REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

EDC BURGOS WIND POWER CORPORATION, *Petitioner,*	**CTA CASE NO. 9446 (CTA EB No. 2548)**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: NOV 05 2025 1:00 p.m.

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RESOLUTION

RINGPIS-LIBAN, J.:

Submitted before this Court is respondent's *Motion for Partial Reconsideration (Re: Decision promulgated 19 May 2025)* filed on June 9, 2025, with petitioner's *Comment (Re: Motion for Partial Reconsideration dated June 9, 2025)* filed on June 25, 2025.

On January 31, 2024, the Court *En Banc* rendered an *Amended Decision* in EB Case No. 2548 (CTA Case No. 2446), remanding the case to this Court for the determination of the refundable amount due to petitioner. Accordingly, the Court promulgated a Decision on May 19, 2025, partially granting petitioner's claim for unutilized input value-added tax (VAT) attributable to its zero-rated sales for the first (1st) quarter of calendar year (CY) 2015, the dispositive portion of which reads as follows:

> "**WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**.
>
> Accordingly, respondent is **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner the amount of **₱3,114,588.43**, representing the latter's excess and unutilized input VAT attributable to its zero-rated sales for the 1st quarter of CY 2015.
>
> **SO ORDERED**."

In the motion, respondent argues that the Court erred in ruling that petitioner is entitled to refund the reduced amount of ₱3,114,588.43. Respondent expounds that the Court should have dismissed the *Petition for Review* for petitioner's failure to substantiate its claim for refund in the administrative level. He asserts that since a decision was rendered in the administrative level, the Court's jurisdiction becomes strictly appellate in nature and should only have confined itself to the findings in respondent's decision. Furthermore, respondent contends that petitioner *cannot* submit documents it did *not* submit at the administrative level since the Court is limited to the issue of whether respondent's decision was proper given the evidence submitted during the administrative proceedings.

Lastly, respondent insists that petitioner is *not* entitled to the refund sought considering that there were *no zero-rated sales* reported for the 1st and 2nd quarters of 2014 – thus, no creditable input tax during the same period; there was no direct attribution established between the input taxes and petitioner's zero-rated sales; and, the burden of proof lies on petitioner to establish the factual basis for its claim for refund.

In its *Comment*, petitioner asserts that respondent's motion deserves scant consideration for the following reasons: that this Court is a "court of record" and conducts a trial *de novo* and may give credence to all evidence presented by petitioner, including that which may not have been submitted to respondent; that the National Internal Revenue Code of 1997, as amended, does not impose any requirement that zero-rated sales must be made within the same period during which the input tax subject of the refund claim was paid or incurred; that petitioner has sufficiently established that it incurred input taxes on its purchase of goods and services, as well as its importation of goods and purchases, are attributable to its zero-rated sales of power; and that petitioner presented sufficient evidence to prove its compliance with the requisites for the grant of the VAT refund. As such, petitioner maintains that it is entitled to the refund sought.

After due consideration, the Court finds respondent's *Motion for Partial Reconsideration* bereft of merit.

Again, Section 8 of Republic Act No. 1125, as amended, declares this Court is a *"court of record"*. As such, it is required to conduct a trial *de novo* where the parties must present their evidence anew in order for the Court to take such evidence into consideration.[1] The appealing party must establish that it is entitled to the refund being sought under substantive law. Correspondingly, the Court is authorized to conduct trial *de novo*, and consistent with this principle,

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1 *Commissioner of Internal Revenue v. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.

parties who come to court are required to prove every aspect of their case if they want the Court to take such evidence into consideration.[2]

Furthermore, the power of the Court to exercise its appellate jurisdiction does *not* preclude it from taking into account evidence that was *not* presented in the administrative claim before the Bureau of Internal Revenue (BIR).[3] The question of whether the evidence submitted by a party is sufficient to warrant the granting of its prayer lies within the sound discretion and judgment of the Court. As cases filed before this Court are litigated *de novo*, the Court, is not governed strictly by technical rules of evidence, thus, is not precluded from considering evidence not presented at the administrative level for the paramount consideration remains the ascertainment of truth.[4]

While the Court weighs respondent's arguments, the evidence nonetheless has shown that petitioner was able to sufficiently prove that it was entitled to the grant of its claim. Petitioner satisfied all the evidentiary requirements for its entitlement to the claim of ₱3,114,588.43, as held in the assailed decision:[5]

> "Under the *eighth* requisite, the input taxes claimed must be attributable to zero-rated or effectively zero-rated sales. However, where there are *both* zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes *cannot* be directly and entirely attributable to any of these sales, the input taxes shall be *proportionately allocated on the basis of sales volume.*
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> xxx
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> Section 112(A) of the NIRC of 1997, as amended, does not require that zero-rated sales be generated within the same period as the purchases. However, this provision mandates that in order to claim for a refund/tax credit of input VAT, there must be zero-rated sales or effectively zero-rated sales to which the input VAT sought to be refunded are attributable.
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> For purposes of determining when petitioner can be said to be legally entitled to claim a refund of input tax due or paid, what should matter is not the date when the purchases of goods and services were made, but rather, the date when petitioner's zero-rated sales were made. For indeed, it is only at the time of such sale that petitioner can establish with certainty that the input taxes due or paid were either *directly attributable* or otherwise *allocable* to its zero-rated sales.
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2 *Philippine Airlines, Inc. (PAL) v. Commissioner of Internal Revenue*, G.R. Nos. 206079-80, January 17, 2018; *Commissioner of Internal Revenue v. Philippine National Bank*, G.R. no. 180290, September 29, 2014.

3 *Philippine Airlines, Inc. v. Commissioner of Internal Revenue* and *Commissioner of Internal Revenue v. Philippine Airlines, Inc.*, G.R. Nos. 206079-80 and 206309, January 17, 2018.

4 *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.)*, G.R. No. 231581, April 10, 2019.

5 Decision, pp. 18-23.

Considering that the importations related to the ₱3,115,271.00 valid input VAT were used in the construction of the key components of the petitioner's Burgos Wind Power Project, the said input VAT of ₱3,115,271.00 can be wholly attributed to petitioner's declared zero-rated sales/receipts for the 1st quarter of CY 2015 in the amount of ₱384,474,309.49.

However, as stated earlier, petitioner was able to properly substantiate only the amount of ₱384,390,069.13 out of its total declared zero-rated sales/receipts of ₱384,474,309.49. Thus, with regard to petitioner's compliance with the *eighth* requisite, only the amount of ₱3,114,588.43 represents its valid input VAT attributable to its valid zero-rated sales/ receipts of ₱384,390,069.13:

Valid Input VAT Claim on Importations for the 2nd Quarter of CY 2014	₱3,115,271.00
Divided by:	
Declared Zero-Rated Sales/Receipts for the 1st Quarter of CY 2015	384,474,309.49
Multiplied by:	
Valid Zero-Rated Sales/Receipts for the 1st Quarter of CY 2015	384,390,069.13
Input VAT Attributable to Valid Zero-Rated Sales/Receipts for the 1st Quarter of CY 2015	**₱3,114,588.43**

xxx

In fine, petitioner has sufficiently proven its entitlement to the refund or issuance of tax credit certificate in the amount of ₱3,114,588.43, representing excess and unutilized input VAT attributable to its zero-rated sales for the 1st quarter of CY 2015."

In view of the foregoing and there being no new matter or substantial issue raised by respondent in his *Motion for Partial Reconsideration*, the Court finds no compelling reason to reverse or modify the conclusions reached in the Decision promulgated on May 19, 2025.

ACCORDINGLY, premises considered, respondent's *Motion for Partial Reconsideration (Re: Decision promulgated 19 May 2025)* is **DENIED** for lack of merit.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

We Concur:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice