REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Second Division

IBEX GLOBAL SOLUTIONS (PHILIPPINES) INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11075

Members:

RINGPIS-LIBAN, *Chairperson*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

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DECISION

RINGPIS-LIBAN, J.:

The Case

The *Petition for Review* filed on January 23, 2023, prays for the refund or issuance of tax credit certificate in the amount of Php5,739,324.36, allegedly representing petitioner's input tax on zero-rated sales for the 1st quarter of fiscal year ("FY") ended June 30, 2021.[1]

The Facts

Petitioner Ibex Global Solutions (Philippines) Inc. is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines.[2] It is registered with the Bureau of Internal Revenue ("BIR") under Certificate of Registration OCN No. 126RC20230000000458, with Taxpayer Identification Number ("TIN") 008-028-126-00000, and registered address at

[1] Docket, Pre-Trial Order dated September 12, 2023, Summary of the Case, p. 164.
[2] *Id.,* Exhibit "P-1", pp. 32-42.

Unit 301 Silver City Building Tiendesitas Frontera Verde Ugong 1604 City of Pasig, NCR.[3]

Respondent is the duly appointed Commissioner of Internal Revenue with office address at BIR Building, Diliman, Quezon City.[4]

Petitioner filed its amended *Quarterly VAT Return* for the 1st quarter of FY ended June 30, 2021, or the period from July 1, 2020 to September 30, 2020, on November 19, 2021.[5]

On September 27, 2022, petitioner filed with the BIR VAT Credit Audit Division its *Application for Tax Credits/Refunds* (BIR Form No. 1914),[6] together with the *Revised Checklist of Mandatory Requirements on Claims for VAT Credit/Refund*,[7] requesting for the refund or tax credit of its unutilized and excess creditable input value-added tax ("VAT") amounting to Php5,739,324.36, which allegedly represents the VAT attributable to petitioner's zero-rated sales of services for the 1st quarter of FY ended June 30, 2021.

Respondent then issued *Tax Verification Notice* (TVN201800190923) dated September 27, 2022,[8] which authorizes-Revenue Officers Michelle J. Alonzo-Bucayu and Marjorie C. Dioso to verify the supporting documents and/or pertinent records relative to petitioner's claim for VAT refund for the period covering the subject claim.

Thereafter, on December 22, 2022, petitioner received the *VAT Refund Notice* of the BIR signed by Assistant Commissioner for the Assessment Service, Ms. Maria Luisa I. Belen dated November 29, 2022, which wholly denied petitioner's claim for VAT refund.[9]

On January 23, 2023, the *Petition for Review* was filed.[10]

On April 11, 2023, respondent filed his *Answer*,[11] interposing the following special and affirmative defenses, to wit: (1) the petition must be dismissed for

3 USB (Exhibit "P-14-B"), Exhibit "P-16-1".
4 Docket, Par. 1, Admitted Fact, *Joint Stipulation of Fact and Issue* (JSFI), p. 157.
5 *Id.*, Exhibit "P-6", BIR Records (Exhibit "R-6"), p. 214.
6 *Id.*, Exhibit "P-9", BIR Records (Exhibit "R-6"), p. 247.
7 *Id.*, Exhibits "P-10" and "R-2", BIR Records (Exhibit "R-6"), p. 249.
8 *Id.*, Exhibit "R-1", BIR Records (Exhibit "R-6"), p. 252.
9 *Id.*, JSFI, Stipulated Fact, Par. 1, p. 157; Exhibits "P-11" and "R-5", BIR Records (Exhibit "R-6"), p. 358.
10 *Id.*, pp. 6-18.
11 *Id.*, pp. 85-94.

failure of petitioner to substantiate its administrative claim for refund; (2) petitioner is not entitled to the claim for refund; and (3) tax refunds are strictly construed against the taxpayer and in favor of the government.

Respondent transmitted the *BIR Records* for this case, consisting of 366 pages in one (1) folder on April 25, 2023.[12]

The Pre-Trial Conference was set and held on July 20, 2023.[13] Prior thereto, petitioner's *Pre-Trial Brief* was filed on July 14, 2023,[14] while *Respondent's Pre-Trial Brief* was submitted on July 17, 2023.[15]

On August 22, 2023, the parties submitted their *Joint Stipulation of Fact and Issue*,[16] which the Court admitted and approved in its Resolution dated September 8, 2023,[17] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order was then issued on September 12, 2023.[18]

Trial then ensued, with the parties presenting their respective documentary and testimonial evidence.

Petitioner offered the testimonies of the following individuals, namely: (1) Mr. John Michael Arceo,[19] petitioner's Tax and Corporate Compliance Manager; and (2) Mr. Neil U. Sison,[20] the Court-commissioned Independent Certified Public Accountant ("ICPA").[21]

The *Amended Report* of the ICPA was submitted to the Court on December 28, 2023.[22]

The *Formal Offer of Evidence for Petitioner* was filed on February 26, 2024,[23] to which respondent filed his *Comment (to Petitioner's Formal Offer of Evidence)* on

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12 *Id., Compliance* dated April 25, 2023, pp. 98-100.
13 *Id.,* Notice of Pre-Trial Conference dated April 17, 2023, Docket, pp. 96-97; and Minutes of the hearing held on, and Order dated, July 20, 2023, Docket, pp. 135-137.
14 *Id.,* pp. 110-115.
15 *Id.,* pp. 119-122.
16 *Id.,* pp. 157-160.
17 *Id.,* p. 162.
18 *Id.,* pp. 164-168.
19 *Id.,* Exhibit "P-12", pp. 19-31; and Minutes of the hearing held on, and Order dated, September 14, 2023, Docket, pp. 169-171.
20 *Id.,* Exhibit "P-13", Docket, pp. 274-286; and Minutes of the hearing held on, and Order dated, February 6, 2024, Docket, pp. 292-294.
21 *Id.,* Minutes of the hearing held on, and Order dated, September 14, 2023, Docket, pp. 169-171.
22 *Id.,* Exhibit "P-14-A", Docket, pp. 242-267.
23 *Id.,* pp. 296-306.

March 6, 2024.[24] In the Resolution dated May 13, 2024,[25] the Court admitted petitioner's offered exhibits, *except* Exhibit "P-4", for failure of the document offered and identified to correspond with the document actually marked.

For his part, respondent offered the testimony of Revenue Officer ("RO") Michele J. Alonzo-Bucayu.[26]

At the hearing held on May 14, 2024, respondent made an oral formal offer of Exhibits "R-1", "R-2", "R-3", "R-4", "R-5", and "R-6". Respondent likewise requested for the inclusion of the Transcript of Stenographic Notes of its witness, RO Michele J. Alonzo-Bucayu, as part of the records of this case. The Court admitted all of the said exhibits.[27]

Petitioner's *Memorandum* was filed *via* electronic mail on September 30, 2024.[28] Respondent, however, failed to file his memorandum.[29]

This case was considered submitted for decision on November 12, 2024.[30]

The Issue

The parties stipulated the following issue for this Court's resolution, to wit:

> "Whether or not Petitioner is entitled to a claim for refund of its allegedly unutilized excess and unutilized input taxes in the amount of Php5,739,324.36 for the period from July 1, 2020 to September 30, 2020."[31]

Petitioner's arguments:

Petitioner argues that its sale of business process and contact center services and other facilities to IBEX Global Bermuda Ltd., a nonresident foreign

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[24] *Id.,* pp. 319-321.
[25] *Id.,* pp. 324-325.
[26] *Id.,* Exhibit "R-7", pp. 128-134; Minutes of the hearing held on, and Order dated, May 14, 2024, pp. 326-327, and 329-330, respectively.
[27] *Id.,* Minutes of the hearing held on, and Order May 14, 2024, Docket, pp. 326-327, and 329-330, respectively.
[28] *Id.,* pp. 352-378, and 379-380 (*Affidavit of Electronic Mail Filing and/or Service*).
[29] Records Verification dated October 29, 2024 issued by this Court's Judicial Records Division.
[30] Minute Resolution dated November 12, 2024.
[31] Docket, JSFI, Stipulation of Issue, pp. 157-158.

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

Respondent's counter-arguments:

In his *Answer*, respondent contends that the petition must be dismissed for failure of petitioner to substantiate its administrative claim for refund; that petitioner is not entitled to the claim for refund; and that tax refunds are strictly construed against the taxpayer and in favor of the government.

Discussion/Ruling

The present *Petition for Review* lacks merit.

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

Section 112 of the National Internal Revenue Code ("NIRC") of 1997, as last amended by Republic Act ("RA") No. 10963,[32] provides, in part, as follows:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* —
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> (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

[32] AN ACT AMENDING SECTIONS 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35, 62, AND 89; ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

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 or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally*, That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.

xxx xxx xxx

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

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

Based on the foregoing provision, jurisprudence has laid down certain requisites which the taxpayer-applicant must comply with to successfully obtain a credit/refund of input VAT. Said requisites are classified into certain categories, to wit:

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

1. the refund claim is filed with the BIR within two (2) years after the close of the taxable quarter when the sales were made;[33]

2. in case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act on the said claim within a period of ninety (90) days, the judicial claim has been filed with this Court, within thirty (30) days from receipt of the decision or after the expiration of the said ninety (90)-day period;[34]

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

3. the taxpayer is a VAT-registered person;[35]

In relation to the taxpayer's output VAT:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[36]

5. for zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2),[37] the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the BSP rules and regulations;[38]

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

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

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

36 *Id.*

37 Under RA No. 10963, Section 106(A)(2)(a)(2) was renumbered to Section 106(A)(2)(a)(3) while Section 106(A)(2)(b) was deleted. However, there was no corresponding amendment to the subsections cited in Section 112(A) of the NIRC of 1997, as amended.

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

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[39]

7. the input taxes are due or paid;[40]

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;[41] and

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[42]

In addition, in claims for VAT refund/credit, applicants must satisfy the substantiation and invoicing requirements under the NIRC and other implementing rules and regulations.[43] Thus, petitioner's compliance with all the VAT invoicing requirements is required to be able to file a claim for input taxes attributable to zero-rated sales.[44] The invoicing and substantiation requirements should be followed because it is the only way to determine the veracity of the taxpayer's claims.[45] Moreover, compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.[46]

Strict compliance with substantiation and invoicing requirements is necessary considering VAT's nature and VAT system's tax credit method, where

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39 *Id.*

40 *Id.*

41 *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009.

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

43 *Team Energy Corporation v. Commissioner of Internal Revenue, Et. Al.*, G.R. Nos. 197663 and 197770, March 14, 2018.

44 *J.R.A. Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013.

45 *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018.

46 *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.

tax payments are based on output and input taxes and where the seller's output tax becomes the buyer's input tax that is available as tax credit or refund in the same transaction. It ensures the proper collection of taxes at all stages of distribution, facilitates computation of tax credits, and provides accurate audit trail or evidence for BIR monitoring purposes.[47]

Furthermore, in cases filed before this Court, which are litigated *de novo*, party-litigants must prove every minute aspect of their case.[48] Thus, it behooves petitioner to show compliance with each of the foregoing requisites and invoicing requirements.

Petitioner's administrative and judicial claims were timely filed.

The *first* requisite pertains to the filing of a claim for tax refund or tax credit of input VAT before the BIR, within two (2) years from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim covers the 1st quarter of FY ended June 30, 2021, or the period from July 1, 2020 to September 30, 2020. Thus, counting two (2) years from the close of the said quarter, petitioner had until September 30, 2022, within which to file its administrative claim for refund.

By filing the *Application for Tax Credits/Refunds* (BIR Form No. 1914) in the amount of Php5,739,324.36 for the period from July 1, 2020 to September 30, 2020, along with the supporting documents, on September 27, 2022,[49] the administrative claim of petitioner was timely made, and thus, the latter complied with the *first* requisite.

As for the *second* requisite, the same necessitates that the judicial claim must have been filed within thirty (30) days from receipt of respondent's decision or after the expiration of the ninety (90)-day period from the date of submission of the official receipts ("ORs") or invoices and other documents in support of the

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47 *Team Energy Corporation v. Commissioner of Internal Revenue, Et. Al.*, G.R. Nos. 197663 and 197770, March 14, 2018.

48 *Edison (Bataan) Cogeneration Corporation v. Commissioner of Internal Revenue, Et. Al.*, G.R. Nos. 201665 and 201668, August 30, 2017; *Commissioner of Internal Revenue v. Philippine National Bank*, G.R. No. 180290, September 29, 2014; *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014; *Dizon v. Court of Tax Appeals, Et. Al.*, G.R. No. 140944, April 30, 2008; *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007; and *Commissioner of Internal Revenue v. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.

49 Docket, Exhibits "P-9" and "P-10", BIR Records (Exhibit "R-6"), pp. 247 and 249, respectively.

application for refund under Section 112(C) of the NIRC of 1997, as amended by RA No. 10963.

Counting ninety (90) days from petitioner's submission of its administrative claim on September 27, 2022, respondent had until December 26, 2022 to act on the said claim. Thus, respondent's *VAT Refund Notice* dated November 29, 2022,[50] informing petitioner that its application for VAT refund was denied, was issued well-within the ninety (90)-day period.

Petitioner received said letter from respondent on December 22, 2022.[51] Counting thirty (30) days therefrom, petitioner had until January 23, 2023[52] within which to file its judicial claim. Therefore, the filing of the present *Petition for Review* on January 23, 2023 was likewise timely made.[53]

Such being the case, petitioner fulfilled both the above-stated *first* and *second* requisites.

Petitioner is a VAT-registered entity.

Anent the *third* requisite, it is also undisputed that petitioner is a VAT-registered person/entity, with TIN 008-028-126-00000.[54] Thus, petitioner complied with the said requisite.

However, petitioner failed to establish that it was engaged in zero-rated sales during the 1st quarter of FY ended June 30, 2021.

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

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50 *Id.,* Exhibits "P-11" and "R-5", BIR Records (Exhibits "R-6"), p. 358.
51 *Id.,* Par. 1, JSFI, Stipulated Fact, p. 157.
52 January 21, 2023 (the 30th day) fell on a Saturday.
53 Docket, pp. 6-18.
54 USB (Exhibit "P-14-B"), Exhibit "P-16-1".

In its amended *Quarterly VAT Return* (BIR Form No. 2250-Q) for the 1st Quarter of FY 2021, or the period from July 1, 2020 to September 30, 2020,[55] petitioner reported total zero-rated sales amounting to Php1,267,179,724.92.

Petitioner claims that its sale of services for the period of the claim to its non-resident client, IBEX Global Bermuda Ltd., paid for in U.S. dollars inwardly remitted through the banking system and accounted for in accordance with the rules and regulations of the BSP,[56] are entitled to the benefit of zero rate (0%) VAT, pursuant to Section 108(B)(2) of the NIRC of 1997, as amended,[57] which reads:

> "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:**
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> (1) Processing, manufacturing or repacking of goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
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> (2) **Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a 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).**"[58]

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

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[55] Docket, Exhibit "P-6", BIR Records (Exhibit "R-6"), p. 214.
[56] *Id.,* petitioner's *Memorandum,* Statement of the Facts and Proceedings, Par. 7, p. 354.
[57] *Id.,* petitioner's *Memorandum,* Arguments and Discussions, Par. 29, p. 357.
[58] *Emphasis supplied.*

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;[59]

2) The services fall under any of the categories under Section 108(B)(2),[60] or simply, the services rendered should be other than *"processing, manufacturing or repacking goods"*;[61]

3) The service must be performed in the Philippines[62] 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.[63]

For the *first* essential element, to be considered as a NRFC doing business outside the Philippines, each entity must be supported, at the very least, by **both** a *Certification of Non-Registration of Company* issued by the Philippine SEC, **and** proof of incorporation/registration in a foreign country (*e.g.*, *Articles/Certificate of Incorporation/Registration* and/or *Tax Residence Certificate*). The former establishes that the recipient of the service has no registered business in the Philippines, and that it is not engaged in trade or business within the Philippines; while the latter 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 vs. Deutsche Knowledge Services Pte. Ltd.*,[64] 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**

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

[60] *Commissioner of Internal Revenue v. American Express International, Inc. (Philippine Branch),* G.R. No. 152609, June 29, 2005.

[61] *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.,* G.R. No. 153205, January 22, 2007.

[62] *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.,* G.R. No. 153205, January 22, 2007; *Commissioner of Internal Revenue v. American Express International, Inc. (Philippine Branch),* G.R. No. 152609, June 29, 2005.

[63] *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.,* G.R. No. 153205, January 22, 2007; *Commissioner of Internal Revenue v. American Express International, Inc. (Philippine Branch),* G.R. No. 152609, June 29, 2005.

[64] G.R. No. 234445, July 15, 2020.

the Tax Code, the claimant must establish the two components of a client's NRFC status, *viz.*: (1) that their client was established under the laws of a country not the Philippines or, simply, is not a domestic corporation; and (2) that it is not engaged in trade or business in the Philippines. To be sure, there must be sufficient proof of both of these components: showing not only that the clients are foreign corporations, but also are not doing business in the Philippines.

Such proof must be especially required from ROHQs such as DKS. That the law expressly authorizes ROHQs to render services to local and foreign affiliates alike only stresses the ROHQs burden to distinguish among their clients' nationalities and actual places of business operations and establish that they are seeking refund or credit of input VAT only to the extent of their sales of services to foreign clients doing business outside the Philippines.

To recall, the CTA found that the SEC Certification of Non-Registration of Company and Authenticated Articles of Association and/or Certificates of Registration/Good Standing/Incorporation sufficiently established the NRFC status of 11 of DKS's affiliates clients.

The Court upholds these findings.

The Court accords the CTA's factual findings with utmost respect, if not finality, because the Court recognizes that it has necessarily developed an expertise on tax matters. Significantly, both the CTA Division and CTA *En Banc* gave credence to the aforementioned documents as sufficient proof of NRFC status. The Court shall not disturb its findings without any showing of grave abuse of discretion considering that the members of the tax court are in the best position to analyze the documents presented by the parties.

In any case, after a judicious review of the records, the Court still do not find any reason to deviate from the court *a quo*'s findings. **To the Court's mind, the SEC Certifications of Non-Registration show that these affiliates are foreign corporations. On the other hand, the articles of association/certificates of incorporation stating that these**

affiliates are registered to operate in their respective home countries, outside the Philippines are *prima facie* evidence that their clients are not engaged in trade or business in the Philippines."[65]

Thus, sufficient proof of both components must have been present, *viz:* (1) that the taxpayer's clients are foreign corporations can be proven by the *SEC Certifications of Non-Registration*; and (2) that the same are not doing business in the Philippines can be supported by the *articles of association/certificates of incorporation*, stating that these entities are registered to operate in their respective home countries, outside the Philippines.

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

(1) Apostilled *Certificate of Incorporation* of IBEX Global Bermuda Ltd.;[66] and

(2) *Certification of Non-Registration of Company* dated March 27, 2023 issued by the Securities and Exchange Commission,[67] to the effect that the records of the Commission "do not show the registration of **IBEX GLOBAL BERMUDA LIMITED** as a corporation, partnership, or One Person Corporation (OPC)".

As regards the *second* and *third* essential elements, per petitioner's *Amended Articles of Incorporation*,[68] its primary purpose is to "engage in the business of providing and exporting call/contact center and other facilities and services as may be required by the manufacturers and sellers of goods and services and the buyers and consumers thereof, particularly non-Philippine residents, through digital and electronic software applications and other services to facilitate and complete commercial transactions; and in general, to carry on and undertake such activities which may seem to the Corporation capable of being conveniently carried on in connection with the above purposes, or calculated, directly or indirectly, to enhance the value of or render profitable, any of the Corporation's property or rights."

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65 *Emphasis supplied.*
66 Docket, Exhibit "P-2", p. 308.
67 *Id.,* Exhibit "P-3", p. 309.
68 *Id.,* Exhibit "P-1", pp. 32-42.

Further, petitioner's Tax and Corporate Compliance Manager, Mr. John Michael Arceo, testified through his *Judicial Affidavit*[69] that the services rendered by petitioner are other than "processing, manufacturing or repacking of goods" and that the same were performed in the Philippines:

"Q8. Please describe Petitioner's business presence in the Philippines in the first quarter of fiscal year ended June 30, 2021 and at the present.

A8. In the 1st quarter of fiscal year ended June 30, 2021 and up to the present, the Company is a domestic corporation and performs in the Philippines its business of providing call/contact center services and other facilities.

xxx xxx xxx

Q11. In the first quarter of fiscal year ended June 30, 2021 (the 'Claim Period'), who were its customers or clients?

A11. The Company's only client for the Claim Period was IBEX Global Bermuda Ltd., which is a non-resident foreign corporation located and doing business outside the Philippines.

Q12. How much of Petitioner's sales during the Claim Period were for IBEX Global Bermuda Ltd.?

A12. 100% of the Company's sales during the Claim Period were for IBEX Global Bermuda, Ltd.

Q13. Please explain the nature of services rendered by petitioner to its IBEX Global Bermuda Ltd.

A13. The Company's call/contract center services and other facilities for IBEX Global Bermuda Ltd. are primarily inbound/outbound calls, chat and email support performed by the Company's employees in the Company's offices in the Philippines."

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69 *Id.*, Exhibit "P-12", pp. 19-31.

Verily, the services performed by petitioner in the Philippines for its nonresident foreign client, IBEX Global Bermuda Ltd., fall within the scope of *"services other than processing, manufacturing or repacking goods"*, hence, petitioner satisfactorily complied with the *second* and *third* essential elements.

However, before going into the *fourth* essential element, which corresponds to the *fifth* requisite that requires that for zero-rated sales under Section 108(B)(2) of the NIRC of 1997, as amended, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations, it is equally important to consider that the VAT zero-rated sales, to which the foreign currency remittances correspond, must be duly 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 Revenue Regulations ("RR") No. 16-2005, as amended. Further, the sales invoices ("Sis") 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.

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

To support its reported zero-rated sales of services for the 1st quarter of FY ended June 30, 2020 in the amount of Php1,267,179,724.92, petitioner submitted various VAT zero-rated ORs,[70] together with the related *Billing Statements*, issued to its client, IBEX Global Bermuda Ltd., to wit:

Exhibit	**OR No.**	**OR Date**	**Amount Received (in US$)**	**Conversion Rate**	**Amount Received (in PhilippinePhp)**
"P-50-1"	CP 0018	July 09, 2020	$1,311,684.05	Php49.35	Php64,731,607.87
"P-50-2"	SC 1068	July 15, 2020	715,284.47	49.37	35,313,594.28
"P-50-3"	CP 0019	July 15, 2020	59,961.53	49.37	2,960,300.74

[70] USB (Exhibit P-14-B"), Exhibits "P-50-1" to "P-50-17", "P-51-1" to "P-51-18", and "P-52-1" to "P-52-2".

"P-50-4"	SC 1069	July 22, 2020	365,248.85	49.25	17,988,505.86
"P-50-5"	DV 0509	July 22, 2020	941,770.27	49.25	46,382,185.80
"P-50-6"	SC 1070	Aug. 06, 2020	55,599.86	48.95	2,721,613.15
"P-50-7"	DV 0511	Aug. 06, 2020	16,081.81	48.95	787,204.60
"P-50-8"	CP 0020	Aug. 06, 2020	702,776.24	48.95	34,400,896.95
"P-50-9"	SC 1071	Aug. 11, 2020	986,874.46	48.88	48,238,423.60
"P-50-10"	CP 0021	Aug. 11,2020	648,833.51	48.88	31,714,981.97
"P-50-11"	SC 1072	Aug. 24, 2020	261,813.72	48.50	12,697,965.42
"P-50-12"	DV 0512	Aug. 24, 2020	1,552,707.07	48.50	75,306,292.90
"P-50-13"	SC 1073	Sep. 09, 2020	255,289.44	48.48	12,376,432.05
"P-50-14"	CP 0022	Sep. 09, 2020	1,575,700.10	48.48	76,389,940.85
"P-50-15"	SC 1074	Sep. 15, 2020	1,113,000.00	48.52	54,002,760.00
"P-50-16"	DV 0513	Sep. 22, 2020	908,056.39	48.37	43,922,687.58
"P-50-17"	DV 0514	Sep. 23, 2020	728,460.45	48.45	35,293,908.80
"P-51-1"	AL 0014	July 08, 2020	690,943.26	49.40	34,132,597.04
"P-51-2"	AL 0015	July 09, 2020	11,833.80	49.35	583,998.03
"P-51-3"	DV 0508	July 22, 2020	612,751.15	49.25	30,177,994.14
"P-51-4"	PQ 0189	July 22, 2020	1,084,229.73	49.25	53,398,314.20
"P-51-5"	PQ 0190	July 30, 2020	470,000.00	49.01	23,034,700.00
"P-51-6"	PQ 0191	Aug. 06, 2020	168,559.26	48.95	8,250,975.78
"P-51-7"	AL 0016	Aug. 06, 2020	562,151.99	48.95	27,517,339.91
"P-51-8"	BH 000016	Aug. 06, 2020	451,132.04	48.95	22,082,913.36

"P-51-9"	SH 0000105	Aug. 11, 2020	79,292.03	48.88	3,875,794.43
"P-51-10"	PQ 0192	Aug. 24, 2020	1,425,479.21	48.50	69,135,741.69
"P-51-11"	PQ 0193	Sep. 01, 2020	708,871.59	48.46	34,351,917.25
"P-51-12"	AL 0017	Sep. 09, 2020	856,948.08	48.48	41,544,842.92
"P-51-13"	BH 000017	Sep. 09, 2020	522,105.55	48.48	25,311,677.06
"P-51-14"	PQ 0194	Sep. 23, 2020	1,904,539.55	48.45	92,274,941.20
"P-51-15"	SH 0000103	July 08, 2020	1,186,056.74	49.40	58,591,202.96
"P-51-16"	SH 0000104	Aug. 06, 2020	1,180,698.80	48.95	57,795,206.26
"P-51-17"	SH 0000106	Sep. 01, 2020	776,128.41	48.46	37,611,182.75
"P-51-18"	SH 0000107	Sep. 09, 2020	663,956.83	48.48	32,188,627.12
"P-52-1"	BH 000015	July 09, 2020	403,236.15	49.35	19,899,704.00
"P-52-2"	SC 1075	Sep. 22, 2020	3,943.61	48.37	190,752.42
		Total	**$25,961,999.98**		**Php1,267,179,724.92**[71]

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

"SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* –

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

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

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

[71] There is a rounding off difference of Php0.02, actual total is Php1,267,179,724.9**4**.

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

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

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

xxx xxx xxx

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

xxx xxx xxx

(3) The date of transaction, quantity, unit cost and description of the goods or properties or **<u>nature of the services</u>**; and

(4) In the case of sales in the amount of One thousand (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client."[72]

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

A verification of the foregoing ORs reveals that while the accounted zero-rated sales of Php1,267,179,724.92 were supported by VAT zero-rated ORs, the same were not fully compliant with the prescribed invoicing requirements under the VAT law and regulations, since **the said ORs lack the indication of the <u>nature of services</u> rendered** by petitioner.

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[72] *Emphasis and underscoring supplied.*

The supporting ORs show that the amounts were in partial/full payment for "INWARD" but this apparently pertains to the remittance payment from IBEX Global Bermuda Ltd. and does not indicate specifically the nature of service rendered by petitioner. As such, the said accounted sales of Php1,267,179,724.92 shall be denied VAT zero-rating.

To reiterate, petitioner's compliance with all the VAT invoicing requirements is required to be able to file a claim for input taxes attributable to zero-rated sales.[73] The invoicing and substantiation requirements should be followed because it is the only way to determine the veracity of the taxpayer's claims.[74] Moreover, it must be pointed out that compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.[75]

Having fallen short in proving that its sale of services to IBEX Global Bermuda Ltd. during the subject period of claim qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended, petitioner failed to satisfy the *fourth* and *fifth* requisites for the grant of its refund claim.

Such being the case, the present claim must fail. Correspondingly, it is no longer necessary to determine whether petitioner complied with the remaining requisites to merit favorable consideration of its claim for refund of its alleged unutilized input taxes for the 1st quarter of FY ended June 30, 2021.

Actions for tax refund, as in the present case, are in the nature of a claim for exemption. As such, the law is not only construed in *strictissimi juris* against the taxpayer, the pieces of evidence presented entitling a taxpayer to an exemption must also be *strictissimi* scrutinized and duly proven. The burden is on the taxpayer to show that it has strictly complied with the conditions for the grant of the tax refund or credit. Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented, as they are not intended to be liberally construed.[76]

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **DENIED** for lack of merit.

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[73] *J.R.A. Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013.

[74] *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018.

[75] *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.

[76] *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222428, February 19, 2018.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
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.

MA. BELEN M. RINGPIS-LIBAN
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.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice