REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

****

MAERSK GLOBAL SERVICES CENTRES (PHILIPPINES) LTD., Petitioner,	**CTA Case No. 10022**
	Members:
- versus -	**UY,** *Chairperson,* **RINGPIS-LIBAN,** *and* **MODESTO-SAN PEDRO,** JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	***Promulgated:*** JAN 26 2022 10:04 a.m.

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DECISION

UY, J.:

Before this Court is a *Petition for Review*[1] filed by petitioner, Maersk Global Services Centres (Philippines), Ltd. (Maersk) on February 7, 2019, against respondent, Commissioner of Internal Revenue (CIR), praying for the refund or issuance of a tax credit certificate (TCC) in the amount of ₱37,943,875.08, allegedly representing its unutilized input value-added tax (VAT) on its zero-rated sales for calendar year (CY) 2017.

THE FACTS

Petitioner Maersk Global Services Centres (Philippines) Ltd. is a foreign corporation, duly organized and existing under the laws of Hongkong, and licensed to do business in the Philippines as a regional operating headquarters, with principal office at Levels 5-8,

[1] Docket, pp. 10 to 21.

North Wing, Estancia Office, Capitol Commons, Meralco Avenue, Brgy. Oranbo, Pasig City.[2]

Respondent is the duly appointed Commissioner of Internal Revenue with office address at Bureau of Internal Revenue (BIR) Building, Diliman, Quezon City where he may be served with summons, processes, orders and notices, from the Honorable Court.[3]

For taxable year 2017, petitioner filed its quarterly VAT Returns on the following dates, to wit:

2017	VAT Return	Date Filed	Exhibit
1st Quarter	Amended Quarterly VAT Return	Jun 7, 2018	"P-8"
2nd Quarter	Amended Quarterly VAT Return	Jun 7, 2018	"P-9"
3rd Quarter	Amended Quarterly VAT Return	Jun 7, 2018	"P-10"
4th Quarter	Amended Quarterly VAT Return	Jun 7, 2018	"P-11"

On September 12, 2018, petitioner filed with the BIR VAT Credit Audit Division an application for VAT refund of the unutilized and excess creditable input taxes attributable to its zero-rated sales for the four quarters of 2017.[4]

Subsequently, petitioner received a letter from respondent dated December 4, 2018, denying the claim for VAT refund on the ground that petitioner's zero-rated sales of services were supposedly rendered to petitioner's ultimate parent company.[5]

Aggrieved, petitioner filed the instant *Petition for Review*[6] before this Court on February 07, 2019.

Respondent filed his *Answer*[7] on April 4, 2019, interposing the following special and affirmative defenses to establish that petitioner is not entitled to the refund claimed based on several reasons, to wit:

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[2] Petition for Review, Docket, p. 10.
[3] Par. 1, Summary of Admitted Facts, Joint Stipulation of Issues ("JSI"), Docket, p. 214.
[4] Par. 2, Summary of Admitted Facts, JSI, Docket, p. 214.
[5] Par. 3, Summary of Admitted Facts, JSI, Docket, p. 214.
[6] Docket, pp. 10 to 21.
[7] Docket, pp. 49 to 65.

: (1) petitioner has not presented sufficient proof of entitlement to its refund claim before the BIR; (2) petitioner was not able to sufficiently establish that the recipient of the services rendered is doing business outside the Philippines; (3) petitioner failed to substantiate its claim for refund/ issuance of a TCC; (4) AP Moller Maersk (APMM) cannot be considered as "*other persons doing business outside the Philippines*"; (5) petitioner is also not entitled to the claimed refund under Sec. 108 (B)(4) of the NIRC; (6) notwithstanding the decision in *Commissioner of Internal Revenue v. Maersk Global Service Centres (Philippines) Ltd.* [CTA EB Case No. 1318 (CTA Case No. 8549)], petitioner is not entitled to the claimed refund considering that the issues raised and evidence submitted in the instant case are different from those in the said case.

After the *Pre-Trial Conference* held on July 23, 2019,[8] the parties filed their *Joint Stipulation of Issues* on August 22, 2019.[9] The same was admitted and approved by the Court in the Resolution dated August 27, 2019.[10]

During the hearing of petitioner's *Motion to Commission Independent Certified Public Accountant*[11] held on August 28, 2019, the Court granted said motion and commissioned Atty. Maria Myla S. Maralit of R.G. Manabat & Co. as the Independent Certified Public Accountant (ICPA) in the instant case.[12] On even date, the Court issued the *Pre-Trial Order*.[13]

In support of the instant petition, petitioner presented the following witnesses: 1) Rochelle V. Duclay, petitioner's Finance Accountant;[14] and 2) Court-commissioned Independent Certified Public Accountant (ICPA) Atty. Maria Myla S. Maralit.[15]

Thereafter, petitioner filed its *Formal Offer of Evidence for Petitioner Maersk Global Services Centres (Philippines), Ltd* on December 4, 2019,[16] to which respondent filed his *Comment (on Petitioner's Formal Offer of Evidence dated 04 December 2019)* on

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[8] Docket, pp. 184 to 186.
[9] Docket, pp. 214 to 217.
[10] Docket, pp. 224 to 225.
[11] Motion to Commission Independent Certified Public Accountant filed on August 13, 2019, Docket, pp. 190 to 191.
[12] Docket, pp. 237 to 238.
[13] Docket, pp. 227 to 233.
[14] Exhibit "P-16", Docket, pp. 94 to 109.
[15] Exhibit "P-18", Docket, pp. 395 to 405.
[16] Docket, pp. 418 to 426.

December 12, 2019.[17] In the Resolution[18] dated February 4, 2020, all of petitioner's exhibits were admitted, except Exhibits "P-895" and "P-7549," for not being found in the records of the case.

For his part, respondent presented as witness, Revenue Officer Jerome C. Manuncia.[19] On September 8, 2020, respondent filed his *Formal Offer of Evidence,*[20] to which petitioner filed its *Comment (to Respondent's Formal Offer of Evidence)*[21] on September 14, 2020. In the Resolution[22] dated October 26, 2020, all of respondent's evidence were admitted, subject to the Court's final evaluation and/or appreciation of their purposes, materiality, relevancy and probative value to the issues involved in the case.

In view of the filing of respondent's *Memorandum*[23] on November 26, 2020, and petitioner's *Memorandum for Petitioner Maersk Global Services Centres (Philippines), Ltd.*[24] on January 18, 2021, the case was submitted for decision on January 26, 2021.[25]

Hence, this Decision.

THE ISSUES

The parties stipulated the following issues for resolution, to wit:

"1. Whether or not petitioner is entitled to a refund in the total amount of ₱37,943,875.08, representing unutilized and excess input VAT attributable to zero-rated sales for the year 2017;

2. Whether the documents submitted at the administrative level were sufficient to justify petitioner's claim for refund of alleged unutilized input taxes for year 2017 in the aggregate amount of ₱37,943,875.08."[26]

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[17] Docket, pp. 483 to 486.
[18] Docket, pp. 490 to 491.
[19] Exhibit "R-7," Docket, pp. 83 to 89.
[20] Docket, pp. 501 to 506.
[21] Docket, pp. 508 to 511.
[22] Docket, pp. 516 to 517.
[23] Docket, pp. 518 to 531.
[24] Docket, pp. 541 to 572.
[25] Docket, p. 575.
[26] Stipulation of Issues, JSI, Docket p. 215.

Petitioner's arguments:

Petitioner argues that its export sales of services are entitled to the benefit of the zero-percent (0%) rate, pursuant to Sections 108 (B) (2) and 108 (B) (4) of the NIRC of 1997, as amended.

As a VAT registered taxpayer whose sales are zero-rated, petitioner is allegedly entitled to refund the excess and unutilized input taxes attributable to its zero-rated sales under Section 112 (A) and (C) of the NIRC of 1997, as amended, as implemented by Section 4.112.1 of the Consolidated VAT Regulations of 2005 (RR No. 16-2005).

Petitioner thus claims that it is entitled to a refund or issuance of a tax credit certificate for the total amount of ₱35,237,638.47, representing unutilized and excess creditable input VAT attributable to export zero-rated sales for the year 2017.

In addition, petitioner maintains that it submitted all the mandatory requirements for VAT refund claims, as evidenced by the receipt by the BIR VAT Credit Audit Division of the Claim for VAT Refund. Moreover, respondent's argument that petitioner is not entitled to its claim for refund because it supposedly did not present sufficient proof at the administrative level, has no legal support to stand on. Thus, petitioner insists that respondent's denial of its claim for VAT refund is erroneous.

Respondent's counter-arguments:

Respondent counters that petitioner is not entitled to the refund of unutilized input tax because it has not presented sufficient proof of entitlement to it before the BIR.

Allegedly, respondent was not able to sufficiently establish that the recipient of the services it rendered is doing business outside the Philippines and that APMM cannot be considered as "Other Persons Doing Business Outside the Philippines"

Furthermore, respondent contends that petitioner is also not entitled to the claimed refund under Sec. 108(B)(4) of the NIRC.

Finally, respondent states that petitioner is not entitled to the claimed refund notwithstanding the decision in *Commissioner of Internal Revenue v. Maersk Global Service Centres (Philippines) Ltd.* [CTA EB Case No. 1318 (CTA Case No. 8549)], considering that the issues raised and evidence submitted in the instant case is different from those in the said case.

THE COURT'S RULING

The instant *Petition for Review* is partly meritorious.

In an action for the refund or issuance of a tax credit certificate for input taxes, reference should be made to Sections 112(A) and (C) of the NIRC of 1997, as amended by Republic Act (RA) No. 9337,[27] which reads as follows:

> **"SEC. 112. Refunds or Tax Credits of Input Tax. –**
>
> *(A) Zero-rated or Effectively Zero-rated Sales.*- Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however*, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sales 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,*

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[27] AN ACT AMENDING SECTIONS 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

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 nonzero-rated sales.

xxx xxx xxx

(C) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* - In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.

In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals."

At this juncture, it should be noted that Section 112(C) was subsequently amended by Republic Act No. 10963, otherwise known as the *Tax Reform for Acceleration and Inclusion* or "TRAIN" Law which took effect on January 1, 2018. The amendment pertains to the 120-day period, which was shortened to a period of 90 days from the date of submission of complete documents in support of the refund application for the Commissioner of Internal Revenue to act on a taxpayer's application for refund.[28]

[28] Republic Act No. 10963, "**Section 36**. Section 112 of the NIRC, as amended is hereby further amended to reads as follows:

"(A) x x x

(B) x x x

(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 within 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."

However, the TRAIN Law is inapplicable to the instant case, considering that it took effect only on January 1, 2018, while the instant *Petition for Review* involves a refund claim of input VAT incurred during CY 2017. Hence, the aforequoted provisions shall still apply.

Pursuant to the foregoing provision and established jurisprudence, a taxpayer is mandated to prove compliance with the following requisites in order to be entitled to a refund or issuance of a tax credit certificate for unutilized input VAT attributable to zero-rated or effectively zero-rated sales, 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;[29]
> 2. in case of full or partial denial of the refund claim, the judicial claim is filed with this Court, within thirty (30) days from receipt of the decision;[30]
>
> *With reference to the taxpayer's registration with the BIR:*
>
> 3. the taxpayer is a VAT-registered person;[31]
>
> *In relation to the taxpayer's output VAT:*
>
> 4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[32]
> 5. for zero-rated sales under Section 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;[33]

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[29] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 155732, 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.

[30] *Steag State Power, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 205282, January 14, 2019; *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue,* G.R. No. 168950, January 14, 2015.

[31] *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.

[32] *Id.*

[33] *Id.*

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[34]
7. the input taxes are due or paid;[35]
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;[36] and
9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[37]

It must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove every minute aspect of their case.[38]

Petitioner's administrative and judicial claims were filed within the period prescribed by law.

Pursuant to Section 112(A) of the NIRC of 1997, as amended, the administrative claim for the issuance of a TCC or refund of input VAT must be filed within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

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[34] *Id.*

[35] *Id.*

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

[37] *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.

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

The instant claim covers the first to fourth quarters of CY 2017. Counting two (2) years from the close of the four (4) quarters of taxable year 2016, the respective last day for the filing of its administrative claim for the four quarters of CY 2017 therefor is shown below:

Taxable Quarter	Close of Taxable Quarter	Last Day of Filing Administrative Claim	Date of Filing Administrative Claim[39]
1st Quarter (Jan. to Mar. 2017)	Mar. 31, 2017	Mar. 31, 2019	Sep. 12, 2018
2nd Quarter Apr. to Jun. 2017)	Jun. 30, 2017	Jun. 30, 2019	Sep. 12, 2018
3rd Quarter (Jul. to Sep. 2017)	Sep. 30, 2017	Sep. 30, 2019	Sep. 12, 2018
4th Quarter (Oct. to Dec. 2017)	Dec. 31, 2017	Dec. 31, 2019	Sep. 12, 2018

Considering that petitioner's administrative claim covering the said four (4) quarters for the above-stated periods was filed on September 12, 2018,[40] the same was timely filed.

With regard to the timeliness of petitioner's judicial claim, reference is made to Section 112(C) of the NIRC of 1997, as amended. The subject provision speaks of two periods: (1) the period of 120 days, which serves as a waiting period to give time for the BIR Commissioner to act on the administrative claim for refund or tax credit; and (2) the period of 30 days which refers to the period for filing a judicial claim with this Court.[41]

In this case, respondent had 120 days from the filing of petitioner's administrative claim on September 12, 2018, or until January 10, 2019, within which to act on the said claim. Within the said 120-day period, Assistant Commissioner Erlinda A. Simple issued a letter dated December 4, 2018,[42] denying petitioner's administrative claim, which was received by petitioner on January 8, 2019.[43] Accordingly, petitioner had a period of thirty (30) days from January 8, 2019, or until February 7, 2019, to file its judicial claim.

[39] Par. 2, Summary of Admitted Facts, JSI, Docket, p. 214.
[40] *Id.*
[41] *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.
[42] Exhibit "P-14", Docket, pp. 470 to 471.
[43] *Id.*

It appearing that the instant *Petition for Review*[44] was filed on February 7, 2019, the judicial claim was likewise filed on time.

Petitioner is a VAT registered entity.

Anent the registration requirement, it is undisputed that petitioner is duly registered with the BIR as a VAT taxpayer with TIN 005-650-708-000 as evidenced by its BIR Certificate of Registration Nos. OCN 8RC0001277266E dated November 10, 2017.[45] Hence, the subject requisite has also been complied with.

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

To prove compliance with the next requirement, petitioner alleges that it renders corporate and administrative services for the ocean transportation business of its affiliate, Maersk Line A/S ("Maersk Line"), a non-resident foreign corporation doing business outside the Philippines with address at Denmark, Esplanaden 50, 1098 Copenhagen. Petitioner's export services include, among others, processing of import and export documentation, procurement, finance and accounting services and information technology-related services.[46] Moreover, petitioner avers that its sole client, Maersk Line, is a corporation organized and existing under the laws of Denmark engaged in international shipping.[47]

Petitioner's claim for refund, therefore, is anchored on Section 108(B)(4) of the National Internal Revenue Code of 1997, as amended, specifically the sales of services rendered to persons engaged in *international shipping*, to wit:

> "**SEC. 108.** ***Value-Added Tax on Sale of Services and Use or Lease of Properties***. —
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> xxx xxx xxx

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[44] Docket, pp. 10 to 21.

[45] Exhibit "P-7", Docket, pp. 458 to 459.

[46] Par. 5, Petition for Review, Docket, p. 11; Par. 7 and 9, Memorandum for Petitioner Maersk Global Services Centres (Philippines), Ltd., Docket, pp. 542 to 543.

[47] Par. 6, Petition for Review, Docket, p. 11; Par. 12, Memorandum for Petitioner Maersk Global Services Centres (Philippines), Ltd., Docket, p. 543.

(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:

xxx xxx xxx

(4) Services rendered to persons engaged in international shipping or international air transport operations, including leases of property for use thereof."

In relation to the above-quoted provision, Section 4.108-5(b)(4) of Revenue Regulations No. 16-2005,[48] as amended by RR No. 4-2007,[49] provides that:

"SEC. 4.108-5. Zero-Rated Sale of Services. -

xxx xxx xxx

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

xxx xxx xxx

(4) Services rendered to persons engaged in international shipping or air transport operations, including leases of property for use thereof; Provided, however, that the services referred to herein shall not pertain to those made to common carriers by air and sea relative to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines, the same being subject to twelve percent (12%) VAT under Section 108 of the Tax Code starting Feb. 1, 2006."

In the instant case, petitioner presented the followings evidence to prove that its sole client, Maersk Line, is engaged in the business of international shipping:

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[48] Subject: Consolidated Value-Added Tax Regulations of 2005.

[49] Subject: Amending Certain Provisions of Revenue Regulations No. 16-2005, As Amended, Otherwise Known as the Consolidated Value-Added Tax Regulations of 2005.

1.) Authenticated Articles of Association for Maersk Line A/S;[50]
2.) Authenticated Novation Agreement among A.P. Moller – Maersk A/S ("APMM"), ML and petitioner;[51]
3.) Testimony of Rochelle V. Duclay by way of Judicial Affidavit;[52] and
4.) Service Agreement between APMM and petitioner.[53]

The aforementioned documentary exhibits support petitioner's contention that ML is a corporation organized and existing under the laws of Denmark and its main objects are to carry on shipping, chartering and other transport business, commercial, service and industrial activities at home and abroad, investment in fixed assets and financing and other related activities.[54] Likewise, the foregoing establish that ML is indeed an entity created pursuant to a Novation Agreement[55] between APMM, ML and petitioner, whereby the international shipping business of APMM was transferred to ML.

The foregoing conclusions are bolstered by the testimony of petitioner's Finance Accountant, Rochelle V. Duclay,[56] who affirms that the container shipping activities of APMM were transferred to ML starting February 2015, as stated in the Novation Agreement. She likewise testified that the international shipping lines of APMM and ML transports and receives cargoes to and from the Philippines.[57]

In addition, the Service Agreement[58] between APMM and petitioner proves that APMM/ML owns container vessels and containers that operate worldwide through its subsidiaries, and is required to handle various back office tasks including the processing of shipping documents on behalf of its clients. APMM then contracted the petitioner to perform back office tasks including documentation and certain other processes.

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[50] Exhibit "P-4", Docket, pp. 447 to 453.
[51] Exhibit "P-2", Docket, pp. 434 to 437.
[52] Exhibit "P-16", Docket, pp. 94 to 109.
[53] BIR Records, pp. 93 to 104.
[54] Exhibit "P-4", Docket, p. 448.
[55] Exhibit "P-2", Docket, pp. 434 to 437.
[56] "P-16", Docket, A16, p. 97.
[57] "P-16", Docket, A26, p. 99.
[58] BIR Records, pp. 93 to 104.

Based on the foregoing, this Court finds that petitioner was able to prove that its sales of services to APMM/ML qualify for VAT zero-rating pursuant to Section 108(B)(4) of the NIRC of 1997, as amended, considering that the subject services are rendered to persons engaged in international shipping.

With regard to petitioner's zero-rated sales, petitioner declared in its Quarterly VAT Returns for the four quarters of taxable year 2017, the amount of ₱2,323,484,355.40, as well as vatable sales amounting to ₱955,803.578, or a total of ₱2,324,440,158.98, as shown below:

Period	Exhibit	VATable Sales	Zero-Rated Sales	Total
1Q 2017	"P-8"	232,142.83	525,658,723.77	525,890,866.60
2Q 2017	"P-9"	-	463,281,007.75	463,281,007.75
3Q 2017	"P-10"	-	450,826,105.00	450,826,105.00
4Q 2017	"P-11"	723,660.75	883,718,518.88	884,442,179.63
TOTAL		**955,803.58**	**2,323,484,355.40**	**2,324,440,158.98**

Petitioner submitted Official Receipts[59] in support of its zero-rated sales for the taxable year 2017, which were duly examined by the court-commissioned ICPA and verified by this Court.

With regard to petitioner's compliance with invoicing and accounting requirements, reference is made to Section 113 of the NIRC of 1997, as amended, to wit:

> " **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 for every sale, barter of exchange of services.

[59] Exhibits "P-44" to "P-50," "P-53" to "P-67," and "P-69" to "P-70."

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

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

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

xxx xxx xxx

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

xxx xxx xxx

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

Upon examination of the submitted documents, this Court finds that all of the petitioner's sales of services to its client ML in the amount of ₱2,232,484,355.40 (or equivalent to US$46,103,196.88) were properly substantiated and are compliant with the invoicing requirements prescribed by Section 113 of the NIRC of 1997, as amended. The details are presented below:

Amount (in USD)	Rate	Amount (in PhP)	Exhibit	OR No.	OR Date	Customer
1,600,000.00	49.788	79,660,800.00	"P-44"	0225	4-Jan-17	Maersk Line A/S
1,000,000.00	49.530	49,530,000.00	"P-45"	0226	13-Jan-17	Maersk Line A/S
2,308,637.59	49.953	115,323,373.53	"P-46"	0227	20-Jan-17	Maersk Line A/S
400,000.00	49.695	19,878,000.00	"P-47"	0228	27-Jan-17	Maersk Line A/S
1,500,000.00	50.267	75,400,500.00	"P-48"	0230	3-Mar-17	Maersk Line A/S
2,487,395.50	50.357	125,257,775.19	"P-49"	0231	15-Mar-17	Maersk Line A/S
1,204,504.85	50.318	60,608,275.04	"P-50"	0232	16-Mar-17	Maersk Line A/S
1,725,000.00	49.603	85,565,175.00	"P-53"	0235	19-Apr-17	Maersk Line A/S
2,800,000.32	49.804	139,451,215.94	"P-54"	0236	25-Apr-17	Maersk Line A/S
550,000.00	49.914	27,452,700.00	"P-55"	0237	10-May-17	Maersk Line A/S
1,100,000.00	49.651	54,616,100.00	"P-56"	0238	15-May-17	Maersk Line A/S
2,958,529.93	49.468	146,352,558.58	"P-57"	0239	7-Jun-17	Maersk Line A/S

198,873.79	49.495	9,843,258.24	"P-58"	0240	15-Jun-17	Maersk Line A/S
2,500,000.00	50.521	126,302,500.00	"P-59"	0241	6-Jul-17	Maersk Line A/S
385,000.00	50.883	19,589,955.00	"P-60"	0242	21-Jul-17	Maersk Line A/S
2,000,000.00	50.365	100,730,000.00	"P-61"	0243	4-Aug-17	Maersk Line A/S
1,350,000.00	50.983	68,827,050.00	"P-62"	0244	15-Aug-17	Maersk Line A/S
1,600,000.00	51.118	81,788,800.00	"P-63"	0245	6-Sep-17	Maersk Line A/S
1,050,000.00	51.036	53,587,800.00	"P-64"	0248	20-Sep-17	Maersk Line A/S
1,600,000.00	51.463	82,340,800.00	"P-65"	0249	6-Oct-17	Maersk Line A/S
4,500,000.00	51.293	230,818,500.00	"P-66"	0250	18-Oct-17	Maersk Line A/S
1,350,000.00	50.913	68,732,550.00	"P-67"	0251	17-Nov-17	Maersk Line A/S
3,235,254.90	50.741	164,160,068.88	"P-69"	0253	8-Dec-17	Maersk Line A/S
6,700,000.00	50.398	337,666,600.00	"P-70"	0254	15-Dec-17	Maersk Line A/S
46,103,196.88		2,323,484,355.40				

Accordingly, the subject amount of ₱2,232,484,355.40 correctly reflects petitioner's zero-rated sales for the taxable year 2017, and fulfills the requirements set forth by law.

Petitioner incurred unutilized input VAT attributable to its zero-rated sales.

In its Quarterly VAT Return for CY 2017, petitioner declared input VAT of ₱38,058,571.54 on its current purchases of goods and services including amortization of input VAT on capital goods exceeding 1 million. From the said amount of input VAT, the amount of ₱37,943,875.08 is subject of the present claim, to wit:

	"P-8" 1st Quarter	"P-9" 2nd Quarter	"P-10" 3rd Quarter	"P-11" 4th Quarter	Total
Input Tax Deferred on Cap. Goods Exceeding 1M from Prev. Qtr.	10,193,367.10	9,239,567.92	9,271,670.69	10,885,051.71	39,589,657.42
Less: Input Tax on Cap. Goods Exceeding 1M Deferred to Succeeding Period	9,239,567.93	9,271,670.68	10,885,051.68	9,663,591.15	39,059,881.44
Amortization of Cap. Good Exceeding 1M	953,799.17	- 32,102.76	- 1,613,380.99	1,221,460.56	529,775.98
Current Transactions:					
Input Tax on Cap. Goods Not Exceeding 1 Million	47,399.13	-	35,750.61	-	86,149.74
Input Tax on Cap. Goods Exceeding 1 Million	**137,585.39**	**1,071,228.97**	**2,822,830.44**	**-**	**4,031,644.80**
Input Tax on Goods Other than Cap. Goods	279,858.52	438,874.57	454,926.51	517,619.75	1,691,279.35
Input Tax on Services	5,316,116.12	14,216,045.46	6,624,337.12	5,566,222.97	31,722,721.67

Total	6,734,758.33	15,694,046.24	8,324,463.69	7,305,303.28	38,058,571.54
Less: Output Tax	27,857.14	-	-	86,839.29	114,696.43
TOTAL	6,706,901.19	15,694,046.24	8,324,463.69	7,218,463.99	37,943,875.11[60]

To substantiate its claim for refund of input VAT, petitioner submitted into evidence various sales invoices (SI), ORs, and other related documents,[61] which were duly examined by the ICPA. Upon verification, the Court agrees with the findings of the ICPA that the input VAT amounting to ₱35,352,334.90 will be allowed, while input VAT amounting to ₱2,706,237.64 shall be disallowed for failure to meet the substantiation requirements under Sections 110(A), 113(A) and (B), 237 and 238 of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-3, 4.110-8, and 4.113-1 of RR No. 16-2005, as amended, the details of which are provided below:

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	
	Annex E	Annex I	Annex N	Annex S	Total
Allowed Input VAT on Domestic Purchases of Goods Other Than					
Capital Goods	238,889.94	320,307.46	367,402.83	362,058.95	1,288,659.18
	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	
	Annex G	Annex K	Annex P	Annex U	Total
Allowed Input VAT on Purchases of Services	4,433,288.17	7,395,432.35	5,845,580.87	5,393,888.96	23,068,190.35
		2nd Qtr	3rd Qtr	4th Qtr	
	1st Qtr	Annex L	Annex Q	Annex V	Total
Allowed Input VAT with Observations on Services	-	6,361,597.87	221,589.52	3,113.96	6,586,301.35
	1st Qtr		3rd Qtr		
	Annex X	2nd Qtr	Annex Z	4th Qtr	Total
Allowed Input VAT on Cap. Goods Not Exceeding 1 Million	11,056.50	-	35,750.61	-	46,807.11
	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	
	Annex AB	Annex AB	Annex AB	Annex AB	Total
Allowed Input VAT on Capital Goods Exceeding 1 Million (Amortization)	1,025,244.39	987,820.63	1,168,650.37	1,180,661.52	4,362,376.91
TOTAL ALLOWED INPUT VAT	**5,708,479.00**	**15,065,158.31**	**7,638,974.20**	**6,939,723.39**	**35,352,334.90**
Disallowed Input VAT on Domestic	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	
Purchases of Goods Other Than Capital Goods	Annex F	Annex J	Annex O	Annex T	Total
The TIN of the ROHQ is manually written on the computer-generated VAT invoice	15,810.01	-	-	-	15,810.01
The TIN of the ROHQ indicated					

[60] Rounding-Off Difference of 0.03.
[61] Exhibits "P-19" to "P-7745."

on the computer-generated VAT OR Is manually written	-	-	-	634.82	634.82
The TIN and address of the ROHQ indicated on the computer-generated VAT OR are manually written	-	-	-	8,444.52	8,444.52
The address of the ROHQ is incorrect or not indicated	9,040.18	879.64	8,297.46	-	18,217.28
The TIN of the ROHQ is incorrect or not indicated	5,864.01	67,238.15	-	743.79	73,845.95
The TIN and address of the ROHQ are incorrect or not indicated	2,625.00	4,607.80	-	384.64	7,617.44
The TIN of the ROHQ is incorrect and the date of transaction indicated is manually altered without countersignature	7,016.79	-	-	-	7,016.79
Out-of-period claim	14,738.03	-	-	-	14,738.03
The date of the transaction is not indicated on the VAT Invoice	1,500.00	-	-	-	1,500.00
The amount of VAT is not separately indicated	5,992.50	750.00	-	5,084.19	11,826.69
The TIN of the ROHQ is incorrect and the ATP for VAT invoice is invalid	-	29,206.82	39,496.07	3,087.54	71,790.43
The date of transaction is manually written on the computer-generated	-	-	841.07	-	841.07
VAT invoice					
The TIN of the ROHQ and the amount of VAT are not indicated	-	-	10,017.86	-	10,017.86
The name, TIN and address of the ROHQ indicated are incorrect	-	-	2,892.86	-	2,892.86
The ATP for the VAT invoice is invalid	-	-	11,619.86	48,066.65	59,686.51
Supported with document not valid for input VAT claim	-	-	3,677.16	-	3,677.16
The address of the ROHQ and the amount of VAT are not indicated	-	-	-	15,351.29	15,351.29
No supporting documents	7,025.17	7,432.37	7,280.43	57,473.69	79,211.66
Overclaimed input tax	0.04	0.03	-	0.05	0.12
Sub-Total	77,171.73	110,114.81	84,122.77	139,271.18	410,680.49
Disallowed Input VAT on	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	
Domestic Purchases of Services	Annex H	Annex M	Annex R	Annex W	Total
The breakdown of amounts indicated on the computer-	10,728.00	-	-	-	10,728.00
generated VAT OR is manually altered					
The breakdown of amounts indicated on the computer generated VAT OR is manually altered and the TIN of the ROHQ is not indicated	248.21	-	-	-	248.21
VAT-exempt transactions	5,163.35	-	-	-	5,163.35
The name of the ROHQ indicated is incorrect or not indicated	1,227.95	8,154.00	-	-	9,381.95
Out-of-period claim	1,741.07	-	-	41,495.14	43,236.21
The amount of VAT is not separately indicated	111,780.64	82,730.25	42,694.39	7,241.17	244,446.45
The address of the ROHQ is incorrect or not indicated	3,274.68	33,907.15	8,571.43	13,952.82	59,706.08
The TIN of the ROHQ is incorrect or not indicated	341,619.33	47,919.78	209,343.10	63,887.29	662,769.50
Supported with document not valid for input VAT claim	6,048.80	22,539.00	41,517.86	3,610.71	73,716.37
The name and address of the ROHQ indicated are incorrect and the amount of VAT is not indicated	12,818.53	-	-	-	12,818.53
No supporting documents	230,040.11	190,418.53	89,953.34	32,581.50	542,993.48
Overclaimed input tax	121,934.83	24,627.85	2,934.16	13,521.69	163,018.53
The ATP for the VAT OR is invalid	-	46,603.09	4,776.32	856.29	52,235.70
The date of the VAT OR does not indicate the corresponding year	-	926.79	-	-	926.79
The address of the ROHQ indicated is incorrect and the	-	9,642.71	35,089.29	-	44,732.00

amount of VAT is not indicated					
The name of the ROHQ indicated on the VAT OR is incorrect and the TIN and address are manually altered	-	-	125,687.17	-	125,687.17
The TIN of the ROHQ is incorrect and the amount of VAT is not indicated	-	-	-	123.21	123.21
Info. on the VAT OR is altered w/out countersignature	-	-	-	8,239.29	8,239.29
Sub-Total	846,625.50	467,469.15	560,567.06	185,509.11	2,060,170.82
Disallowed Input VAT on Purchases of	1st Qtr				
Capital Goods NOT Exceeding 1M	Annex Y	2nd Qtr	3rd Qtr	4th Qtr	Total
Out-of-period claim	36,342.63	-	-	-	36,342.63
Disallowed Input VAT on Capital Goods Exceeding 1 Million (Amortization)	Exhibit				Total
The TIN of the ROHQ indicated on the VAT invoice is incorrect	"P-7698"				16,092.84
The TIN of the ROHQ indicated on the VAT invoice is incorrect	"P-7699"				16,092.84
The TIN of the ROHQ is not indicated on the VAT invoice	"P-7700"				24,800.24
The TIN of the ROHQ is not indicated on the VAT invoice	"P-7701"				21,600.00
The TIN of the ROHQ is not indicated on the VAT invoice and the address indicated is incorrect	"P-7702"				42,480.00
The address of the ROHQ indicated on	"P-7703"				1,125.00
computer-generated VAT invoice is manually altered and the amount of VAT is not indicated					
No supporting document provided.	-				64,680.48
Overclaimed Input VAT	-				12,172.30
Sub-Total					199,043.70
TOTAL DISALLOWED INPUT VAT					**2,706,237.64**
GRAND TOTAL					**38,058,572.54**

However, upon the Court's further examination, in addition to the above disallowances, input VAT in the amount of ₱1,258.44 shall be further disallowed for non-compliance with the substantiation requirements under the aforementioned VAT law and regulations, to wit:

Exhibit	Customer	Input	Reason
"P-3549"	Puregold	261.90	VAT not separately indicated
P- 209"	Discovery Suites	996.54	OR date was altered without counter signature
TOTAL		**1,258.44**	

To summarize, only the amount of ₱35,351,075.46, out of the claimed input VAT per VAT Returns of ₱38,058,571.54, validly represents petitioner's input VAT, computed as follows:

Input VAT per VAT Returns		₱38,058,571.54
Less: Disallowances		
Per ICPA	2,706,237.64	
Additional Disallowance Per Court's Further Evaluation	1,258.44	2,707,496.08
Valid Excess Input VAT		**₱35,351,075.46**

Considering that petitioner's input VAT cannot be directly or entirely attributed to any of the transactions, the valid input VAT of ₱35,351,075.46 shall be allocated proportionately on the basis of the volume of its total sales, in accordance with Section 112(A) of the NIRC of 1997, as amended, thus:

VATable receipts per Quarterly VAT Return	₱955,803.58
Divided by Total Sales/Receipts per VAT Return	2,324,440,158.98
Multiply by Valid Excess Input VAT	35,351,075.46
Input VAT Attributable to Total VATable Sales	**₱14,536.27**

Valid Zero-Rated Sales/Receipts	₱ 2,323,484,355.40
Divided by Total Sales/Receipts per VAT Return	2,324,440,158.98
Multiply by Valid Excess Input VAT	35,351,075.46
Input VAT Attributable to valid zero-rated sales	**₱35,336,539.19**

Consequently, only the remaining excess input VAT of **₱35,336,539.19** can be attributed to the substantiated zero-rated sales of ₱2,323,484,355.40.

Further, petitioner incurred output VAT liability in the amount of ₱114,696.43[62]. Considering that petitioner's valid input VAT allocated to *VATable sales* in the amount of ₱14,536.27 is not enough to cover the output VAT liability, the input VAT attributable to petitioner's valid zero-rated sales in the amount of ₱35,336,539.19 shall then be utilized against the remaining output VAT liability in the amount of ₱100,160.16. Consequently, only the remaining input VAT of **₱35,236,379.03** can be allocated to the entire valid zero-rated sales of petitioner, computed as follows:

[62] Line 15B, Exhibits "P-8" and "P-11".

Output VAT due	₱ 114,696.43
Input VAT Attributable to Total VATable Sales	14,536.27
Output VAT still due	₱100,160.16

Input VAT Attributable to valid zero-rated sales	₱ 35,336,539.19
Less: remaining balance of output VAT	100,160.16
Excess Input VAT attributable to valid zero-rated sales	**₱ 35,236,379.03**

In sum, petitioner's valid excess input VAT is **₱35,236,379.03** which is attributable to its zero-rated sales of ₱2,323,484,355.40 for taxable year 2017.

Petitioner's excess input taxes were not applied against any output VAT liability.

As for the last requirement, this Court finds that petitioner was able to prove its compliance thereto.

To be specific, the input taxes subject of the claim were carried over to the succeeding 1st quarter taxable year 2018 in the amount ₱37,943,875.08.[63] At the same time, the said amount was also deducted as ***"VAT Refund/TCC Claimed"***[64] on petitioner's quarterly VAT return for 1st quarter of 2018, which would prevent the carry-over or application of the claimed input VAT in the succeeding taxable periods. In this case, petitioner has proven that its valid excess input taxes amounting to **₱35,236,379.03** is more than enough to cover its output VAT liability of ₱114,696.430. Hence, the excess input taxes in the amount of **₱35,236,379.03** remained unutilized.

WHEREFORE, premises considered, the *Petition for Review* filed by petitioner Maersk Global Services Centres (Philippines), Ltd. on February 7, 2019, is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND OR TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the total amount of **₱35,236,379.03**, representing its excess and unutilized input VAT attributable to its zero-rated sales for the four quarters of taxable year 2017.

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[63] Exhibit "P-30-C", Line 20A.
[64] Exhibit "P-30-B", Line 23D.

SO ORDERED.

ERLINDA P. UY
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 Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ERLINDA P. UY
Associate Justice
Chairperson, 3rd Division

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice