# REPUBLIC OF THE PHILIPPINES
*Court of Tax Appeals*
**QUEZON CITY**

***En Banc***

**PURE ESSENCE INT'L. INC.,**
*Petitioner,*

**CTA *EB* NO. 3023**
(CTA Case No. 10411)

Present:
**RINGPIS-LIBAN,** *PJ,*
**BACORRO-VILLENA,**
**MODESTO-SAN PEDRO,**
**REYES-FAJARDO,**
**CUI-DAVID,**
**FERRER-FLORES,** *and*
**ANGELES,** *JJ.*

*-versus-*

**COMMISSIONER OF INTERNAL REVENUE,**
*Respondent.*

Promulgated:
FEB 27 2026 11:00

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## DECISION

***MODESTO-SAN PEDRO, J.:***

### *The Case*

Before the Court *En Banc* is a Petition for Review,[1] posted on November 5, 2024 and received on November 8, 2024, seeking the reversal and setting aside of the Decision[2] ("Assailed Decision"), promulgated April 8, 2024, and the Resolution[3] ("Assailed Resolution"), dated September 23, 2024, both issued by the Court's Special Second Division ("Court in Division"); and praying for the granting of the refund of alleged excess and unutilized input value added Tax ("VAT") for the calendar year ended December 31, 2018 ("CY 2018").[4]

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1 Petition for Review, *Rollo*, pp. 13-62.
2 Decision, dated April 8, 2024 ("Assailed Decision"), *Rollo*, pp. 64-108.
3 Resolution, dated September 23, 2024 (Assailed Resolution"), *id.*, pp. 110-119.
4 See Prayer, Petition for Review, *id.*, p. 56.

## *The Parties*

Petitioner Pure Essence Int'l., Inc. ("Pure Essence" or "petitioner") is a corporation duly organized and existing under the laws of the Philippines, registered with the Department of Energy ("DOE") as a Renewable Energy ("RE") Developer of Biomass Resources with Certificate of Registration No. RE-B2013-08-029 dated September 5, 2013. It is likewise a DOE-accredited manufacturer of biodiesel for a period of five years from said date. Also, petitioner is registered with the Board of Investments ("BOI") as a New Export Producer of Coconut Methyl Ester (CME) or coco-diesel and other by-products such as crude glycerin, soap noodles, and toilet soaps. [5]

On the other hand, respondent Commissioner of Internal Revenue ("CIR" or "respondent") is the duly appointed Commissioner of the Bureau of Internal Revenue ("BIR") who is granted with the power to decide disputed assessments, claims for refunds of internal revenue taxes erroneously paid, among others, or other matters arising under the *National Internal Revenue Code ("Tax Code") of 1997, as amended*. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.[6]

## *The Facts*

On January 3, 2020, petitioner filed with the BIR's VAT Credit Audit Division (VCAD) an application for a VAT refund, representing alleged unutilized input VAT amounting to Php257,150,311.51 for CY2018.[7] The Court in Division calculated for the such amount of refund claim as follows:

| | |
|---|---|
| Input taxes on current purchases | Php267,651,315.70[8] |
| Add: Deferred input taxes amortized in CY2018 | 507,249.35[9] |
| Total Current input taxes for CY2018 | Php268,158,565.05 |
| Less: Output tax due for the period | 11,008,253.57[10] |
| Balance of input tax as of CY2018 | Php257,150,311.48[11] |

Respondent, however, denied the refund application for lack of factual and legal basis, through a letter dated September 16, 2020.[12]

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[5] See Par. 1, The Parties, Assailed Decision. *id.*, pp. 64-65
[6] See Par. 2. The Parties, Assailed Decision. *id.*, p. 65.
[7] See Exhibit "R-4", BIR Records, pp. 430-441.
[8] Sum of Line 21F, Exhibits "P-12" to "P-12-c", Division Docket – Vol. 1, pp. 91-98.
[9] Total deferred input tax of Php7,53,154.48 (sum of Line 20B, Exhibits "P-12" to "P-12-c", *id.*) less Total input tax deferred for the succeeding period Php245,905.13 (sum of Line 23A, Exhibits "P-12" to "P-12-c", *id.*).
[10] Sum of Line 15B, Exhibits "P-12" to "P-12-c", *id.*
[11] Difference of Php0.03 due to rounding off.
[12] Exhibit "P-24", Division Docket – Vol. 1, pp. 149-150.

Aggrieved, petitioner filed its judicial claim on November 25, 2020.[13] The same was raffled to the Court's Second Division.

Notably, the judicial claim for refund was reduced to Php256,185,384.47.[14] As discussed by the Court in Division in the Assailed Decision, Independent Certified Public Accountant (ICPA) Adan Delamide accounted for the difference of Php964,927.04 between petitioner's administrative claim of Php257,150,311.51 and its judicial claim of Php256,185,384.47, as follows:

| | |
|---|---:|
| Input tax attributable to VATable sales | Php924,098.19 |
| Disallowed input tax on the purchase of goods with Non-VAT invoice | 15,828.85 |
| Compromise penalty | 25,000.00 |
| Total | Php964,927.04 |

After a full-blown trial, the Court in Division rendered the Assailed Decision on April 8, 2024,[15] denying petitioner's refund claim, the dispositive portion of which states:

> **WHEREFORE**, premises considered, the Petition for Review is **DENIED**.

In the Assailed Decision, the Court in Division found petitioner's failure to satisfy some of the requisites for a VAT refund claim, specifically the following:

a. Not all petitioner's input VAT being claimed for refund were duly substantiated. Petitioner's purchases of local supply of goods, properties, and services needed for the development, construction, and installation of its plant facilities are subject to VAT zero-rating. According to the Court in Division, such VAT treatment also applies to petitioner's whole process of exploring and developing RE sources up to its conversion into power, pursuant to *Section 15(g) of Republic Act ("RA") No. 9513*, as implemented by *Part III, Rule 5, Section 13.G* of its *Implementing Rules and Regulations*. The Court in Division thus found that only Php5,065,059.35 of input taxes were due or paid.

b. Out of the said substantiated input taxes due or paid, only a portion amounting to Php4,839,490.10 are attributable to its zero-rated sales.

c. Considering the amount of output VAT per return and the valid input VAT allocated to VATable and zero-rated sales, there appears to be no excess input VAT that can be refunded to petitioner.

[13] *Id.* at 8-39.
[14] See Prayer, Petition for Review, *id.* at 33.
[15] *Supra* note 2.

| | |
|---|---|
| Output VAT per return | Php11,008,253.57 |
| Less: Valid input VAT allocated to sales subject to 12% VAT | 225,569.25 |
| Output VAT still due | Php10,782,684.32 |
| Less: Valid input VAT allocated to zero-rated sales | 4,839,490.10 |
| Net output VAT still due | Php5,943,194.22 |

Thereafter, on May 2, 2024, petitioner filed a Motion for Reconsideration.[16]

Petitioner argued therein that the Court in Division erroneously concluded that the second and third paragraphs of *Section 15(g) of RA No. 9513* apply to petitioner's purchases of goods and services from local suppliers. According to petitioner, the products purchased from its local suppliers and identified by the Court in Division, such as, but not limited to, methanol, fuel oil, coconut oil, sulfuric acid, and hydrochloric acid, are related to the manufacturing of its biodiesel/biofuel products and are not in any way connected to the development, construction, and installation of its plant facilities or related to the whole process of exploring and developing renewable energy sources up to the conversion into power.[17]

Moreover, petitioner asserts that the third paragraph of the *Section 15(g) of RA No. 9513* is not applicable to petitioner since such paragraph pertains to power applications and not to "non-power applications" under which petitioner's business of sale of biodiesel falls.[18]

Lastly, petitioner avers that it is not for the Court in Division to rule in a judicial claim for refund whether a taxpayer has insufficient or unsubstantiated input taxes to cover its output tax liability, but instead, it is for the BIR to determine the same via an administrative proceeding for assessment of deficiency taxes. Citing the case of *Chevron Holdings, Inc. (Formerly Caltex Asia, Limited) vs. Commissioner of Internal Revenue* ("*Chevron*" *case*),[19] petitioner advances that the Court in Division may not, on its own, deduct the input tax attributable to zero-rated sales from output tax derived from the regular 12% VATable sales and use the resultant amount as basis in computing the allowable amount for refund.[20]

The foregoing contentions were, however, held unmeritorious by the Court in Division in the Assailed Resolution dated September 23, 2024.[21]

[16] Motion for Reconsideration, dated May 2, 2024, Division Docket – Vol. 2, pp. 927-953.
[17] *Id.* at 933-936
[18] *Id.* at 937-939
[19] G.R. No. 215259, July 5, 2022.
[20] *Id.* at 942-950.
[21] *Supra* note 3.

This led to the filing of the current Petition for Review on November 5, 2024.[22] Respondent, on the other hand, filed his Comment/Opposition on January 20, 2025.[23]

In view thereof, the Court submitted the instant case for decision on January 30, 2025.

## *The Issues*

WHETHER PETITIONER IS ENTITLED TO A REFUND OF ITS ALLEGED UNUTILIZED INPUT VAT IN THE TOTAL AMOUNT OF PHP256,185,384.47 CONSIDERING THAT PETITIONER HAS SATISFIED ALL THE REQUISITES TO BE ENTITLED TO THE SAME, AND TAKING INTO ACCOUNT THAT:

A. THE THIRD PARAGRAPH OF *SECTION 15(G) OF RA NO. 9513* IS NOT APPLICABLE TO PETITIONER'S LOCAL PURCHASES; and

B. IT IS THE FUNCTION OF THE BIR, AND NOT THE CTA, TO DETERMINE IN AN ADMINISTRATIVE PROCEEDING IF PETITIONER HAD INSUFFICIENT OR UNSUBSTANTIATED INPUT TAXES TO COVER ITS OUTPUT TAX LIABILITY.

## *The Arguments*

In its Petition for Review,[24] petitioner raises the following arguments:

(1) The third paragraph of *Section 15(g) of RA No. 9513* is not applicable to petitioner's local purchases as the same paragraph pertains to power applications. According to petitioner, it is not engaged in the production of electricity. Thus, there should be no question that its sale of biodiesel falls under "non-power application" as defined by *RA No. 9513*.

(2) The determination of whether the taxpayer failed to prove that it had sufficient creditable input taxes to cover or "pay" its output tax liability in a given period, hence, there is no refundable "excess" input tax, is an issue distinct, separate, and independent from a claim for refund or issuance of tax credit certificate of unutilized input VAT attributable zero-rated sales,

[22] *Supra* note 1.
[23] Comment/Opposition, dated January 14, 2025, *Rollo* Vol. 2, pp. 700-711.
[24] *Supra* note 1.

Invoking the *Chevron case*, petitioner posits that such issue is for the BIR to determine in an administrative proceeding for assessment of deficiency taxes and is not for the Court to determine in a judicial claim for refund. According to petitioner, similar to the *Chevron case*, it is not being assessed by the BIR with deficiency taxes for CY2018 as the records do not show that petitioner is delinquent for output VAT or is being assessed for deficiency output tax for any quarter of CY2018.

On the other hand, respondent, in his Comment[25] counters that the refund should be denied for failure of petitioner to comply with the mandatory invoicing requirements pursuant to *Section 112 of the Tax Code*, as amended, and *Revenue Memorandum Circular No. 47-2019*.

Moreover, respondent argues that petitioner is not the proper party to seek refund. According to respondent, since petitioner is registered with the DOE as a RE Developer of Biomass Resources, the provisions of *RA No. 9513* are applicable to the instant case. As such, no output tax should be shifted to or passed on to RE developers, such as herein petitioner, in connection with their purchases of goods and services needed for the development, construction, and installation of their plant facilities as well as to the whole process of exploration and development of RE resources up to its conversion into power. Conversely, respondent insists, no input tax shall be paid by RE developers on these transactions. There being no input tax to be paid by RE developers, it necessarily follows that they are not entitled to refund or issuance of TCC from the said purchases.

## *The Ruling of the Court*

*The instant Petition for Review was timely filed before the Court En Banc*

We shall first look into the timeliness of the filing of the Petition for Review before the Court *En Banc*.

Pursuant to *Section 3 (b), Rule 8 of the Revised Rules of the Court of Tax Appeals ("RRCTA")*,[26] a party adversely affected by a decision or resolution of a Division of the CTA on a motion for reconsideration or new trial may appeal to the Court *En Banc* by filing a petition for review within 15 days from receipt of the assailed decision or resolution.

[25] *Supra* note 21.
[26] A.M. No. 05-11-07-CTA, 22 November 2005.

In this case, a copy of the Assailed Resolution was received by petitioner on October 21, 2024.[27] Counting 15 days therefrom, petitioner had until November 5, 2024 within which to file an appeal. Hence, the instant Petition for Review was timely posted.

Now, as regards the merits of the case, the Court *En Banc* deems it proper to highlight at the outset that petitioner's arguments in its Petition for Review are a mere rehash of the issues already raised by petitioner in its Motion for Reconsideration and exhaustively considered and passed upon by the Court in Division in the Assailed Resolution. On this ground alone, the Petition for Review should already be dismissed. Nonetheless, for full disposal of the case at hand, We shall pass upon the issues raised.

Upon judicious review of the records and the contentions of the parties, the Court *En Banc* finds no compelling reason to reverse and set aside the ruling of the Court in Division.

*The third paragraph of Section 15(g) of RA No. 9513 equally applies to both power and non-power applications.*

The Court in Division, in the Assailed Decision, explained that "only the total input VAT amounting to Php5,576,448.63, which represents petitioner's purchase of goods and services that are **not directly related** to the development, construction, and installation of its plant facilities and to the whole process of exploring and developing renewable energy sources up to conversion into power may be the subject of the present claim for VAT refund."[28] The disallowed input VAT amounting to Php262,022,961.53 were disallowed by the Court in Division as these were found to be subject to zero-rated VAT pursuant to *Section 15(g) of RA No. 9513* which states:

> **Section 15.** ***Incentives for Renewable Energy Projects and Activities.*** – RE developers of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the RE component, ***for both power and non-power applications,*** as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives:
>
> . . . .
>
> (g) Zero Percent Value-Added Tax Rate. – The sale of fuel or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337.

[27] See Notice of Resolution stamped "Received" by petitioner's counsel on October 21, 2024.
[28] See Assailed Decision, *Rollo*, p. 100.

> *All* ***RE Developers shall be entitled to zero-rated value added tax*** *on its purchases of local supply of goods, properties and services needed for the* ***development, construction and installation of its plant facilities.***
>
> *This provision* ***shall also apply to the whole process of exploring and developing renewable energy sources up to its conversion into power,*** *including but not limited to the services performed by subcontractors and/or contractors.* (Emphasis and italics supplied)

Subsequently, in the Assailed Resolution,[29] the Court in Division agreed with petitioner that the second paragraph of *Section 15(g) of RA No. 9513*, granting all RE Developers zero-rated VAT on its purchases of local supply of goods, properties, and services needed for the development, construction, and installation of its plant facilities, does not apply to the local purchases made by petitioner in CY2018.

However, the Court in Division maintains that the third paragraph of the same section applied to petitioner's local purchases in CY2018, making the VAT zero-rating entitlement equally appliable to petitioner's purchases related to the *whole process of exploring and developing renewable energy sources up to its conversion into power.*

Petitioner, however, disagrees and now argues that the third paragraph of *Section 15(g) of RA No. 9513* only pertains to power applications, highlighting the portion of the provision which states that the same shall apply "up to its conversion into power."

*RA No. 9513* defines power applications as those referring to renewable energy systems or facilities that produce electricity.[30] On the other hand, non-power applications refer to renewable energy systems or facilities that produce mechanical energy, combustible products such as methane gas, or forms of useful thermal energy such as heat or steam, that are not used for electricity generation, but for applications such as, but not limited to industrial/commercial cooling, and fuel cooking and transport.[31]

Petitioner's DOE registration[32] states that it is a RE Developer of Biomass Resource by virtue of its accreditation as a biofuel manufacturer. The same registration describes that petitioner has an annual rated production capacity of 72 million liters of biodiesel, a biofuel made from biomass. Also, under the BOI, petitioner is registered as an export producer of Coconut Methyl Ester (CME) or coco-diesel and other by-products such as crude glycerin, soap noodles and toilet soaps.[33]

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[29] *Supra* note 3.
[30] *Section 4(nn), RA No. 9513.*
[31] *Section 4(hh), RA No. 9513.*
[32] DOE Certificate of Registration No. RE-B2013-08-029, dated September 5, 2013, Exhibit "P-6", Division Docket – Vol. II, p. 625.
[33] BOI Certificate of Registration No. 2006-123, dated October 12, 2006, Exhibit "P-5", *id.* at 616.

Consistent with the foregoing, petitioner's DOE Certificate of Accreditation[34] acknowledges Pure Essence as an enterprise entitled to avail of incentives for non-power application under *Section 15 of RA No. 9513*, subject to certain terms and conditions.

Accordingly, We agree with petitioner that it's registered activity clearly falls under non-power applications and that it is not engaged in production of electricity.

The issue therefore before Us is whether the third paragraph of *Section 15 of RA No. 9513* equally applies to both power and non-power applications, or, as petitioner advances, only to power applications, thus excluding petitioner from those entitled thereto.

Petitioner's argument does not hold water.

It is an established rule that when the law does not distinguish, neither should the court. *Ubi lex non distinguit, nec nos distinguere debumus*.[35] Here, a review of the third paragraph of *Section 15(g)* shows that the law does not make a distinction as to the applicability of the provision. While it includes the phrase "up to its conversion into power," a reading of the law does not necessarily exclude non-power applications from getting the same incentives given.

Foremost, the first paragraph of *Section 15* explicitly states that the incentives listed therein shall be given to RE developers, for both power and non-power applications, thus clearly removing differentiation between the two. To recall, the provision states:

> **Section 15**. *Incentives for Renewable Energy Projects and Activities.* – RE developers of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the RE component, ***for both power and non-power applications***, as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives. . . .
> (Emphasis and italics supplied)

Zooming into the paragraph in issue, its applicability to both power and non-power applications can similarly be inferred from the wordings of the paragraph itself. Although it is true that activities registered as power applications actually engage in the *conversion of power* in their operations, both power and non-power applications undergo exploration and development of renewable energy sources. Thus, through the phrase "*whole process of exploring and developing renewable energy sources*" alone, non-power applications have been sufficiently covered by the provision. The succeeding "*up to its conversion into power*" merely extends the coverage of zero-rating entitlement for power applications. Thus, to say that only

[34] DOE Certificate of Accreditation (Renewal) No. DOE-COA-2019-BD004, Exhibit "P-8", *id.* at 626.
[35] Guiao v. Philippine Amusement and Gaming Corp., G.R. No. 223845, (28 May 2024), 955 Phil 40-67

power applications are entitled to the incentives given in the third paragraph would be to introduce an exception not found in the law.

In addition, the foregoing reading of the third paragraph of *Section 15(g)* is consistent with the intent and objectives of *RA No. 9513* as described in its Declaration of Policies, to wit:

> **Section 2.** ***Declaration of Policies.*** – It is hereby declared the policy of the State to:
>
> (a) Accelerate the exploration and development of renewable energy resources such as, but not limited to, biomass, solar, wind, hydro, geothermal and ocean energy sources, including hybrid systems, to achieve energy self-reliance, through the adoption of sustainable energy development strategies to reduce the country's dependence on fossil fuels and thereby minimize the country's exposure to price fluctuations in the international markets, the effects of which spiral down to almost all sectors of the economy;
>
> (b) ***Increase the utilization of renewable energy by institutionalizing the development of national and local capabilities in the use of renewable energy systems, and promoting its efficient and cost-effective commercial application by providing fiscal and nonfiscal incentives;***
>
> (c) Encourage the development and utilization of renewable energy resources as tools to effectively prevent or reduce harmful emissions and thereby balance the goals of economic growth and development with the protection of health and the environment; and
>
> (d) Establish the necessary infrastructure and mechanism to carry out the mandates specified in this Act and other existing laws.
> (Emphasis and italics supplied)

In sum, it is clear from the foregoing that the intention of *RA No. 9513* is to accord VAT zero-rated status to the local purchases of goods, properties, and services used in all stages of RE development and operations – from the development, construction, and installation of the power plant facilities including the whole process of exploring and developing renewable energy sources up to its conversion into power. This view is in line with the objective of the law to increase the utilization of renewable energy by institutionalizing the development of national and local capabilities in the use of renewable energy systems, and promoting its efficient and cost-effective commercial application by providing fiscal and non-fiscal incentives.

It bears emphasis that it is crucial for courts to interpret the law based on its plain language and not create distinctions where none exist.[36] Here, the legislative intent to equally grant the same incentive to both power and non-power applications thus appears clear from the words of the statute itself.

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[36] Guiao v. Philippine Amusement and Gaming Corp., G.R. No. 223845, October 7, 2025.

As such, the Court in Division properly held that the input VAT amounting Php262,022,961.53 relates to purchases entitled to VAT zero-rating; thus, must be disallowed for input VAT refund claim purposes.

*Petitioner is not the proper party to claim refund for the supposedly zero-rated purchases*

Petitioner also advances that even assuming, without conceding, that purchases made by petitioner from renewable energy suppliers are zero-rated, petitioner should not be barred from claiming any VAT passed on to it. According to petitioner, its supporting documents show that input VAT was indeed passed on to it by its suppliers which allowed the Court in Division and the ICPA to determine the same. Since the tax is shifted by the suppliers to petitioner, the latter insists that it must be allowed to claim the tax refund since it bore the economic burden of the tax.

We disagree. Petitioner is not considered the proper party to claim refund for erroneously passed on input VAT on should-be zero-rated sales. This is in keeping with the Supreme Court ruling in the analogous case of *Coral Bay Nickel Corporation v. Commissioner of Internal Revenue (Coral Bay)*,[37] wherein the High Court found that the taxpayer, a domestic corporation registered with Philippine Economic Zone Authority (PEZA) as an Ecozone Export Enterprise, is entitled to zero-percent VAT on its purchases under *Revenue Memorandum Circular No. 74-99*, consistent with the Cross Border Doctrine and the Destination Principle of the Philippine VAT System.

In *Coral Bay*, the Supreme Court explained that proper consideration must be given to the nature of VAT as an indirect tax. As such, although the seller is statutorily liable for the payment of VAT, the amount of tax is allowed to be shifted to the buyer. Nevertheless, reporting and remittance of the VAT paid to the BIR remained to be the seller's obligation. Consequently, the Supreme Court held that the proper party to seek refund or credit is the supplier, to wit:

> The petitioner's principal office was located in Barangay Rio Tuba, Bataraza, Palawan. Its plant site was specifically located inside the Rio Tuba Export Processing Zone — a special economic zone (ECOZONE) created by Proclamation No. 304, Series of 2002, in relation to Republic Act No. 7916. As such, the purchases of goods and services by the petitioner that were destined for consumption within the ECOZONE should be free of VAT; hence, ***no input VAT should then be paid on such purchases, rendering the petitioner not entitled to claim a tax refund or credit.*** Verily, ***if the petitioner had paid the input VAT, the CTA was correct in holding that the petitioner's proper recourse was not against the Government but against the seller who had shifted to it the output VAT*** following RMC No. 42-03, which provides:

[37] G.R. No. 190506, June 13, 2016.

> In case the supplier alleges that it reported such sale as a taxable sale, the substantiation of remittance of the output taxes of the seller (input taxes of the exporter-buyer) can only be established upon the thorough audit of the suppliers' VAT returns and corresponding books and records. It is, therefore, imperative that the processing office recommends to the concerned BIR Office the audit of the records of the seller.
>
> In the meantime, *the claim for input tax credit by the exporter-buyer should be denied without prejudice to the claimant's right to seek reimbursement of the VAT paid, if any, from its supplier.*

(Emphasis and italics supplied)

In the more recent case of *Hedcor, Inc. v. Commissioner of Internal Revenue*,[38] the Supreme Court equally applied the ruling in *Coral Bay* to RE Developers, such as petitioner, acknowledging that they are similarly situated with registered entities in the freeport zones, thus:

> Although the foregoing cases involved entities situated in freeports and ecozones, the same principle may be applied to RE developers who are similarly situated. Like entities within the ecozones, the sale of suppliers to RE developers may be zero-rated sales (from the point of view of the supplier) and zero-rated purchases (from the point of view of the RE developer).
>
> Thus, following *Contex Corp.* and *Coral Bay*, if the taxpayer with zero-rated purchases — such as RE developers or entities within ecozones — mistakenly pays input VAT on its purchases, the proper recourse of the said taxpayer is not to file an administrative or judicial claim for refund under Section 112, but to claim reimbursement from its suppliers of goods and services who mistakenly shifted output VAT.
>
> It bears noting that it is the supplier who can book or claim the erroneously paid VAT as part of its assets or receivable from the CIR. Thus, when a buyer-taxpayer is mistakenly charged or pays VAT on its zero-rated purchases, it is the supplier who is unjustly enriched.

Based on the foregoing, We agree with the Court in Division in ruling that petitioner is not the proper party to claim refund for the input VAT erroneously passed on by its suppliers for transactions covered by zero-rating entitlement.

*Deferred input tax carried over from previous period must be disallowed due to lack of proper substantiation*

Petitioner argues that the deferred input tax in the amount of Php507,249.35 should not have been deducted in the computation of the input VAT. According to petitioner, ICPA Delamide observed that, as shown in Q1 CY2018 VAT return, petitioner carried over from the previous period the unamortized deferred input tax

[38] G.R. No. 250313, July 22, 2024.

of Php507,249.35 and has verified that the amount carried forward to CY2018 is supported by petitioner's Q4 CY2017 VAT return. Thus, petitioner advances that pursuant to *Section 110 of the Tax Code*, it is allowed to evenly spread the input tax over the month of acquisition and 59 succeeding months and petitioner should be allowed to claim the deferred input VAT for the last remaining months over which the input tax was evenly spread.

We are not convinced.

*Section 110 (A) (2) of the Tax Code* indeed allows a taxpayer to spread input VAT over 60 months or the estimated useful life of the capital goods, whichever is shorter, if the aggregate acquisition cost exceeds Php1 million. However, without proper substantiation, the corresponding input tax cannot be allowed to be included in the refund claim. The Supreme Court, in the case of *Taganito Mining Corporation v. Commissioner of Internal Revenue*[39] explained that supporting documents must be presented to allow the Court to verify whether the purchases are in the nature of capital goods and whether the corresponding input VAT has been properly amortized over 60 months or the estimated useful life of the of the capital goods, whichever is shorter, thus:

> It has not escaped our attention that the issue of amortization has been discussed in Taganito Mining Corporation v. Commissioner of Internal Revenue involving the same parties regarding a similar controversy for petitioner's tax credit of its input VAT from January 1 to December 31, 2006. There, this Court held that petitioner failed to substantiate its payment of input tax on its imported goods as it did not submit the necessary documents showing the importation. In an obiter, We held that petitioner must prove that the items are in the nature of capital goods and the amount of input tax should be amortized over its estimated useful life:
>
> First, Taganito failed to prove that the importations pertaining to the input VAT are in the nature of capital goods and properties as defined in the abovequoted [sic] section. It points to the report of the independent CPA which allegedly reviewed the IERIDs and subsidiary ledger containing the description of the dump trucks. Nonetheless, the petitioner failed to present the actual IERIDs and subsidiary ledger, which would constitute the best evidence rather than a report merely citing them. It did not give any reason either to explain its failure to present these documents. The testimony of its Vice-President for Finance would be insufficient to prove the nature of the importation without these supporting documents.
>
> Second, even assuming that the importations were duly proven to be capital goods, Taganito's claim still would not prosper because it failed to present evidence to show that it properly amortized the related input VAT over the estimated useful life of the capital goods in its subsidiary ledger, as required by the abovequoted [sic] sections. This is made apparent by the fact that Taganito's claim for refund is for the full amount of the input VAT on the importation, rather than for an amortized amount, and by its failure to present its subsidiary ledger

[39] G.R. No. 216656, April 26, 2021

> In this case, there is no dispute that the P7,572,550.29 is the total input VAT from domestic and imported purchases of capital goods that petitioner paid from January 1 to December 31, 2007. The amount was disallowed because out of petitioner's P8,850,141.45 input taxes, only P1,277,591.16 accrued from January 1 to December 31, 2007. The remaining P7,572,550.29 is to be amortized over the estimated useful life of the capital goods. There being no issue as to whether petitioner substantiated the requirements for its input tax credit, We agree that it has properly substantiated its claim for input tax.

Here, other than raising that ICPA Delamide was able to verify that the amount carried forward to CY2018 is supported by petitioner's VAT return for Q4 of CY2017, no supporting documents were presented to the Court to verify the existence of the said purchases of capital goods and the veracity of the computation of the said amortized input VAT. Moreover, even ICPA Delamide disclosed that as of date of the report, petitioner failed to provide documents for the input taxes on capital goods deferred and amortized in CY2018.

Consequently, the Court finds the disallowance of the unsupported deferred input VAT Php507,249.35 in order.

*Photocopies of the supporting documents are considered duplicates admissible to the same extent as original*

Petitioner advances that the input VAT deducted for the reason that the supporting documents are mere photocopies should be allowed. On this point, petitioner insists that ICPA Delamide did not disallow input taxes supported by a photocopy of the relevant VAT invoice or VAT official receipt because of the new rule allowing the presentation of photocopy as evidence and its treatment as an original.

*Section 4, Rule 130* of the 2019 Amendments to 1989 *Revised Rules on Evidence*, reads as follows:

> Section 4. Original of document. —
>
> . . . .
>
> (b) A "***duplicate***" is a ***counterpart produced by the same impression as the original,*** or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduce the original.
>
> (c) A duplicate is *admissible to the same extent as an original unless* (1) a *genuine question is raised as to the authenticity of the original,* or (2) in the circumstances, *it is unjust or inequitable to admit the duplicate in lieu of the original.*"
> (Emphasis and italics supplied)

Indeed, a duplicate is admissible to the same extent as an original absent any genuine question as to the authenticity of the original or a showing that it is unjust or inequitable to admit the duplicate in lieu of the original. In the recent case of *People vs. Lastimosa*,[40] the Supreme Court held that a photocopy falls under the definition of a duplicate thus, should be deemed admissible as an original. The High Court explained:

> (T)he photocopy of the death certificate of Ildefonso may be admitted in evidence.
>
> Merriam-Webster Dictionary defines photocopy as "a copy of usually printed material made with a process in which an image is formed by the action of light usually on an electrically charged surface." Meanwhile, Encyclopedia Britannica defines photocopying as "[t]he process of producing copies of original documents and drawings by exposing the originals to chemicals, light, heat, or electrostatic energy and recording the resulting images on a sensitized surface."
>
> A duplicate is defined by Rule 130, Section 3(b) of the 2019 Revised Rules on Evidence as "a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduce the original."
>
> *A photocopy, which is a counterpart produced by the same impression as the original through action of light on an electrically charged surface, clearly falls under the definition of a duplicate.* ***A photocopy, being a duplicate, is admissible to the same extent as the original absent any genuine question as to the authenticity of the original or a showing that it is unjust or inequitable to admit the duplicate in lieu of the original.***
> (Emphasis and italics supplied)

Here, the Court in Division disallowed the input VAT amounting to Php16,726.06 for being supported only by photocopies of sales invoices and official receipts. It is notable, however, that respondent neither posed any question as to the authenticity of the original document. Nor was it shown that it is unjust to admit the duplicate in lieu of the original. Accordingly, the disallowance of the input VAT must be reversed and added back to petitioner's valid input VAT for CY2018.

As such, the valid input VAT for CY2018 must be adjusted as follows:

| | |
|---|---|
| Valid input VAT for CY2018 (per Court in Division) | Php 5,065,059.35 |
| Add: Input VAT supported by photocopied sales invoice/official receipt | 16,726.06 |
| **Valid input VAT for CY2018 (*per Court En Banc*)** | **Php 5,081,785.41** |

40 G.R. No. 265758, February 3, 2025.

*Petitioner has the option to either (1) charge the input VAT attributable to zero-rated sales against output VAT and claim the excess for tax refund, or (2) file a refund claim for its entirety.*

*The original Petition for Review shows that petitioner chose the first option for the instant refund claim.*

In the Assailed Decision, the Court in Division found that petitioner has no excess input VAT to be refunded and is still supposedly liable for output VAT in the amount of Php5,943,194.22 computed as follows:

| | |
|---|---|
| Output VAT per return | Php11,008,253.57 |
| Less: Valid input VAT allocated to sales subject to 12% VAT | 225,569.25 |
| Output VAT still due | Php10,782,684.32 |
| Less: Valid input VAT allocated to zero-rated sales | 4,839,490.10 |
| Net output VAT still due | Php5,943,194.22 |

It appears in the above calculation that the Court in Division charged the substantiated and validated input taxes against the output taxes. After finding that there were no input taxes, the Court in Division concluded that petitioner is supposedly not entitled to refund.

Petitioner now argues before the Court *En Banc* that the above formula used by the Court in Division went against the Supreme Court's pronouncement in *Chevron case*.[41] We, however, find error in petitioner's reading and application of such case to the claim at hand. In *Chevron case*, the High Court held:

> (T) 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.
> (Emphasis and italics supplied)

[41] G.R. No. 215159, July 5, 2022.

Clearly, a taxpayer-claimant has two options with respect to the input VAT attributable to zero-rated sales. *First*, the input tax may be charged against output tax from VATable sales, then claim for refund or tax credit certificate for any "excess" input tax. *Second*, the input tax may be claimed for refund or tax credit certificate for the full amount.

Petitioner, however, proceeded to highlight the second-half portion of the above-quoted paragraph wherein the Supreme Court explained that the CTA may not, on its own, deduct the input tax attributable to zero-rated sales from the output tax derived from the regular VATable sales first and use the resultant amount as the basis in calculating the refundable amount. But, a reading of the whole pronouncement reveals that the foregoing mandate of the Supreme Court only applies if the taxpayer-claimant has chosen the second option above. This is not the case herein, as petitioner chose the first option based on how it calculated for the amount claimed for refund, as clearly shown in paragraphs 59 to 61 of its original Petition for Review.[42]

> 59. To arrive at the allowable input tax, only the input VAT in the amount of P15,828.85 attributed to purchases from JLRC Trading, a Non-VAT entity, should be deducted:

| | |
|---|---|
| VAT Refund Claimed | Php 257,150,311.51 |
| Add: Output Tax | 11,008,253.57 |
| Gross Input Tax | Php268,158,565.08 |
| Less: TARD Disallowance | |
| Disallowed input tax (IT) per BIR-ITS verification | (15,828.85) |
| Allowable Input Tax (net of disallowance) | 268,142,736.23 |

> 60. The proposed computation for the allocation of input VAT, applying the new sales ratio to the amount of allowable input tax, should be as follows:

| | Zero-Rated Sales | Sales with Insufficient Documentation | VATable Sales | TOTAL SALES |
|---|---|---|---|---|
| Sales Ratio | 95.55% | 00.00% | 4.45% | 100.00% |
| Allowable Input Tax (net of disallowance) | Php 268,142,736.23 | - | Php 268,142,736.23 | Php268,142,736.23 |
| Allocated Input VAT | Php 256,210,384.47 | | Php 11,932,351.76 | |
| Output VAT declared | | | (11,008,253.57) | (11,008,253.57) |
| Excess Input VAT | Php 256,210,384.47 | | Php 924,098.19 | |
| Input VAT attributable to VATable Sales in excess of actual output VAT assessed | | | (924,098.19) | (924,098.19) |

[42] Division Docket – Vol 1, p. 29.

| | | | | |
|---|---|---|---|---|
| Adjusted Balances | Php 256,210,384.47 | | - | |
| Deduct: Compromise penalty | Php 25,000 | | | Php (25,000) |
| **Excess Input VAT** | **Php256,185,384.47*** | | **Php -** | **Php256,185,384.47** |

***Claimable amount**

61. From the proposed computations, the total additional input VAT attributed to sales except zero-rated sales amounts to P924,098.19 and the claimable input VAT would be P256,185,384.47

From the above calculations, the input VAT allocated to VATable sales (i.e., Php11,932,351.76) is higher than petitioner's declared output VAT (i.e, Php11,008,253.57). As a result, petitioner has input VAT allocated to VATable sales in excess of actual output VAT for the amount of Php924,098.19. Ultimately, petitioner's claim for refund equates to the entire amount of the alleged input VAT attributable to zero-rated sales. However, this does not negate the apparent intention of petitioner to charge input tax related to zero-rated sales against its output VAT. If it were otherwise, petitioner should have gone straight to calculating the allocated input VAT based on sales ratio, without considering if the input VAT allocated to VATable sales would sufficiently cover the entire declared output VAT.

Thus, We find no error when the Court in Division charged the substantiated and validated input tax against petitioner's output tax in CY2018.

As such, We recompute petitioner's refund claim entitlement below. Since petitioner's valid input VAT for CY2018 cannot be identified to specific sales, We shall proportionately allocate the said input VAT based on the volume of petitioner's sales. Moreover, based on Our finding that petitioner chose the first option in the manner of calculating the refundable amount of input VAT on zero-rated sale, the valid input VAT shall be charged first against petitioner's declared output VAT.

*Valid input VAT for CY2018*

| | |
|---|---|
| Valid input VAT for CY2018 (per Court in Division) | Php 5,065,059.35 |
| Add: Input VAT supported by photocopied sales invoice/official receipt | 16,726.06 |
| **Valid input VAT for CY2018 (*per Court En Banc*)** | **Php 5,081,785.41** |

*Allocation of valid input VAT between zero-rated and VATable sales; Calculation of Output VAT still due, if any.*

| | **Zero-rated Sales** | **VATable sales** |
|---|---|---|
| Total sales amount per VAT returns | Php1,968,144,087.93 | Php 91,735,446.43 |
| Sales ratio | 95.55% | 4.45% |
| Multiplied by total valid input VAT | 5,081,785.41 | 5,081,785.41 |
| Allocated valid input VAT | Php 4,855,471.28 | Php 226,314.13 |
| | | |
| Less: Output VAT per return | | (11,008,253.57) |
| Output VAT still due | | (10,781,939.44) |
| Less: Valid input VAT allocated to zero-rated sales charged against output VAT | | (4,855,471.28) |
| Net Output VAT still due | | Php (5,926,468.16) |

Clearly, despite the adjustments on the calculations made by the Court *En Banc* after taking into consideration a valid argument raised by petitioner, there is still no excess input VAT which can be duly refunded. Petitioner failed to satisfy all the requisites to be entitled to a refund of input VAT.

All told, the Court *En Banc* finds the denial of the original Petition for Review in order.

**ACCORDINGLY**, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the Decision, dated April 8, 2024, and the Resolution, dated September 23, 2024, of the Court's Special Second Division are hereby **AFFIRMED**,

**SO ORDERED.**

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice

***WE CONCUR:***

*On Leave*
**MA. BELEN M. RINGPIS-LIBAN**
Presiding Justice

*With Concurring and Dissenting Opinion*
**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

Marian Ivy F. Reyes-Fajardo
*With Concurring Opinion*
**MARIAN IVY F. REYES-FAJARDO**
Associate Justice

**LANEE S. CUI-DAVID**
Associate Justice

**CORAZON G. FERRER-FLORES**
Associate Justice

**HENRY S. ANGELES**
Associate Justice

## CERTIFICATION

Pursuant to *Article VIII, Section 13 of the Constitution*, 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.

**JEAN MARIE A. BACORRO-VILLENA**
Acting Presiding Justice

REPUBLIC OF THE PHILIPPINES
**COURT OF TAX APPEALS**
Quezon City

***EN BANC***

**PURE ESSENCE INT'L, INC.,**
Petitioner,

**CTA EB No. 3023**
(CTA Case No. 10411)

Present:

**RINGPIS-LIBAN,** ***P.J.*****,**
**BACORRO-VILLENA,**
**MODESTO-SAN PEDRO,**
**REYES-FAJARDO,**
**CUI-DAVID,**
**FERRER-FLORES,** *and*
**ANGELES,** ***JJ.***

\- versus -

**COMMISSIONER OF INTERNAL REVENUE,**
Respondent.

Promulgated:
FEB 27 2026
11:00am

x - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - x

# CONCURRING AND DISSENTING OPINION

***BACORRO-VILLENA, J.:***

The *ponencia* of my esteemed colleague, Associate Justice Maria Rowena Modesto-San Pedro, holds that: (1) the Special Second Division erred in disallowing the input value-added tax (**VAT**) supported solely by photocopies of official receipts (**ORs**) or sales invoices (**SIs**); and (2) notwithstanding this correction, petitioner Pure Essence Int'l, Inc.'s (**petitioner**'s) substantiated input VAT (inclusive of the aforementioned positive adjustment) remains insufficient to cover its output VAT.

Anent the *first issue*, I concur. Considering that the Second Division had already admitted the photocopies of the ORs and SIs in its Resolution dated 21 June 2022,[1] the Court may no longer deny the related input VAT on the sole and categorical ground that the supporting documents are mere photocopies.

[1] Division Docket, Volume II, pp. 684-685.

As to the *second issue*, however, I respectfully register my dissent. I hold a different view on the proper computation of the excess and unutilized input VAT attributable to petitioner's zero-rated sales for calendar year (**CY**) 2018.

On 05 July 2022, the Supreme Court *En Banc* issued its decision in *Chevron Holdings, Inc. (formerly Caltex Asia Limited) v. Commissioner of Internal Revenue*[2] (**Chevron**) where the High Court provided pivotal guidelines for computing the refundable excess and unutilized input VAT attributable to zero-rated sales when the taxpayer-claimant is engaged in mixed transactions, to wit:

> ...
>
> [T]**he input tax attributable to zero-rated sales may, <u>at the option of the VAT-registered taxpayer</u>, 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.** <u>**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.**</u> These procedures find no basis in law and jurisprudence.
>
> ...

Citing the same doctrine, the Supreme Court again modified Our computation in *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*,[3] (**Deutsche Knowledge Services**) reiterating that this Court cannot deduct or charge validated and substantiated input VAT to determine the refundable amount of input VAT, viz:

> ...
>
> The CTA charged the validated input VAT against the output VAT to arrive at the refundable amount of input tax since DKS failed to substantiate the prior quarter's excess input taxes of PHP320,171,664.12. According to the CTA, DKS's "mere declaration in its fourth quarter VAT return of the amount of input tax carried over without further supporting invoices and/or official

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2 G.R. No. 215159, 05 July 2022; Citation omitted, underscoring supplied, emphasis in the original text and supplied.

3 G.R. Nos. 226548 & 227691, 226682-83, 15 February 2023; Citations omitted, underscoring supplied, italics and emphasis in the original text and supplied.

receipts to substantiate the claim is insufficient." The CTA required DKS to substantiate its prior quarters' excess input taxes so that there would be sufficient amount to cover DKS's output tax liability for the fourth quarter of 2009, and, only after the output tax had been paid or "covered" that the tax court allowed a refund.

We do not agree.

In [*Chevron*], the Court *En Banc* clarified that a VAT-registered taxpayer engaged in zero-rated transactions with excess and unutilized input VAT attributable to zero-rated sales has two options: one, charge the input tax against output tax from regular twelve percent (12%) VAT-able sales and any unutilized or "excess" input tax may be claimed for refund **or** the issuance of tax credit certificate; or two, claim for refund or tax credit the input VAT from zero-rated sales in its entirety. These remedies are alternative and cumulative. Accordingly, it was erroneous for the CTA to deduct the output tax from the validated input tax first, and use the resultant amount in computing the input tax available for refund. This procedure has no basis in law. The Court explained:

...

In the present case, DKS proved that it has creditable input taxes in the amount of PHP 19,019,441.93 and the input taxes subject of the refund were not applied or charged against the output tax during and in the succeeding quarters. To be exact, the CTA Division found that **DKS carried over the subject input taxes in the succeeding Quarterly VAT Returns and did not charge, during and in the next quarters, the said input taxes against the output tax liability**, viz.:

> Although the **claimed input VAT was carried over by petitioner [DKS] in the succeeding Quarterly VAT Returns, the same remained unutilized until it was deducted from petitioners total available input tax in the 3rd quarter of taxable year 2011**. Consequently, the subject claim no longer formed part of the excess input VAT of [PHP] 249,773,658.54 as of the 3rd quarter of taxable year 2011 which was carried over/applied to the succeeding 4th quarter of taxable year 2011.

Further, there is a dearth of evidence that DKS is delinquent for output VAT or that it is being assessed for deficiency output tax in the fourth quarter of taxable year 2009. Therefore, the CTA erred in charging first the validated and substantiated input tax against DKS's output tax and using the resultant amount as basis in computing the allowable amount for refund. Likewise, the CTA erroneously required DKS to substantiate its excess input tax carried over from the previous quarter as it is not a requirement for entitlement to a refund of unused or unutilized input VAT from zero-rated sales.

Under Section 4.110-4 of RR No. 16-2005, as amended by RR No. 4-2007, **the refundable input VAT is computed by getting the percentage of valid zero-rated sales over total reported sales (taxable, zero-rated**

> **and exempt) multiplied by the properly substantiated input taxes not directly attributable to any of the transactions.**
>
> Here, the CTA found that only PHP 1,600,232,233.09 qualified for VAT zero-rating of sales of services and that PHP 19,019,441.93 is the valid input tax attributable to both VAT-able and zero-rated transactions. Accordingly, DKS is entitled to the refund of unutilized input tax allocable to its zero-rated sales for the fourth quarter of taxable year 2009 in the amount of PHP 17,071,050.55, computed as follows:
>
> ...

As can be gleaned from the foregoing, the Supreme Court has now made unmistakably clear that courts may not, *motu proprio*, offset or deduct validated input VAT attributable to zero-rated sales against a taxpayer's output VAT. The option to charge such input VAT against output VAT or to claim them entirely as a refund or tax credit rests exclusively with the taxpayer, and these remedies are expressly recognized as alternative yet cumulative under *Chevron*.

Thus, when a taxpayer establishes that its input VAT attributable to zero-rated sales remains **unutilized** and **unapplied** against any output VAT during the relevant and subsequent quarters, the CTA's authority is confined to verifying (1) the existence of zero-rated sales; (2) the validity and substantiation of the corresponding input VAT; and (3) compliance with invoicing and timeliness requirements.

In sum, *Chevron*—as reaffirmed in *Deutsche Knowledge Services*—categorically states that the refundable input VAT is computed by getting the percentage of valid zero-rated sales over total reported sales (taxable, zero-rated and exempt) multiplied by the properly substantiated input taxes not directly attributable to any of the transactions.

Here, the *ponencia* computes the refundable input VAT as follows:[4]

> ...

| | Zero-rated Sales | VATable [S]ales |
|---|---|---|
| Total sales amount *per* VAT [R]eturns | Php 1,968,144,087.93 | Php 91,735,446.43 |
| Sales ratio | 95.55% | 4.45% |
| Multiplied by total valid input VAT | Php 5,081,785.41 | Php 5,081,785.41 |
| Allocated valid input VAT | Php 4,855,471.28 | Php 226,314.13 |
| | | |

4 CTA EB Case No. 3023 (CTA Case No. 10411), pp. 18-19.

| | | |
|---|---|---|
| Less: Output VAT per [VAT Returns] | | (11,008,253.57) |
| Output VAT still due | | (10,781,939.44) |
| Less: Valid input VAT allocated to zero-rated sales charged against output VAT | | (4,855,471.28) |
| Net Output VAT still due | | **Php (5,926,468.16)** |

...

Notwithstanding the *ponencia*'s categorical finding that "[u]ltimately, petitioner's claim for refund **equates to the entire amount of the alleged input VAT attributable to zero-rated sales**",[5] it nevertheless proceeds to charge the validated input VAT attributable to zero-rated sales, which was already determined to be **unutilized** and **unapplied** *per* Quarterly VAT Return for the first (1st) quarter of CY 2019,[6] against petitioner's output VAT of ₱10,781,939.44.

Respectfully, this approach runs counter with *Chevron* and *Deutsche Knowledge Services*, which both prohibit courts from deducting input VAT attributable to zero-rated sales from output VAT in the absence of the taxpayer's election to apply such input VAT. Here, the records clearly show that no portion of the input VAT attributable to zero-rated sales was ever applied against petitioner's output VAT, and, in fact, the input VAT attributable to VATable transactions (as declared in its returns), *i.e.*, ₱11,932,351.76,[7] was already sufficient to cover petitioner's output VAT liability.

Accordingly, the proper computation should reflect that the input VAT attributable to valid zero-rated sales remained wholly unutilized and thus fully refundable. I therefore respectfully submit the following computation:

| | |
|---|---|
| Valid zero-rated sales | ₱1,957,246,510.23[8] |
| Divided by: Total reported sales | 2,059,879,534.36[9] |
| Multiplied by: Valid input tax not directly attributable to any activity | 5,081,785.41 |
| **Refundable amount** | **₱4,828,586.62** |

5 Id., p. 18; Emphasis supplied.
6 Exhibit "P-11", Division Docket, Volume I, pp. 89-90.
7 Petition for Review, id., p. 29.
8 Decision dated 08 April 2024 by the Special Second Division, *rollo*, p. 90.
9 Id., p. 76.

All told, I vote to **PARTIALLY GRANT** petitioner Pure Essence Int'l, Inc.'s Petition for Review, thereby **PARTIALLY REVERSING** and **SETTING ASIDE** the Decision and Resolution dated 08 April 2024 and 23 September 2024, respectively. Accordingly, respondent Commissioner of Internal Revenue is **ORDERED** to **REFUND** to petitioner the reduced amount of **₱4,828,586.62**, representing petitioner's excess and unutilized input value-added tax for the calendar year ended 31 December 2018.

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

REPUBLIC OF THE PHILIPPINES
**COURT OF TAX APPEALS**
QUEZON CITY

**EN BANC**

| | |
|---|---|
| **PURE ESSENCE INT'L. INC.,** *Petitioner,* | **CTA EB No. 3023** (CTA Case No. 10411) |
| | Present: |
| -versus- | **RINGPIS-LIBAN,** P.J., **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** and **ANGELES,** *JJ.* |
| **COMMISSIONER OF INTERNAL REVENUE,** *Respondent.* | Promulgated: FEB 27 2026 11:00 am |

x------------------------------------------------x

**CONCURRENCE**

**REYES-FAJARDO,** ***J.*:**

I agree that petitioner is not entitled to a refund of its alleged excess and unutilized input value-added tax (VAT) for the calendar year (CY) ended December 31, 2018. I, however, write this to convey my take on whether petitioner could seek a refund of said input taxes from the government.

To recall, it was generally found that petitioner is not the proper party to seek refund of input taxes from the government, explaining that reimbursement thereof should be made by its supplier.

I *partly* agree.

In reaching my position, segregation must be made on petitioner's input taxes.

To highlight, petitioner is a registered Renewable Energy (RE) Developer, one of its incentives is found under Section 15(g) of Republic Act (RA) No. 9513,[1] *viz.*:

> **Section 15.** ***Incentives for Renewable Energy Projects and Activities.*** - RE developers of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications, as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives: ...
>
> (g) Zero Percent Value-Added Tax Rate. - ...
>
> **All RE Developers shall be entitled to zero-rated value added tax on its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities.**
>
> **This provision shall also apply to the whole process of exploring and developing renewable energy sources up to its conversion into power**, including but not limited to the services performed by subcontractors and/or contractors.[2]

Section 15(g) of RA No. 9513 decrees that RE Developers are accorded zero-rated VAT on their purchases of local supply of goods, properties and services needed for the development, construction and installation of their plant facilities to the whole process of exploring and developing renewable energy sources up to its conversion into power. Conversely, if their purchases are not for such qualified purposes, the purchases shall be subject to the regular 12% VAT.

Here, petitioner reported a total input VAT amounting to ₱267,599,410.16 for CY 2018.[3] To determine from whom should petitioner seek input VAT refund, segmentation thereof based on Section 15(g) of RA No. 9513 follows.

---

[1] AN ACT PROMOTING THE DEVELOPMENT, UTILIZATION AND COMMERCIALIZATION OF RENEWABLE ENERGY RESOURCES AND FOR OTHER PURPOSES.

[2] Emphasis supplied.

[3] See p. 35, Decision, CTA Case No. 10411, April 8, 2024.

**RE purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities, and to the whole process of exploring and developing RE sources up to its conversion to power.**

These types of purchases are subject to zero-rated VAT.

This is akin to the situation of a supplier's sale of goods and services to a Philippine Economic Zone Authority (PEZA) registered entity, whose goods are destined to be consumed within the ecozone.

In the 2016 case of *Coral Bay Nickel Corporation v. Commissioner Internal Revenue* (*Coral Bay 2016*),[4] the Supreme Court held that a PEZA-registered entity located within an ecozone is considered a VAT-exempt entity. It acknowledged the legal fiction that ecozones are foreign territories separate from the customs territory. Consequently, following the Cross Border Doctrine and the Destination Principle, purchases of goods and services destined for consumption within the ecozone should be free of VAT. Any input VAT *mistakenly* paid by such entities is not refundable or creditable against the government, but may be claimed from the supplier who shifted the VAT.

*Hedcor, Inc. v. Commissioner of Internal Revenue (Hedcor),* applies *Coral Bay 2016* to RE Developers, finding that "if the taxpayer with zero-rated purchases—such as RE developers or entities within ecozones—mistakenly pays input VAT on its purchases, the proper recourse of the said taxpayer is not to file an administrative or judicial claim for refund under Section 112 [of the National Internal Revenue Code of 1997 (NIRC), as amended], but to claim reimbursement from its suppliers of goods and services who mistakenly shifted output VAT."

---

4 G.R. No. 190506, June 13, 2016.

Applying *Coral Bay 2016 and Hedcor* to an RE Developer, if the suppliers of an RE Developer of their purchases of local supply of goods, properties and services are needed for the development, construction, and installation of its plant facilities to the whole process of exploring and developing renewable energy sources up to its conversion into power, mistakenly passed the VAT thereof to the RE Developer, the proper recourse of an RE Developer is to seek reimbursement from said suppliers.

Petitioner's total input VAT of ₱262,022,961.53 pertains to such purchases. Its proper recourse is to seek reimbursement thereof from the suppliers of such purchases.

**RE purchases of local supply of goods, properties and services *not* needed for the development, construction and installation of its plant facilities, and to the whole process of exploring and developing RE sources up to its conversion to power.**

These types of purchases are subject to VAT.

This situation finds similarity to a supplier's sale of goods and services to a PEZA-registered entity, whose goods are consumed *outside* the ecozone. The 2025 case of *Coral Bay Nickel Corporation v. Commissioner of Internal Revenue (Coral Bay 2025)*[5] held that purchases of goods or services by a PEZA-registered entity that are consumed or rendered outside the ecozone are subject to VAT, and only those consumed or rendered within the ecozone are entitled to VAT zero-rating.

In *Coral Bay 2025,* penned by Associate Justice Japar B. Dimaampao, a clear distinction was drawn from the oft-invoked *Coral Bay 2016* ruling, which has been cited as authority for input VAT refund claims of VAT-exempt entities. It established a nuanced, transaction-specific analysis centered on consumption *situs* for PEZA-registered entities to clarify the proper party to seek input VAT refunds for said entities. For the sale of goods and services to a

[5] G.R. Nos. 251333-34, March 5, 2025.

PEZA-registered entity, whose goods are consumed *outside* the ecozone, the PEZA-registered entity, as a buyer may be a party to seek entitlement to refund based on the requisites under Section 112 of the NIRC, as amended.

This is distinguished from *2016 Coral Bay*, where the sale of goods and services was made to a PEZA-registered entity, sans proof that these goods and services were consumed *outside* the ecozone. There, the supplier mistakenly shifted or passed on the VAT to said entity. In such case, the VAT-exempt entity is not a proper party to claim input VAT refund and its recourse is to seek reimbursement of the VAT charged by its supplier.

Parsed from *Coral Bay 2025*, an RE Developer is a proper party to claim input vat refund for purchases of local supply of goods, properties and services needed *not* for the development, construction, and installation of its plant facilities, under Section 112 of the NIRC, as amended.

Petitioner's input VAT amounting to ₱5,576,448.63, represents petitioner's purchase of goods and services *not directly related* to the development, construction, and installation of its plant facilities and to the whole process of exploring and developing RE sources up to its conversion to power. The foregoing amount may be legally passed on to the petitioner and may be subject to a refund claim. For this refundable amount, petitioner is a proper party to seek input vat refund.

**Final Note**

1. Purchases made by a VAT-exempt entity should not be burdened of VAT. However, if the supplier of said entity mistakenly shifted or passed on the VAT to said entity, the *remedy* is for the VAT-exempt entity to seek reimbursement of the VAT charged by its supplier; and

2. Purchases made by an entity who is *not* VAT-exempt may be subject to VAT. If the supplier of said entity shifted or passed on the VAT to said entity, the *remedy* is for such entity to seek refund of unused input VAT, to the extent that it is attributable to its zero-rated sales.

In fine, I **CONCUR** with the denial of the input VAT refund claim solely because the substantiated input VAT is insufficient to answer for the output VAT. Hence, no excess input VAT can be duly refunded.

Marian Ivy F. Reyes-Fajardo
**MARIAN IVY F. REYES-FAJARDO**
Associate Justice