business outside the Philippines, only the following have Service Agreements with petitioner, to wit:

1. *The Manufacturers Life Insurance Company* with *Master Administrative Services Agreement* dated May 1, 2006 and *Service Level Agreement* which took effect on April 1, 2012;[54]

2. *Manulife Singapore Pte. Ltd.* with *Master Services Agreement* made on July 2, 2012;[55]

3. *John Hancock Life Insurance Company (U.S.A.)* with *Services Agreement* made on October 25, 2007, and

36 Docket – Vol. 3, p. 919.
37 Docket – Vol. 2, pp. 436 to 464.
38 Docket – Vol. 3, p. 920.
39 Docket – Vol. 2, pp. 465 to 517.
40 Docket – Vol. 3, p. 921.
41 Docket – Vol. 2, pp. 518 to 584.
42 Docket – Vol. 3, p. 922.
43 Docket – Vol. 2, pp. 585 to 724.
44 Docket – Vol. 3, p. 924.
45 Docket – Vol. 2, pp. 731 to 746.
46 Docket – Vol. 3, p. 932.
47 Docket – Vol. 2, pp. 789 to 810.
48 Docket – Vol. 3, p. 933.
49 Docket – Vols. 2 and 3, pp. 811 to 908.
50 Docket – Vol. 3, p. 934.
51 *Id.* at 909 to 913.
52 *Id.* at p. 935.
53 *Id.* at pp. 914 to 916.
54 Exhibits "P-4-1" and "P-4-1-a", Docket – Vol. 1, pp. 128 to 144.
55 Exhibit "P-4-2", Docket – Vol. 1, pp. 145 to 161.

Addendum to the Service Agreement dated October 31, 2007;[56]

4. Manulife (International) Ltd. with *Business Processing Services Agreement* made on April 10, 2006;[57] and,

5. Manulife Financial Asia Ltd. with *Master Administrative Services Agreement* and *Service Level Agreement* made on November 16, 2015.[58]

These service agreements entered into by petitioner with NRFCs doing business outside the Philippines indicate that petitioner shall furnish, in general, administrative and other business processing services to support the operations of the above-stated clients. Thus, the services provided by petitioner clearly fall within the scope of *"services other than processing, manufacturing or repacking goods"*; hence, petitioner satisfactorily complied with the *second* essential element, insofar as the foregoing NRFCs are concerned.

Anent the *third* essential element, it was determined that the aforementioned Service Agreements have provision as to where the services are to be performed by petitioner, *i.e.*, in the Philippines, except for the *Master Administrative Services Agreement* and *Service Level Agreement* between Manulife Financial Asia Limited and petitioner.

As such, petitioner has shown compliance with the *third* essential element, but only insofar as the following NRFCs are concerned, to wit:

a. The Manufacturers Life Insurance Company
b. Manulife Singapore Pte. Ltd.;
c. John Hancock Life Insurance Company (U.S.A.); and,
d. Manulife (International) Ltd.

Consequently, only the sales of services related to the aforementioned clients of petitioner shall be considered for VAT zero-rating.

As regards the *fourth* essential element and in relation to the *fifth* requisite for the granting of the input VAT refund, petitioner presented the electronic copy of its bank statements for the months of January to December 2019 issued by Citibank[59] purportedly showing the foreign currency remittances of its clients to petitioner. The certification of inward

[56] Exhibits "P-4-3" to "P-4-3-a"; *Id.* at 162 to 177.
[57] Exhibit "P-4-4", *Id.* at. 178 to 194.
[58] Exhibits "P-4-17" to "P-4-17-a", Docket – Vols. 1 and 2, pp. 398 to 414 and 415 to 433, respectively.
[59] Exhibits "P-11-A.1" to "P-11-L.6", USB dated 06/24/2022.

remittances attests to the fact of payment *"in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP"*.[60]

Of equal importance is the requirement that the foregoing foreign currency remittances referred to under Section 108(B)(2) of the NIRC of 1997, as amended, must not only be duly accounted for in accordance with the rules and regulations of the BSP, but are also supported by VAT zero-rated ORs in accordance with the pertinent invoicing requirements, containing all the required information under Section 113(A) and (B) of the NIRC of 1997, as amended, and as implemented by Section 4.113-1(A) and (B) of RR No. 16-05,[61] as amended. Furthermore, the sales invoices (SIs)

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[60] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007.

[61] SECTION 4.113-1. Invoicing Requirements. —

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

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

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

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

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

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

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

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

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

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

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

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

(3) In the case of sales in the amount of one thousand pesos (P1,000.00) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and TIN of the purchaser, customer or client, shall be indicated in addition to the information required in (1) and (2) of this Section.

and ORs must be duly registered with the BIR as prescribed under Section 237, in relation to Section 238 of the NIRC of 1997, as amended.

Here, since petitioner's reported sales are in the nature of sales of services under Section 108(B)(2) of the NIRC of 1997, as amended, petitioner is required to issue BIR-registered VAT ORs for the foreign currency proceeds of each sales transaction with the information contained therein in compliance with the applicable provisions previously cited, such as the word "zero-rated" indicated therein, and the taxpayer's TIN-VAT number.

Petitioner submitted the VAT zero-rated ORs[62] it issued to its clients in support of its zero-rated sales for CY 2019. Upon scrutiny of the documents submitted, however, the Court finds that out of the ₱5,303,129,822.20 zero-rated sales declared per VAT Returns for CY 2019, only the total amount of US$85,022,974.28, with Philippine peso equivalent of ₱4,409,928,588.35, is duly supported by ORs. Of the said amount duly supported by ORs, only the amount of US$66,626,591.81 with Philippine peso equivalent of ₱3,457,484,464.96 is supported by inward remittances duly accounted for in accordance with the BSP rules and regulations, as required under Section 108(B)(2) of the NIRC of 1997, as amended, and as such, qualifies for VAT zero-rating, viz.:

Client's Name	OR (Exhibit No.)	OR Amount (in US$)	Rate	Amount (in PhP)	Proof of Remittance (Reference and Exhibit Nos.)	
John Hancock Life Insurance Company	"P-10-P-ICPA"	$ 5,253,701.65	₱52.35	₱ 275,031,281.38	3369085107	"P-11-C.4-ICPA"
John Hancock Life Insurance Company	"P-10-AH-ICPA"	2,506,399.73	₱51.75	129,706,186.03	3369113107	"P-11-D.4-ICPA"
	Subtotal	***$ 7,760,101.38***		***₱ 404,737,467.41***		
Manulife (International) Ltd	"P-10-C-ICPA"	$ 45,026.75	₱52.57	₱ 2,367,056.25	3369050040	"P-11-B.3-ICPA"
Manulife (International) Ltd	"P-10-E-ICPA"	582,581.53	₱52.57	30,626,311.03	3369051060	"P-11-B.3-ICPA"
Manulife (International) Ltd	"P-10-I-ICPA"	304,880.25	₱52.57	16,027,554.74	3369063029; 3369063011	"P-11-C.1-ICPA"
Manulife (International) Ltd	"P-10-J-ICPA"	116,736.78	₱52.57	6,136,852.52	3369070020; 3369070021	"P-11-C.2-ICPA"
Manulife (International) Ltd	"P-10-M-ICPA"	274,820.22	₱52.15	14,331,874.47	3369078033; 3369078049	"P-11-C.3-ICPA"
Manulife (International) Ltd	"P-10-O-ICPA"	163,303.25	₱52.15	8,516,264.49	3369085022; 3369085048	"P-11-C.4-ICPA"
Manulife (International) Ltd	"P-10-W-ICPA"	285,824.09	₱52.54	15,016,129.02	3369095027; 3369095035	"P-11-D.1 to D.2-ICPA"
Manulife (International) Ltd	"P-10-D-ICPA"	77,982.66	₱51.75	4,035,602.66	3369114028; 3369114031	"P-11-D.4-ICPA"
Manulife (International) Ltd	"P-10-H-ICPA"	110,662.26	₱51.75	5,726,771.96	3369116040; 3369116048	"P-11-D.4-ICPA"

[62] ICPA, Schedule of Zero-rated Sales, Annex A.2, and Exhibit "P-10-A" to "P-10-EF", USB dated 06/24/2022.

Client's Name	OR (Exhibit No.)	OR Amount (in US$)	Rate	Amount (in PhP)	Proof of Remittance (Reference and Exhibit Nos.)	
Manulife (International) Ltd	"P-10-AS-ICPA"	338,170.70	₱52.51	17,757,343.46	3369144185; 3369147011	"P-11-E.3-ICPA"
Manulife (International) Ltd	"P-10-AT-ICPA"	615.00	₱52.51	32,293.65	3369157007	"P-11-F.1-ICPA"
Manulife (International) Ltd	"P-10-BB-ICPA"	111,857.83	₱52.49	5,871,257.58	3369170025; 3369170031	"P-11-F.3-ICPA"
Manulife (International) Ltd	"P-10-BE-ICPA"	339,851.55	₱51.97	17,662,085.05	3369177009; 3369177027	"P-11-F.5-ICPA"
Manulife (International) Ltd	"P-10-BH-ICPA"	112,143.63	₱51.91	5,821,189.33	3369190002; 3369190015	"P-11-G.2-ICPA"
Manulife (International) Ltd	"P-10-BI-ICPA"	73,546.93	₱52.31	3,847,239.91	3369191016; 3369191028	"P-11-G.3-ICPA"
Manulife (International) Ltd	"P-10-BK-ICPA"	275,780.93	₱52.31	14,426,100.45	3369196007; 3369196037	"P-11-G.3 to G.4-ICPA"
Manulife (International) Ltd	"P-10-BL-ICPA"	124,648.84	₱52.31	6,520,380.82	3369203014; 3369203052	"P-11-G.5-ICPA"
Manulife (International) Ltd	"P-10-BV-ICPA"	965.00	₱51.33	49,528.63	3369225017; 3369225018	"P-11-H.2-ICPA"
Manulife (International) Ltd	"P-10-AI-ICPA"	466,024.51	₱51.27	23,893,076.63	3369242126; 3369245004	"P-11-I.1-ICPA"
Manulife (International) Ltd	"P-10-CK-ICPA"	478,817.53	₱50.89	24,367,024.10	3369263077; 3369263043	"P-11-I.4-ICPA"
Manulife (International) Ltd	"P-10-CT-ICPA"	361,038.41	₱52.02	18,781,218.09	3369291045; 3369291070	"P-11-J.2-ICPA"
Manulife (International) Ltd	"P-10-DH-ICPA"	197,731.78	₱51.74	10,230,075.49	3369323017; 3369323019	"P-11-K.3-ICPA"
Manulife (International) Ltd	"P-10-DT-ICPA"	614,255.19	₱51.84	31,842,989.05	3369339009; 3369339043	"P-11-L.1-ICPA"
Manulife (International) Ltd	"P-10-DU-ICPA"	126,375.10	₱51.83	6,549,565.53	3369343060; 3369343025	"P-11-L.2-ICPA"
Manulife (International) Ltd	"P-10-CU-ICPA"	1,635.00	₱50.94	83,286.90	3369354022; 3369354089	"P-11-L. 5 to L.6-ICPA"
	Subtotal	***$ 5,585,275.72***		***₱ 290,519,071.81***		
Manulife Singapore Pte. Ltd.	"P-10-F-ICPA"	$ 81,953.23	₱52.57	₱ 4,308,281.30	3369051149	"P-11-B.3-ICPA"
Manulife Singapore Pte. Ltd.	"P-10-L-ICPA"	103,224.43	₱52.15	5,383,154.02	3369074126	"P-11-C.3-ICPA"
Manulife Singapore Pte. Ltd.	"P-10-X-ICPA"	73,258.24	₱51.75	3,791,113.92	3369100140	"P-11-D.2-ICPA"
Manulife Singapore Pte. Ltd.	"P-10-AK-ICPA"	81,646.58	₱52.51	4,287,261.92	3369136120	"P-11-E.2-ICPA"
Manulife Singapore Pte. Ltd.	"P-10-BC-ICPA"	80,098.73	₱51.98	4,163,825.07	3369171110	"P-11-F.3-ICPA"
Manulife Singapore Pte. Ltd.	"P-10-BT-ICPA"	78,168.93	₱52.31	4,089,016.73	3369205110	"P-11-G.6-ICPA"
Manulife Singapore Pte. Ltd.	"P-10-CJ-ICPA"	160,553.55	₱51.08	8,200,707.11	3369262062	"P-11-I.3-ICPA"
Manulife Singapore Pte. Ltd.	"P-10-DF-ICPA"	80,270.45	₱52.02	4,175,668.81	3369312058	"P-11-K.2-ICPA"
Manulife Singapore Pte. Ltd.	"P-10-DV-ICPA"	159,366.17	₱51.42	8,193,888.85	3369346066	"P-11-L.3-ICPA"
	Subtotal	***$ 898,540.31***		***₱ 46,592,917.73***		
The Manufacturers Life Insurance Company	"P-10-S-ICPA"	$ 9,772,012.08	₱52.34	₱ 511,444,009.36	3369085108	"P-11-C.4-ICPA"
The Manufacturers Life Insurance Company	"P-10-AC-ICPA"	4,500,378.37	₱51.75	232,894,580.65	3369113106	"P-11-D.4-ICPA"
The Manufacturers Life	"P-10-AM-	4,879,925.45	₱52.51	256,244,885.38	3369144152	"P-11-E.3-

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Client's Name	OR (Exhibit No.)	OR Amount (in US$)	Rate	Amount (in PhP)	Proof of Remittance (Reference and Exhibit Nos.)	
Insurance Company	ICPA"					ICPA"
The Manufacturers Life Insurance Company	"P-10-AY-ICPA"	4,679,211.14	₱51.98	243,209,636.66	3369169090	"P-11-F.3-ICPA"
The Manufacturers Life Insurance Company	"P-10-BN-ICPA"	4,690,360.44	₱52.31	245,352,754.62	3369203063	"P-11-G.5-ICPA"
The Manufacturers Life Insurance Company	"P-10-BW-ICPA"	4,522,156.61	₱51.27	231,850,969.39	3369226096	"P-11-H.2-ICPA"
The Manufacturers Life Insurance Company	"P-10-CN-ICPA"	4,811,490.61	₱50.89	244,856,757.14	3369269123	"P-11-I.5-ICPA"
The Manufacturers Life Insurance Company	"P-10-CY-ICPA"	4,760,665.57	₱52.02	247,649,822.95	3369295131	"P-11-J.3-ICPA"
The Manufacturers Life Insurance Company	"P-10-DK-ICPA"	4,914,561.42	₱51.88	254,975,158.41	3369329064	"P-11-K.4-ICPA"
The Manufacturers Life Insurance Company	"P-10-EA-ICPA"	4,851,912.71	₱50.94	247,156,433.45	3369351130	"P-11-L.4-ICPA"
	Subtotal	***$52,382,674.40***		***₱2,715,635,008.01***		
***Subtotal Valid zero-rated sales* [A]**		***$66,626,591.81***		***₱3,457,484,464.96***		
John Hancock Life Insurance Company	"P-10-AP-ICPA"	$ 2,193,412.68	₱52.51	₱ 115,176,099.83		
John Hancock Life Insurance Company	"P-10-AV-ICPA"	2,286,391.08	₱51.97	118,823,744.43		
John Hancock Life Insurance Company	"P-10-AW-ICPA"	1,128.15	₱51.97	58,629.96		
John Hancock Life Insurance Company	"P-10-BQ-ICPA"	2,275,829.53	₱52.31	119,048,642.71		
John Hancock Life Insurance Company	"P-10-BZ-ICPA"	2,284,109.64	₱51.27	117,106,301.24		
John Hancock Life Insurance Company	"P-10-CQ-ICPA"	2,298,016.88	₱50.89	116,946,079.02		
John Hancock Life Insurance Company	"P-10-CV-ICPA"	2,353,866.71	₱52.02	122,448,146.25		
John Hancock Life Insurance Company	"P-10-DN-ICPA"	2,360,350.23	₱52.31	123,469,920.53		
John Hancock Life Insurance Company	"P-10-ED-ICPA"	2,343,277.57	₱50.94	119,366,559.42		
***Subtotal – Disallowed Zero Rated Sales* [A]**		***$ 18,396,382.47***		***₱952,444,123.39***		
Total zero-rated sales duly supported by ORs [A]+[B]		**$85,022,974.28**		**₱4,409,928,588.35**		

Thus, for purposes of compliance with the *fourth* and *fifth* requisites, petitioner was able to establish that its sales of services to NRFCs for CY 2019, in the aggregate amount of ₱3,457,484,464.96, qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended.

The input taxes being claimed do not appear to be transitional input taxes.

In its Quarterly VAT Returns for the four quarters of CY 2019, petitioner declared a total input VAT of ₱141,107,969.67 from its current domestic purchases of goods and services and input VAT on purchases of capital goods from previous quarters, out of which the total amount of ₱127,437,097.24[63] is the subject of the present claim for refund or issuance of tax credit certificate, detailed as follows:

63 With ₱0.05 discrepancy against the total per VAT Returns.

CY 2019	**1st Quarter** (Exhibit "P-13")	**2nd Quarter** (Exhibit "P-14")	**3rd Quarter** (Exhibit "P-15-a")	**4th Quarter** (Exhibit "P-16")	**Total**
Input tax due on capital goods exceeding ₱1M					
Deferred from previous quarter	₱ 36,129,782.58	₱ 38,777,002.54	₱ 39,469,150.29	₱ 36,504,370.18	₱ 150,880,305.59
Purchase of Capital Goods Exceeding P1M	7,243,548.38	5,435,745.74	1,473,968.38	2,727,657.11	16,880,919.61
Total	₱ 43,373,330.96	₱ 44,212,748.28	₱ 40,943,118.67	₱ 39,232,027.29	₱ 167,761,225.20
Less: Deferred for the succeeding period	38,777,002.54	39,469,150.31	36,504,370.23	34,878,848.54	149,629,371.62
Amortized input tax on capital goods exceeding ₱1M	₱ 4,596,328.42	₱ 4,743,597.97	₱ 4,438,748.44	₱ 4,353,178.75	₱ 18,131,853.58
Input tax due on current purchases of goods other than capital goods					-
Input tax on purchase of capital goods not exceeding ₱1M	208,800.27	307,515.73	30,586.19	118,070.83	664,973.02
Input tax on domestic purchases of goods other than capital goods	3,099,735.95	3,984,476.13	6,268,856.97	3,466,207.43	16,819,276.48
Sub-total	3,308,536.22	4,291,991.86	6,299,443.16	3,584,278.26	17,484,249.50
Input tax paid on:					
Input tax on domestic purchases of services	9,282,277.57	27,970,095.50	15,771,965.75	52,467,527.77	105,491,866.59
Total input tax during the period	**₱17,187,142.21**	**₱37,005,685.33**	**₱26,510,157.35**	**₱60,404,984.78**	**₱141,107,969.67**
Less: Output tax	3,490,638.09	3,494,246.25	3,460,957.66	3,225,030.48	13,670,872.48
Excess input tax	**₱13,696,504.12**	**₱33,511,439.08**	**₱23,049,199.69**	**₱57,179,954.30**	**₱127,437,097.19**

The said claimed input taxes do not appear to be transitional input taxes, as understood under Section 111(A) of the NIRC of 1997, as amended, to wit:

> SEC. 111. *Transitional/Presumptive Input Tax Credits.* –
>
> (A) *Transitional Input Tax Credits.* – A person who becomes liable to value-added tax or any person who elects to be a VAT-registered person shall, subject to the filing of any inventory according to the rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, be allowed input tax on his beginning inventory of goods, materials and supplies equivalent to two percent (2%) of the value of such inventory or the actual value-added tax paid on such goods, materials and supplies, whichever is higher, which shall be creditable against the output tax.

Transitional input tax credit operates to benefit newly VAT-registered persons, whether or not they previously paid taxes in the acquisitions of their beginning inventory of goods, materials and supplies. During the period of transition from non-VAT to VAT status, the transitional input tax credit serves to alleviate the impact of the VAT on the taxpayer.[64]

Since there is no showing that the above-stated input VAT is transitional input VAT, petitioner has complied with the *sixth* requisite for the grant of an input VAT refund.

The input taxes being claimed were due or paid.

With regard to the *seventh* requisite for claiming VAT refund, it is of fatal importance that the input taxes claimed for refund are properly supported by appropriate documents to prove that the same are actually due or paid in accordance with Section 110(A) of the NIRC of 1997, as amended, which provides that:

> SEC. 110. *Tax Credits.* –
>
> (A) *Creditable input Tax.* –
>
> (1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against output tax:
>
> (a) Purchase or importation of goods:
>
> (i) For sale; or
>
> (ii) For conversion into or intended to form part of a finished product for sale including packaging materials; or
>
> (iii) For use as supplies in the course of business; or
>
> (iv) For use as materials supplied in the sale of service; or
>
> (v) For use in trade or business for which deduction for depreciation or amortization is allowed under this Code.
>
> (b) Purchase of services on which a value-added tax has actually been paid.
>
> (2) The input tax on domestic purchase or importation of goods or properties by a VAT-registered person shall be creditable:
>
> (a) To the purchaser upon consummation of sale and on importation of goods or properties; and
>
> xxx xxx xxx

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

Provided, That the input tax on goods purchased or imported in a calendar month for use in trade or business for which deduction for depreciation is allowed under this Code, shall be spread evenly over the month of acquisition and the fifty-nine (59) succeeding months if the aggregate acquisition cost for such goods, excluding the VAT component thereof, exceeds One million pesos (P1,000,000): *Provided, however*, That if the estimated useful life of the capital good is less than five (5) years, as used for depreciation purposes, then the input VAT shall be spread over such a shorter period: *Provided, further*, That the amortization of the input VAT shall only be allowed until December 31, 2021 after which taxpayers with unutilized input VAT on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized: *Provided, finally,* That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or fee.

The above provisions are implemented by Section 4.110-1, 4.110-2 and 4.110-3 of RR No. 16-2005, as amended by RR No. 13-2018,[65] which state:

SEC. 4.110-1. *Credits for Input Tax.* – xxx

Any input tax on the following transactions evidenced by a VAT invoice or official receipt issued by a VAT-registered person in accordance with Secs. 113 and 237 of the Tax Code shall be creditable against the output tax:

(a) Purchase or importation of goods

(1) For sale; or

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

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

(4) For use as raw materials supplied in the sale of services; or

(5) For use in trade or business for which deduction for depreciation or amortization is allowed under the Tax Code,

(b) Purchase of real properties for which a VAT has actually been paid;

(c) Purchase of services in which a VAT has actually been paid;

(d) Transactions 'deemed sale' under Sec. 106 (B) of the Tax Code;

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[65] SUBJECT: Regulations Implementing the Value-Added Tax Provisions under the Republic Act (RA)No. 10963, or the "Tax Reform for Acceleration and Inclusion (TRAIN)," Further Amending Revenue Regulations (RR) No. 16-2005

(e) Transitional input tax allowed under Sec. 4.111 (a) of these Regulations;

(f) Presumptive input tax allowed under Sec. 4.111 (b) of these Regulations;

(g) Transitional input tax credits allowed under the transitory and other provisions of these Regulations.

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

(a) To the importer upon payment of VAT prior to the release of goods from customs custody;

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

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

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

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

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

Where the aggregate acquisition cost (exclusive of VAT) of the existing or finished depreciable capital goods purchased or imported during any calendar month does not exceed One million pesos (P1,000,000.00), the total input taxes will be allowable as credit against output tax in the month of acquisition.

Capital goods or properties refers to goods or properties with estimated useful life greater than one (1) year and which are treated as depreciable assets under Sec. 34(F) of the Tax Code, used directly or indirectly in the production or sale of taxable goods or services.

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

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

SECTION 4.110-8. *Substantiation of Input Tax Credits.*

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

(1) For the importation of goods- import entry or other equivalent document showing actual payment of VAT on the imported goods.

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

(3) For the purchase of real property - public instrument i.e., deed of absolute sale, deed of conditional sale, contract/ agreement to sell, etc., together with VAT invoice issued by the seller.

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

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

xxx xxx xxx

(d) Input tax from payments made to nonresidents (such as for services, rental and royalties) shall be supported by a copy of the Monthly Remittance Return of Value Added Tax Withheld (BIR Form 1600) filed by the resident payor in behalf of the nonresident evidencing remittance of VAT due which was withheld by the payor.

Based on the foregoing provisions, to be entitled to input tax credits, the same must be duly substantiated by supporting documents prescribed under Section 4.110-8 of RR No. 16-2005. Furthermore, said documents must likewise comply with the invoicing requirements under Sections

113(A) and (B), 237 and 238 of the NIRC of 1997, as amended, and as implemented by Section 4.113-1(A) and (B) of RR No. 16-2005, as amended.

Needless to say, the invoicing requirements for a VAT-registered taxpayer as provided in the NIRC and revenue regulations are clear. A VAT-registered taxpayer is required to comply with all the VAT invoicing requirements to be able to file a claim for input taxes on domestic purchases for goods or services attributable to zero-rated sales.[66] In addition, the invoicing requirement is reasonable and must be strictly complied with, as it is the only way to determine the veracity of the claim.[67]

In support of its reported input VAT of ₱141,107,969.67 from its domestic purchases of goods and services, petitioner submitted various suppliers' SIs and ORs[68] which were examined by the Court-commissioned Independent Certified Public Accountant (ICPA).

Based on the findings of the ICPA, input VAT in the aggregate amount of ₱14,653,552.16, as summarized below shall be disallowed for petitioner's failure to meet the substantiation and invoicing requirements prescribed under the VAT law and regulations:[69]

Particulars	Reference	Input VAT
Non-compliance with Invoicing Requirements		
i. Errors in Tax Identification Number of MDSI	Annex D-1-ICPA	₱ 326,416.57
ii. Not under the name of MDSI	Annex D-2-ICPA	644,407.13
iii. Inconsistencies on registered address	Annex D-3-ICPA	157,715.78
iv. Input VAT amount not specifically stated	Annex D-4-ICPA	3,975,436.53
	Subtotal	*5,103,976.01*
VAT amount not matched with actual documents	Annex D-5-ICPA	3,083,193.34
Not Valid Source of Input VAT	Annex D-6-ICPA	1,215,932.70
Out of Period Claims	Annex D-7-ICPA	1,791,061.51
Unsupported	Annex D-8-ICPA	3,459,388.60
Total ICPA Disallowances		**₱14,653,552.16**

In addition to the above disallowances, further verification of the supporting documents submitted by petitioner revealed that input VAT amounting to ₱23,180,525.97 shall likewise be disallowed for the grounds stated hereunder:

66 *Microsoft Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 180173, April 6, 2011.
67 *Kepco Philippines Corporation vs. Commissioner of Internal Revenue*, G.R. No. 179961, January 31, 2011.
68 Exhibits "P-15-A.1-ICPA" to "P-15-D.32-ICPA"; "P-16-A.1-1-ICPA" to "P-16-G.3-5-ICPA".
69 Exhibit "P-17-ICPA", pp. 11 to 12.

Name of Supplier	Exhibit No. (-ICPA)	Input VAT
1. Supporting documents which the Court noted as being partly blurred, blackened, and/or not properly scanned		
CONTRADE INTEGRATED DEPOT INC.	"P-15-A.9"	₱ 3,349.47
WELLBRIDGE HEALTH INC.	"P-15-A.27"	1,235.70
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.29"	857.14
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.132"	3,428.57
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.133"	1,767.86
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.134"	11,785.71
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.135"	1,392.86
CARE 1ST CORPORATION	"P-15-A.139"	12,140.49
CARE 1ST CORPORATION	"P-15-A.140"	14,251.02
HAWORTH FURNITURE PHILIPPINES	"P-15-A.148"	170,772.00
ACCENT MICRO TECHNOLOGIES INC	"P-15-A.193"	696.43
CARE 1ST CORPORATION	"P-15-A.213"	2,973.16
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.248"	535.71
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.249"	1,725.00
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.250"	1,725.00
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.251"	2,314.29
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.252"	728.57
KING GLOBAL TRADING	"P-15-A.267"	3,420.00
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.281"	407.14
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.282"	535.71
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.283"	648.21
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.347"	131,182.75
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.352"	1,059.98
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.367"	41,500.28
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.383"	120,255.74
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.384"	123.97
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.385"	172,025.90
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.391"	27,942.40
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.395"	17,385.61
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.396"	29,803.97
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.397"	119,215.38
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.398"	74,509.68
NETTDRIVEN CORP.	"P-15-A.403"	99,186.17
ACCENT MICRO TECHNOLOGIES INC.	"P-15-B.123"	562.50
POWEREDGE SOLUTIONS PHILS. INC.	"P-15-B.156"	6,372.00
ACCENT MICRO TECHNOLOGIES INC.	"P-15-B.416"	750.00
MICRODATA SYSTEMS AND MANAGEMENT INC.	"P-15-B.573"	31,607.14
ACCENT MICRO TECHNOLOGIES INC.	"P-15-C.8"	109,335.39
ACCENT MICRO TECHNOLOGIES INC.	"P-15-C.9"	16,013.03
ACCENT MICRO TECHNOLOGIES INC.	"P-15-D.22"	14,728.52
ACCENT MICRO TECHNOLOGIES INC.	"P-15-D.28"	13,317.42
	Subtotal	***₱ 1,263,567.87***
2. Input VAT on purchases of goods supported by documents other than VAT invoice		
ULTRA MODULAR CONCEPTS INC.	"P-15-C.2"	₱ 704.25
	Subtotal	***₱ 704.25***
3. Input VAT on purchases of service supported by documents other than VAT OR		
UP NORTH PROPERTY HOLDINGS INC	"P-15-B.559-1" to	₱ 152,611.94

	"P-15-B.559-2"	
HOFFSMAN SYSTEMATIC DESIGNS INC.	"P-15-D.1"	7,642.23
TOTAL VENTURES INC.	"P-15-D.4-1"	12,857.14
IBMS TECHNOLOGY PHILS CORP.	"P-15-D.7-2"	964.29
	Subtotal	***₱ 174,075.60***
4. Input VAT on purchases of services reported as purchases of services supported by VAT ORs, but the nature of services were not indicated/statement not attached/nature of payment cannot be ascertained		
NEZDA TECHNOLOGIES INC.	"P-15-B.9"	₱ 2,400.00
NISCE MAMURIC GUINTO RIVERA AND ALCANTARA	"P-15-B.10-1"	1,200.00
ACCENT MICRO TECHNOLOGIES INC.	"P-15-B.32"	16,800.00
CIUDAD CHRISTHIA RESORT INC.	"P-15-B.92"	9,860.79
CLOUDSWYFT GLOBAL SYSTEMS INC.	"P-15-B.93"	42,128.64
COLLABERA TECHNOLOGIES PRIVATE LIMITED INC.	"P-15-B.94"	5,831.84
FP PHILIPPINES INC.	"P-15-B.96"	38,288.14
FUJI XEROX PHILIPPINES INC.	"P-15-B.98"	4,080.00
FUJI XEROX PHILIPPINES INC.	"P-15-B.99"	4,080.00
GOUDIE ASSOCIATES MANILA CO.	"P-15-B.100"	17,280.00
IBMS TECHNOLOGY PHILS CORP.	"P-15-B.101"	18,900.00
NISCE MAMURIC GUINTO RIVERA AND ALCANTARA	"P-15-B.112"	13,737.69
NISCE MAMURIC GUINTO RIVERA AND ALCANTARA	"P-15-B.113"	600.00
NEZDA TECHNOLOGIES INC.	"P-15-B.137"	2,400.00
NISCE MAMURIC GUINTO RIVERA AND ALCANTARA	"P-15-B.139"	600.00
FMG REFRIGERATION- AIR CONDITIONING SERVICES	"P-15-B.169"	18,214.29
JERIZ EVENT SERVICES INCORPORATED	"P-15-B.171"	1,680.00
MAGNUS EVENTUS INC.	"P-15-B.173"	4,200.00
ACCENT MICRO TECHNOLOGIES INC.	"P-15-B.174"	12,600.00
FP PHILIPPINES INC.	"P-15-B.180"	21,819.30
FRM AIRCONDITIONING CORPORATION	"P-15-B.181"	42,857.14
ANSCOR CASTO TRAVEL CORPORATION	"P-15-B.204"	195.32
ANSCOR CASTO TRAVEL CORPORATION	"P-15-B.205"	192.86
DIMENSION DATA PHILIPPINES INC.	"P-15-B.300"	13,992.00
FP PHILIPPINES INC.	"P-15-B.305"	24,583.12
IBMS TECHNOLOGY PHILS CORP.	"P-15-B.308"	26,785.71
IBMS TECHNOLOGY PHILS CORP.	"P-15-B.309"	18,482.14
NISCE MAMURIC GUINTO RIVERA	"P-15-B.315"	600.00
TELEDATACOM PHILS INC.	"P-15-B.334"	815.55
WAVEPLAY INTERACTIVE INC.	"P-15-B.340"	12,012.00
10INCH LIGHTS AND SOUNDS INC.	"P-15-B.342"	23,400.00
3SIXTY ELECTRICAL SERVICES INC.	"P-15-B.343"	21,428.57
FP PHILIPPINES INC.	"P-15-B.349"	29,419.47
MAXICARE HEALTHCARE CORP.	"P-15-B. 354"	751.16
MISNET EDUCATION INC.	"P-15-B.356"	4,821.43
NISCE MAMURIC GUINTO RIVERA	"P-15-B.357"	12,983.48
NISCE MAMURIC GUINTO RIVERA	"P-15-B.358"	24,000.00
DEVELOPMENT DIMENSIONS	"P-15-B.376"	3,321.43
ENVIRONMENTAL COMPLIANCE	"P-15-B.378"	16,953.84
FP PHILIPPINES INC.	"P-15-B.381"	34,090.04

NISCE MAMURIC GUINTO RIVERA	"P-15-B.394"	24,938.60
WELLTHY SOLUTIONS INC.	"P-15-B.454"	600.00
WELLTHY SOLUTIONS INC.	"P-15-B.455"	1,800.00
NISCE MAMURIC GUINTO RIVERA AND ALCANTARA	"P-15-B.478"	600.00
NISCE MAMURIC GUINTO RIVERA AND ALCANTARA	"P-15-B.479"	5,857.84
REYES TACANDONG AND CO.	"P-15-B.480"	53,571.43
SGV CO.	"P-15-B.483"	43,378.43
SKIP TRACE HUMAN RESOURCE SERVICES	"P-15-B.484"	22,392.86
UPS DELBROS INTERNATIONAL EXPRESS LTD. INC.	"P-15-B. 491"	736.40
10INCH LIGHTS AND SOUNDS INC.	"P-15-B.494"	39,471.43
ELOQUENTE CATERING SERVICES CO.	"P-15-B.502"	6,428.57
ESTANCIA DE LORENZO INC.	"P-15-B.503"	1,585.71
FUJI XEROX PHILIPPINES INC.	"P-15-B.507"	247.73
INEX STAGESYSTEMS CORP.	"P-15-B.508"	11,484.00
LAIS CATERING SERVICES	"P-15-B.511"	2,750.89
LAIS CATERING SERVICES	"P-15-B.512"	5,736.73
NISCE MAMURIC GUINTO RIVERA AND ALCANTARA	"P-15-B.517"	3,683.81
NISCE MAMURIC GUINTO RIVERA AND ALCANTARA	"P-15-B.518"	600.00
RENTOKIL INITIAL (PHILIPPINES) INC.	"P-15-B.519"	1,080.00
SKIP TRACE HUMAN RESOURCE SERVICES	"P-15-B.529"	20,357.14
UPS DELBROS INTERNATIONAL EXPRESS LTD. INC.	"P-15-B.541"	19.80
IBMS TECHNOLOGY PHILS CORP.	"P-15-B.556"	2,458.93
MAGNUS EVENTUS INC.	"P-15-B.575"	4,200.00
NISCE MAMURIC GUINTO RIVERA	"P-15-B.576"	76,817.48
3SIXTY ELECTRICAL SERVICES INC.	"P-15-B.578"	4,780.13
IBMS TECHNOLOGY PHILS CORP.	"P-15-B.581"	2,688.00
ACCENT MICRO TECHNOLOGIES INC.	"P-15-B.584"	11,367.49
ACCENT MICRO TECHNOLOGIES INC.	"P-15-B.585"	21,000.00
IBMS TECHNOLOGY PHILS CORP.	"P-15-B.593"	79,800.00
DIMENSION DATA PHILIPPINES INC.	"P-15-C.11"	5,220.33
DIMENSION DATA PHILIPPINES INC.	"P-15-C.12"	52,642.31
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.29"	1,221,175.32
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.197"	3,662,811.43
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.198"	146,107.99
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.199"	167,378.40
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.399"	153,839.35
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.371"	148,386.25
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.543"	159,287.98
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.544-3"	405,895.25
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.544-1"	967,814.27
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.545"	3,662,811.42
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.546"	408,107.70
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.547-1"	140,294.70
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.547-2"	31,383.45
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.548-1"	41,844.60
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.548-2"	139,534.13
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.548-3"	44,169.30
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.548-4"	164,470.60

UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.548-5"; "P-15-B.548-13"	110,072.55
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.548-17"	167,378.40
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.549"	167,378.40
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.550-1"	132,507.90
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B-551"	2,408,873.79
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B-550-2" to "P-15-B-550-6"; "P-15-B-552"	3,662,811.43
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.560"	146,315.67
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.569"	615,364.74
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.570"	143,344.58
SIMPLEVIA TECHNOLOGIES INC.	"P-15-D.32"	10,866.62
	Subtotal	***₱ 20,286,908.21***
5. Input VAT on purchases of services supported by VAT ORs but input VAT amounts per OR are lower than the amounts per claim (Overclaimed input VAT)		
JANAUS FOOD HAUS *(₱2,314.29 + ₱7,553.57 - ₱1,644.64)*	"P-15-A.298-1 toP-15-A.298-3"	₱ 8,223.22
FIRST COMMONWEALTH HOTEL CORP. *(₱1,641.58 - ₱1,571.43)*	"P-15-B.2"	70.15
PLDT INC. *(₱151.09 – ₱147.74)*	"P-15-B.13"	3.35
NEZDA TECHNOLOGIES INC. *(₱2,400.00 - ₱2,000.00)*	"P-15-B.110"	400.00
FMR CORPORATION *(₱1,350.00 - ₱1,289.73)*	"P-15-B.178"	60.27
	Subtotal	***₱ 8,756.99***
6. Input VAT on purchases of services supported by VAT ORs but the input VAT amounts were not separately indicated		
ROBINSONS SUPERMARKET CORPORATION	"P-15-A.240"	₱ 145,500.00
ROBINSONS SUPERMARKET CORPORATION	"P-15-A.241"	36,750.00
NORTH TRIANGLE HOTEL VENTURES INC.	"P-15-A.269"	2,330.78
SUPERIOR MAINTENANCE SERVICES INC.	"P-15-A.341-1" to "P-15-A.341-3"	132.00
		684.30
SUPERIOR MAINTENANCE SERVICES INC.	"P-15-A.342-1" to "P-15-A.342-3"	604.68
		2,574.24
SONNET'S CATERING SERVICES INC.	"P-15-B.533"	2,400.00
SUPERIOR MAINTENANCE SERVICES INC.	"P-15-B.571"	720.60
SUPERIOR MAINTENANCE SERVICES INC.	"P-15-B.571"	885.60
SUPERIOR MAINTENANCE SERVICES INC.	"P-15-B.571"	885.60
SUPERIOR MAINTENANCE SERVICES INC.	"P-15-B.571"	2,290.80
SUPERIOR MAINTENANCE SERVICES INC.	"P-15-B.571"	15,585.96
SUPERIOR MAINTENANCE SERVICES INC.	"P-15-B.571"	2,000.69
SUPERIOR MAINTENANCE SERVICES INC.	"P-15-B.571"	23,962.45
SUPERIOR MAINTENANCE SERVICES INC.	"P-15-B.571"	80,671.50
MICRODATA SYSTEMS AND MANAGEMENT INC.	"P-15-D.4-1"	22,917.00
	Subtotal	***₱ 340,896.20***
7. Supporting documents not found in the scanned file but included in the claim		
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.6"	₱ 1,232.14
ACCENT MICRO TECHNOLOGIES INC.	"P-15-A.108"	1,232.14
TNT EXPRESS WORLDWIDE (PHILS.) INC.	"P-15-B.81"	35.55
UP NORTH PROPERTY HOLDINGS INC.	"P-15-B.550"	159,848.35
UP NORTH PROPERTY HOLDINGS INC.		159,878.65
FMR CORPORATION	"P-15-B.589"	2,700.00
SMS CEBU INC.	"P-15-B.590"	19,817.37

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PLDT INC.	"P-15-B.900"	23,279.53
PLDT INC.	"P-15-B.900-1"	23,251.42
PLDT INC.	"P-15-B.902"	27,780.70
PLDT INC.	"P-15-B.903"	23,091.36
PLDT INC.	"P-15-B.904"	27,754.42
PLDT INC.	"P-15-B.905"	27,596.30
PLDT INC.	"P-15-B.906"	25,139.60
PLDT INC.	"P-15-B.907"	37,463.65
PLDT INC.	"P-15-B.908"	27,045.94
PLDT INC.	"P-15-B.909"	24,543.75
PLDT INC.	"P-15-B.910"	31,349.66
DIMENSION DATA PHILIPPINES INC.	"P-15-B.911"	122,527.90
DIMENSION DATA PHILIPPINES INC.	"P-15-B.912"	21,220.24
PLDT INC.	"P-15-B.913"	32,050.53
PLDT INC.	"P-15-B.914"	24,620.78
PLDT INC.	"P-15-B.915"	31,634.61
PLDT INC.	"P-15-B.916"	24,345.33
PLDT INC.	"P-15-B.917"	31,156.17
PLDT INC.	"P-15-B.918"	25,233.45
IBMS TECHNOLOGY PHILS CORP.	"P-15-D.3-2."	80,357.14
ACCENT MICRO TECHNOLOGIES INC	"P-15-C.7-1"	61,573.03
3SIXTY ELECTRICAL SERVICES INC	"P-16-D.4-3"	7,857.14
	Subtotal	***₱ 1,105,616.85***
	Grand Total	**₱ 23,180,525.97**

Moreover, part of the total input VAT claim is the amount of ₱17,530,569.62 representing the amortization of the input VAT on purchases of capital goods exceeding ₱1Million from prior years. The supporting documents proving such purchases, however, were not presented before this Court; hence, shall also be disallowed for being unsubstantiated.

In sum, out of the total reported input VAT of ₱141,107,969.67, only the amount of **₱85,743,321.92**, as computed below, represents petitioner's validly substantiated input VAT due or paid for CY 2019, in compliance with the *seventh* requisite, computed as follows:

Input VAT per VAT Returns		₱ 141,107,969.67
Less: Disallowances		
Per ICPA findings	₱ 14,653,552.16	
Per this Court's further verification - Current Input VAT	23,180,525.97	
Per this Court's Findings - Amortization of Prior Years' Input VAT on Capital Goods exceeding ₱1M	17,530,569.62	55,364,647.75
Validly substantiated input VAT		**₱85,743,321.92**

A portion of petitioner's substantiated input taxes due or paid are attributable to its zero-rated sales.

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

As earlier mentioned, petitioner reported zero-rated sales and taxable sales subject to 12% VAT for CY 2019 in the following amounts:

Vatable Sales	₱ 113,923,937.31
Zero-Rated Sales	5,303,129,822.20
Total Sales	**₱ 5,417,053,759.51**

Since petitioner's input VAT cannot be directly or entirely attributed to any of the sales transactions, the validly substantiated input VAT of ₱85,743,321.92 shall be allocated proportionately on the basis of the volume of its total sales, as follows:

Nature of Sales	Amount		Allocated Valid Input VAT	
	[a]		*[d] x [a/b]*	
VATable Sales/ Receipts	₱ 113,923,937.31		₱ 1,803,234.24	
Zero-Rated Sales/Receipts	5,303,129,822.20		83,940,087.68	
Total Sales/Receipts	**₱5,417,053,759.51**	*[b]*	**₱85,743,321.92**	*[d]*

Thus, as regards petitioner's compliance with the *eighth* requisite, only the amount of **₱83,940,087.68** represents its valid input VAT attributable to total declared zero-rated for the subject period of claim.

The valid input taxes were not applied against output taxes during and in the succeeding quarters.

Having determined that petitioner had valid input VAT attributable to its zero-rated sales, the Court will now determine whether the same was not applied against its output VAT liability during and in the succeeding quarters, relative to the *ninth* requisite for the successful prosecution of an input VAT refund claim.

In *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) vs. Commissioner of Internal Revenue*,[70] the Supreme Court held that:

> xxx, the input tax attributable to zero-rated sales may, at the option of the VAT-registered taxpayer, be: (1) **charged against output tax from regular 12% VAT-able sales, and any unutilized or 'excess' input tax may be claimed for refund or the issuance of tax credit certificate; or (2) claimed for refund or tax credit in its entirety.** It must be stressed that the remedies of charging the input tax against the output tax and applying for a refund or tax credit are alternative and cumulative. Furthermore, **the option is vested with the taxpayer-claimant. It goes without saying that the CTA, and even the Court may not, on its own, deduct the input tax attributable to zero-rated sales from the output tax derived from the regular twelve percent (12%) VAT-able sales first and use the resultant amount as the basis in computing the allowable amount for refund.** The courts cannot condition the refund of input taxes allocable to zero-rated sales on the existence of 'excess' creditable input taxes, which includes the input taxes carried over from the previous periods, from the output taxes. These procedures find no basis in law and jurisprudence.

Clearly, with respect to its input taxes attributable to zero-rated sales, it is the taxpayer (and not this Court) who is given the option to either:

1. Charge a portion of its input taxes attributable to zero-rated sales to the output taxes, and refund the balance, if any; or,

2. Refund all of the input taxes attributable to zero-rated sales.

Applying the foregoing, records show that petitioner chose the *first* option. Petitioner's claimed allowable input VAT was proportionately allocated between its reported VATable sales/receipts and zero-rated sales/receipts. The input VAT of ₱138,140,383.19 allocated to zero-rated sales was partially applied against its output tax to the extent of ₱10,703,286.00. Hence, only the excess amount of ₱127,437,097.24[71] is being claimed for refund, as shown below:

Particulars	Total	Input VAT Allocation	
		VATable Sales/Receipts	Zero-Rated Sales/Receipts
Total Allowable Input VAT	₱ 141,107,969.67	₱ 2,967,586.48	₱ 138,140,383.19
Less: Output VAT[72]	13,670,872.48	2,967,586.48	10,703,286.00
Input VAT Claimed for Refund	**₱127,437,097.19**	₱ -	**₱127,437,097.19**

[70] G.R. No. 215159, July 5, 2022.
[71] With ₱0.05 discrepancy due to rounding off.
[72]

CY 2019	Output VAT	Exhibit (Line 19B)	CY 2019	Output VAT	Exhibit (Line 19B)
1st Quarter	₱ 3,490,638.09	"P-13"	3rd Quarter	3,460,957.66	"P-15-a"
2nd Quarter	3,494,246.25	"P-14"	4th Quarter	3,225,030.48	"P-6"

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Following the same computation, since petitioner's valid input VAT allocated to sales subject to 12% VAT in the amount of ₱1,803,234.24, as earlier determined, is not enough to cover the output VAT liability amounting to ₱13,670,872.48, the valid input VAT allocated to total zero-rated sales, in the amount of ₱83,940,087.68, shall then be utilized against the remaining output VAT due of ₱11,867,638.24, leaving an excess input VAT attributable to total zero-rated sales in the amount of ₱72,072,449.44, as computed below:

Output VAT	₱ 13,670,872.48
Less: Valid Input VAT allocated to sales subject to 12% VAT	1,803,234.24
Output VAT Still Due	**₱ 11,867,638.24**

Valid input VAT allocated to zero-rated sales	₱ 83,940,087.68
Less: Output VAT Still Due	11,867,638.24
Excess Input VAT attributable to zero-rated sales	**₱ 72,072,449.44**

However, as determined earlier, petitioner was able to properly substantiate only the amount of ₱3,457,484,464.96 out of its total declared zero-rated sales of ₱5,303,129,822.20. Consequently, out of the excess input VAT attributable to total zero-rated sales of ₱72,072,449.44, only the amount of ₱46,989,114.47 is attributable to the valid zero-rated sales of ₱3,457,484,464.96, as computed below:

Valid zero-rated sales	₱3,457,484,464.96
Divide by: Total Reported Zero-rated sales	₱5,303,129,822.20
Multiply by: Excess Input VAT attributable to total reported zero-rated sales	₱ 72,072,449.44
Excess Valid Input VAT attributable to Valid Zero-rated Sales	**₱ 46,989,114.47**

Finally, although petitioner carried over the claimed input VAT amount of ₱127,437,097.24 in the succeeding quarters/period, the same remained unutilized until it was deducted as *"VAT Refund/TCC claimed"*[73] in its Quarterly VAT Return for the first quarter of CY 2021. Accordingly, the subject claim no longer forms part of the excess input VAT of ₱164,427,194.31 as of the end of the first quarter of CY 2021. Such being the case, the claimed input VAT could not have been carried over or utilized in the succeeding quarters of CY 2021. Hence, petitioner is deemed to have fulfilled the *ninth* requisite for the refund/tax credit of input VAT under Section 112(A) of the NIRC of 1997, as amended.

[73] Exhibit "P-8-C-ICPA", Line 23D.

In fine, petitioner was able to sufficiently establish its entitlement to the refund or issuance of a tax credit certificate in the amount of **₱46,989,114.47**, representing excess and unutilized input VAT attributable to its zero-rated sales for the first to fourth quarters of CY 2019.

WHEREFORE, in light of the foregoing considerations, petitioner's *Motion for Reconsideration* and *Petition for Review* are **PARTIALLY GRANTED.**

Accordingly, respondent is **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner the amount of **FORTY-SIX MILLION, NINE HUNDRED EIGHTY-NINE THOUSAND, ONE HUNDRED FOURTEEN PESOS AND 47 CENTAVOS** (**₱46,989,114.47**), representing the latter's excess and unutilized input VAT attributable to its zero-rated sales for the first to fourth quarters of calendar year 2019.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ATTESTATION

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

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Second Division 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 Amended 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