REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION[1]

AMADEUS MARKETING PHILIPPINES, INC., Petitioner,	**CTA CASE NO. 9441**
	Members:
-versus-	**Castañeda, Jr.,** *Chairperson,* and, **Manahan,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: APR 30 2019 10:15 a.m.

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DECISION

CASTAÑEDA, JR., *J.*:

This is a Petition for Review filed by Amadeus Marketing Philippines, Inc., seeking the refund or issuance of tax credit certificate (TCC) in the amount of ₱16,939,138.14, allegedly representing unutilized input value-added tax attributable to its zero-rated sales/receipts for the 1st, 2nd, 3rd and 4th quarters of taxable year (TY) 2014.

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[1] Section 1, Rule VIII of the Internal Rules of the Court of Tax Appeals: "Section 1. *Case assigned to a justice for study and report.* --- Every Division Case, whether appealed or original, assigned to a Justice for study and report shall be retained by him even if he is transferred to another Division. The Justice, though transferred, shall write the report with the other members of the Division to which the case was originally submitted for decision. Their Division shall be called Special (No.) Division."

THE FACTS

The facts, as borne by the records and stipulated by the parties, are as follows:

Petitioner, Amadeus Marketing Philippines, Inc., is a corporation duly registered under the laws of the Philippines, with address at 36th Floor, LKG Tower, 6801 Ayala Avenue, Makati City.[2]

Respondent Commissioner of Internal Revenue is sued in his official capacity, having been duly appointed and empowered to perform the duties of her office, including, among others, the duty to act on and approve claims for refund as provided by law.[3]

Petitioner is a corporation duly registered with the Securities and Exchange Commission (SEC) with Company Registration No. A1997-11194.[4]

As stated in its Articles of Incorporation, petitioner is primarily engaged in the business of marketing in the Philippines an automated computerized reservations system, the "Amadeus Global Travel Distribution" that incorporates a software package which performs various functions, such as real line airlines seat reservations, schedules booking for a variety of air, boat, train, package tours, car rental and hotel services, automatic ticketing and fare pricing displays in the Philippines.[5]

Likewise, petitioner is a VAT-registered entity as evidenced by Bureau of Internal Revenue (BIR) Certificate of Registration No. OCN 9RC0000133815 and Taxpayer's Identification Number 005-374-900-000. Such registration was made on January 1, 1998.[6]

Claiming that it has unutilized input VAT attributable to petitioner's zero-rated sales/receipts for the 1st, 2nd, 3rd and 4th quarters of 2014 in the amount of ₱16,939,138.14, petitioner filed its

[2] Paragraph (Par. 1), Summary of Admitted Facts, Joint Stipulation of Facts and Issues (JSFI), docket, volume (vol.) I, p. 368.
[3] Par. 3, Summary of Admitted Facts, JSFI, docket, vol. I, p. 369.
[4] Par. 4, Summary of Admitted Facts, JSFI, docket, vol. I, p. 369.
[5] Par. 5, Summary of Admitted Facts, JSFI, docket, vol. I, p. 369.
[6] Par. 6, Summary of Admitted Facts, JSFI, docket, vol. I, p. 369.

application for refund on March 31, 2016[7] pursuant to Sections 108(B)(2) and 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended.[8]

However, due to the alleged inaction of respondent, petitioner filed the instant Petition for Review on August 25, 2016.[9]

Thereafter, respondent filed his Answer[10], interposing the following special and affirmative defenses:

"SPECIAL AND AFFIRMATIVE DEFENSES

4. Respondent reiterates and repleads the preceding paragraphs of the Answer as part of his Special and Affirmative Defenses which are discussed hereunder;

5. Petitioner's alleged claim for refund or issuance of tax credit certificate is still subject to administrative investigation/examination by the BIR.

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

7. Petitioner's claim for refund or issuance of tax credit certificate in the amount of ₱16,939,138.14 representing alleged excess and unutilized input VAT paid for the taxable year 2014 were not fully substantiated by proper documents, such as sales invoices and official receipts, pursuant to Revenue Regulations No. 7-95 in relation to Section 113 and 237 of the 1997 Tax Code.

8. In an action for refund/credit, the burden of proof is on the petitioner to establish its right to claimed refund and failure to adduce sufficient proof is fatal to the claim for tax refund/credit.

9. It is incumbent upon the latter to show that it has complied with the provisions under Section 204(c) in relation to Section 229 of the Tax Code. Otherwise, its failure to prove the same is fatal to its claim for refund.

10. Claims for refund are construed strictly against herein petitioner since the same partakes the nature of exemption from taxation (*Commissioner of Internal Revenue vs. Ledesma, 31 SCRA*

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[7] Exhibit "P-30" to "P-30-b" and "P-31", docket, vol. II, pp. 803-811 and p. 812.
[8] Par. 7, Summary of Admitted Facts, JSFI, docket, vol. I, p. 369.
[9] Petition for Review, docket, vol. I, p. 10.
[10] Docket, vol. I, pp. 66-68.

95) and as such, they are looked upon with disfavor (*Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211*)."

On October 25, 2016, the Court issued a Notice of Pre-Trial Conference, setting the pre-trial conference of this case on December 1, 2016.[11] This was later on cancelled and reset to November 28, 2016.[12]

Petitioner filed its Pre-Trial Brief on November 23, 2016[13], while respondent filed his Pre-Trial Brief on November 24, 2016.[14]

On December 13, 2016, the parties filed their Joint Stipulation of Facts and Issues[15] which was later on approved as per the Pre-Trial Order issued on January 19, 2017.[16] In the same Pre-Trial Order, the pre-trial was deemed terminated and the initial presentation of evidence for the petitioner was set on February 1, 2017.[17]

During trial, petitioner presented as its witnesses its Finance Supervisor, Ms. Krizel Sansano[18], its Finance Officer III, Ms. Myra Luna Davalos[19] and the duly commissioned Independent Certified Public Accountant (ICPA), Mr. Joseph Cedric V. Calica.[20] They testified by way of Judicial Affidavit. Petitioner also presented its documentary evidence.

On April 19, 2017, petitioner presented its last witness and was directed to filed its Formal Offer of Evidence. In the same hearing, the Court granted respondent's prayer that he likewise be given the same period to formally offer his exhibits that were marked during

[11] Docket, vol. I, pp. 70-71.
[12] Notice of Resetting, docket, vol. I, p. 72.
[13] Docket, vol. I, pp. 73-86.
[14] Docket, vol. I, pp. 87-90.
[15] Docket, vol. I, pp. 368-376.
[16] Docket, vol. I, pp. 420-425.
[17] Ibid.
[18] Minutes of the hearing held on February 1, 2017, docket, vol. II, p. 426; Exhibit "P-86", Judicial Affidavit of Krizel Sansano, docket, vol. I, pp. 97-112.
[19] Minutes of the hearing held on March 13, 2017, docket, vol. II, p. 609; Exhibit "P-70", Judicial Affidavit of Myra Luna Davalos, docket, vol. II, pp. 454-473.
[20] Minutes of the hearing held on April 19, 2017, docket, vol. II, p. 665; Exhibit "P-72", Judicial Affidavit of Mr. Joseph Cedric V. Calica, docket, vol. II, pp. 622-636.

the presentation of its witness, also noting respondent's manifestation that he has no witness to present.[21]

Accordingly, respondent filed his Formal Offer of Evidence by registered mail on May 4, 2017, which was received by the Court on May 11, 2017,[22] while petitioner filed its Formal Offer of Evidence on May 23, 2017.[23]

Subsequently, the Court admitted Exhibits "P-1" to "P-130" as evidence for petitioner, except for Exhibits P-4-a" and "P-4-b", for failure to present their originals for comparison. As for respondent's formal offer, the Court admitted Exhibits "R-1" to "R-6-a" as evidence for respondent.[24]

Considering the filing of petitioner's Memorandum on May 15, 2018, and the Report of the Records Division dated May 18, 2018 that no memorandum has been filed by the respondent, the Court submitted the case for decision on May 24, 2019.[25]

ISSUES

The parties stipulated the following issues[26] for this Court's resolution:

A. Whether Petitioner is entitled to refund for the unutilized VAT input taxes in the amount of **Sixteen Million Nine Hundred Thirty-Nine Thousand One Hundred Thirty-Eight and 14/100 Pesos (Php 16,939,138.14)** for the 1st, 2nd, 3rd, and 4th quarters of the taxable year 2014.

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

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[21] Docket, vol. II, pp. 666-668.
[22] Docket, vol. II, pp.677-679.
[23] Docket, vol. II, pp.691-709.
[24] Resolutions dated October 12, 2017 and March 6, 2017, docket, vol. III, pp. 902-905 and pp. 952-956, respectively.
[25] Resolution dated May 24, 2018.
[26] Statement of Issues, JSFI, docket, vol. I, pp. 372-373.

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

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

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

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

THE COURT'S RULING

The provisions relevant to the resolution of the present case are Sections 112(A) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended, which provide:

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

Pursuant thereto and as outlined by the Supreme Court in a long line of decisions, in order to be entitled to a refund or issuance of a TCC of unutilized input VAT attributable to zero-rated or effectively zero-rated sales, petitioner must comply with the following requisites:

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

Petitioner is a VAT-registered entity

It is undisputed that petitioner is a VAT-registered entity, as evidenced by its BIR Certificate of Registration No. OCN 9RC0000133815, with Taxpayer's Identification Number (TIN) 005-374-900-000, dated January 1, 1998.[27] *gr*

[27] Exhibit "P-2", docket, Vol. II, p. 721; Par. 6, Summary of Admitted Facts, JSFI, docket, vol. I, p. 369.

Petitioner's administrative and judicial claims were seasonably filed.

Pursuant to the above-quoted Section 112(A), as amended, the administrative claim for the issuance of a TCC or refund of input VAT must be filed with the BIR within two (2) years after the close of the taxable quarter when the zero-rated or effectively sales were made. Thus, petitioner's last day for filing of its administrative claim for the four taxable quarters of 2014 fell on the following dates:

Period Covered (TY 2014)	End of Taxable Quarter	End of the Two-year Prescriptive Period
1st Quarter	March 31, 2014	March 31, 2016
2nd Quarter	June 30, 2014	June 30, 2016
3rd Quarter	September 30, 2014	September 30, 2016
4th Quarter	December 31, 2014	December 31, 2016

Evidently, petitioner's administrative claim for refund was timely filed on March 31, 2016.[28]

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

Accordingly, from the filing of petitioner's administrative claim on March 31, 2016, respondent had one hundred twenty (120) days or until July 29, 2016 to act on the said claim. Since respondent failed to act on the said claim on or before July 29, 2016, petitioner had 30 days or until August 30, 2016[29] within which to file a judicial

[28] Exhibits "P-30" to "P-30-b" and "P-31", docket, vol. II, pp. 803-811 and p. 812.

[29] August 28, 2016 fell on a Sunday and August 29, 2016 fell on a Holiday (National Heroes Day).

claim before this Court. Evidently, petitioner's judicial appeal by way of a Petition for Review filed on August 25, 2016 is well within the period provided by law.

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

Petitioner claims that its sales of services to Amadeus IT Group SA for the taxable year 2014 qualify as zero-rated sales under Section 108(B)(2) of the NIRC of 1997, as amended, which reads:

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

In the case of ***Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.,***[30] the Supreme Court held that in order for the supply of services to be VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the following requisites must be met:

1. the services must be other than processing, manufacturing or repacking of goods;
2. the recipient of such services is doing business outside the Philippines; and

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

3. the payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations.

It is undisputed that petitioner's primary purpose, as stated in its Amended Articles of Incorporation[31], is to market in the Philippines an automated computerized reservations system known as "Amadeus Global Travel Distribution", which incorporates a software package that performs various functions, including real-line airlines seat reservations, schedules bookings for a variety of air, boat, train, package tours, car rental and hotel services, automatic ticketing, and fare pricing display. Clearly, the marketing services rendered by petitioner were services other than processing, manufacturing or repacking of goods thereby satisfying the first requisite.

With respect to the second requisite, petitioner was able to prove that its client, Amadeus IT Group SA, is a non-resident foreign corporation doing business outside the Philippines, as evidenced by the Authenticated Articles of Association,[32] as well as, the printout screenshot of the website of *Comision Nacional de Mercado de Valores* (CNMV), Spain's National Securities Market Commission,[33] and the Philippine Securities and Exchange Commission (SEC) Certificate of Non-Registration[34] of the latter.

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

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

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

xxx xxx xxx

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[31] Exhibit "P-3", docket, vol. II, p. 713.
[32] Exhibit "P-6", docket, vol. II, pp. 742-767.
[33] Exhibit "P-8", docket, vol. II, p. 768.
[34] Exhibit "P-5", docket, vol. II, p. 741.

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

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

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

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

xxx xxx xxx

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

xxx xxx xxx

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

"**SEC. 4.113-1.** ***Invoicing Requirements.*** —

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

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

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

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

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

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

> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; *Provided*, That:
>
> xxx xxx xxx
>
> (c) If the sale is subject to zero percent (0%) VAT, the term "zero-rated sale" shall be written or printed prominently on the invoice or receipt;" (*underlining supplied*)

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

In its Original and Amended Quarterly VAT Returns for the four quarters of TY 2014, petitioner reported total sales of ₱355,119,937.93, as shown below:

	1st Quarter	**2nd Quarter**	**3rd Quarter**	**4th Quarter**	**TOTAL**
	"P-14"	*"P-16"*	*"P-17"*	*"P-20"*	
Vatable Sales	₱ 1,072,419.67	₱ 1,247,681.94	₱ 1,377,044.66	₱ 1,701,087.31	₱ 5,398,233.58
Zero-Rated Sales	82,070,933.28	101,688,178.61	65,511,360.04	100,451,232.42	349,721,704.35
Total Sales	**₱83,143,352.95**	**₱102,935,860.55**	**₱66,888,404.70**	**₱102,152,319.73**	**₱355,119,937.93**

In support of its zero-rated sales of ₱349,721,704.35 and to prove compliance with the VAT invoicing requirements provided by the above-quoted laws and regulations, petitioner submitted the Billing Statements[35] and Official Receipts[36] it issued to Amadeus IT Group SA, as well as, the Schedule of Gross Sales/Receipts (VATable and Zero-Rated) for the period January 1 to December 31, 2014[37] and the certificate of inward remittance [38] issued by HSBC to petitioner.

Upon verification, the Court finds that the following zero-rated sales in the amount of ₱36,236,457.48 should be disallowed due to the reasons herein stated: ✓

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[35] Exhibits "P-33" to "P-56", docket, vol. II, pp. 815-838.
[36] Exhibits "P-57" to "P-66" and "P-68", docket, vol. II, pp. 839-849.
[37] Exhibit "P-93".
[38] Exhibit "P-101".

Customer Name	OR No.	Exhibit No.	Amount
1. Petitioner failed to establish that the named customers were non-resident foreign corporations doing business outside the Philippines			
1st Quarter 2014			
Qatar Airways Company WLL	7881	P-93-21	₱ 13,500.00
Thai Airways International Public Co. Ltd	7833	P-93-24	1,500.00
Sub-total			***₱ 15,000.00***
2nd Quarter 2014			
Asiana Airlines Inc.	8016	P-93-113	₱ 1,114.55
Sub-total			***₱ 1,114.55***
3rd Quarter 2014			
Pan Euro International Corp	7963	P-93-194	₱ 4,367.55
Qatar Airways Company WLL	7966	P-93-195	13,500.00
Sub-total			***₱ 17,867.55***
2. Petitioner failed to prove receipt of inward remittance			
4th Quarter 2014			
Amadeus IT Group SA			₱ 36,202,475.38
($1,258,676.24 - $439,059.41 x ₱44.17)		P-94-12	
Sub-total			***₱ 36,202,475.38***
Total Disallowed Zero-Rated Sales			**₱ 36,236,457.48**

Therefore, out of the total reported zero-rated sales of ₱349,721,704.35, only the amount of ₱313,485,246.87 represents petitioner's valid zero-rated sales for the four quarters of TY 2014, as detailed below:

Particulars	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	TOTAL
Zero-Rated Sales/Receipts	₱ 82,070,933.28	₱ 101,688,178.61	₱ 65,511,360.04	₱ 100,451,232.42	₱ 349,721,704.35
Less: Disallowed Zero-Rated Sales	15,000.00	1,114.55	17,867.55	36,202,475.38	36,236,457.48
Valid Zero-Rated Sales	**₱82,055,933.28**	**₱101,687,064.06**	**₱65,493,492.49**	**₱64,248,757.04**	**₱313,485,246.87**

Petitioner had input taxes during the four quarters of TY 2014 which are attributable to its zero-rated or effectively zero-rated sales for the same period

In its Quarterly VAT Returns for the four quarters of TY 2014, petitioner reported total input taxes of ₱17,626,170.05 and total output taxes of ₱647,788.03, resulting to total excess input VAT of ₱16,978,382.02, as shown below:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	TOTAL
	"P-14"	*"P-16"*	*"P-17"*	*"P-20"*	
Input tax deferred on Capital Goods Exceeding ₱1M from previous quarter	₱ 3,292,582.52	₱ 3,612,297.62	₱ 3,768,328.75	₱ 3,470,391.70	₱ 14,143,600.59
Add: Input tax on purchase of Capital Goods exceeding P1M	418,132.50	317,687.15	-	264,370.61	1,000,190.26
Total	₱ 3,710,715.02	₱ 3,929,984.77	₱ 3,768,328.75	₱ 3,734,762.31	₱ 15,143,790.85
Less: Input tax on purchase of Capital Goods exceeding ₱1M deferred for the succeeding period	3,612,297.61	3,768,328.74	3,470,391.71	3,336,313.30	14,187,331.36
Amortization of Input tax on purchases of capital goods exceeding ₱1M	₱ 98,417.41	₱ 161,656.03	₱ 297,937.04	₱ 398,449.01	₱ 956,459.49
Add: Input taxes on current purchases					
Domestic Purchases of Goods not exceeding P1M	₱ 135,463.61	₱ 72,856.80	₱ 283,868.50	₱ 79,829.51	₱ 572,018.42
Domestic Purchases of Goods Other than Capital Goods	149,187.93	112,100.68	101,858.52	242,682.15	605,829.28
Domestic Purchases of Services	4,333,146.52	3,460,066.93	4,060,190.18	3,638,459.23	15,491,862.86
Total input tax on current purchases	₱ 4,617,798.06	₱ 3,645,024.41	₱ 4,445,917.20	₱ 3,960,970.89	₱ 16,669,710.56
Total input taxes for the period	**₱ 4,716,215.47**	**₱ 3,806,680.44**	**₱ 4,743,854.24**	**₱ 4,359,419.90**	**₱ 17,626,170.05**
Less: Output tax	128,690.36	149,721.83	165,245.36	204,130.48	647,788.03
Excess Input VAT	**₱ 4,587,525.11**	**₱ 3,656,958.61**	**₱ 4,578,608.88**	**₱ 4,155,289.42**	**₱ 16,978,382.02**

It is to be noted that out of the excess input VAT of ₱16,978,382.02, petitioner is claiming for refund the amount of ₱16,939,138.14 only.

In support of the input VAT on its purchases of goods and services, petitioner submitted various suppliers' invoices and official receipts[39] which were examined by the Court-Commission ICPA, Mr. Joseph Cedric V. Calica of AMC & Associates.

In his Report,[40] the ICPA found the following exceptions: *Jr*

[39] Exhibits "P-91-1" to "P-91-1,832".
[40] Exhibit "P-71".

Exception Noted	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	TOTAL	Exhibit No.
Company name not properly indicated in the supporting documents	₱ 1,285.71	₱ -	₱ 437.81	₱ 19,285.71	₱ 21,009.23	P-94-1
No valid supporting documents	274,095.09	1,302.27	83,697.09	164,048.68	523,143.13	P-94-2
No TIN indicated in the supporting documents	17,869.96	202.50	1,225.93	996.43	20,294.82	P-94-3
Incorrect or no address indicated in the supporting documents				2,053.93	2,053.93	P-94-4
Not within the period covered by the claim	19,864.12	34,653.97	74,040.93	538,636.62	667,195.64	P-94-5
With discrepancy in the amount filed	29,263.13	31,626.67	44,815.11	198,053.09	303,758.00	P-94-6
VAT amount not separately shown in the supporting documents				13,432.41	13,432.41	P-94-7
No sales invoices/official receipts submitted by the petitioner	94,506.29	678,294.69	455,801.59	425,883.51	1,654,486.08	P-94-8
No Authority to Print or BIR permit number in supporting documents	17,732.08	342.44	8,123.48		26,198.00	P-94-9
TIN of the supplier does not indicate VAT	4,856.35	6,878.38	10,524.06	10,299.00	32,557.79	P-94-10
TOTAL	**₱459,472.73**	**₱753,300.92**	**₱678,666.00**	**₱1,372,689.38**	**₱3,264,129.03**	

The Court considers the above findings of the ICPA in order. The aforesaid input taxes of ₱3,264,129.03 shall be disallowed from petitioner's claim for not being properly substantiated by VAT invoices or ORs as prescribed under Sections 110(A) and 113(A) and (B) of the NIRC of 1997, as amended, and as implemented by Sections 4.110-1, 4.110-2, 4.110-8 and 4.113-1(A) and (B) of RR No. 16-05.

Therefore, only the amount of ₱13,675,009.11 represents petitioner's valid excess input VAT which can be attributed to the total reported zero-rated sales of ₱349,721,704.35 and only the excess input VAT of ₱12,670,317.45 is attributable to the valid zero-rated sales of ₱313,485,346.87, computed as follows:

Particulars	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	TOTAL
Claimed Excess Input VAT	₱ 4,587,525.11	₱ 3,617,714.73	₱ 4,578,608.88	₱ 4,155,289.42	₱ 16,939,138.14
Less: Disallowances	459,472.73	753,300.92	678,666.00	1,372,689.38	3,264,129.03
Valid Excess Input VAT	**₱ 4,128,052.38**	**₱ 2,864,413.81**	**₱ 3,899,942.88**	**₱2,782,600.04**	**₱13,675,009.11**
Divided by Reported Zero-Rated Sales	82,070,933.28	101,688,178.61	65,511,360.04	100,451,232.42	349,721,704.35
Multiply by Valid Zero-Rated Sales	82,055,933.28	101,687,164.06	65,493,492.49	64,248,757.04	313,485,346.87
Valid Excess Input VAT attributable to Valid Zero-Rated Sales	**₱ 4,127,297.90**	**₱ 2,864,385.23**	**₱ 3,898,879.21**	**₱1,779,755.11**	**₱12,670,317.45**

With respect to the last requisite, the VAT-registered taxpayer must be able to establish that it has a refundable or creditable input VAT, and the same has not been applied against its output VAT liabilities — information which are supposed to be reflected in the taxpayer's VAT Returns.[41]

Here, although petitioner carried over the claimed input VAT of ₱16,939,138.14, which includes the excess input VAT credit of ₱12,670,317.45, to the succeeding quarters up to the first quarter of TY 2016, the same was deducted as "VAT Refund/TCC Claimed"[42] in the first quarter of taxable year 2016. As such, the subject claim should no longer form part of the excess input VAT of ₱84,006,802.68[43] as of the end of the first quarter of TY 2016, which was to be carried over to the next succeeding second quarter of TY 2016.

Notice, however, that in its Amended Quarterly VAT Return for the second quarter of TY 2016, petitioner reflected the amount of ₱94,060,638.52 as input tax carried over from previous period[44], which is ₱10,053,835.84 higher than what petitioner was supposed to carry over. Apparently, part of the subject claim was actually carried over to the next second quarter of TY 2016. Consequently, the valid excess input VAT attributable to zero-rated sales shall be reduced by ₱10,053,835.84. Accordingly, the excess input VAT available for refund or TCC amounts to ₱2,616,481.61 (₱12,670,317.45 less ₱10,053,835.84).

WHEREFORE, in view of the foregoing, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED** to **REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner the reduced amount of **₱2,616,481.61**, representing its excess and unutilized input VAT attributable to zero-rated sales for the four quarters of TY 2014.

SO ORDERED.

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[41] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 159471, January 26, 2011.
[42] Line 23D of Exhibit "P-120".
[43] Line 29 of Exhibit "P-120".
[44] Line 19B of Exhibit "P-122".

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

I CONCUR:

Catherine T. Manahan
CATHERINE T. MANAHAN
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.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice