21-000500-0061

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10708

HALLIBURTON WORLDWIDE LIMITED - PHILIPPINE BRANCH,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. WILMER B. DEKIT
ATTY. JOANA Q. BILONGILOT
Bureau of Internal Revenue, Legal Division
BIR Revenue Region No. 8B-South NCR
2/F, BIR Regional Office Building
313 Sen. Gil Puyat Avenue
Makati City

SALVADOR LLANILLO & BERNARDO
Units 1706-1711, 17th Floor, Tower One & Exchange Plaza
Ayala Triangle, Ayala Avenue
1226 Makati City

GREETINGS:

You are hereby notified by these presents that on **September 30, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **October 2, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
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HALLIBURTON WORLDWIDE LIMITED – PHILIPPINE BRANCH,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. **10708**

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:
SEP 30 2025 ; 11:30 AM

x - x

DECISION

BACORRO-VILLENA, J.:

In the instant Petition for Review[1] filed on 17 December 2021 pursuant to Section 3(a)[2], Rule 8 in relation to Section 3(a)(2)[3], Rule 4 of

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[1] Division Docket, Volume I, pp. 6-26.

[2] **SEC. 3.** *Who may appeal; period to file petition.* —
(a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

[3] **SEC. 3.** *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
...
(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of

the Revised Rules of the Court of Tax Appeals (**RRCTA**), petitioner Halliburton Worldwide Limited – Philippine Branch (**petitioner**) seeks the refund of ₱10,523,339.72, which represents its excess and/or unutilized input value-added tax (**VAT**) on purchases of goods and services attributable to its alleged zero-rated sales for the first (1st) to fourth (4th) quarters of calendar year (**CY**) 2019.

PARTIES OF THE CASE

Petitioner is duly registered with the Securities and Exchange Commission (**SEC**) as the Philippine branch office of Halliburton Worldwide Limited, a foreign corporation organized and existing under the laws of the Cayman Islands.[4] It is likewise registered with the Bureau of Internal Revenue (**BIR**) under Taxpayer Identification No. (**TIN**) 266-369-565-000, with business address at Unit 1502-03, 15th Floor, Richville Corporate Tower, 1107 Alabang-Zapote Road, Madrigal Business Park (**MBP**), Ayala, Muntinlupa City.[5]

Respondent, on the other hand, is the duly appointed head of the BIR, clothed by law with the authority to administer and enforce the provisions of the National Internal Revenue Code (**NIRC**) of 1997, as amended, including the power to decide, approve, and grant claims for refund or issuance of tax credits for excess and/or unutilized input VAT pursuant to applicable statutes, rules, and regulations.[6]

FACTS OF THE CASE

For the 1st to 4th quarters of CY 2019, petitioner filed its Quarterly VAT Returns (**BIR Form No. 2550-Q**) through the BIR's Electronic Filing and Payment System (**eFPS**) facility on the following dates:[7]

Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action [.]

4 Exhibit "P-1", Division Docket, Volume I, pp. 38-49.

5 Exhibit "P-2", id., p. 50.

6 Par. 2, Joint Stipulation of Facts and Issues (JSFI), id., pp. 419-420.

7 Exhibits "P-3" to "P-6", id., Volume II, pp. 704-715.

Quarter	Period Covered	Date Filed
1st	January to March 2019	25 April 2019
2nd	April to June 2019	25 July 2019
3rd	July to September 2019	24 October 2019
4th	October to December 2019	27 January 2020

There it declared a total zero-rated sales of ₱242,946,270.58, broken down as follows:

Quarter	Zero-Rated Sales
1st	₱75,512,692.01
2nd	20,459,149.02
3rd	71,968,215.04
4th	75,006,214.51
Total	**₱242,946,270.58**

For CY 2019, petitioner claimed to have accumulated excess input VAT in the total amount of ₱10,523,339.72 from its current domestic purchases of goods and services and amortized input VAT on purchases of capital goods from previous quarters, which is the subject of the present petition, as shown in the following tabulation:

Source of Input VAT	1st Quarter[8]	2nd Quarter[9]	3rd Quarter[10]	4th Quarter[11]	CY 2019
Current input VAT					
Domestic Purchases of Goods Other than Capital Goods	₱11,797.35	₱27,388.81	₱46,899.38	₱36,350.11	₱122,435.65
Importation of Goods Other than Capital Goods	-	-	-	902,994.00	902,994.00
Domestic Purchases of Services	541,571.88	756,470.12	930,699.24	1,094,093.71	3,322,834.95
Services Rendered by Non-residents	1,685,763.52	1,810,029.95	1,646,368.19	1,019,904.54	6,162,066.20
Subtotal	***₱2,239,132.75***	***₱2,593,888.88***	***₱2,623,966.81***	***₱3,053,342.36***	***₱10,510,330.80***
Deferred input VAT amortized for the period					
Input Tax Deferred on Capital Goods Exceeding P1Million from Previous Quarter	₱13,008.92	₱5,203.56	-	-	₱18,212.48
Less: Input Tax on Purchases of Capital Goods exceeding P1Million deferred for the succeeding period	5,203.56	-	-	-	5,203.56
Subtotal	***₱7,805.36***	***₱5,203.56***	***₱-***	***₱-***	***₱13,008.92***
TOTAL INPUT VAT	₱2,246,938.11	₱2,599,092.44	₱2,623,966.81	₱3,053,342.36	₱10,523,339.72

8 Exhibit "P-3", id., pp. 704-706.
9 Exhibit "P-4", id., pp. 707-709.
10 Exhibit "P-5", id., pp. 710-712.
11 Exhibit "P-6", id., pp. 713-715.

On 31 March 2021, petitioner filed with BIR Revenue District Office (**RDO**) No. 53B an Application for Tax Credits/Refunds (**BIR Form No. 1914**), accompanied by a letter dated 30 March 2021.[12] In its application, petitioner sought the refund or, in the alternative, the issuance of a tax credit certificate (**TCC**) covering its excess and/or unutilized creditable input VAT for the 1st to 4th quarters of CY 2019, allegedly attributable to zero-rated sales, in the aggregate amount of ₱10,523,339.72.

Due to the BIR's alleged inaction, petitioner filed the present petition on 17 December 2021.[13] The case was initially raffled to this Court's Second Division.[14]

PROCEEDINGS BEFORE THE COURT

In its petition before Us, petitioner asserted its entitlement to a refund of ₱10,523,339.72, representing its excess and/or unutilized input VAT attributable to its alleged zero-rated sales for the 1st to 4th quarters of CY 2019, *i.e.*, sales to duly-registered renewable energy (**RE**) developers and export sales to nonresident affiliates, claiming that all the requisites for a successful claim for VAT refund have been duly satisfied, it alleged that: (1) it is a VAT-registered taxpayer; (2) its sales of ₱242,946,270.58 are valid zero-rated sales; (3) the excess and/or unutilized input VAT are attributable to its valid zero-rated sales; (4) it has excess input VAT that were not applied against any output VAT liability; (5) it timely filed its administrative and judicial claims for VAT refund; (6) the excess and/or unutilized input VAT were properly supported by suppliers' invoices, official receipts (**ORs**) and other related supporting documents; and (7) its pieces of documentary evidence are authentic and duly executed.

On 03 January 2022, the Court issued Summons[15] on respondent. However, on 11 March 2022, respondent filed a "Motion for Extension of Time to File Answer"[16] through registered mail. In its Order dated 22 March 2022[17], the Court granted the said motion and thereby

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12 Exhibit "P-28", id., pp. 982-997.
13 Supra at note 1.
14 Composed of Associate Justice Erlinda P. Uy (Ret.), as Chairperson, Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David as Members.
15 Division Docket, Volume I, p. 268.
16 Id., pp. 270-271.
17 Id., p. 275.

extended respondent's deadline to file an Answer until 11 April 2022. In compliance therewith, respondent filed his or her Answer[18] through registered mail on 08 April 2022.

In his or her Answer, respondent raised the following special and affirmative defenses against petitioner's claim for refund of excess and/or unutilized input VAT for the 1st to 4th quarters of CY 2019: (1) petitioner's entitlement to refund is conditioned upon strict compliance with statutory requisites under the NIRC of 1997, as amended, such as VAT registration, existence of zero-rated sales, substantiation and proper attribution of input taxes, compliance with invoicing and accounting rules and timely filing of claims; (2) petitioner issued zero-rated ORs worth ₱90,042,080.92 with expired Authority to Print (**ATP**), in violation of Sections 238[19] and 264[20] of the NIRC of 1997, as amended; (3) petitioner failed to substantiate importations other than capital goods amounting to ₱2,294,016.60; (4) local purchases totaling ₱11,250,450.12 did not meet invoicing requirements under Revenue Regulations (**RR**) No. 16-2005[21], as amended; (5) discrepancies of ₱2,313,074.53 were found between petitioner's reported sales *per* income tax return (**ITR**) and VAT return; (6) sales to the Energy Development Corporation (**EDC**) worth ₱25,024,685.82 did not comply with invoicing rules applicable to zero-rated transactions; (7) petitioner issued supplementary receipts, such as billing statements, instead of ORs or sales invoices (**SIs**), with an aggregate value of ₱18,168,520.51, likewise under an expired ATP; and (8) claims for VAT refund partake of the nature of tax exemptions, which must be construed strictly against the claimant and in favor of the taxing authority, and that the burden of proof rests upon petitioner to demonstrate entitlement through clear legal basis and competent evidence.

Meanwhile, prior to the Pre-Trial Conference on 03 November 2022[22], respondent filed his or her Pre-Trial Brief on 22 June 2022.[23] On

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18 Id., pp. 276-282.
19 SEC. 238. *Printing of Receipts or Sales or Commercial Invoices.*
20 SEC. 264. *Failure or Refusal to Issue Receipts or Sales or Commercial Invoices, Violations Related to the Printing of such Receipts or Invoices and Other Violations.*
21 Consolidated Value-Added Tax Regulations of 2005.
22 See Resolution dated 28 September 2022, Division Docket, Volume I, pp. 354-356; Minutes of the hearing held on, and Order both dated 03 November 2022, id., pp. 418, and 414-415, respectively; the Pre-Trial Conference was initially set for 27 June 2022 but was successively reset to 26 September 2022, then to 29 September 2022.
23 Id., pp. 328-330.

the hand, petitioner submitted its Amended Pre-Trial Brief on 28 October 2022.[24]

On 29 November 2022, the parties filed their Joint Stipulation of Facts and Issues (**JSFI**)[25], which the Court admitted and approved in its Resolution dated 20 December 2022[26], thereby terminating the pre-trial proceedings. A Pre-Trial Order was issued on 11 January 2023.[27]

In the Resolution dated 14 July 2023[28], the Court directed respondent's counsel, Atty. Joana Q. Bilongilot (**Atty. Bilongilot**), to show cause why she should not be cited for indirect contempt pursuant to Section 5(b)[29], Rule 6 of the RRCTA, as amended, and to comply with the Court's Order dated 22 March 2022 requiring the elevation of the entire BIR Records of this case within ten (10) days from notice. Respondent's counsel thereafter filed her "Compliance" and transmitted the records, consisting of 2,397 pages bound in 10 folders, on 04 August 2023.[30]

Trial on the merits ensued. Petitioner presented its witnesses, namely: (1) Moon Lin Loh (**Loh**), Tax Manager of Halliburton Business Services Sdn Bhd, which renders services for petitioner; (2) Aubrey Madridano (**Madridano**), petitioner's Office Administrator; and (3) Richard Querido (**Querido**), the Court-commissioned Independent Certified Public Accountant (**ICPA**)[31], who all testified *via* their respective judicial affidavits.

On the witness stand, Loh declared essentially that: (1) she oversees petitioner's tax matters and is familiar with its operations as a Philippine branch of a foreign corporation duly licensed by the SEC and registered with the BIR as a VAT taxpayer; (2) she is the Tax Manager of

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24 Id., pp. 398-413.
25 Id., pp. 419-434.
26 Id., p. 450.
27 Id., pp. 452-459.
28 Id., p. 551.
29 RULE 6
PLEADINGS FILED WITH THE COURT
...
SEC. 5. *Answer.* —
...
(b) *Transmittal of records.*
30 Compliance dated 04 August 2023, Division Docket, Volume I, pp. 578-579.
31 Oath of Commission dated 15 March 2023, id., p. 476; Minutes of the hearing held on, and Order both dated 15 March 2023, id., pp. 475 and 479-480, respectively.

Halliburton Business Services Sdn Bhd, which provides support services to petitioner; (3) petitioner is engaged in rendering oilfield services and products and, for the 1st to 4th quarters of CY 2019, incurred input VAT from various purchases duly supported by invoices and receipts; (4) said input VAT, amounting to ₱10,523,339.72, was attributable to zero-rated sales to RE developers in the Philippines, paid in pesos, and to nonresident affiliates, paid in foreign currency and settled under an offsetting arrangement duly accounted for in accordance with Bangko Sentral ng Pilipinas (**BSP**) rules; (5) the claimed input VAT was carried over until deducted as "VAT Refund/TCC Claimed" in the Amended Quarterly VAT Return for the 4th quarter of CY 2020[32]; (6) the filings were duly supported by eFPS confirmations, authenticated corporate documents of nonresident affiliates and SEC certifications of their non-registration; (7) the governing "Intercompany Services Agreement"[33] substantiated the offsetting of intercompany obligations; and (8) petitioner filed its administrative claim for refund with BIR RDO No. 53B on 31 March 2021, which, to date, remains unacted upon by the BIR.[34]

Loh, in the course of her cross-examination, clarified that: (1) she has been discharging the same functions for petitioner since 2015; (2) notwithstanding her foreign citizenship, she is acquainted with prevailing Philippine tax laws; (3) she resides in Malaysia; (4) to remain updated on tax developments, she regularly receives email advisories and occasionally participates in teleconferences conducted by SyCip, Gorres, Velayo (**SGV**) & Co.; (5) petitioner has not received any formal notice from respondent regarding the denial of its administrative claim; and (6) under the "Intercompany Services Agreement"[35], petitioner served as the service provider, while its nonresident foreign affiliates were the recipients of such services.[36]

No redirect examination was conducted.[37]

ICPA Querido submitted his "Results of the Procedures Performed Relative to the Company's Claim for Refund of Its Unutilized Input Tax Covering the 1st to 4th Quarters of [CY] 2019" (**ICPA Report**) on 02 May

[32] Line 23D, Exhibit "P-10-1", id., Volume II, p. 731.
[33] Exhibit "P-27", id., pp. 955-981.
[34] Exhibit "P-35", Judicial Affidavit of Moon Lin Loh, id., pp. 370-388; Minutes of the hearing held on, and the Order both dated 09 March 2023, id., pp. 473 and 474, respectively.
[35] Exhibit "P-27", supra at note 33.
[36] TSN dated 09 March 2023, pp. 9-18.
[37] Id., p. 18.

2023 and "Results of the Supplemental Procedures Performed Relative to the Company's Claim for Refund of Its Unutilized Input Tax Covering the 1st to 4th Quarters of [CY] 2019" (**Supplemental ICPA Report**) on 22 September 2023.[38]

During Madridano's testimony, she declared that: (1) her duties include the custody of petitioner's contracts, handling of sales, coordination with clients and procurement of government certifications necessary to comply with zero-rating requirements; (2) petitioner is engaged in providing oilfield services and products in the Philippines, including drilling, cementing, logging and consulting; (3) during CY 2019, petitioner rendered services to EDC and Philippine Geothermal Production Company, Inc. (**PGPC**), both RE developers duly recognized under Republic Act (**RA**) No. 9513[39]; (4) petitioner rendered directional drilling services to EDC under a service agreement and amendments thereto; (5) petitioner rendered software subscription, maintenance, and support services to PGPC involving the "Compass Advanced" software, substantiated by maintenance quotations and PGPC purchase orders; and (6) as custodian of petitioner's sales contracts, she had electronic access to and printed copies of said documents, which were submitted in evidence.[40]

During the hearing held on 08 August 2023, Madridano, on cross-examination, explained that petitioner provided services to EDC and PGPC, all of which were duly supported by ORs that were submitted to ICPA Querido for his evaluation.[41]

No redirect examination was conducted.[42]

Lastly, ICPA Querido took the witness stand. He testified that: (1) his audit procedures covered the verification of input VAT on domestic purchases, importations, services rendered by nonresidents, and amortization of deferred input VAT, as well as the validation of petitioner's declared zero-rated sales; (2) he cross-checked schedules of

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38 Exhibits "P-36" and "P-36-3", Division Docket, Volume I, pp. 484-545 and 589-645, respectively.
39 AN ACT PROMOTING THE DEVELOPMENT, UTILIZATION AND OMMERCIALIZATION OF RENEWABLE ENERGY RESOURCES AND FOR OTHER PURPOSES.
40 Exhibit "P-555", Judicial Affidavit of Aubrey Madridano, Division Docket, Volume I, pp. 389-397; Order dated 08 August 2023, Division Docket, Volume I, pp. 581-582.
41 TSN dated 08 August 2023, pp. 19-21.
42 Id., p. 21.

input VAT against quarterly VAT returns, inspected receipts and invoices for compliance with invoicing requirements, validated importation records and BIR filings, and ensured that claimed input VAT had not been applied against output VAT in subsequent periods; (3) petitioner's total claim of ₱10,523,339.72 was reviewed, but only ₱8,770,518.24 was properly substantiated; (4) petitioner's zero-rated sales for the same period, amounting to ₱242,946,270.58, were supported by ORs, billing statements, inward remittances and intercompany invoices; (5) certain claimed amounts were excluded for failure to comply with invoicing requirements, being out-of-period, or not being properly substantiated, thereby reducing the valid input VAT attributable to zero-rated sales; and (6) upon the subsequent submission of original BIR Records on 04 August 2023, he conducted further procedures on 18 August and 13 September 2023, which was reflected in his Supplemental ICPA Report confirming the validity of the remaining claim.[43]

On cross-examination, ICPA Querido clarified that: (1) in the ICPA Report, the substantiated amount of petitioner's claim was ₱8,770,518.24; (2) in the Supplemental ICPA Report, the substantiated amount was slightly adjusted to ₱8,763,996.81; (3) the decrease stemmed from the availability of additional documents that were not accessible when the ICPA Report was prepared; (4) certain receipts and invoices were excluded because they were issued beyond the validity period of the ATP; and (5) he acknowledged that his findings on expired ATP covered only amounts reflected in the records he examined. No further questions were propounded and the cross-examination was concluded without redirect examination.[44]

In the *interim*, pursuant to Administrative Circular No. 01-2023 dated 23 May 2023, which reorganized the Divisions of the Court, the present case was transferred to the Court's First Division by virtue of the Resolution dated 29 May 2023.[45]

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[43] Exhibits "P-558" and "P-559", Judicial Affidavit and Supplemental Affidavit of Independent Certified Public Accountant (ICPA) Richard S. Querido, Division Docket, Volume I, pp. 555-574 and 652-667, respectively; Minutes of the hearing held on, and the Order dated 18 January 2024, Division Docket, Volume II, pp. 673-675.

[44] TSN dated 18 January 2024, pp. 15-21.

[45] Division Docket, Volume I, p. 546.

On 07 February 2024, petitioner filed its Formal Offer of Evidence[46] (**FOE**). Respondent did not file his or her comment thereto.[47] In the Resolution dated 15 April 2024[48], the Court admitted all of petitioner's offered exhibits, except Exhibits "P-24-5" and "P-556", for failure to submit the duly marked exhibits.

Subsequently, on 02 May 2024, petitioner filed its "Motion for Partial Reconsideration (Re: Resolution dated 15 April 2024)"[49] (**MPR**) assailing the Resolution on petitioner's FOE. Respondent again failed to file any comment.[50] In its Resolution dated 23 July 2024[51], the Court granted petitioner's MPR, admitted Exhibit "P-556", and set a Commissioner's Hearing solely for the marking of Exhibit "P-24-5", with the directive that the same shall be deemed admitted thereafter as part of petitioner's exhibits.

For his or her part, respondent presented the testimony of his or her lone witness, Revenue Officer (**RO**) Dominic Jay S. Canabe (**Canabe**).

On the witness stand, RO Canabe of BIR RDO No. 53B testified that he was authorized under Tax Verification Notice (**TVN**) No. 2018-00098030 dated 12 April 2021[52] to process petitioner's claim for refund of unutilized input VAT for the period 01 January to 31 December 2019. He personally served the notice on petitioner's authorized representative and thereafter evaluated the documents submitted, including the application letter and revised checklist of requirements filed on 31 March 2021. He prepared the undated Memorandum Report[53] embodying the following findings: (1) petitioner issued zero-rated ORs for services amounting to ₱90,042,080.92 using an expired ATP, in violation of Sections 238[54] and 264[55] of the NIRC of 1997, as amended; (2) petitioner failed to substantiate importations other than capital

[46] Id., Volume II, pp. 676-703.
[47] Records Verification dated 28 February 2024, id., p. 1004.
[48] Id., pp. 1009-1010.
[49] Id., pp. 1026-1029.
[50] See Records Verification dated 24 May 2024, id., p. 1033.
[51] Id., pp. 1038-1040.
[52] BIR Records, Folder I, p. 2187.
[53] Exhibit "R-5", id., pp. 2363-2369.
[54] Supra at note 19.
[55] Supra at note 20.

goods worth ₱2,294,016.60, contrary to Sections 110(A)[56] and 113(A)[57] of the NIRC of 1997, as amended, and Section 4.110-8[58] of RR No. 16-05[59], as amended; (3) petitioner's local purchases worth ₱11,250,450.12 did not comply with invoicing requirements under Section 4.113-1[60] of RR No. 16-05, as amended; (4) a discrepancy of ₱2,313,074.53 was found between reported sales *per* ITR and VAT returns, representing sales of property, plant and equipment subject to VAT under Sections 105[61] and 106[62] of the of the NIRC of 1997, as amended; (5) petitioner failed to comply with invoicing rules for zero-rated sales to EDC amounting to ₱25,024,685.82; and (6) petitioner issued supplementary receipts such as billing statements, instead of VAT invoices or ORs, worth ₱18,168,520.51, likewise under an expired ATP. RO Canabe stated that while a notice of denial had been prepared, it remained unsigned because the docket was forwarded to respondent's Assessment Division and later to his or her Legal Division when petitioner elevated its claim to this Court.[63]

No cross-examination followed.[64]

On 22 April 2024, respondent filed his or her FOE[65], to which petitioner filed its "Comment (Re: Respondent's [FOE])"[66] on 29 April 2024. In the Resolution dated 23 July 2024[67], the Court admitted all of respondent's offered exhibits.

Thereafter, petitioner filed its Memorandum on 16 September 2024.[68] Respondent did not file his or her Memorandum.[69] On 30 September 2024, the case was deemed submitted for decision.[70]

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56 SEC. 110. *Tax Credits.* –
A. Creditable Input Tax.

57 SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* –
(A) Invoicing Requirements.

58 SEC. 4.110-8. *Substantiation of Input Tax Credits.*

59 Supra at note 21.

60 SEC. 4.113-1. *Invoicing Requirements.*

61 SEC. 105. *Persons Liable.*

62 SEC. 106. *Value-Added Tax on Sale of Goods or Properties.*

63 Exhibit "R-6", Judicial Affidavit of Revenue Officer (RO) Dominic Jay S. Canabe, Division Docket, Volume I, pp. 286-293; Order dated 16 April 2024, Division Docket, Volume II, pp. 1012-1013.

64 TSN dated 16 April 2024, p. 9.

65 Division Docket, Volume II, pp. 1015-1021.

66 Id., pp. 1022-1024.

67 Id., pp. 1038-1040.

68 Id., pp. 1049-1081.

69 See Records Verification dated 10 September 2024, id., p. 1048.

70 See Notice of Resolution dated 30 September 2024, id., p. 1084.

ISSUE

As can be gleaned from the parties' JSFI[71], the sole issue for this Court's resolution is –

WHETHER PETITIONER HALLIBURTON WORLDWIDE LIMITED – PHILIPPINE BRANCH IS ENTITLED TO A REFUND OR THE ISSUANCE OF A TAX CREDIT CERTIFICATE (TCC) OF ITS ALLEGED UNUTILIZED INPUT VALUE-ADDED TAX (VAT) ALLEGEDLY ATTRIBUTABLE TO ZERO-RATED SALE OF SERVICES FOR THE FIRST (1ST) TO FOURTH (4TH) QUARTERS OF CALENDAR YEAR (CY) 2019 IN THE AMOUNT OF ₱10,523,339.72.

ARGUMENTS

In support of its petition, petitioner insists that it fully complied with all statutory requisites for a VAT refund, namely: (1) it is a VAT-registered taxpayer engaged in zero-rated or effectively zero-rated sales; (2) its input VAT claimed is due or paid, and does not include transitional input taxes; (3) the input VAT being claimed has not been applied against output VAT during the same or succeeding quarters; (4) the input VAT claimed represents the proportionate share allocated to zero-rated or effectively zero-rated sales, in accordance with the law; (5) the claim for refund or TCC was filed within the mandatory periods prescribed by law; and (6) petitioner maintains that all documentary requirements for substantiating the claim have been met, including proper invoicing and substantiation of importations and local purchases.

Respondent, on the other hand, opposes the claim on the following grounds: (1) petitioner issued zero-rated ORs for sales amounting to ₱90,042,080.92 using receipts with expired ATP, violating Section 238[72] and punishable under Section 264[73] of the NIRC of 1997, as amended; (2) petitioner failed to fully substantiate importations (other than capital goods) worth ₱2,294,016.60, as required by Sections 110(A)[74] and 113(A)[75] of the NIRC of 1997, as amended; (3) local purchases worth

[71] Issue, JSFI, id., Volume I, p. 420.
[72] Supra at note 19.
[73] Supra at note 20.
[74] Supra at note 56.
[75] Supra at note 57.

₱11,250,450.12 did not comply with the invoicing requirements under Section 4.113-1[76] of RR No. 16-05, as amended; (4) there is a discrepancy of ₱2,313,074.53 between total sales *per* ITR and VAT return, representing sale of property, plant, and equipment, which should be subject to 12% VAT under Sections 105[77] and 106[78] of the NIRC of 1997, as amended; (5) petitioner failed to comply with the invoicing requirements for sales to EDC subject to 0% VAT, amounting to ₱25,024,685.82; (6) petitioner issued supplementary receipts (billing statements) instead of ORs/SIs, and these were also issued with expired ATP, covering sales of ₱18,168,520.51; and (7) claims for VAT refund partaking the nature of tax exemptions, must be construed strictly against the claimant and in favor of the taxing authority, and that the burden of proof rests upon petitioner to demonstrate entitlement through clear legal basis and competent evidence.

RULING OF THE COURT

After a careful and thorough evaluation of the parties' respective evidence and the applicable laws, rules and regulations, the Court finds the instant petition partly meritorious.

Petitioner anchors its claim on Sections 110(B)[79], 112(A) and (C) of the NIRC of 1997, as amended by RA 10963 or Tax Reform for Acceleration and Inclusion (**TRAIN**), which are quoted hereunder:

> ...
> **SEC. 110.** *Tax Credits.* —
> ...
>
> (B) *Excess Output or Input Tax.* — If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters: *Provided, however,* That any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.
>
> ...

76 Supra at note 58.
77 Supra at note 61.
78 Supra at note 62.
79 As amended by Republic Act No. 9361, "AN ACT AMENDING SECTION 110(B) OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES".

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: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.

...

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

In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals: *Provided, however,* That failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code.[80]

...

In *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*[81] (**Deutsche Knowledge Services**), the Supreme Court laid down the requisites for the entitlement to tax refund or credit of excess input VAT attributable to zero-rated sales, to wit:

80 Emphasis supplied and italics in the original text.
81 G.R. No. 234445, 15 July 2020; Citations omitted.

> ...
>
> Under Section 4.112-1(a) of Revenue Regulations No. (RR) 16-05, otherwise known as the Consolidated VAT Regulations of 2005, in relation to Section 112 of the Tax Code, a claimant's entitlement to a tax refund or credit of excess input VAT attributable to zero-rated sales hinges upon the following requisites: "(1) the taxpayer must be VAT-registered; (2) the taxpayer must be engaged in sales which are zero-rated or effectively zero-rated; (3) the claim must be filed within two years after the close of the taxable quarter when such sales were made; and (4) the creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax."
>
> ...

Applying the foregoing principle, the Court will proceed to determine whether petitioner complied with the aforementioned requisites. For an orderly discussion, We shall start with the third (3rd) requisite, followed by the first (1st) and second (2nd) requisites, then the fourth (4th) requisite.

<u>THIRD (3RD) REQUISITE:</u>
THE CLAIM MUST BE FILED WITHIN TWO (2) YEARS AFTER THE CLOSE OF THE TAXABLE QUARTER WHEN SUCH SALES ARE MADE.

In accordance with Section 112(A) and (C)[82] of the NIRC of 1997, as amended by TRAIN, the administrative claim for refund of unutilized 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 zero-rated sales are made.

Petitioner's present claim covers the 1st to 4th quarters of CY 2019. Counting two (2) years from the close of the subject taxable quarters, petitioner had until the following dates to file its administrative claim, to wit:

Period Covered	Close of the Taxable Quarter	Last Day to File Administrative Claim
1st quarter (01 January to 31 March 2019)	31 March 2019	31 March 2021

[82] Supra at p. 14.

2nd quarter (01 April to 30 June 2019)	30 June 2019	30 June 2021
3rd quarter (01 July to 30 September 2019)	30 September 2019	30 September 2021
4th quarter (01 October to 31 December 2019)	31 December 2019	31 December 2021

Hence, petitioner timely filed its administrative claim for VAT refund concerning the foregoing period with respondent on 31 March 2021.[83]

As to the timeliness of petitioner's judicial claim, respondent had ninety (90) days or until 29 June 2021, to decide on petitioner's administrative claim. However, considering that during the said period, enhanced community quarantine (**ECQ**) and modified enhanced community quarantine (**MECQ**) were imposed due to corona virus disease 2019 (**COVID-19**) pandemic[84], thereby further extending the 90-day period to act, and taking into account the additional thirty (30) days after the lifting thereof *per* RR No. 27-20[85], the 90-day to act now began to run on 14 June 2021. Be that as it may, additional ECQ and MECQ were imposed during the concerned period[86] further extending the 90-day period to act to 21 November 2021.

83 Exhibits "P-28" and "P-29", Division Docket, Volume II, pp. 982-998.

84

Dates	Imposed Quarantine Restriction	Number of days	COVID-19-related Issuances
01 April 2021 to 30 April 2021	ECQ/MECQ	30	Memorandum from the Executive Secretary from 27 March 2021; IATF-EID Resolution No. 108-A, 04 April 2021; IATF-EID Resolution No. 109-A, 10 April 2021
01 May 2021 to 14 May 2021	MECQ	14	IATF-EID Resolution No. 113-A, 29 April 2021
Total		**44**	

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

86

Dates	Imposed Quarantine Restriction	Number of days	COVID-19-related Issuances
06 August 2021 to 20 August 2021	ECQ	15	IATF-EID Resolution No. 130-A, 29 July 2021
21 August 2021 to 31 August 2021	MECQ	11	IATF-EID Resolution No. 134, 19 August 2021

Considering respondent was unable to act on petitioner's administrative claim within the said 90-day period, petitioner had 30 days from the expiration of the same, or until 21 December 2021, to file a judicial claim. Given that petitioner filed the instant Petition for Review on 17 December 2021[87], the same was timely filed within the reglementary period. Such being the case, the Court finds that petitioner satisfied the above-stated 3rd *requisite*.

FIRST (1ST) REQUISITE:
PETITIONER MUST BE VALUE-ADDED TAX (VAT)-REGISTERED.

Undeniably, petitioner is a VAT-registered taxpayer with TIN 266-369-565-000, as shown in its BIR Certificate of Registration (**COR**) Number OCN 9RC0000530550.[88] Thus, petitioner complied with the *1st requisite.*

SECOND (2ND) REQUISITE:
PETITIONER MUST BE ENGAGED IN SALES WHICH ARE ZERO-RATED OR EFFECTIVELY ZERO-RATED.

The *2nd requisite* requires that the taxpayer be engaged in zero-rated or effectively zero-rated sales. Petitioner claims that its reported zero-rated sales/receipts for CY 2019 consisted of — (1) export sales of goods to nonresident foreign affiliates doing business outside the Philippines; and (2) sales to duly registered RE developers, detailed as follows:[89]

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	CY 2019
Halliburton Energy Services (Malaysia) Sdn Bhd		₱53,242.03			₱53,242.03

01 September 2021 to 07 September 2021	MECQ	7	IATF-EID Resolution No. 135-A, 26 August 2021
08 September 2021 to 15 September 2021	MECQ	8	IATF-EID Resolution No. 137, 07 September 2021
Total		**41**	

87 Supra at note 1.
88 Supra at note 5.
89 Par. 7, Petition for Review, supra at note 1, p. 8.

Halliburton Drilling Technologies, Inc.		288,647.04			288,647.04
Halliburton Energy Services, Inc.			₱262,119.58		262,119.58
Halliburton AS				₱2,016,631.42	2,016,631.42
Export Sales of Goods to Non-Resident Foreign Affiliates		***₱341,889.07***	***₱262,119.58***	***₱2,016,631.42***	***₱2,620,640.07***
Energy Development Corporation (EDC)	₱74,455,984.27	20,117,259.95	71,706,095.46	72,674,593.88	238,953,933.56
Philippine Geothermal Production Company (PGPC)	1,056,707.74			314,989.21	1,371,696.95
Sales to RE developers	***₱75,512,692.01***	***₱20,117,259.95***	***₱71,706,095.46***	***₱72,989,583.09***	***₱240,325,630.51***
Total Sales	**₱75,512,692.01**	**₱20,459,149.02**	**₱71,968,215.04**	**₱75,006,214.51**	**₱242,946,270.58**

i. EXPORT SALES OF GOODS TO NONRESIDENT FOREIGN AFFILIATES DOING BUSINESS OUTSIDE THE PHILIPPINES

Petitioner maintains that during the 1st to 4th quarters of CY 2019, it generated zero-rated sales from its export sales to nonresident foreign affiliates doing business outside the Philippines under Section 106(A)(2)(a)(1)[90] of the NIRC of 1997, as amended.

To qualify as zero-rated under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, the following essential elements must be present:

---

[90] **SEC. 106.** *Value-Added Tax on Sale of Goods or Properties.* –
(A) *Rate and Base of Tax.* – There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, a value-added tax equivalent to twelve percent (12%) of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor.
...
(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
(a) *Export Sales.* - The term '*export sales*' means:
(1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)[.]

1. The sale was made by a VAT-registered person;

2. There was a sale and actual shipment of goods from the Philippines to a foreign country; and,

3. The sale was paid for in acceptable foreign currency accounted for in accordance with the rules and regulations of the BSP.

The *first* essential element is undisputed.

As for the *second* essential element, Sections 113(A)(1), (B)(1) and (2)(c) of the NIRC of 1997, as amended, and Sections 4.113-1(A)(1), (B)(1) and (2)(c) of RR No. 16-05[91], respectively provide:

> ...
> **SEC. 113.** *Invoicing and Accounting Requirements for VAT-Registered Persons.* —
>
> (A) *Invoicing Requirements.* — A VAT-registered person shall issue:
>
> 1. **A VAT invoice for every sale, barter or exchange of goods or properties**; and
>
> 2. A VAT official receipt for every lease of goods or properties, and for every sale, barter 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:
>
>   (a) The amount of the tax shall be shown as a separate item in the invoice or receipt;

y

[91] Supra at note 21.

(b) If the sale is exempt from value-added tax, the term '**VAT-exempt sale**' shall be written or printed prominently on the invoice or receipt;

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

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the **breakdown** of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: *Provided*, That the seller may issue separate invoices or receipts for the taxable, exempt, and **zero-rated** components of the sale.[92]

...

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

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

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

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

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

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

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

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

7

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92 Emphasis and italics in the original text.

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

    a. The amount of tax shall be shown as a separate item in the invoice or receipt;
    b. If the sale is exempt from VAT, the term "VAT-exempt sale" shall be written or printed prominently on the invoice or receipt;
    c. If the sale is subject to zero percent (0%) VAT, the term "**zero-rated sale**" shall be **written** or **printed prominently** on the invoice or receipt;
    d. If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the **break-down** of the sale price between its taxable, exempt and **zero-rated** components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.[93]

...

From the above provisions, any VAT-registered person claiming VAT zero-rating in relation to export sales of goods must present the following documents: (1) SI as proof of sale of goods showing prominently the term "zero-rated sale"; and (2) Bill of lading or airway bill as proof of actual shipment of goods from the Philippines to a foreign country.

In addition to the above requirements[94], the SIs supporting the export sales must be duly registered with the BIR and must contain all the required information, pursuant to Sections 237 and 238 of the NIRC of 1997, as amended, *viz*:

...
SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* — All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date

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[93] Emphasis supplied and italics in the original text.
[94] See *Eastern Telecommunications Phils. Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, 25 March 2015.

of transaction, quantity, unit cost and description of merchandise or nature of service. ...

...

SEC. 238. *Printing of Receipts or* ***Sales*** *or* ***Commercial Invoices***. — All persons who are engaged in business shall secure from the Bureau of Internal Revenue **an authority to print receipts or sales or commercial invoices before a printer can print the same.**

No authority to print receipts or **sales or commercial invoices** shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.[95]

...

To summarize the foregoing requirements, the following information should be reflected in the VAT invoice or OR:

1. A statement that the seller is a VAT-registered person, followed by its TIN;

2. The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT, provided that: (**a**) the amount of tax shall be shown as a separate item in the invoice or receipt; (**b**) if the sale is exempt from VAT, the term "VAT exempt sale" shall be written or printed prominently on the invoice or receipt; (**c**) if the sale is subject to 0% VAT, the term "zero-rated sale" shall be written or printed prominently on the invoice or receipt; or (**d**) if the sale involves goods, properties or services, some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the breakdown of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale;

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[95] Emphasis supplied and italics in the original text.

3. In the case of sales in the amount of ₱1,000.00 or more, where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and TIN of the purchaser, customer or client;

4. Date of transaction; and

5. Quantity, unit cost and description of merchandise or nature of service.[96]

Tellingly, Revenue Memorandum Circular (**RMC**) No. 42-03[97] expressly provides that a taxpayer's failure to comply with the invoicing requirements will result in the disallowance of the claim for input tax, as follows:

> ...
>
> Q-13: *Should penalty be imposed on TCC application for failure of claimant to comply with certain* ***invoicing requirements****, (e.g., sales invoices must bear the TIN of the seller)?*
>
> A-13: Failure by the supplier to comply with the invoicing requirements on the documents supporting the sale of goods and services will result [in] the disallowance of the claim for input tax by the purchaser-claimant.
>
> If the claim for refund/TCC is based **on the existence of zero-rated sales by the taxpayer** but **it fails to comply with the invoicing requirements in the issuance of sales invoices (e.g., failure to indicate the TIN), its claim for tax credit/refund of VAT on its purchases shall be <u>denied</u>** considering that the invoice it is issuing to its customers does not depict its being a VAT-registered taxpayer whose sales are classified as zero-rated sales. Nonetheless, this treatment is without prejudice to the right of the taxpayer to charge the input taxes to the appropriate expense account or asset account subject to depreciation, whichever is applicable. Moreover, the case shall be referred by the processing office to the concerned BIR office for verification of other tax liabilities of the taxpayer.[98]
>
> ...

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96 See *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732 27 April 2007.

97 Clarifying Certain Issues Raised Relative to the Processing of Claims for Value-Added Tax (VAT) Credit/Refund, Including Those Filed with the Tax and Revenue Group, One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center, Department of Finance (OSS) by Direct Exporters.

98 Italics in the original text, emphasis and emphasis supplied.

Thus, only export sales supported by documents compliant with the above-stated requirements shall qualify for VAT zero-rating under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended.

To prove its export sales of ₱2,620,640.07, petitioner presented SIs and shipment waybills, except for the amount of ₱288,647.04, as shown below:

Summary Reference (Annexed to Exhibit "P-36-3")	Customer Name	Date	Billing Statement	SI	Shipment Waybill	Amount of Export Sales
			Exhibit No.			
Supported only by a billing statement						
Annex B-5	Halliburton Drilling Technologies Inc	May 1, 2019	"P-533"	-	-	₱288,647.04
					Sub-total	**₱288,647.04**
Supported by SIs and shipment waybills						
Annex B-5	Halliburton Energy Services Malaysia SDN BHD	16 April 2019	-	"P-534"	"P-535"	53,242.03
Annex B-5	Halliburton Energy Services Inc.	25 July 2019	-	"P-536"	"P-537"	262,119.58
Annex B-5	Halliburton AS	17 December 2019	-	"P-538"	"P-539"	2,016,631.42
					Sub-total	**₱2,331,993.03**
Total export sales of goods to non-resident foreign affiliates						**₱2,620,640.07**

However, We note that the SIs supporting petitioner's export sales of ₱2,331,993.03 were not duly registered with the BIR as required under Sections 237 and 238 of the NIRC of 1997, as amended. Also, petitioner's TIN and the term "zero-rated sale" were not indicated on the said SIs, which are clear violations of the invoicing requirements. Consequently, petitioner failed to satisfy the *second* essential element.

In sum, petitioner's claimed export sale of goods to its nonresident foreign affiliates amounting to ₱2,620,640.07, failed to qualify for VAT zero-rating under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended.

ii. SALES TO RENEWABLE ENERGY (RE) DEVELOPERS

Petitioner alleges that its sales to EDC and PGPC, RE developers, are zero-rated pursuant to Section 15(g)[99] of RA 9513 in relation to Section 108(B)(3)[100] of the NIRC of 1997, as amended.

Based on its "Schedule of Zero-Rated Sale of Services and Schedule of Zero-Rated Sale of Goods"[101], petitioner's reported sales to EDC and PGPC can be further broken down as follows:

	EDC	PGPC	Total Sales/Receipts
Sales of goods	₱25,024,685.82	-	₱25,024,685.82
Sales of services	213,929,247.71	₱1,371,696.95	215,300,944.66
Total Sales/Receipts	**₱238,953,933.53**	**₱1,371,696.95**	**₱240,325,630.48**

Before We delve on whether the aforesaid sales qualify for VAT zero-rating, We shall *first* determine whether petitioner complied with the pertinent invoicing requirements.[102]

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99 **Sec. 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.

All RE Developers shall be entitled to zero-rated value added tax on [their] 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.

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

...

(B) *Transactions Subject to Zero Percent (0%) Rate.* — ...

...

(3) Services rendered to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects the supply of such services to zero percent (0%) rate[.]

101 Exhibits "P-551" and "P-552", USB (Exhibit "P-36-5").

102 Supra at pp. 22-23.

As previously discussed, the invoicing requirements require that BIR-registered VAT SIs must support the sale of goods, whereas BIR-registered VAT ORs must substantiate the sale of services.[103] The SIs and ORs must contain all the information required under the said law and regulations.

With regard to petitioner's sales of goods to EDC in the amount of ₱25,024,685.82, petitioner presented the billing statements[104] it issued, instead of BIR-registered SIs, hence, the same shall be disallowed.

As to petitioner's sales of services to EDC and PGPC in the total amount of ₱215,300,944.66, petitioner presented BIR-registered VAT ORs, summarized as follows:

Summary[105]/ Folder[106] Reference	Exh. No.	Customer Name	OR No.	OR Date	Amount of Sales		
					Per OR	*Per* Schedule[107]	Difference
Annex B-1	"P-436"	EDC	6510	21 June 2019	₱4,823,428.35	₱4,921,865.65	(₱98,437.30)
Annex B-1	"P-439"	EDC	6515	05 July 2019	9,194,627.61	9,382,273.07	(187,645.46)
Annex B-1	"P-443"	EDC	6516	26 July 2019	8,772,798.33	8,951,835.03	(179,036.70)
Annex B-1	"P-448"	EDC	6517	12 July 2019	13,081,736.65	13,348,710.87	(266,974.22)
Annex B-1	"P-451"	EDC	6518	19 July 2019	4,670,256.02	4,765,567.37	(95,311.35)
Annex B-1	"P-454"	EDC	6519	31 July 2019	337,751.86	341,163.49	(3,411.63)
Annex B-1	"P-459""	EDC	6520	23 August 2019	4,058,891.79	4,141,726.00	(82,834.21)
Annex B-1	"P-462"	EDC	6521	27 August 2019	1,382,528.43	1,410,743.60	(28,215.17)
Annex B-1	"P-467"	EDC	6522	18 September 2019	16,700,240.31	17,041,061.54	(340,821.23)
Annex B-1	"P-470"	EDC	6523	25 September 2019	12,076,554.19	12,323,014.48	(246,460.29)
Annex B-1	"P-475"	EDC	6525	04 October 2019	668,621.70	682,267.04	(13,645.34)
Annex B-1	"P-556"	EDC	6526	11 October 2019	1,313,440.98	1,340,245.90	(26,804.92)
Annex B-1	"P-480"	EDC	6527	08 November 2019	6,261,154.93	6,388,933.60	(127,778.67)
Annex B-1	"P-486"	EDC	6528	29 November 2019	14,652,752.74	14,951,788.52	(299,035.78)
Annex B-1	"P-489"	EDC	6529	06 December 2019	1,274,393.77	1,300,912.01	(26,518.24)

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103 See *Kepco Philippines Corporation v. Commissioner of Internal Revenue*, G.R. No. 181858, 24 November 2010.

104 Exhibits "P-531" and "P-532", Annex B-4, USB (Exhibit "P-36-5"); summarized in Annex B-4, ICPA Supplemental Report (Exhibit "P-36-3"), Division Docket, Volume I, p. 644.

105 Division Docket, Volume I, pp. 640-642.

106 USB (Exhibit "P-36-5").

107 Exhibit "P-551", USB.

Annex B-1	"P-494"	EDC	6530	26 December 2019	22,727,502.99	22,985,761.00	(258,258.01)
Annex B-2	"P-499"	EDC	6505	04 January 2019	12,582,067.12	12,838,843.99	(256,776.87)
Annex B-2	"P-505"	EDC	6506	27 March 2019	12,603,671.98	12,860,889.88	(257,217.90)
Annex B-2	"P-510"	EDC	6507	13 March 2019	13,447,219.26	13,721,652.31	(274,433.05)
Annex B-2	"P-514"	EDC	6508	20 March 2019	1,308,723.26	1,335,431.90	(26,708.64)
Annex B-2	"P-515"	EDC	6509	20 March 2019	16,908,786.02	17,253,863.35	(345,077.33)
Annex B-2	"P-522"	EDC	6511	29 March 2019	15,357,221.60	15,670,634.28	(313,412.68)
Annex B-2		EDC			-	774,668.54	(774,668.54)
Annex B-2	"P-525"	EDC	6513	02 May 2019	12,245,332.66	12,495,237.40	(249,904.74)
Annex B-2	"P-529"	EDC	6514	22 May 2019	2,646,153.74	2,700,156.89	(54,003.15)
Subtotal					***₱209,095,856.29***	***₱213,929,247.71***	***(₱4,833,391.42)***
Annex B-1	"P-497"	PGPC	1161	19 March 2019	₱ 1,098,680.96	₱ 1,056,707.74	₱ 41,973.22
Annex B-2		PGPC			-	314,989.21	(314,989.21)
				Subtotal	***₱1,098,680.96***	***₱1,371,696.95***	***(₱273,015.99)***
				Total	**₱210,194,537.25**	**₱215,300,944.66**	**(₱5,106,407.41)**

However, as shown above, the sales/receipts reflected in the supporting ORs amounted only to ₱210,194,537.25, which is lower by ₱5,106,407.41 when compared against the declared sales/receipts in the amount of ₱215,300,944.66. The said discrepancy of ₱5,106,407.41 consisted of the following:

	Amount of Sales		
	EDC	**PGPC**	**Total**
Without supporting ORs	(₱774,668.54)	(₱314,989.21)	(₱1,089,657.75)
With supporting ORs but the amounts indicated therein differ with the amounts shown *per* petitioner's schedule/claim	(4,058,722.88)	41,973.22	(4,016,749.66)
Total discrepancy in sales/receipts	**(₱4,833,391.42)**	**(₱273,015.99)**	**(₱5,106,407.41)**

Petitioner's claimed sales/receipts in the amount of ₱1,089,657.75 must be disallowed for being unsupported by BIR-registered VAT ORs, which is in violation of the substantiation requirements under Section 113(A)(2)[108] of the NIRC of 1997, as amended, and Section 4.113-1(A)(2)[109] of RR No. 16-05.

[108] Supra at p. 19.
[109] Supra at pp. 20-21.

The same holds true as the claimed sales/receipts of ₱4,016,749.66. ICPA Querido noted that the amounts indicated in the ORs were net of withholding tax. However, there was no indication of the amount of gross receipts and the deduction of withholding tax. Neither did petitioner submit the corresponding withholding tax certificates. Such being the case, the amount of ₱4,016,749.66 is deemed not supported by BIR-registered VAT ORs and, thus, must be disallowed.

Moreover, petitioner's claimed sales/receipts in the amount of ₱88,197,856.60 must also be disallowed for being supported by ORs which were dated **outside** the validity period of the ATP (*i.e.,* 07 June 2019 to 06 June 2024) appearing on the ORs, to wit:

Summary[110]/Folder[111] Reference	Exhibit Number	OR No.	OR Date	EDC	PGPC	Total
Annex B-2	"P-497"	1161	19 March 2019	-	₱1,098,680.96	₱1,098,680.96
Annex B-2	"P-499"	6505	04 January 2019	₱12,582,067.12		12,582,067.12
Annex B-2	"P-505"	6506	27 March 2019	12,603,671.98		12,603,671.98
Annex B-2	"P-510"	6507	13 March 2019	13,447,219.26		13,447,219.26
Annex B-2	"P-514"	6508	20 March 2019	1,308,723.26		1,308,723.26
Annex B-2	"P-515"	6509	20 March 2019	16,908,786.02		16,908,786.02
Annex B-2	"P-522"	6511	29 March 2019	15,357,221.60		15,357,221.60
Annex B-2	"P-525"	6513	02 May 2019	12,245,332.66		12,245,332.66
Annex B-2	"P-529"	6514	22 May 2019	2,646,153.74		2,646,153.74
			Total	**₱87,099,175.64**	**₱1,098,680.96**	**₱88,197,856.60**

Although the ATP need not be reflected or indicated in the invoices or ORs because there is no law or regulation requiring it[112], this does not dispense with the statutory requirement of securing an ATP and registering its invoices or ORs before they can be used. Here, petitioner issued unregistered ORs. Consequently, such receipts carry no probative value for purposes of establishing entitlement to a VAT refund.[113]

Thus, out of petitioner's reported sales of services to EDC and PGPC in the amount of ₱215,300,944.66, only that pertaining to EDC in

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110 ICPA Supplemental Report (Exhibit "P-36-3), Division Docket, Volume I, p. 642.

111 USB (Exhibit "P-36-5").

112 See *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, supra at note 96.

113 See *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*, G.R. No. 172378, 17 January 2011.

the amount of ₱121,996,680.65 is properly supported by BIR-registered VAT ORs, computed as follows:

	EDC	PGPC	Total
Amount of reported sales of services	₱213,929,247.71	₱1,371,696.95	₱215,300,944.66
Less: Disallowances			
Without supporting ORs	774,668.54	314,989.21	1,089,657.75
Discrepancy in sales as reflected in the ORs and as declared *per* VAT returns	4,058,722.88	(41,973.22)	4,016,749.66
Sales supported by VAT ORs dated outside the validity period of the ATP appearing on the ORs	87,099,175.64	1,098,680.96	88,197,856.60
Total Disallowances	**₱91,932,567.06**	**₱1,371,696.95**	**₱93,304,264.01**
Sales of services properly supported by BIR- registered VAT ORs	**₱121,996,680.65**	-	**₱121,996,680.65**

Relative thereto, petitioner claims that its sales to EDC, being an RE developer, are subject to 0% VAT, pursuant to Section 15(g) of RA 9513.[114]

We agree.

Section 15(g) of RA 9513, which grants certain tax incentives to RE developers like EDC, provides:

...

CHAPTER VII
GENERAL INCENTIVES

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.

114 Pars. 16-22, Petition for Review, supra at note 1, pp. 12-13.

> **All RE Developers shall be entitled to zero-rated value added tax on [their] 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.[115]
>
> ...

Moreover, Section 13(G)(b)(c), Rule 5 of Department Circular No. DC2009-05-0008 dated 25 May 2009, or the *Implementing Rules and Regulations* (**IRR**) of RA 9513, reads:

> ...
>
> SEC. 13. *Fiscal Incentives for Renewable Energy Projects and Activities*
>
> DOE-certified existing and new RE Developers of RE facilities, including Hybrid Systems, in proportion to and to the extent of the RE component, for both Power and Non-Power Applications, shall be entitled to the following incentives:
>
> ...
>
> *G. Zero Percent Value-Added Tax Rate*
>
> The following transactions/activities 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:
>
> ...
>
> (b) Purchase of local goods, properties and **services needed for the development, construction, and installation of the plant facilities of RE Developers**; and
>
> (c) Whole process of exploration and development of RE sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors.[116]
>
> ...

Based on the foregoing provisions, all RE developers are entitled to zero-rated VAT *on its purchases* of local supply of goods, properties

[115] Emphasis supplied and italics in the original text.
[116] Emphasis supplied and italics in the original text.

and *services needed for the development, construction and installation of plant facilities.* Furthermore, the law declares that the VAT zero-rating applies to the whole process of exploring and developing RE sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors.

Relative thereto, the same IRR of RA 9513 further tells the conditions in availing the incentives and other privileges under the said law. Section 18(A) and (B) thereof reads:

> ...
>
> SEC. 18. *Conditions for Availment of Incentives and Other Privileges –*
>
> *A. Registration/Accreditation with the DOE*
>
> **<u>For purposes of entitlement to the incentives and privileges under the Act, existing and new RE Developers</u>**, and manufacturers, fabricators, and suppliers of locally-produced RE equipment **shall register with the DOE, through the Renewable Energy Management Bureau (REMB)**. The following certifications shall be issued:
>
> ***(1) DOE Certificate of Registration*** **– issued to an RE Developer holding a valid RE Service/Operating Contract.**
>
> For existing RE projects, the new RE Service/Operating Contract shall pre-terminate and replace the existing Service Contract that the RE Developer has executed with the DOE subject to the Transitory Provision in Rule 13, Section 39.
>
> The DOE Certificate of Registration shall be issued immediately upon award of an RE Service/Operating Contract covering an existing or new RE project or upon approval of additional investment.
>
> Any investment added to existing RE projects shall be subject to prior approval by the DOE.
>
> ...
>
> *B. Registration with the Board of Investments (BOI)*
>
> The RE sector is hereby declared a priority investment sector that will regularly form part of the country's Investment Priority Plan (IPP), unless declared otherwise by law.

> **To qualify for the availment of the incentives under Sections 13 and 15 of this IRR, RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment, shall register with the BOI.**
>
> The registration with the BOI shall be carried out through an agreement and an administrative arrangement between the BOI and the DOE, with the end-view of facilitating the registration of qualified RE facilities. The applications for registration shall be favorably acted upon immediately by the BOI, on the basis of the certification issued by the DOE.[117]
>
> ...

As a corollary, Department Circular No. DC2021-12-0042[118], amending Section 18(C) of the IRR of RA 9513, confirms that RE developers are ***automatically*** qualified to avail of the incentives provided for in RA 9513 after securing a DOE COR, *viz*:

> ...
>
> SEC. 18. Conditions for Availment of Incentives and Other Privileges. –
>
> ...
>
> **C. DOE ENDORSEMENT FOR AVAILMENT OF INCENTIVES AND DUTY-FREE IMPORTATIONS OF MACHINERY, EQUIPMENT, AND MATERIALS**
>
> RE Developers and manufacturers, fabricators, and suppliers of locally-produced RE equipment shall be AUTOMATICALLY qualified to avail of the incentives provided for in the Act, OTHER THAN THE INCENTIVE OF DUTY-FREE IMPORTATION OF QUALIFIED MACHINERY, EQUIPMENT, MATERIALS, PARTS AND COMPONENTS, after securing a Certificate of Registration from the DOE.[119]
>
> ...

Thus, in order for the sales of services to an RE developer to qualify for VAT zero-rating as contemplated under RA 9513 and its IRR, the following conditions must be present:

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117 Italics in the original text, emphasis and underscoring supplied.

118 PRESCRIBING AMENDMENTS TO SECTIONS 13(E) AND 18(C) OF DEPARTMENT CIRCULAR NO. DC2009-05-0008, ENTITLED RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 9513, OTHERWISE KNOWN AS "THE RENEWABLE ENERGY ACT OF 2008".

119 Emphasis in the original text and underscoring supplied.

1) The RE developer must be registered with the DOE and the BOI; and

2) The local sales of goods, properties and services to the RE developer are needed for the development, construction, and installation of the RE developer's plant facilities and the whole process of exploration and development of RE sources up to its conversion into power.

As for the *first* condition, petitioner complied when it submitted the following documents:

Particulars	Exhibit No.
Certificate of Registration with the DOE	"P-12-1" to "P-12-5"[120]
Certification from the BOI	"P-13" to "P-14-1"[121]
Endorsement from the DOE to the BIR	"P-16"[122]
BIR VAT Ruling No. 0218-2020 confirming that the sales to EDC are entitled to VAT Zero-rating	"P-15"[123]

The foregoing documents prove that its client, EDC, is an RE developer duly registered with the DOE and BOI.

On the *second* condition, petitioner likewise complied with the same. It presented the contracts[124] it entered into with EDC which show that for the subject period of claim, EDC engaged petitioner's services for directional drilling services for exploration and development of RE sources, *i.e.,* geothermal wells.

In fine, petitioner's sales of services to EDC for CY 2019, duly covered by BIR-registered VAT ORs, in the amount of ₱121,996,680.65, qualify for VAT zero-rating under Section 15(g) of RA 9513, in relation to Section 108(B)(3) of the NIRC of 1997, as amended.

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120 Division Docket, Volume I, pp. 84-88.
121 Id., pp. 89-97.
122 Id., pp. 105-106.
123 Id., pp. 98-104.
124 Exhibits "P-24" to "P-24-1", id., Volume II, pp. 823-954; Exhibits "P-24-2" to "P-24-3", id., pp. 195-208; and Exhibits "P-24-4" to "P-24-5", id., Volume II, pp. 818-822.

In sum, for purposes of the 2^{nd} *requisite*, the Court finds that out of the total reported zero-rated sales/receipts of ₱242,946,270.58, only the zero-rated receipts derived by petitioner from services rendered to EDC for CY 2019 in the amount of ₱121,996,680.65 qualify for VAT zero-rating.

The dissent is of the view that different types of sales transactions impose distinct imprinting requirements. Specifically, Section 113(B)(2)(c)[125] of the NIRC of 1997, as amended, governs purely VAT zero-rated sales transactions, wherein it is required that the term "zero-rated sale" is written or imprinted prominently. On the other hand, Section 113(B)(2)(d)[126] of the NIRC of 1997, as amended, governs mixed-sale transactions wherein only a breakdown of the sale between its taxable, exempt and zero-rated components is enough.

In the instant case, since the subject sale transactions to EDC were purely VAT zero-rated receipts, a 'breakdown' is not enough, the term "zero-rated sale" must also be prominently imprinted or written.

We beg to differ.

Subsections (a), (b), and (c) of Section 113(B)(2)[127] of the NIRC of 1997, as amended, apply to pure transactions, whereas subsection (d) of the same Section[128] applies to mixed-sale transactions. Should a seller be engaged in mixed-sale transactions, he or she or it is required to comply with subsection (d) only, and thus show the breakdown of sales to distinguish the taxable, exempt and the zero-rated components thereof. Nothing in subsection (d) requires the seller to **again** indicate the amount of tax or **again** print the term "exempt" or "zero-rated" on the same invoice (as this would be a redundant exercise). It is sufficient that a breakdown is presented to clearly segregate the sales.

Conversely, should a seller be engaged in pure transactions, then he or she is required to comply with either subsections (a), (b), or (c) only, thus, show the amount of tax as a separate item, or imprint the term "exempt" or "zero-rated" whichever is applicable to the pure

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125 Supra at pp. 20-21.
126 Id.
127 Id.
128 Id.

transaction. Such seller is not necessarily required to comply with subsection (d). It suffices that the applicable term or amount of tax is prominently imprinted or indicated to clearly distinguish the sale reflected on the invoice or OR. Simply stated, as long as the sale transaction type – whether subject to 12% or 0% VAT or exempt – can be readily identified, the imprinting requirement is deemed satisfied. This interpretation aligns with the purpose of the requirement, *i.e.,* to prevent buyers from falsely claiming input VAT from their purchases when no VAT was actually paid to the prejudice of the State[129], without imposing undue burden on taxpayers.

In addition, one of the canons of a sound tax system is administrative feasibility, which means that the tax system should be capable of being effectively administered and enforced with the **least inconvenience to the taxpayer.**[130] Certainly, to require the seller to print the terms "exempt" or "zero-rated" **again** on all copies of the same invoice or receipt, when the nature of the transaction and its classification as either exempt, zero-rated or subject to 12% VAT can already be ascertained through the breakdown provided therein would run counter to the principle of administrative feasibility .

Verily, a 'breakdown' conspicuously showing that the said sale transaction is zero-rated substantially complies with the imprinting requirement under subsection (c). Accordingly, the amounts prominently written on the line directly parallel to the term "VAT ZERO RATED" clearly represent zero-rated sales.

<u>FOURTH (4TH) REQUISITE:</u>
THE CREDITABLE INPUT TAX DUE OR PAID MUST BE ATTRIBUTABLE TO SUCH SALES, EXCEPT THE TRANSITIONAL INPUT TAX, TO THE EXTENT THAT SUCH INPUT TAX HAS NOT BEEN APPLIED AGAINST THE OUTPUT TAX.

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129 See *Panasonic Communications Imaging Corporation of the Philippines (formerly Matsushita Business Machine Corporation of the Philippines) v. Commissioner of Internal Revenue,* G.R. No. 178090, 08 February 2010.

130 See *Renato V. Diaz and Aurora Ma. F. Timbol v. The Secretary of Finance and the Commissioner of Internal Revenue,* G.R. No. 193007, 19 July 2011.

To satisfy the *fourth requisite*, the following conditions must concur:

a. 1st **condition**: the input taxes are due or paid;

b. 2nd **condition**: the input taxes claimed are attributable to zero-rated or effectively zero-rated sales and where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales;

c. 3rd **condition**: the input taxes are not transitional input taxes; and,

d. 4th **condition**: the input taxes have not been applied against output taxes during and in the succeeding quarters.

Petitioner complied with the ***3rd condition*** as its input taxes do not appear to be transitional input taxes since they operate to benefit only newly VAT-registered persons. Also, petitioner is deemed to have complied with the ***4th condition*** after it was established that it deducted the input VAT claim of ₱10,523,339.72 as a "VAT Refund/TCC Claimed" (line 23D) in its Amended Quarterly VAT Return for the 4th quarter of CY 2020[131] preventing thus the carry-over of the said amount unto the succeeding taxable quarters. Accordingly, the subject claim no longer formed part of the excess input VAT of ₱11,201,261.38[132] as of the end of the 4th quarter of CY 2020, to be carried over to the succeeding quarters.

As to the ***1st condition***, petitioner claims that for the 1st to 4th quarters of CY 2019, it had a total amount of input VAT of ₱10,523,339.72 arising from the amortized portion of its input VAT on capital goods purchases exceeding ₱1 million, domestic purchases and importation of goods other than capital goods, domestic purchases of services and services rendered by nonresidents, which is the subject of the present claim for refund, as shown below:[133]

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131 Supra at note 32.
132 Line 29, id.
133 Supra at p. 3.

Source of Input VAT	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	CY 2019
Current input VAT					
Domestic Purchases of Goods other than Capital Goods	₱11,797.35	₱27,388.81	₱46,899.38	₱36,350.11	₱122,435.65
Importation of Goods other than Capital Goods	-	-	-	902,994.00	902,994.00
Domestic Purchases of Services	541,571.88	756,470.12	930,699.24	1,094,093.71	3,322,834.95
Services Rendered by Non-residents	1,685,763.52	1,810,029.95	1,646,368.19	1,019,904.54	6,162,066.20
Subtotal	***₱2,239,132.75***	***₱2,593,888.88***	***₱2,623,966.81***	***₱3,053,342.36***	***₱10,510,330.80***
Deferred input VAT amortized for the period					
Input Tax Deferred on Capital Goods Exceeding P1Million from Previous Quarter	₱13,008.92	₱5,203.56	-	-	₱18,212.48
Less: Input Tax on Purchases of Capital Goods exceeding P1Million deferred for the succeeding period	5,203.56	-	-	-	5,203.56
Subtotal	***₱7,805.36***	***₱5,203.56***	***₱-***	***₱-***	***₱13,008.92***
TOTAL INPUT VAT	₱2,246,938.11	₱2,599,092.44	₱2,623,966.81	₱3,053,342.36	₱10,523,339.72

For purposes of satisfying the ***1st condition***, it is of crucial importance that petitioner provides documents to support its declaration that the input VAT claimed during the subject period was actually due or paid in accordance with Section 110(A) of the NIRC of 1997, as amended[134], which provides:

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

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134 Prior to the changes brought about by Republic Act No. 11976 or "Ease of Paying Taxes Act".

(2) The input tax on domestic purchase or importation of goods or properties by a VAT-registered person shall be creditable:

a. To the purchaser upon consummation of sale and on importation of goods or properties; and
b. To the importer upon payment of the value-added tax prior to the release of the goods from the custody of the Bureau of Customs.

Provided, That the input tax on goods purchased or imported in a calendar month for use in trade or business for which deduction for depreciation is allowed under this Code shall be spread evenly over the month of acquisition and the fifty-nine (59) succeeding months if the aggregate acquisition cost for such goods, excluding the VAT component thereof, exceeds One million pesos (P1,000,000): *Provided, however*, That if the estimated useful life of the capital good is less than five (5) years, as used for depreciation purposes, then the input VAT shall be spread over such a shorter period: *Provided, further*, That the amortization of the input VAT shall only be allowed until December 31, 2021 after which taxpayers with unutilized input VAT on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized. *Provided, finally*, That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or free.[135]

...

The above provisions are implemented by Sections 4.110-1 to 4.110-3 of RR No. 16-05, as amended by RR No. 13-18[136], which provide as follows:

...

SEC. 4.110-1. ***Credits For Input Tax.*** — *'Input tax'* means the VAT due on or paid by a VAT-registered person on importation of goods or local purchases of goods, properties, or services, including lease or use of properties, in the course of his trade or business. It shall also include the transitional input tax and the presumptive input tax determined in accordance with Sec. 111 of the Tax Code.

It includes input taxes which can be directly attributed to transactions subject to the VAT plus a ratable portion of any input tax which cannot be directly attributed to either the taxable or exempt activity.

Any input tax on the following transactions evidenced by a VAT invoice or official receipt issued by a VAT-registered person in

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135 Emphasis supplied and italics in the original text.

136 Regulations Implementing the Value-Added Tax Provisions under the Republic Act (RA) No. 10963, or the "Tax Reform for Acceleration and Inclusion (TRAIN)," Further Amending Revenue Regulations (RR) No. 16-2005 (Consolidated Value-Added Tax Regulations of 2005), as Amended.

accordance with Secs. 113 and 237 of the Tax Code shall be creditable against the output tax:

a. Purchase or importation of goods

1. For sale; or
2. For conversion into or intended to form part of a finished product for sale, including packaging materials; or
3. For use as supplies in the course of business; or
4. For use as raw materials supplied in the sale of services; or
5. For use in trade or business for which deduction for depreciation or amortization is allowed under the Tax Code.

b. Purchase of real properties for which a VAT has actually been paid;
c. Purchase of services in which a VAT has actually been paid;
d. Transactions "deemed sale" under Sec. 106 (B) of the Tax Code;
e. Transitional input tax allowed under Sec. 4.111 (a) of these Regulations;
f. Presumptive input tax allowed under Sec. 4.111 (b) of these Regulations;
g. Transitional input tax credits allowed under the transitory and other provisions of these Regulations.

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

a. To the importer upon payment of VAT prior to the release of goods from customs custody;
b. To the purchaser of the domestic goods or properties upon consummation of the sale; or
c. To the purchaser of services or the lessee or licensee upon payment of the compensation, rental, royalty or fee.

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

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

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

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

...

(c) The amortization of the input VAT shall only be allowed until December 31, 2021 after which taxpayers with unutilized input VAT on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized: *Provided,* That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or fee.[137]

...

Meanwhile, Sections 4.110-8(a) and (d) and 4.114-2(b) of RR No. 16-05, as amended by RR No. 04-07[138], provide for the substantiation requirements of input tax credits, as follows:

...

SEC. 4.110-8. ***Substantiation of Input Tax Credits.*** —

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

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

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137 Emphasis supplied and italics in the original text.

138 Amending Certain Provisions of Revenue Regulations No. 16-2005, As Amended, Otherwise Known as the Consolidated Value-Added Tax Regulations of 2005.

(2) For the domestic purchase of goods and properties — invoice showing the information required under Secs. 113 and 237 of the Tax Code.
(3) For the purchase of real property — public instrument i.e., deed of absolute sale, deed of conditional sale, contract/agreement to sell, etc., together with VAT invoice issued by the seller.
(4) For the purchase of services — official receipt showing the information required under Secs. 113 and 237 of the Tax Code.

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

...

d. Input tax from payments made to non-residents (such as for services, rentals and royalties) **shall be supported by a copy of the Monthly Remittance Return of Value[-]Added Tax Withheld (BIR Form 1600) <u>filed</u> by the resident payor in behalf of the non-resident <u>evidencing remittance</u> of VAT due which was withheld by the payor.**

...

SEC. 4.114-2. ***Withholding of VAT on Government Money Payments and Payments to Non-Residents. —***

...

(b) The government or any of its political subdivisions, instrumentalities or agencies, including GOCCs, as well as private corporations, individuals, estates and trusts, whether large or non-large taxpayers, shall withhold twelve percent (12%) VAT, starting February 1, 2006, with respect to the following payments:

(1) Lease or use of properties or property rights owned by non-residents; and

(2) Other services rendered in the Philippines by non-residents.

In remitting VAT withheld, the withholding agent shall use BIR Form No. 1600 Remittance Return of VAT and Other Percentage Taxes Withheld.

VAT <u>withheld</u> and <u>paid</u> for the non-resident recipient (remitted using BIR Form No. 1600), which VAT is passed on to the resident withholding agent by the non-resident recipient of the income, **may be claimed as input tax by said VAT-registered withholding agent <u>upon filing his own VAT Return</u>**, subject to the rule on allocation of input tax among taxable sales, zero-rated sales and exempt sales. **The duly filed BIR Form No. 1600 is the proof or documentary substantiation for the claimed input tax or input VAT.**[139]

...

The documents also need to comply with the invoicing requirements[140] provided under Sections 113(A)(1), (B)(1) and (2)(c) of the NIRC of 1997, as amended, and Sections 4.113-1(A)(1), (B)(1) and (2)(c) of RR No. 16-05, as amended.

To support the above input VAT, petitioner presented, among others, its suppliers' ORs and invoices[141], importation documents[142], and "Monthly Remittance Return of Value-Added Tax and Other Percentage Taxes Withheld" (BIR Forms No. 1600)[143], which were all examined by ICPA Querido.

Upon review of the ICPA Report and Supplemental ICPA Report, and petitioner's supporting documents, We find that input VAT in the amount of ₱3,971,685.54 must be disallowed for failure to meet the substantiation and invoicing requirements, detailed in the following tabulation:

Supplier's Name	**Summary[144]/ Folder[145] Reference**	**Exhibit No.**	**OR/SI Number**	**OR/SI Date**	**Input VAT Claim**
Domestic purchases of services supported by VAT ORs but the nature of services was not indicated therein; billing statements/invoices referred to in the ORs were not presented in evidence					
HP PPS PHILIPPINES INC.	A-1	"P-37"	OR 003249	June 26, 2019	₱856.03
ICO ASIAPACIFIC PHILIPPINES INC.	A-2	"P-40"	OR 0137	Feb. 20, 2019	9,427.58
OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-2	"P-41"	OR 0008	Aug. 7, 2019	68,437.54

[139] Italics in the original text, emphasis and underscoring supplied.
[140] Supra at pp. 22-23.
[141] Exhibits "P-37" to "P-245", Annexes A-1 to A-21, USB.
[142] Exhibits "P-246" to "P-407", Annex A-22 and Exhibit "P-557", id.
[143] Exhibits "P-408" to "P-429", Annex A-23, id.
[144] ICPA Supplemental Report (Exhibit "P-36-3"), Division Docket, Volume I, pp. 604-638.
[145] USB (Exhibit "P-36-5").

OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-2	"P-42"	OR 0009	Aug. 14, 2019	17,861.54
OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-2	"P-43"	OR 0011	Sep. 4, 2019	63,210.98
OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-2	"P-44"	OR 0013	Sep. 11, 2019	203,487.84
OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-2	"P-45"	OR 0014	Sep. 18, 2019	62,246.88
OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-2	"P-46"	OR 0015	Sep. 25, 2019	25,589.35
OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-2	"P-47"	OR 0018	Oct. 19, 2019	53,431.55
OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-2	"P-48"	OR 0020	Oct. 23, 2019	11,370.00
OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-2	"P-49"	OR 0021	Oct. 30, 2019	22,680.84
OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-2	"P-50"	OR 0022	Nov. 6, 2019	40,687.74
OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-2	"P-51"	OR 0026	Dec. 11, 2019	333,128.82
OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-2	"P-52"	OR 0027	Dec. 18, 2019	22,950.52
OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-2	"P-53"	OR 0028	Dec. 25, 2019	13,361.11
OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-2	"P-54"	OR 0029	Dec. 31, 2019	85,148.28
SGV&CO	A-2	"P-55"	OR MK00115021	May 15, 2019	13,396.92
SGV&CO	A-2	"P-56"	OR MK00119983	June 27, 2019	31,808.28
SGV&CO	A-2	"P-57"	OR MK00119984	June 27, 2019	31,808.28
SGV&CO	A-2	"P-58"	OR MK00125256	Nov. 6, 2019	31,928.04
SGV&CO	A-2	"P-59"	OR MK00126489	Dec. 4, 2019	28,233.60

OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-3	"P-61"	OR 0010	Aug. 28, 2019	57,194.73
OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-3	"P-62"	OR 0017	Oct. 2, 2019	101,844.91
OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-3	"P-63"	OR 0019	Oct. 16, 2019	1,792.11
OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-3	"P-64"	OR 0023	Nov. 13, 2019	32,369.52
OILSERVE TRADING - LOREMAR A. SAN PEDRO	A-3	"P-65"	OR 0025	Dec. 4, 2019	27,825.73
DHL EXPRESS (PHILIPPINES) CORP.	A-4	"P-66"	OR 4002137	Oct. 7, 2019	212.26
DHL EXPRESS (PHILIPPINES) CORP.	A-4	"P-67"	OR 4034397	Dec. 5, 2019	30.00
DHL EXPRESS (PHILIPPINES) CORP.	A-4	"P-68"	OR 4035727	Nov. 21, 2019	79.20
DHL EXPRESS (PHILIPPINES) CORP.	A-4	"P-69"	OR 4038979	Dec. 2, 2019	79.20
DHL EXPRESS (PHILIPPINES) CORP.	A-4	"P-70"	OR 4065488	Dec. 27, 2019	30.00
TECHNOLOGY EXPORTS SERVICES CORP.	A-4	"P-76"	OR 0476	Aug. 1, 2019	39,903.85
TECHNOLOGY EXPORTS SERVICES CORP.	A-4	"P-77"	OR 0486	Oct. 15, 2019	2,813.52
TECHNOLOGY EXPORTS SERVICES CORP.	A-4	"P-78"	OR 0488	Oct. 30, 2019	36,593.29
TECHNOLOGY EXPORTS SERVICES CORP.	A-4	"P-79"	OR 0497	Dec. 25, 2019	4,689.96
TECHNOLOGY EXPORTS SERVICES CORP.	A-4	"P-80"	OR 0494	Dec. 5, 2019	8,702.76
BUSINESS PROCESS OUTSOURCING INTERNATIONAL, INC.	A-5	"P-81"	OR 0105768	July 10, 2019	1,344.00
25HP PPS PHILIPPINES INC.	A-5	"P-82"	OR 003021	Feb. 28, 2019	822.62

HP PPS PHILIPPINES INC.	A-5	"P-83"	OR 003188	Apr. 17, 2019	761.45
TECHNOLOGY EXPORTS SERVICES CORP.	A-5	"P-84"	OR 0453	Feb. 28, 2019	34,787.53
TECHNOLOGY EXPORTS SERVICES CORP.	A-5	"P-85"	OR 0459	Mar. 27, 2019	34,787.53
TECHNOLOGY EXPORTS SERVICES CORP.	A-5	"P-86"	OR 0465	May 3, 2019	34,787.53
TECHNOLOGY EXPORTS SERVICES CORP.	A-5	"P-87"	OR 0468	May 29, 2019	34,787.53
TECHNOLOGY EXPORTS SERVICES CORP.	A-5	"P-88"	OR 0473	June 26, 2019	34,787.53
TECHNOLOGY EXPORTS SERVICES CORP.	A-5	"P-89"	OR 0492	Nov. 28, 2019	34,787.53
QUISUMBING TORRES LAW OFFICES	A-7	"P-98"	OR 036772	Jan. 31, 2019	1,529.03
SISON CORILLO PARONE & CO.	A-7	"P-102"	OR 010939	Feb. 8, 2019	14,520.00
OILSERVE TRADING - LARA MAY G. AGUILAR	A-9	"P-104"	OR 0545	Feb. 13, 2019	151.02
OILSERVE TRADING - LARA MAY G. AGUILAR	A-9	"P-105"	OR 0546	Feb. 20, 2019	24,616.85
OILSERVE TRADING - LARA MAY G. AGUILAR	A-9	"P-106"	OR 0547	Feb. 27, 2019	5,097.41
OILSERVE TRADING - LARA MAY G. AGUILAR	A-9	"P-107"	OR 0548	Mar. 6, 2019	486.00
OILSERVE TRADING - LARA MAY G. AGUILAR	A-9	"P-108"	OR 0550	Mar. 20, 2019	52,603.75
OILSERVE TRADING - LARA MAY G. AGUILAR	A-9	"P-109"	OR 0551	Mar. 27, 2019	7,881.60
OILSERVE TRADING- LARA MAY G. AGUILAR	A-9	"P-110"	OR 0552	Apr. 3, 2019	100,313.24
OILSERVE TRADING - LARA MAY G. AGUILAR	A-9	"P-111"	OR 0555	May 1, 2019	70,557.81
OILSERVE TRADING - LARA MAY G. AGUILAR	A-9	"P-112"	OR 0556	Mar. 8, 2019	4,080.00
OILSERVE TRADING - LARA MAY G. AGUILAR	A-9	"P-113"	OR 0557	May 15, 2019	51,011.36
OILSERVE TRADING- LARA MAY G. AGUILAR	A-9	"P-114"	OR 0559	May 22, 2019	25,802.17

OILSERVE TRADING - LARA MAY G. AGUILAR	A-9	"P-115"	OR 0560	May 29, 2019	26,714.63
OILSERVE TRADING - LARA MAY G. AGUILAR	A-9	"P-116"	OR 0562	June 12, 2019	6,750.00
OILSERVE TRADING- LARA MAY G. AGUILAR	A-9	"P-117"	OR 0563	June 19, 2019	89,077.30
OILSERVE TRADING - LARA MAY G. AGUILAR	A-9	"P-118"	OR 0564	June 26, 2019	63,464.41
OILSERVE TRADING - LARA MAY G. AGUILAR	A-9	"P-119"	OR 0565	July 3, 2019	36,031.08
OILSERVE TRADING - LARA MAY G. AGUILAR	A-9	"P-120"	OR 0566	July 17, 2019	41,089.92
OILSERVE TRADING - LARA MAY G. AGUILAR	A-9	"P-121"	OR 0567	July 31, 2019	16,188.71
OILSERVE TRADING - LARA MAY G. AGUILAR	A-9	"P-122"	OR 0568	Aug. 7, 2019	698.52
OILSERVE TRADING - LARA MAY G. AGUILAR	A-10	"P-123"	OR 0542	Jan. 30, 2019	34,560.60
OILSERVE TRADING • LARA MAY G. AGUILAR	A-10	"P-124"	OR 0549	Mar. 13, 2019	16,706.50
OILSERVE TRADING • LARA MAY G. AGUILAR	A-10	"P-125"	OR 0569	Sep. 4, 2019	39,502.19
RAJAH TRAVEL CORPORATION	A-12	"P-151"	OR 171653	May 16, 2019	492.00
RAJAH TRAVEL CORPORATION	A-12	"P-154"	OR 175624	June 26, 2019	720.00
RAJAH TRAVEL CORPORATION	A-12	"P-155"	OR 176564	July 03, 2019	708.00
RAJAH TRAVEL CORPORATION	A-12	"P-156"	OR 183534	Sep. 4, 2019	624.00
RAJAH TRAVEL CORPORATION	A-12	"P-157"	OR 185531	Sep. 18, 2019	792.00
RAJAH TRAVEL CORPORATION	A-12	"P-158"	OR 188974	Oct. 14, 2019	564.00
RAJAH TRAVEL CORPORATION	A-12	"P-159"	OR 191496	Nov. 6, 2019	912.00
RAJAH TRAVEL CORPORATION	A-12	"P-160"	OR 194594	Nov. 27, 2019	360.00
RAJAH TRAVEL CORPORATION	A-12	"P-161"	OR 196780	Dec. 12, 2019	216.00
TECHNOLOGY EXPORTS SERVICES CORP.	A-12	"P-163"	OR 0455	Mar. 6, 2019	420.00
TECHNOLOGY EXPORTS SERVICES CORP.	A-12	"P-164"	OR 0463	Apr. 10, 2019	5,216.64

Input VAT claim on domestic purchases of services supported by VAT ORs dated outside the period of claim					
DHL EXPRESS (PHILIPPINES) CORP.	A-4	"P-71"	OR 4069793	Jan. 2, 2020	30.00
DHL EXPRESS (PHILIPPINES) CORP.	A-4	"P-72"	OR 4070118	Jan. 6, 2020	30.00
DHL EXPRESS (PHILIPPINES) CORP.	A-4	"P-73"	OR 4070314	Jan. 8, 2020	30.00
Domestic purchase of goods supported by VAT invoice dated outside the period of claim					
OILSERVE TRADING - LARA MAY G. AGUILAR	A-19	"P-233"	SI 578	Oct. 17, 2018	3,913.91
Domestic purchases of services supported by VAT ORs but petitioner's address indicated therein is different from that shown in its BIR Certificate of Registration (COR); nature of services was not indicated and the billing statements/invoices referred to in the ORs were not presented in evidence					
R.G. MANABAT & CO.	A-1	"P-38"	OR 0025924	Aug. 8, 2019	78,660.00
FERVID INTERNATIONAL PRODUCTS, INC.	A-2	"P-39"	OR 14807	May 1, 2019	22,908.50
FERVID INTERNATIONAL PRODUCTS, INC.	A-3	"P-60"	OR 14811	Jan. 30, 2019	14,601.60
ICO ASIAPACIFIC PHILIPPINES INC.	A-4	"P-74"	OR 0138	Jan. 24, 2019	20,770.93
ICO ASIAPACIFIC PHILIPPINES INC.	A-4	"P-75"	OR 0139	Feb. 21, 2019	4,737.18
FERVID INTERNATIONAL PRODUCTS, INC.	A-7	"P-92"	OR 14808	Dec. 4, 2019	9,989.65
FERVID INTERNATIONAL PRODUCTS, INC.	A-7	"P-93"	OR 14809	Nov. 6, 2019	30,518.60
FERVID INTERNATIONAL PRODUCTS, INC.	A-7	"P-94"	OR 14810	Oct. 9, 2019	23,377.74
FERVID INTERNATIONAL PRODUCTS, INC.	A-7	"P-95"	OR 14813	Dec. 11, 2019	26,886.08
FERVID INTERNATIONAL PRODUCTS, INC.	A-7	"P-96"	OR 14814	Nov. 27, 2019	8,956.40
FERVID INTERNATIONAL PRODUCTS, INC.	A-7	"P-97"	OR 14815	July 31, 2019	32,528.77
BUSINESS PROCESS OUTSOURCING INTERNATIONAL, INC.	A-12	"P-139"	OR 0104818	May 28, 2019	3,288.00
BUSINESS PROCESS OUTSOURCING	A-12	"P-140"	OR 0105531	June 28, 2019	1,344.00

INTERNATIONAL, INC.					
BUSINESS PROCESS OUTSOURCING INTERNATIONAL, INC.	A-12	"P-141"	OR 0107011	Sept. 11, 2019	2,688.00
BUSINESS PROCESS OUTSOURCING INTERNATIONAL, INC.	A-12	"P-142"	OR 0107435	Sep. 30, 2019	1,344.00
BUSINESS PROCESS OUTSOURCING INTERNATIONAL, INC.	A-12	"P-143"	OR 0108616	Dec. 3, 2019	1,344.00
RAJAH TRAVEL CORPORATION	A-12	"P-144"	OR 159976	Feb. 13, 2019	360.00
RAJAH TRAVEL CORPORATION	A-12	"P-145"	OR 155389	Jan. 4, 2019	144.00
RAJAH TRAVEL CORPORATION	A-12	"P-146"	OR 158546	Jan. 30, 2019	912.00
RAJAH TRAVEL CORPORATION	A-12	"P-147"	OR 161678	Feb. 21, 2019	72.00
RAJAH TRAVEL CORPORATION	A-12	"P-148"	OR 165540	Mar. 20, 2019	2,280.00
RAJAH TRAVEL CORPORATION	A-12	"P-149"	OR 166290	Mar. 27, 2019	144.00
RAJAH TRAVEL CORPORATION	A-12	"P-150"	OR 162566	Apr. 3, 2019	288.00
RAJAH TRAVEL CORPORATION	A-12	"P-152"	OR 171656	May 2, 2019	726.00
RAJAH TRAVEL CORPORATION	A-12	"P-153"	OR 171533	May 8, 2019	1,080.00
Domestic purchases of services supported by VAT ORs but without the phrase "THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE PERMIT TO USE" as required under RR 10- 2015, as amended by RR 16-2018; nature of services was not indicated and the billing statements/invoices referred to in the ORs were not presented in evidence					
SGV&CO	A-6	"P-90"	OR MK00128151	Jan. 16, 2020	15,832.38
SGV&CO	A-6	"P-91"	OR MK00128152	Jan. 16, 2020	15,832.38
SGV&CO	A-7	"P-99"	OR MK00112986	Apr. 12, 2019	16,040.35
SGV&CO	A-7	"P-100"	OR MK00112987	Apr. 12, 2019	15,872.72
SGV&CO	A-7	"P-101"	OR MK00118658	June 14, 2019	48,940.80
SGV&CO	A-8	"P-103"	OR MK00113004	Apr. 12, 2019	63,000.00
SGV&CO	A-12	"P-162"	OR MK00110592	Mar. 7, 2019	16,031.93
Domestic purchases of services supported by documents other than VAT ORs					
BUSINESS PROCESS OUTSOURCING INTERNATIONAL, INC.	A-11	"P-126"	Billing Statement (BS) 0023329	Dec. 1, 2018	1,344.00
BUSINESS PROCESS OUTSOURCING INTERNATIONAL, INC.	A-11	"P-127"	BS 0024414	Jan. 1, 2019	1,344.00

BUSINESS PROCESS OUTSOURCING INTERNATIONAL, INC.	A-11	"P-128"	BS 0025277	Feb. 1, 2019	1,344.00
PLDTINC.	A-11	"P-129"	Statement of Account (SOA) 000000109639858	Apr. 17, 2019	420.00
PLDT INC.	A-11	"P-130"	SOA 000000118823688	Sep. 17, 2019	420.00
PLDTINC.	A-11	"P-131"	SOA 000000112365788	Oct. 17, 2019	420.00
PLDT INC.	A-11	"P-132"	SOA 000000112786332	Nov. 17, 2019	420.00
QUISUMBING TORRES	A-11	"P-133"	SI 9515057965	Mar. 27, 2019	7,199.70
ROXAS CRUZ TAGLE AND CO.	A-11	"P-134"	SOA 12782	May 27, 2019	6,900.00
TECHNOLOGY EXPORTS SERVICES CORP.	A-11	"P-135"	Billing Invoice (BI) 0611	Jan. 23, 2019	34,787.53
TECHNOLOGY EXPORTS SERVICES CORP.	A-11	"P-136"	BI 0615	Jan. 31, 2019	34,787.53
TECHNOLOGY EXPORTS SERVICES CORP.	A-11	"P-137"	BI 0773	Aug. 30, 2019	34,787.53
TECHNOLOGY EXPORTS SERVICES CORP.	A-11	"P-138"	BI 0802	Oct. 2, 2019	34,787.53
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-165"	BI D05203418	Jan. 26, 2019	44.22
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-166"	BI D05240950	Feb. 22, 2019	39.60
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-167"	BI D05309530	Apr. 5, 2019	218.96
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-168"	BI MNL0001744399	Apr. 30, 2019	994.95
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-169"	BI D05371070	May 5, 2019	43.56
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-170"	BI MNL0001751116	May 13, 2019	1,629.01
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-171"	BI D05410755	May 17, 2019	39.60
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-172"	BI D05481043	June 9, 2019	39.60
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-173"	BI D05524936	June 25, 2019	161.37

DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-174"	BI D05108377A	July 3, 2019	30.00
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-175"	BI D05519023A	July 3, 2019	39.60
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-176"	BI D05551373	July 4, 2019	39.60
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-177"	BI D05574483	July 12, 2019	39.60
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-178"	BI D05584782	July 14, 2019	39.60
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-179"	BI D05585069	July 14, 2019	110.78
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-180"	BI MNL0001792338	July 22, 2019	210.63
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-181"	BI MNL0001792339	July 22, 2019	2,098.84
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-182"	BI MNL0001796348	July 29, 2019	969.12
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-183"	BI D05669037	Aug. 10, 2019	39.60
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-184"	BI MNL0001805517	Aug. 12, 2019	2,846.34
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-185"	BI D05687978	Aug. 18, 2019	39.60
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-186"	BI D05694142	Aug. 21, 2019	39.60
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-187"	BI MNL0001813419	Aug. 26, 2019	370.39
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-188"	BI D05734010	Sep. 6, 2019	39.60
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-189"	BI D05776094	Sep. 22, 2019	39.60
DHL EXPRESS (PHILIPPINES) CORP.	A-13	"P-190"	BI D05797855	Oct. 1, 2019	39.60
GOLD VENTURE LEASE & MANAGEMENT SERVICES, INC.	A-13	"P-191"	SOA AVS1481	Sep. 23, 2019	480.98
GOLD VENTURE LEASE &	A-13	"P-192"	SOA AVS1492	Oct. 1, 2019	391.04

MANAGEMENT SERVICES, INC.					
HP PPS PHILIPPINES INC.	A-13	"P-193"	BS 0012688	Nov. 20, 2018	790.43
HP PPS PHILIPPINES INC.	A-13	"P-194"	BS 0013773	Feb. 27, 2019	758.59
HP PPS PHILIPPINES INC.	A-13	"P-195"	BS 0014111	Mar. 25, 2019	773.20
HP PPS PHILIPPINES INC.	A-13	"P-196"	BS 0015272	June 18, 2019	715.88
HP PPS PHILIPPINES INC.	A-13	"P-197"	BS 0015700	July 9, 2019	726.82
HP PPS PHILIPPINES INC.	A-13	"P-198"	BS 0016062	Aug. 19, 2019	716.75
HP PPS PHILIPPINES INC.	A-13	"P-199"	BS 0016643	Oct. 16, 2019	698.77
PICASSO RENTAL MANAGEMENT CORP	A-13	"P-200"	SOA 1420	Aug. 27, 2019	1,445.28
SGV&CO	A-13	"P-201"	BILL PHL0100313797	Oct. 28, 2019	15,604.97
Y2 RENTAL MANAGEMENT CORPORATION	A-13	"P-202"	BS 0481	June 4, 2019	293.28
Y2 RENTAL MANAGEMENT CORPORATION	A-13	"P-203"	BS 0485	June 18, 2019	312.83
Y2 RENTAL MANAGEMENT CORPORATION	A-13	"P-204"	BS 0501	Sep. 9, 2019	293.28
Y2 RENTAL MANAGEMENT CORPORATION	A-13	"P-205"	BS 0505	Sep. 6, 2019	293.28
Domestic purchases of services without supporting VAT ORs					
DHL EXPRESS (PHILIPPINES) CORP.	A-14		MNL0001632672		207.63
DHL EXPRESS (PHILIPPINES) CORP.	A-14		D05224337	Feb. 10, 2019	39.60
DHL EXPRESS (PHILIPPINES) CORP.	A-14		D04810600C		71.18
DHL EXPRESS (PHILIPPINES) CORP.	A-14		MNLI000879250		287.77
DHL EXPRESS (PHILIPPINES) CORP.	A-14		MNL0001801979	Aug. 5, 2019	4,155.93
DHL EXPRESS (PHILIPPINES) CORP.	A-14		MNL0001796349	July 29, 2019	1,726.10
DHL EXPRESS (PHILIPPINES) CORP.	A-14		MNL0001796347	July 29, 2019	1,851.61
OILSERVE TRADING	A-14		1900013200000090		9,690.00

OILSERVE TRADING	A-14		583		540.00
OILSERVE TRADING	A-14		1900003400000190		9,690.00
OILSERVE TRADING	A-14		1900022500000090		9,690.00
OILSERVE TRADING	A-14		43		1,020.00
OILSERVE TRADING	A-14		1900033300000070		9,690.00
OILSERVE TRADING	A-14		1900043900000070		9,690.00
OILSERVE TRADING	A-14		1900054700000080		9,690.00
OILSERVE TRADING	A-14		1900064500000080		9,690.00
OILSERVE TRADING	A-14		1900087000000090		9,690.00
OILSERVE TRADING	A-14		1900076600000080		9,690.00
PLDT INC.	A-14		110073592		420.00
PLDT INC.	A-14		110500950		420.00
PLDT INC.	A-14		110936893		420.00
PLDT INC.	A-14		111506484		420.00
PICASSO RENTAL MANAGEMENT CORP.	A-14		1085		1,300.20
PICASSO RENTAL MANAGEMENT CORP.	A-14		1099		146.64
RAJAH TRAVEL CORPORATION	A-14		421816	Mar. 8, 2019	1,788.99
RICOH PHILIPPINES INC	A-14		219239		482.14
SALVADOR LLANILLO & BERNARDO	A-14		10045	Oct. 10, 2019	29,107.97
SALVADOR LLANILLO & BERNARDO	A-14		0010173B	Oct. 31, 2019	14,280.00
SALVADOR LLANILLO & BERNARDO	A-14		10408	Nov. 29, 2019	11,148.00
SUPPLY OILFIELD SERVICES INC	A-14		7020		4,068.94
SUPPLY OILFIELD SERVICES INC	A-14		6321		10,208.07
SUPPLY OILFIELD SERVICES INC	A-14		8762		92.80
SUPPLY OILFIELD SERVICES INC	A-14		8610		110.48
SUPPLY OILFIELD SERVICES INC	A-14		SI 05351A		810.00
SUPPLY OILFIELD SERVICES INC	A-14		8133		16.71
TECHNOLOGY EXPORTS SERVICES CORP.	A-14		403	Oct. 18, 2017	1,938.00

TECHNOLOGY EXPORTS SERVICES CORP.	A-14		589	Nov. 22, 2018	24,902.85
TECHNOLOGY EXPORTS SERVICES CORP.	A-14		588	Nov. 22, 2016	4,583.71
VALERO GRAND SUITES MANAGEMENT CORP	A-14		16584		313.21
Y2 RENTAL MANAGEMENT CORPORATION	A-14		403		488.80
Y2 RENTAL MANAGEMENT CORPORATION	A-14		400		488.80
Y2 RENTAL MANAGEMENT CORPORATION	A-14		412		322.61
Y2 RENTAL MANAGEMENT CORPORATION	A-14		417		273.73
Y2 RENTAL MANAGEMENT CORPORATION	A-14		457		293.28
Y2 RENTAL MANAGEMENT CORPORATION	A-14		443		1,309.98
Y2 RENTAL MANAGEMENT CORPORATION	A-14		441		586.56
Y2 RENTAL MANAGEMENT CORPORATION	A-14		446		293.28
Y2 RENTAL MANAGEMENT CORPORATION	A-14		479		312.83
Y2 RENTAL MANAGEMENT CORPORATION	A-14		477		586.56
Y2 RENTAL MANAGEMENT CORPORATION	A-14		476		322.61
Domestic purchases of goods supported by VAT invoices dated outside the validity period of ATP					
LAURENCE KIER GENERAL MERCHANDISE	A-15	"P-206"	SI 0102	Dec. 27, 2019	2,978.53
LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-213"	SI 0055	July 3, 2019	712.50
LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-214"	SI 0067	July 6, 2019	2,828:57
LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-215"	SI 0068	July 6, 2019	2,351.79

LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-216"	SI 0071	Aug. 4, 2019	3,996.43
LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-217"	SI 0073	Sep. 2, 2019	1,333.93
LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-218"	SI 0076	Sep. 4, 2019	3,616.08
LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-219"	SI 0078	Aug. 9, 2019	5,208.75
LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-220"	SI 0079	Sep. 5, 2019	5,071.61
LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-221"	SI 0080	Sep. 21, 2019	3,799.29
LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-222"	SI 0081	Sep. 21, 2019	5,316.97
LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-223"	SI 0082	Sep. 21, 2019	2,708.58
LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-224"	SI 0084	Sep. 21, 2019	905.36
LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-225"	SI 0089	Nov. 10, 2019	803.57
LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-226"	SI 0091	Nov. 10, 2019	6,471.43
LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-227"	SI 0092	Nov. 10, 2019	2,522.57
LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-228"	510096	Nov. 24, 2019	1,435.72
LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-229"	SI 0097	Nov. 24, 2019	1,368.33
LAURENCE KIER GENERAL MERCHANDISE	A-17	"P-230"	SI 0098	Nov. 24, 2019	1,009.29
LAURENCE KIER GENERAL MERCHANDISE	A-21	"P-244"	SI 0065	July 3, 2019	2,475.00
LAURENCE KIER GENERAL MERCHANDISE	A-21	"P-245"	SI 0072	Aug. 9, 2019	9,214.29
Domestic purchase of goods supported by collection receipt instead of VAT invoice					
HP PPS PHILIPPINES INC.	A-20	"P-243"	Collection Receipt 20756	June 19, 2019	12,094.14
Importation of goods other than capital goods supported by invoice, Bureau of Customs (BOC) OR, and BOC Certification but without Import Entry and Internal Revenue Declaration (IEIRD) or Single Administrative Document (SAD)					

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HALLIBURTON GROUP CANADA	A-22	"P-247"	BOC Form No. 38-A 01896972215	Jan. 22, 2019	11,116.00
HALLIBURTON FAR EAST LTD	A-22	"P-404"	BOC Form No. 38-A 01905584822	Nov. 19, 2019	2,956.00
Services rendered by non-residents supported by BIR Form No. 1600, EFPS Payment Details but date of VAT payment is outside the period of claim					
HALLIBURTON ENERGY SERVICES, HALLIBURTON DRILLING SERVICES, HALLIBURTON TECHNOLOGY SERVICES	A-23"	"P-428", "P-429"		Jan. 10, 2020	540,685.48
Amortization of Input VAT on capital goods purchases exceeding ₱1M without supporting VAT invoice					
ISUZU PHILIPPINES	A-24		SI 844		13,008.92
				TOTAL DISALLOWED INPUT VAT	**₱3,971,685.54**

Based on the foregoing, relative to petitioner's compliance with the ***1st condition***, out of the ₱10,523,339.72 total input VAT claim, only the amount of ₱6,551,654.18 represents petitioner's valid and substantiated input VAT, as computed below:

Input VAT Claim	₱10,523,339.72
Less: Disallowanced Input VAT	3,971,685.54
Valid and Substantiated Input VAT	**₱6,551,654.18**

As for the ***2nd condition***, since petitioner only had zero-rated sales/receipts in the period of claim, the corresponding valid and substantiated input VAT of ₱6,551,654.18 is attributable to its zero-rated sales/receipts. However, as previously intimated, petitioner was able to properly substantiate only the amount of ₱121,996,680.65 out of its total declared zero-rated sales/receipts of ₱242,946,270.58. Thus, with regard to petitioner's compliance with the ***2nd condition***, only the amount of ₱3,289,945.80 represents its valid and substantiated input VAT attributable to its valid zero-rated sales/receipts of ₱121,996,680.65, as computed below:

Valid input VAT attributable to reported zero-rated sales/receipts	₱6,551,654.18
Multiplied by: Valid zero-rated receipts	121,996,680.65
Divided by: Total reported zero-rated sales/receipts	242,946,270.58

Valid input VAT attributable to valid zero-rated sales/receipts	**₱3,289,945.80**

In fine, petitioner has sufficiently proven its entitlement to the refund or issuance of TCC in the amount of ₱3,289,945.80, representing excess and unutilized input VAT attributable to its zero-rated sales for the four (4) quarters of CY 2019.

Claims for the tax refund, like tax exemptions, are construed *strictissimi juris* against the taxpayer. However, when the claim for refund has a clear legal basis and is sufficiently supported by evidence, as in the present case, then the Court shall not hesitate to grant the refund.[146]

WHEREFORE, premises considered, the instant Petition for Review filed on 17 December 2021 by petitioner Halliburton Worldwide Limited – Philippine Branch is hereby **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner, in the reduced amount of **₱3,289,945.80**, representing its unutilized input Value-Added Tax attributable to its zero-rated sales/receipts for the 1st, 2nd, 3rd and 4th quarters of CY 2019.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

With due respect, see Dissenting Opinion
ROMAN G. DEL ROSARIO
Presiding Justice

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146 *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue*, G.R. No. 215159, 05 July 2022.

LANEE S. CUI-DAVID
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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

<u>First Division</u>

HALLIBURTON WORLDWIDE LIMITED - PHILIPPINE BRANCH,
Petitioner,

CTA Case No. 10708

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, and
CUI-DAVID, *<u>JJ.</u>*

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
SEP 30 2025 ; 11:30 AM

x- x

DISSENTING OPINION

DEL ROSARIO, <u>P.J.</u>:

With due respect, I am constrained to withhold my assent on the *ponencia*. While I concur in the disallowance of petitioner's claimed export sales to its nonresident foreign affiliates, I submit that its reported sales of services to Energy Development Corporation (EDC), a renewable energy developer, must likewise be disallowed for failure to comply with the invoicing requirements under Section 113(B)(2)(c) of the National Internal Revenue Code (NIRC) of 1997, as amended. Consequently, petitioner's claim for refund of input value-added tax (VAT) attributable to zero-rated sales for the first to fourth quarters of calendar year 2019 must be **denied in its entirety**.

Section 113(B)(2)(c) and (d) of the NIRC of 1997, as amended, reads:

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

xxx xxx xxx

(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:

xxx xxx xxx

(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**;

(d) If the sale involved goods, properties or services some of which **are subject to and some of which are VAT zero-rated or VAT exempt**, the invoice or receipt shall clearly indicate the **break-down** of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: *Provided*, That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale. x x x" *(Boldfacing and underscoring supplied)*

The above provision is implemented by Section 4.113-1 of Revenue Regulations (RR) No. 16-2005, as amended, which reads:

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

x x x

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

x x x

(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:

x x x

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

(d) If the sale involves goods, properties or services some of which are **subject to and some of which are VAT zero-rated or VAT -exempt**, the invoice or receipt shall clearly indicate the **break-down** of the sale price between

> its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale." *(Boldfacing and underscoring supplied)*

Thus, it is mandated that VAT invoices or official receipts (OR) evidencing zero-rated transactions **must prominently bear the notation "zero-rated sale."** Non-compliance with this invoicing requirement constitutes valid ground for the denial of a claim for refund or tax credit.[1]

The Supreme Court has, in several cases,[2] consistently held that the writing or imprinting of the term "zero-rated sale" on the VAT invoice or OR is an **<u>indispensable</u>** requirement for a valid claim for refund of unutilized input tax. This requirement was traced by the Supreme Court from Section 4.108-1 of RR No. 7-95 and was later incorporated into Section 113(B)(2)(c) of the NIRC of 1997, as amended by Republic Act No. 9337, thereby affirming the validity of the imprinting requirement on VAT invoices or ORs, *viz.*:[3]

> "**RR 7-95, which took effect on 1 January 1996, proceeds from the rule-making authority granted to the Secretary of Finance** by the NIRC for the efficient enforcement of the same Tax Code and its amendments. In *Panasonic Communications Imaging Corporation of the Philippines v. Commissioner of Internal Revenue*, we ruled that this provision is reasonable and is in accord with the efficient collection of VAT from the covered sales of goods and services.' Moreover, we have held in *Kepco Philippines Corporation v. Commissioner of Internal Revenue* that **the subsequent incorporation of Section 4.108-1 of RR 7-95 in Section 113(B)(2)(c) of R.A. 9337 actually confirmed the validity of the <u>imprinting requirement on VAT invoices or official receipts</u> - a case falling under the principle of legislative approval of administrative interpretation by reenactment."** *(Boldfacing and underscoring supplied)*

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[1] *Commissioner of Internal Revenue vs. Philex Mining Corporation*, G.R. No. 230016, November 23, 2020.
[2] *Panasonic Communications Imaging Corporation of the Philippines vs. Commissioner of Internal Revenue*, G.R. No. 178090, February 8, 2010; *J.R.A. Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 177127, October 11, 2010; *Hitachi Global Storage Technologies Philippines Corp. vs. Commissioner of Internal Revenue*, G.R. No. 174212, October 20, 2010; *Kepco Philippines Corporation vs. Commissioner of Internal Revenue*, G.R. No. 181858, November 24, 2010; *Silicon Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 172378, January 17, 2011; *Western Mindanao Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 181136, June 13, 2012; *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.
[3] *Western Mindanao Power Corporation vs. Commissioner of Internal Revenue, id.*

Revenue Memorandum Circular No. 42-2003 expressly provides that where a claim for refund is anchored on zero-rated sales but the taxpayer fails to comply with the invoicing requirements, the claim must be **denied**, *viz.*:

> "Q-13: Should penalty be imposed on TCC application for failure of claimant to comply with certain invoicing requirements, (e.g., sales invoices must bear the TIN of the seller)?
>
> A-13: **Failure by the supplier to comply with the invoicing requirements** on the documents supporting the sale of goods and services will result to the **disallowance** of the claim for input tax by the purchaser-claimant." *(Boldfacing supplied)*

An examination of the ORs[4] submitted by petitioner covering its sales of services to EDC reveals that the words **"zero-rated sale" were neither separately written nor prominently imprinted thereon.**

Although petitioner indicated in the breakdown portion of its VAT ORs the amounts pertaining to "zero-rated sales," which constituted the entire amount of the sale, **such entry did not cure its failure to prominently imprint the phrase "zero-rated sale" on the face of the receipts.** It bears emphasis that the requirement to provide a breakdown of sales and the mandate to imprint "zero-rated sale" are governed by **distinct** provisions of the NIRC of 1997, as amended; specifically, Section 113(B)(2)(d), which pertains to mixed transactions involving VATable, VAT-exempt, or VAT zero-rated sales, and Section 113(B)(2)(c), which prescribes the imprinting requirement in cases of purely VAT zero-rated sales.

Stated differently, **where the transaction consists solely of a VAT zero-rated sale, the VAT OR must prominently bear the phrase "zero-rated sale,"** separate and distinct from any breakdown format, pursuant to Section 113(B)(2)(c) of the NIRC of 1997, as amended. In contrast, for mixed transactions involving VATable, VAT-exempt, or VAT zero-rated sales, the breakdown format contemplated under Section 113(B)(2)(d) applies. **In this case, petitioner's VAT ORs to EDC cover purely zero-rated sales; nonetheless, petitioner failed to comply with the imprinting requirement under Section 113(B)(2)(c).**

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[4] Exhibits "P-436", "P-439", "P-443", "P-448", "P-451", "P-454", "P-459", "P-462", "P-467", "P-470", "P-475", "P-556", "P-480", "P-489", "P-494", and "P-497", Annex "B-1", USB.

If the breakdown format were intended by law to suffice in all types of transactions—whether **mixed transactions <u>or</u> purely zero-rated sales**—there would have been no need for the legislature to craft separate provisions. One provision expressly requires the use of the breakdown format, while another distinctly mandates the prominent imprinting of the phrase "zero-rated sale" in cases involving purely VAT zero-rated transactions.

Section 113 of the NIRC of 1997, as amended, both in its earlier form under Republic Act No. 9337, which governs this case, and in its present form as amended by Republic Act No. 11976 or the "Ease of Paying Taxes Act," prescribes two distinct formats: either invoices bearing the prominent imprint of the phrase "zero-rated sale," **<u>or</u>** invoices employing the breakdown format, depending on the nature of the transaction. Section 113, as amended by RA No. 9337 and RA No. 11976, provides:

RA No. 9337	**RA No. 11976**
SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* – (A) *Invoicing Requirements.* - A VAT-registered person shall issue: (1) A VAT invoice for every sale, barter or exchange of goods or properties; and (2) A VAT official receipt for every lease of goods or properties, and for every sale, barter 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: 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; (d) If the sale involves goods, properties or services	Section 113. Invoicing and Accounting Requirements for VAT-Registered Persons.- (A) Invoicing Requirement. - A VAT-registered person shall issue a VAT invoice for every sale, barter, exchange, or lease of goods or properties, and for every sale, barter or exchange of services. (B) Information Contained in the VAT Invoice. - The following information shall be indicated in the **VAT invoice**: 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 on the invoice**; (d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, **the invoice shall clearly indicate the <u>breakdown</u> of the sale price between**

some of which are subject to and some of which are VAT zero-rated or VAT-exempt, **the invoice or receipt shall clearly indicate the <u>break-down</u> of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt**: *Provided*, That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale. xxx	**its taxable, exempt, and zero-rated components**, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice: *Provided,* That the seller may issue separate invoices for the taxable, exempt, and zero-rated components of the sale. xxx

Notably, the Ease of Paying Taxes Act[5] retained separate provisions for transactions requiring the imprinting of "zero-rated sale" and those subject to the "breakdown format," although with a minor modification in the imprinting requirement, namely, the removal of the word "prominently." The retention of these distinct requirements affirms that **the format mandating the imprinting of "zero-rated sale" is separate and distinct from the "breakdown format" applicable to mixed transactions.**

In several VAT refund cases, this Court has permitted erasures and corrections in invoices or ORs provided these were made by an authorized signatory. This treatment, however, presents the risk of manipulation, particularly when it involves portions reflecting the types and amounts of sales. Unscrupulous taxpayers could alter zero-rated transactions supported only by a breakdown format, without the separate and prominent indication of "zero-rated sale," to make them appear VATable, in order to entitle them to input tax credits. **To prevent this abuse, the requirement of prominently imprinting the term "zero-rated sale" in receipts covering purely zero-rated transactions must be enforced. This safeguard ensures that alterations cannot easily convert zero-rated sales into VATable sales, thereby avoiding the unwarranted use of credits against output tax liability or, worse, the refund of taxes not actually incurred or paid.**

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[5] RA No. 11976.

ALL TOLD, I *VOTE* to **DENY** the Petition for Review for lack of merit, petitioner having failed to establish its zero-rated sales due to non-compliance with substantiation requirements under relevant laws and regulations.

ROMAN G. DEL ROSARIO
Presiding Justice