



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

SPECIAL FIRST DIVISION

CTA CASE NO. 11062

U-DEV CORPORATION,
Petitioner,

- versus -

NOTICE OF DECISION

**COMMISSIONER OF INTERNAL
REVENUE,**
Respondent.

To:

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

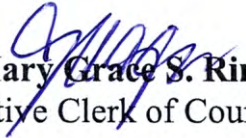
ATTY. FELIX PAUL R. VELASCO III
ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. KARL KENNY M. RAMO
ATTY. LARA NICOLE T. GONZALES
BUREAU OF INTERNAL REVENUE
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P Defensor-Santiago Avenue
Diliman, Quezon City

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285 Vito Cruz Extension corner Metropolitan Avenue
La Paz, Makati City 1204

GREETINGS:

You are hereby notified by these presents that on **September 16, 2026**, a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **September 18, 2026.**


Atty. Mary Grace S. Ringpis
Executive Clerk of Court II

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

SPECIAL FIRST DIVISION

U-DEV CORPORATION, **CTA CASE NO. 11062**

Petitioner,

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, JJ.

-versus-

**COMMISSIONER OF
INTERNAL REVENUE,**

Respondent.

Promulgated:

SEP 16 2026 3:00pm

X- - - - -X

DECISION

CUI-DAVID, J.:

Before this Court is a *Petition for Review* seeking a judgment ordering respondent to grant petitioner a cash refund of ₱26,155,535.43, representing the balance of its administrative claim for refund of unutilized input value-added tax (**VAT**) for taxable years (**TY**) 2020 and 2021, attributable to its VAT zero-rated sales.¹

THE PARTIES

Petitioner U-DEV Corporation is a corporation organized under the laws of the Republic of the Philippines.² It is registered with the Bureau of Internal Revenue (**BIR**) as a VAT taxpayer under Taxpayer Identification Number (**TIN**) 755-974-906-000, with registered address at Km. 15, Daang Maharlika, Brgy. Pandacan Bunawan District, Davao City 8000.³

¹ Docket – Vol. I, p. 18, *Petition for Review*, Prayer.

² *Id.* at 156–159, Exhibits “P-1” and “P-2”.

³ *Id.* at 429, Exhibit “P-3”. Although Exhibit “P-3” was denied admission for failure of the exhibit formally offered to correspond with the document actually identified in the Resolutions dated August 6, 2024, November 15, 2024 and March 31, 2025, Docket – Vol. I, at pp. 455 and 480, and Docket – Vol. II, pp. 507–510, respectively, the duly marked document is actually a certified true copy issued by Abolhasan S. Balindong, Asst. Revenue District Officer, hence, a public document which is self-authenticating. Refer to *Asian Terminals, Inc. v. Philam Insurance Co., Inc. (now Chartis Philippines Insurance, Inc.), et seq.*, G.R. Nos. 181163, 181262 & 181319, July 24, 2013. Also, respondent found that petitioner is a VAT-registered entity, Refer to Exhibit “R-3”, BIR Records (Exhibit “R-5”), at p. 385.

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Respondent is the duly appointed Commissioner of Internal Revenue (**CIR**) who is tasked to assess and collect all national internal revenue taxes, fees, and charges, and enforce all forfeitures, penalties, and fines connected therewith, and holds office at the BIR National Office Building, Senator Miriam P. Defensor-Santiago Avenue, Diliman, Quezon City.⁴

THE FACTS AND PROCEEDINGS

On August 25, 2022, petitioner filed with the BIR two *Applications for Tax Credits/Refunds* (BIR Form No. 1914) covering input tax for the periods January 1, 2020 to December 31, 2020,⁵ and January 1, 2021 to December 31, 2021,⁶ in the amounts of ₱16,716,772.14 and ₱20,804,237.59, respectively.

On December 7, 2022, petitioner received a *VAT Refund Notice* dated November 4, 2022,⁷ which denied in full its claim for refund of input VAT for the 1st to 4th quarters of 2020, and partially granted its claim for the 1st to 4th quarters of 2021 in the amount of ₱11,365,474.30, while disallowing the remainder of the claim.⁸

On January 4, 2023, petitioner filed the present *Petition for Review (With Motion for Commissioning of Independent Certified Public Accountant)*.⁹

On March 14, 2023, respondent filed his *Answer (Re: petition for Review dated 28 December 2022)*,¹⁰ interposing the following special and affirmative defenses: (1) the instant claim should be denied for petitioner's failure to substantiate its claim for refund at the administrative level; (2) it is incumbent upon petitioner to prove that it is entitled to the refund sought because a claim for refund is not *ipso facto* granted upon filing of the claim; and (3) petitioner is not entitled to tax refunds for TYs 2020 and 2021.



⁴ Docket – Vol. I, p. 233, *Joint Stipulation of Facts and Issues* (JSFI), Stipulation of Facts, par. 1.b.

⁵ *Id.* at 177, Exhibit “P-12”.

⁶ *Id.* at 178, Exhibit “P-13”.

⁷ *Id.* at 181–184, Exhibit “P-15”.

⁸ *Id.* at 232–233, JSFI, Stipulation of Facts, par. 1.a.

⁹ *Id.* at 6–21, and 28–33 (for the *Secretary's Certificate and Special Power of Attorney*).

¹⁰ *Id.* at 122–137.

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Thereafter, on March 27, 2023, respondent transmitted the *BIR Records* consisting of one folder with pages consecutively numbered from 1 to 406.¹¹

The Pre-Trial Conference was held on September 28, 2023.¹² Prior thereto, the *Petitioner's Pre-Trial Brief* was filed on September 21, 2023,¹³ while the *Respondent's Pre-Trial Brief* was submitted on September 22, 2023.¹⁴

On December 11, 2023, the parties submitted their *Joint Stipulation of Facts and Issues*,¹⁵ which was approved by the Court in a Resolution dated December 21, 2023.¹⁶ Accordingly, the Court declared the pre-trial terminated and thereafter issued the **Pre-Trial Order** dated January 15, 2024.¹⁷

During trial, the parties presented their respective testimonial and documentary evidence.

Petitioner presented the testimonies of: (1) Ms. Riza D. Hernandez,¹⁸ its Tax Manager; and (2) Ms. Krista V. Bambao,¹⁹ the Court-commissioned Independent Certified Public Accountant (**ICPA**).²⁰

The ICPA submitted the *Report* on April 1, 2024.²¹

On April 30, 2024, petitioner filed its *Formal Offer of Evidence*,²² to which respondent filed a *Comment (on Petitioner's Formal Offer of Evidence)* on May 14, 2024.²³

In a Resolution dated August 6, 2024,²⁴ the Court admitted petitioner's offered exhibits, *except* Exhibits "P-1", "P-14", "P-14-1", "P-36", "P-37", "P-38", "P-39", "P-40", "P-41", "P-42", "P-43", "P-44", "P-45", "P-46", "P-47", "P-48", "P-49", "P-50", "P-51", "P-52", "P-53", "P-1617", "P-1618", "P-1619", "P-

¹¹ *Id.* at 139–141, *Compliance* dated March 24, 2023.

¹² *Id.* at 144–145, Notice of Pre-Trial Conference dated May 26, 2023; 214–219, Minutes of the hearing held on, and Order dated, September 28, 2023.

¹³ *Id.* at 149–155.

¹⁴ *Id.* at 185–189.

¹⁵ *Id.* at 232–237.

¹⁶ *Id.* at 240.

¹⁷ *Id.* at 243–254.

¹⁸ *Id.* at 71–83, Exhibit "P-17"; 255–257, and 260–262, Minutes of the hearing held on, and Order dated, February 15, 2024, respectively.

¹⁹ *Id.* at 336–345, Exhibits "P-2913"; 347–348, Order dated April 16, 2024.

²⁰ *Id.* at 259, *Oath of Commission* dated February 15, 2024; 255–257, and 260–262, Minutes of the hearing held on, and Order dated, February 15, 2024, respectively.

²¹ *Id.* at 271–335, Exhibit "P-18".

²² *Id.* at 354–428.

²³ *Id.* at 432–434.

²⁴ *Id.* at 443–456.

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1620”, and “P-2908”, due to conspicuous discrepancies between the exhibit formally offered and the document actually marked. Exhibit “P-3” was likewise denied admission because the document formally offered as “BIR Certificate of Registration No. 2RC0001699217” was identified by petitioner’s witness, Riza D. Hernandez, as “BIR Certificate of Registration No. 2RC0001838411”.

On August 27, 2024, petitioner filed a *Motion for Reconsideration*,²⁵ to which respondent filed a *Comment (on Petitioner’s Motion for Reconsideration)* on September 24, 2024.²⁶

In a Resolution dated November 15, 2024,²⁷ the Court partially granted petitioner’s *Motion for Reconsideration* and admitted petitioner’s exhibits, *except* Exhibit “P-3”, for failure of the exhibit formally offered to correspond with the document actually identified.

Petitioner then filed another *Motion for Reconsideration* on December 2, 2024,²⁸ to which respondent filed his *Comment/Opposition (Re: Petitioner’s Motion for Reconsideration)* on January 22, 2025.²⁹ In a Resolution dated March 31, 2025,³⁰ the Court denied petitioner’s *Motion for Reconsideration* for lack of merit. However, the Court noted petitioner’s *Tender of Excluded Evidence* embodied in petitioner’s *Motion for Reconsideration* with respect to Exhibit “P-3”.

For his part, respondent presented the testimonies of Revenue Officers Charlene Mae A. Grageda³¹ and Daniel Carlo Perez.³²

During the hearing on June 24, 2025, respondent’s counsel orally offered respondent’s exhibits, all of which were admitted by the Court.³³

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²⁵ *Id.* at 457–461.

²⁶ *Id.* at 467–469.

²⁷ *Id.* at 478–481.

²⁸ *Id.* at 482–486.

²⁹ *Id.* at 492–496.

³⁰ Docket – Vol. II, pp. 507–510.

³¹ Docket – Vol. I, pp. 206–210, Exhibit “R-6”; Docket – Vol. II, pp. 595–596, Order dated May 28, 2025.

³² Docket – Vol. II, pp. 604–609, Exhibit “R-7”; 619–620, Order dated June 24, 2025.

³³ *Id.* at 619–620, Order dated June 24, 2025.

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Thereafter, petitioner's *Memorandum*³⁴ and respondent's *Memorandum*³⁵ were both personally filed on July 28, 2025.

The case was submitted for decision on August 14, 2025.³⁶

THE ISSUE

The parties submitted the following issue for the Court's resolution:

Whether Petitioner is entitled to its claim for refund in the total amount of ₱26,155,535.43 representing alleged unutilized input taxes for periods of 01 January to 31 December 2020 (Taxable Year 2020) and 01 January to 31 December 2021 (Taxable Year 2021).³⁷

Petitioner's Arguments:

Petitioner argues that: it is a VAT-registered entity as required under Section 112(A) of the National Internal Revenue Code (**NIRC**) of 1997, as amended; it is engaged in zero-rated transactions as required under the NIRC and its pertinent regulations; the input taxes arising from purchases of goods and services directly attributable to its zero-rated sales were duly supported by VAT invoices and official receipts; the claimed input taxes are not transitional input taxes; the claimed input VAT payments were not applied against any output tax in the succeeding periods; the input taxes claimed are attributable to zero-rated or effectively zero-rated sales; with respect to zero-rated sales under Sections 106(A)(2)(1) and (2), 106(B), and 108(B)(1) and (2), the corresponding foreign currency proceeds were duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (**BSP**); where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and 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; and the administrative and judicial claims for refund were filed within the prescriptive period provided under the NIRC and its pertinent regulations.



³⁴ *Id.* at 624–649.

³⁵ *Id.* at 653–670.

³⁶ *Id.* at 673, Notice of Resolution dated August 14, 2025.

³⁷ Docket – Vol. I, p. 247, Issues to be Tried or Resolved, Pre-Trial Order; Docket – Vol. I, p. 233, Stipulation of Issues. JSFI.

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Respondent's Arguments:

Respondent contends that the instant claim should be denied for petitioner's failure to substantiate its claim for refund at the administrative level; it is incumbent upon petitioner to prove that it is entitled to the refund sought because a claim for refund is not *ipso facto* granted upon filing of the claim; and petitioner is not entitled to tax refunds for TYs 2020 and 2021.

THE COURT'S RULING

The present *Petition for Review* is partly meritorious.

Requisites for the grant of a refund or issuance of a tax credit certificate under the law.

Section 112 of the NIRC of 1997, as amended by Republic Act (**RA**) No. 10963, or the Tax Reform for Acceleration and Inclusion (**TRAIN**) Law,³⁸ provides, in part, as follows:

SEC. 112. Refunds or Tax Credits of Input Tax. —

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

³⁸ AN ACT AMENDING SECTIONS 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35, 62, AND 89; ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

Section 112(A) was last amended by RA No. 12066, otherwise known as the CREATE MORE Act (Corporate Recovery and Tax Incentives for Enterprises to Maximize Opportunities for Reinvigorating the Economy). However, the facts of this case transpired prior to the effectivity of the said law.

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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. (Emphasis supplied)

Based on the foregoing provision, jurisprudence has laid down certain requisites which the taxpayer-applicant must comply with to successfully obtain a credit/refund of input VAT. Said requisites are classified into certain categories, to wit:

As to the timeliness of the filing of the administrative and judicial claims:

1. The refund claim is filed with the BIR within two (2) years after the close of the taxable quarter when the sales were made;³⁹
2. In case of full or partial denial of the refund claim rendered within a period of ninety (90) days from the date of submission of the official receipts (ORs) or invoices and other documents in support of the application, the judicial claim shall be filed with this

³⁹ *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010 [Per J. Carpio-Morales, Third Division]; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callejo, Sr., Third Division].

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Court within thirty (30) days from receipt of the decision;⁴⁰

With reference to the taxpayer's registration with the BIR:

3. The taxpayer is a VAT-registered person.⁴¹ Relative thereto, it must be emphasized that registration is an indispensable requirement under our VAT law.⁴²

In relation to the taxpayer's output VAT:

4. The taxpayer is engaged in zero-rated or effectively zero-rated sales;⁴³
5. For zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2),⁴⁴ the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the *Bangko Sentral ng Pilipinas* (BSP) rules and regulations;⁴⁵

As regards the taxpayer's input VAT being refunded:

6. The input taxes are not transitional input taxes;⁴⁶
7. The input taxes are due or paid;⁴⁷
8. The input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be



⁴⁰ Refer to *Commissioner of Internal Revenue v. Vestas Services Philippines, Inc.*, G.R. No. 255085, March 29, 2023; *Commissioner of Internal Revenue v. CE Casecan Water and Energy Company, Inc.*, G.R. No. 212727, February 1, 2023 [Per J. Hernando, First Division]; *Energy Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 203367, March 17, 2021 [Per J. Hernando, Third Division].

⁴¹ *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010 [Per J. Carpio-Morales, Third Division]; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callejo, Sr., Third Division].

⁴² *Commissioner of Internal Revenue v. Seagate Technology (Philippines)*, G.R. No. 153866, February 11, 2005 [Per J. Panganiban, Third Division].

⁴³ *Id.*

⁴⁴ Under Republic Act (RA) No. 10963, Section 106(A)(2)(a)(2) was renumbered to Section 106(A)(2)(a)(3) while Section 106(A)(2)(b) was deleted. However, there was no corresponding amendment to the subsections cited in Section 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended.

⁴⁵ *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010 [Per J. Carpio-Morales, Third Division]; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callejo, Sr., Third Division].

⁴⁶ *Id.*

⁴⁷ *Id.*

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proportionately allocated on the basis of sales volume;⁴⁸ and

9. The input taxes have not been applied against output taxes during and in the succeeding quarters.⁴⁹

In addition, in claims for VAT refund/credit, applicants must satisfy the substantiation and invoicing requirements under the NIRC and other implementing rules and regulations.⁵⁰ Thus, petitioner's compliance with all the VAT invoicing requirements is required to be able to file a claim for input taxes attributable to zero-rated sales.⁵¹ The invoicing and substantiation requirements should be followed because they are the only way to determine the veracity of the taxpayer's claims.⁵² Moreover, it must be pointed out that compliance with all VAT invoicing requirements provided by tax laws and regulations is mandatory.⁵³

Strict compliance with substantiation and invoicing requirements is necessary, given VAT's nature and the VAT system's tax credit method, where tax payments are based on output and input taxes and where the seller's output tax becomes the buyer's input tax available as a tax credit or refund in the same transaction. It ensures the proper collection of taxes at all stages of distribution, facilitates computation of tax credits, and provides an accurate audit trail or evidence for BIR monitoring purposes.⁵⁴

Furthermore, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove every minute aspect of their case.⁵⁵ Thus, it

⁴⁸ *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009 [Per J. Chico-Nazario, Third Division]; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007 [Per J. Callejo, Sr., Third Division].

⁴⁹ *Supra* note 39.

⁵⁰ *Team Energy Corporation (Formerly: Mirant Pagbilao Corporation and Southern Energy Quezon, Inc.) v. Commissioner of Internal Revenue*, G.R. Nos. 197663 & 197770, March 14, 2018 [Per J. Leonen, Third Division].

⁵¹ *J.R.A. Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013 [Per J. Perlas-Bernabe, Second Division].

⁵² *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018 [Per J. Martires, Third Division].

⁵³ *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015 [Per J. Reyes, Third Division].

⁵⁴ *Supra* note 50.

⁵⁵ *Commissioner of Internal Revenue v. Vestas Services Philippines, Inc.*, G.R. No. 255085, March 29, 2023 [Per J. Hernando, First Division]; *Commission of Internal Revenue v. Deutsche Knowledge Services, Pte. Ltd.*, G.R. Nos. 226548 & 227691, 226682-83, February 15, 2023 [Per J. M.V. Lopez, Second Division] citing *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007 [Per J. Corona, First Division]; See also *Edison (Bataan) Cogeneration Corporation v. Commissioner of Internal Revenue*, G.R. Nos. 201665 & 201668, August 30, 2017 [Per J. Del Castillo, First Division]; *Commissioner of Internal Revenue v. Philippine National Bank*, G.R. No. 180290, September 29, 2014 [Per J. Leonen, Second Division]; *Commissioner of Internal Revenue v. United Salvage and Tawage (Phils.), Inc.*, G.R. No. 197515, July

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behooves petitioner to show compliance with each of the foregoing requisites and invoicing requirements. Accordingly, the absence of any of these requisites is a valid ground to deny the refund claim.

***First and second requisites:
Petitioner’s administrative
and judicial claims for
refund/credit were timely
filed.***

The *first* requisite provided in Section 112(A) of the NIRC of 1997, as amended, commands the taxpayer to file an administrative claim for input VAT refund within two years from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The table below shows a summary of the relevant dates pertaining to petitioner’s filing of the administrative claim for refund, *viz.*:

Close of the Taxable Quarter	End of the Two-Year Period	Date of Filing of Administrative Claim
Mar. 31, 2020	Mar. 31, 2022	Aug. 25, 2022 ⁵⁶
June 30, 2020	June 30, 2022	
Sept. 30, 2020	Sept. 30, 2022	
Dec. 31, 2020	Dec. 31, 2022	
Mar. 31, 2021	Mar. 31, 2023	Aug. 25, 2022 ⁵⁷
June 30, 2021	June 30, 2023	
Sept. 30, 2021	Sept. 30, 2023	
Dec. 31, 2021	Dec. 31, 2023	

Records show that petitioner did not generate any sales, let alone zero-rated sales, for any of the four quarters of TY 2020.⁵⁸ Consequently, the input taxes petitioner incurred during TY 2020 could not be directly and entirely attributed to any sale made within that year. Applying Section 112(A) of the NIRC of 1997, as amended, the two-year prescriptive period for filing the administrative claim is reckoned from the close of the taxable quarter when the sales were made — here, the 2nd, 3rd,

hr

2, 2014 [Per J. Peralta, Third Division]; *Dizon v. Court of Tax Appeals, et al.*, G.R. No. 140944, April 30, 2008 [Per J. Nachura, Third Division]; *Commissioner of Internal Revenue v. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005 [Per J. Carpio-Morales, Third Division].

⁵⁶ Docket -Vol. I, p. 177, Exhibit “P-12”.

⁵⁷ *Id.* at 178, Exhibit “P-13”.

⁵⁸ *Id.* at 161–168, Exhibits “P-4” to “P-7”.

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and 4th quarters of TY 2021,⁵⁹ closing on June 30, 2021, September 30, 2021, and December 31, 2021, respectively. Having filed its administrative claim for refund on August 25, 2022, petitioner's claim, in its entirety, was filed within the two-year period prescribed by law. From the date of the filing of the administrative claim, respondent or the BIR had a ninety (90)-day period, or until November 23, 2022, within which to decide the said claim.

As regards the *second* requisite, the same necessitates that the judicial claim must have been filed within thirty (30) days from receipt of respondent's decision or after the expiration of the 90-day period under Section 112(C) of the NIRC of 1997, as amended.

In this case, respondent was able to decide on petitioner's administrative claim within the 90-day period when the BIR, through Assistant Commissioner, Assessment Service, Maria Luisa I. Belen, issued the *VAT Refund Notice* dated November 4, 2022, which petitioner received on December 7, 2022.⁶⁰ Counting 30 days from petitioner's receipt of such *VAT Refund Notice*, it had until January 6, 2023, to appeal its denied claim for refund before this Court. Thus, petitioner timely instituted the present *Petition for Review* on January 4, 2023.⁶¹

Given the foregoing, petitioner complied with the above-stated *first* and *second* requisites to successfully obtain a credit or refund of input VAT.

**Third requisite: Petitioner is
a VAT-registered entity.**

Anent the *third* requisite, petitioner is a VAT-registered taxpayer with TIN 755-974-906-000 as indicated in its BIR *Certificate of Registration* No. OCN 2RC0001699217.⁶²



⁵⁹ *Id.* at 171–176, Exhibits “P-9” to “P-11”.

⁶⁰ *Id.* at 181–184, Exhibit “P-15”.

⁶¹ *Id.* at 6–21, and 28–33 (for the *Secretary's Certificate* and *Special Power of Attorney*).

⁶² Docket – Vol. I, p. 429, Exhibit “P-3”; Refer also to Exhibit “R-3”, BIR Records (Exhibit “R-5”), at p. 385.

***Fourth and fifth requisites:
Petitioner had zero-rated
sales in the amount of
P122,374,252.31.***

The *fourth* and *fifth* requisites require that the taxpayer be engaged in zero-rated or effectively zero-rated sales and for zero-rated sales under Sections 106(A)(2)(a)(1), (2), and (b),⁶³ and 108(B)(1) and (2), of the NIRC of 1997, as amended, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations.

In its amended *Quarterly VAT Returns* (BIR Form No. 2550-Q) for the four quarters of TY 2021,⁶⁴ petitioner declared total sales amounting to P157,922,596.06, consisting of sales subject to 12% VAT (vatable sales) of P35,548,343.75 and zero-rated sales of P122,374,252.31, summarized as follows:

TY 2021	Exhibit	Vatable Sales	Zero-rated Sales	Total Sales
1 st Quarter	"P-8"	P 21,814,560.33	P -	P 21,814,560.33
2 nd Quarter	"P-9"	13,733,783.42	16,232,007.56	29,965,790.98
3 rd Quarter	"P-10"	-	61,366,016.66	61,366,016.66
4 th Quarter	"P-11"	-	44,776,228.09	44,776,228.09
Total		P35,548,343.75	P122,374,252.31	P157,922,596.06

As earlier stated, petitioner did not generate any sales for the four quarters of TY 2020, as evidenced by the submitted amended *Quarterly VAT Returns*.⁶⁵

In its *Petition for Review*, petitioner anchored its claim for zero-rated sales on Section 106(A)(2) of the NIRC of 1997, as amended. This pertains to the sale of goods to Laysun (Far East) Limited, petitioner's customer abroad, shipped outside of the Philippines.⁶⁶

Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, governs the determination of whether petitioner's sales qualify for zero percent (0%) VAT rate, which is quoted below for easy reference:

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



⁶³ Under RA No. 10963, or the "Tax Reform for Acceleration and Inclusion (TRAIN)", Section 106(A)(2)(a)(2) was renumbered to Section 106(A)(2)(a)(3), while Section 106(A)(2)(b) was deleted. However, there was no corresponding amendment to the subsections cited in Section 112(A) of the NIRC of 1997, as amended.

⁶⁴ Docket - Vol. I, pp. 169–176, Exhibits "P-8" to "P-11".

⁶⁵ *Id.* at 161–168, Exhibits "P-4" to "P-7".

⁶⁶ *Id.* at 12, *Petition for Review*, par. 22.

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(A) *Rate and Base of Tax.* — xxx

(1) xxx

(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);

Relative thereto, Section 4.106-5 of Revenue Regulations (RR) No. 16-2005,⁶⁷ as further amended by RR No. 13-2018,⁶⁸ provides:

SEC. 4.106-5. Zero-Rated Sales of Goods or Properties. — ...

The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

(a) ***Export Sales.*** — ‘*Export Sales*’ shall mean:

(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, paid for in acceptable foreign currency or its equivalent in goods and services, and accounted for in accordance with the rules and regulation of the Bangko Sentral ng Pilipinas (BSP);

Based on the above-cited provisions, for petitioner’s export sales of goods to qualify as zero-rated pursuant to Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, the following essential elements must be present:

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



⁶⁷ SUBJECT: Consolidated Value-Added Tax Regulations of 2005.

⁶⁸ SUBJECT: 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.

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

As a corollary thereto, pursuant to the provisions of Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, in relation to Sections 113(A)(1), (B)(1), (2)(c) and (3), 237 and 238 of the same Code, and Section 4.113-1(A)(1), (B)(1) and (2)(c) of RR No. 16-2005, as amended, any VAT-registered person claiming zero-rated sales on its export sale of goods must present at least three types of documents, as follows:

1. Sales invoice as proof of sale of goods;
2. Bill of lading or air waybills as proof of actual shipment of goods from the Philippines to a foreign country; and
3. Bank credit advice, certificate of bank remittance, or any other document proving payment for the goods in acceptable foreign currency or its equivalent in goods and services.

Consequently, only the export sales supported by the said documents shall qualify for VAT zero-rating under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended.

With respect to the *first* essential element, petitioner sufficiently proved that it is a VAT-registered entity under TIN 755-974-906-000, as evidenced by its *BIR Certificate of Registration*.⁶⁹

Regarding the *second* essential element, petitioner presented various *Commercial Invoices*,⁷⁰ *Credit Memos*,⁷¹ *Export Declaration Documents*,⁷² *Bills of Lading or Waybills*,⁷³ and after-loading reports,⁷⁴ to prove the actual shipment of goods from the Philippines to a foreign destination.

Records show that petitioner's zero-rated sales are direct exports of goods to Laysun (Far East) Limited amounting to US\$2,447,166.13, with a peso equivalent of ₱122,374,252.31. The ICPA's findings on the mentioned documents supporting petitioner's zero-rated sales for TY 2021 are summarized as follows:⁷⁵



⁶⁹ Docket - Vol. I, p. 429, Exhibit "P-3"; Refer also to Exhibit "R-3", BIR Records (Exhibit "R-5"), p. 385.

⁷⁰ Exhibits "P-55" to "P-439", USB (Exhibit "P-18-3").

⁷¹ Exhibits "P-440" to "P-447", USB (Exhibit "P-18-3").

⁷² Exhibits "P-881" to "P-1145" and "P-2905" to "P-2911", USB (Exhibit "P-18-3").

⁷³ Exhibits "P-448" to "P-725", USB (Exhibit "P-18-3").

⁷⁴ Exhibits "P-726" to "P-880", USB (Exhibit "P-18-3").

⁷⁵ Docket - Vol. I, p. 275, Exhibit "P-18", Table 6-Zero-rated Sales.

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Particulars	In United States Dollars (US\$) ⁷⁶	In Philippine Peso (PhP)
1. Zero-rated sales properly supported by commercial invoice, export declaration, air waybill, & bank certification	\$1,959,544.33	₱ 97,946,344.66
2. Zero-rated sales properly supported by commercial invoice, bank certification, export declaration, air waybill, notarized attestation, & after-loading reports	489,034.60	24,498,677.77
3. Zero-rated sales properly supported by commercial invoice, bank certification, & export declaration but with undated airway bill	384.20	19,190.08
4. Adjustments to zero-rated sales supported by credit memo	(48.60)	(2,453.96)
5. Adjustments to zero-rated sales supported by credit memo and bank certification	(1,748.40)	(87,506.24)
Total	\$2,447,166.13	₱122,374,252.31

As to the *third* essential element, petitioner submitted *Bank Certifications*⁷⁷ issued by the Development Bank of the Philippines (**DBP**) for the remittances of fees paid by Laysun (Far East) Limited to establish that the sales were paid in acceptable foreign currency and duly accounted for in accordance with the BSP's rules and regulations. The ICPA's summary of the amount remitted as against the amount due from Laysun (Far East) Limited is presented as follows:⁷⁸

Bank Certification issued by DBP	Zero-rated Sales per Invoice in US\$ (Annex 2) ⁷⁹	Amount remitted per Certification issued by DBP in US\$	Difference
DBP Bank Certification for SA 01-5-57311-915-7 dated 18 January 2022 ⁸⁰	109,863.25	109,863.25	-
DBP Bank Certification for SA 01-5-59380-915-7 dated 18 January 2022 ⁸¹	1,842,998.22	1,842,996.22	2.00
DBP Bank Certification for SA 01-5-59380-915-7 dated 13 June 2022 ⁸²	494,353.26	494,312.86	40.40
Credit Memo Nos. 008 & 009 issued by U-DEV ⁸³	(48.60)	-	(48.60)

⁷⁶ *Id.* at 287–295, Exhibit “P-18”, Summation per Annex 2.
⁷⁷ Exhibits “P-1147” to “P-1149”, USB (Exhibit “P-18-3”).
⁷⁸ Docket – Vol. I, pp. 275–276 and 296–302, Exhibit “P-18”, Table 7 and Annex 3, respectively.
⁷⁹ *Id.* at 287–295, Exhibit “P-18”.
⁸⁰ Exhibit “P-1147”, USB (Exhibit “P-18-3”).
⁸¹ Exhibit “P-1148”, USB (Exhibit “P-18-3”).
⁸² Exhibit “P-1149”, USB (Exhibit “P-18-3”).
⁸³ Exhibits “P-440” and “P-441”, USB (Exhibit “P-18-3”).

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Bank Certification issued by DBP	Zero-rated Sales per Invoice in US\$ (Annex 2) ⁷⁹	Amount remitted per Certification issued by DBP in US\$	Difference
Total	2,447,166.13	2,447,172.33	(6.20)

Based on the foregoing submissions, export sales to Laysun (Far East) Limited in the entire amount of ₱122,374,252.31, equivalent to \$2,447,166.13, satisfied the essential elements required to qualify for VAT zero rating under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended.

Sixth requisite: The input VAT being claimed does not appear to be transitional input taxes.

The *sixth* requisite provides that the claimed input taxes do *not* appear to be transitional input taxes, pursuant to Section 111(A) of the NIRC of 1997, as amended, to wit:

SEC. 111. *Transitional/Presumptive Input Tax Credits.* –

(A) *Transitional Input Tax Credits.* – A person who becomes liable to value-added tax or any person who elects to be a VAT-registered person shall, subject to the filing of an inventory according to the rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, be allowed input tax on his beginning inventory of goods, materials and supplies equivalent to two percent (2%) of the value of such inventory or the actual value-added tax paid on such goods, materials and supplies, whichever is higher, which shall be creditable against the output tax.

The transitional input tax credit benefits newly VAT-registered persons, whether or not they previously paid taxes on the acquisition of their beginning inventory of goods, materials, and supplies. During the transition from non-VAT to VAT status, the transitional input tax credit alleviates the impact of VAT on the taxpayer.⁸⁴

Since there is no showing that the subject input VAT is transitional, petitioner has complied with the *sixth* requisite for the grant of an input VAT refund.



⁸⁴ *Fort Bonifacio Development Corporation v. Commissioner of Internal Revenue, et al., et seq.*, G.R. Nos. 158885 & 170680, April 2, 2009 [Per J. Leonardo-De Castro, *En Banc*].

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Seventh requisite: Not all of petitioner's input VAT being claimed for refund were duly substantiated.

Anent the *seventh* requisite in claiming VAT refund, it is of fatal importance for petitioner to provide supporting documents to prove that the input taxes claimed were actually due or paid in accordance with Section 110(A) of the NIRC of 1997, as amended, as implemented by Sections 4.110-1 to 4.110-3 and 4.110-8 of RR No. 16-2005, as amended. Furthermore, said documents must likewise comply with the invoicing requirements under Sections 113(A) and (B), 237 and 238 of the NIRC of 1997, as amended, and as implemented by Section 4.113-1(A) and (B) of RR No. 16-2005, as amended.

Based on petitioner's amended *Quarterly VAT Returns* for TYs 2020 and 2021, petitioner reported total current input VAT of ₱16,716,772.14 and ₱25,070,038.84, respectively, or in the aggregate amount of ₱41,786,810.98, from its domestic purchases of goods other than capital goods, purchases of capital goods not exceeding ₱1Million, purchases of capital goods exceeding ₱1Million, domestic purchases of services, and importation of goods other than capital goods.⁸⁵ Out of this total input VAT, ₱37,521,009.73 ⁸⁶ was the subject of the administrative claim, detailed as follows:

Current input VAT for TY 2020:

Year 2020 Exhibit	1 st Quarter "P-4"	2 nd Quarter "P-5"	3 rd Quarter "P-6"	4 th Quarter "P-7"	Total
Purchase of Capital Goods not exceeding P1Million	₱ 39,225.00	₱ -	₱ 61,836.23	₱ 325,278.92	₱ 426,340.15
Purchase of Capital Goods exceeding P1Million	-	-	-	186,535.71	186,535.71
Domestic Purchases of Goods Other than Capital Goods	149,740.39	875,528.63	1,727,068.69	1,921,974.40	4,674,312.11
Importation of Goods Other than Capital Goods	-	-	-	-	-

⁸⁵ Docket - Vol. I, pp. 161-176, Exhibits "P-4" to "P-11".

⁸⁶ *Id.* at 177-178, Exhibits "P-12" and "P-13".

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Domestic Purchase of Services	607,945.62	773,233.67	5,960,939.10	4,172,861.94	11,514,980.33
Input Tax Deferred on Capital Goods Exceeding P1 Million from Previous Quarter	481,983.85	457,476.19	432,968.54	408,460.89	481,983.85
Less: Input Tax on Purchases of Capital Goods exceeding P1 Million deferred for the succeeding period	(457,476.19)	(432,968.54)	(408,460.89)	(567,380.01)	(567,380.01)
Total Current Input VAT for TY 2020	₱821,418.67	₱1,673,269.95	₱7,774,351.67	₱6,447,731.85	₱16,716,772.14
Less: Output Tax	-	-	-	-	-
Claim for Refund (Exhibit "P-12")	₱821,418.67	₱1,673,269.95	₱7,774,351.67	₱6,447,731.85	₱16,716,772.14

Current input VAT for TY 2021:

Year 2021 Exhibit	1st Quarter "P-8"	2nd Quarter "P-9"	3rd Quarter "P-10"	4th Quarter "P-11"	Total
Purchase of Capital Goods not exceeding P1 Million	₱ 22,864.61	₱ 73,131.64	₱ 22,488.21	₱ 135,394.92	₱ 253,879.38
Purchase of Capital Goods exceeding P1 Million	-	-	942,535.72	-	942,535.72
Domestic Purchases of Goods Other than Capital Goods	2,093,418.20	2,124,602.61	3,120,149.75	2,978,938.36	10,317,108.92
Importation of Goods Other than Capital Goods	-	67,629.62	-	-	67,629.62
Domestic Purchase of Services	3,649,819.05	3,684,591.69	3,033,915.97	3,860,670.74	14,228,997.45



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Input Tax Deferred on Capital Goods Exceeding P1Million from Previous Quarter	567,380.01	533,545.66	499,711.22	1,388,453.49	567,380.01
Less: Input Tax on Purchases of Capital Goods exceeding P1Million deferred for the succeeding period	(533,545.66)	(499,711.22)	(1,388,453.49)	(1,307,492.26)	(1,307,492.26)
Total Current Input VAT for TY 2021	P5,799,936.21	P5,983,790.00	P6,230,347.38	P7,055,965.25	P25,070,038.84
Less: Output Tax	2,617,747.24	1,648,054.01	-	-	4,265,801.25
Claim for Refund (Exhibit "P-13")	P3,182,188.97	P4,335,735.99	P6,230,347.38	P7,055,965.25	P20,804,237.59

Summary of total current input VAT for TYs 2020 and 2021:

TY	2020	2021	Total
Purchase of Capital Goods not exceeding P1Million	P 426,340.15	P 253,879.38	P 680,219.53
Purchase of Capital Goods exceeding P1Million	186,535.71	942,535.72	1,129,071.43
Domestic Purchases of Goods Other than Capital Goods	4,674,312.11	10,317,108.92	14,991,421.03
Importation of Goods Other than Capital Goods	-	67,629.62	67,629.62
Domestic Purchase of Services	11,514,980.33	14,228,997.45	25,743,977.78
Input Tax Deferred on Capital Goods Exceeding P1Million from Previous Quarter	481,983.85	567,380.01	1,049,363.86
Less: Input Tax on Purchases of Capital Goods exceeding P1Million deferred for the succeeding period	(567,380.01)	(1,307,492.26)	(1,874,872.27)

Total Current Input VAT	₱16,716,772.14	₱25,070,038.84	₱41,786,810.98
Less: Output Tax	-	4,265,801.25	4,265,801.25
Claim for Refund	₱16,716,772.14	₱20,804,237.59	₱37,521,009.73

To substantiate the reported input VAT of ₱41,786,810.98, petitioner submitted its suppliers' sales invoices and receipts⁸⁷ which were all examined and verified by the ICPA.

The ICPA summarized its findings by checking the compliance of the purchase documents provided with the invoicing requirements, as follows:⁸⁸

Particulars	Exhibit Reference ⁸⁹	Input VAT Amount
I. CY 2020⁹⁰		
A. Compliant purchase documents (Annex 4)		
1. Purchase of goods supported by invoice	"P-1178" to "P-1269"	₱ 494,602.34
2. Purchase of goods supported by invoice with countersigned corrections	"P-1270" to "P-1288"	373,759.17
3. Purchase of services supported by official receipt	"P-1289" to "P-1302"	177,970.36
4. Purchase of services supported by official receipt with countersigned corrections	"P-1303" to "P-1306"	1,395,711.75
5. Purchase of services supported by official receipt with countersigned corrections & notarized vendor certification	"P-1307" to "P-1390"	8,885,195.41
6. Purchase of services supported by certified true copy of official receipt with countersigned corrections & notarized vendor certification	"P-1391"	75,822.37
7. Purchase of goods supported by invoice with countersigned corrections & notarized vendor certification	"P-1392" to "P-1566"	2,247,214.54
Subtotal (A)		₱13,650,275.94
B. Non-compliant purchase documents (Annex 4)		
1. Address of Petitioner not indicated	"P-1567"	₱ 562.50
2. Document dated outside the covered year when the input VAT was claimed	"P-1568" to "P-1575"	34,629.50

⁸⁷ Exhibits "P-1178" to "P-2826", USB (Exhibit "P-18-3").
⁸⁸ Docket – Vol. I, pp. 280–282 and 303–335, Exhibit "P-18", Annexes 4 and 5, Table 21.
⁸⁹ USB (Exhibit "P-18-3").
⁹⁰ Docket – Vol. I, pp. 303–311, Exhibit "P-18", Annex 4.



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Particulars	Exhibit Reference⁸⁹	Input VAT Amount
3. Document dated outside the covered year when the input VAT was claimed; Difference in VAT amount per document and SLP	"P-1576"	11,256.00
4. Document not valid for claiming input tax	"P-1577" to "P-1596"	522,345.06
5. Illegible document	"P-1597"	9,377.68
6. Incomplete address of Petitioner	"P-1598" to "P-1600"	41,475.98
7. Incomplete TIN of Petitioner	"P-1601"	190.59
8. Incorrect name and TIN of Petitioner	"P-1602"	53.74
9. Nature of service not indicated	"P-1603" to "P-1609"	74,940.62
10. Purchase of goods not supported by invoice	"P-1610" to "P-1613"	116,322.30
11. Purchase of goods supported by undated invoice	"P-1614"	9,642.86
12. Purchase of services not supported by official receipt	"P-1615" to "P-1620"	37,340.84
13. TIN of Petitioner & nature of service not indicated	"P-1621" to "P-1623"	54,966.96
14. TIN of Petitioner not indicated	"P-1624" to "P-1627"	78,519.68
15. TIN of Petitioner not indicated; Incomplete address	"P-1628" to "P-1630"	1,329.88
16. VAT and/or VATable amounts not indicated	"P-1631" to "P-1635"	21,682.49
17. Purchase of goods supported by invoice with corrections not countersigned	"P-1636" to "P-1637"	109,180.87
18. Difference in VATable and/or VAT amount/s per document vs SLP	"P-1638" to "P-1649"	1,579,468.30
19. Incorrect address of Petitioner; Nature of service not indicated	"P-1650"	9,240.00
20. Document dated outside covered year when the input VAT was claimed; Nature of service indicated	"P-1651"	1,320.00
21. Unit, cost & quantity not indicated	"P-1652"	396.43
22. Unsupported input VAT from local purchases		251,114.37
Subtotal (B)		₱2,965,356.65
Total for CY 2020 (A + B) [C]		₱16,615,632.59
II. CY 2021		
A. Compliant purchase documents (Annex 5)		

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Particulars	Exhibit Reference ⁸⁹	Input VAT Amount
1. Purchase of goods supported by invoice	"P-1653" to "P-2110"	₱ 6,120,034.08
2. Purchase of goods supported by invoice with countersigned corrections	"P-2111" to "P-2156" & "P-2811"	365,818.74
3. Purchase of services supported by official receipt	"P-2157" to "P-2286"	2,797,347.36
4. Purchase of services supported by official receipt with countersigned corrections	"P-2287" to "P-2291"	225,992.95
5. Purchase of services supported by official receipt with countersigned corrections and notarized vendor certification	"P-2292" to "P-2512"	10,120,312.63
6. Purchase of goods supported by invoice with countersigned corrections and notarized vendor certification	"P-2513" to "P-2547"; "P-2549" to "P-2697" & "P-2812"	2,894,120.64
Subtotal (A)		₱22,523,626.40
B. Non-compliant purchase documents (Annex 5)		
1. Difference in VAT and/or VAT amount/s per document vs SLP	"P-2698" to "P-2711" & "P-2813"	₱ 169,349.27
2. Document dated outside the covered year when the input VAT was claimed	"P-2712" to "P-2755"	622,638.70
3. Document dated outside the covered year when the input VAT was claimed; Nature of service not indicated	"P-2756"	24,107.14
4. Document not valid for claiming input tax	"P-2757" to "P-2771"	332,998.48
5. Document not valid for claiming input tax; Document dated outside the covered year when the input VAT was claimed	"P-2772"	5,978.57
6. Illegible document	"P-2773" to "P-2779"	5,218.35
7. Incomplete address of Petitioner	"P-2780" to "P-2782"	18,332.14
8. Incorrect name of Petitioner	"P-2783" to "P-2784"	3,546.42
9. Incorrect name, TIN & address of Petitioner; Nature of service not indicated; VAT and/or VATable amount/s not indicated	"P-2785"	474.11
10. Incorrect TIN of Petitioner	"P-2786"	3,075.00
11. Nature of service not indicated	"P-2787" to "P-2805"	229,780.10

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Particulars	Exhibit Reference ⁸⁹	Input VAT Amount
12. No VATable and/or VAT amount/s indicated	"P-2806"	4,060.71
13. Purchase of goods not supported by invoice	"P-2807" to "P-2810"	49,492.80
14. Purchase of services not supported by official receipt	"P-2814"	38,577.50
15. Purchase of services supported by official receipt with corrections not countersigned	"P-2815"	3,221.99
16. TIN & address of Petitioner not indicated	"P-2816" to "P-2818"	1,688.26
17. TIN of Petitioner not indicated	"P-2819" to "P-2821"	37,996.63
18. TIN of Petitioner not indicated; Difference in VATable and/or VAT amount/s per document vs SLP	"P-2822"	9,320.89
19. Not reported in SLP	"P-2823"	23,063.89
20. Unit, cost & quantity not indicated	"P-2824"	8,029.29
21. Difference in VAT amount per document vs SLP	"P-2825"	9,402.24
22. Document not dated	"P-2826" & "P-2548"	18,874.36
23. Unsupported input VAT from local purchases		724,761.10
24. Unsupported input VAT from importation		67,629.62
Subtotal (B)		₱2,411,617.56
Total for CY 2021 (A + B) [D]		₱24,935,243.96
GRAND TOTAL (C +D)		₱41,550,876.54⁹¹

Notably, the ICPA accounted only for the amount of ₱41,550,876.55 in input VAT for TYs 2020 and 2021, as indicated above. Thus, the discrepancy of ₱235,934.43 in the amount of input VAT reported per petitioner’s amended *Quarterly VAT Returns* of ₱41,786,810.98 for TYs 2020 and 2021 *vis-à-vis* ICPA’s findings of ₱41,550,876.55, which are unsubstantiated, shall be disallowed, computed as follows:



⁹¹ With ₱0.01 difference; Actual footing is ₱41,550,876.55.

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Input VAT	Year 2020	Year 2021	Total
Per Quarterly VAT Returns	₱16,716,772.14	₱25,070,038.84	₱41,786,810.98
Per ICPA's findings	16,615,632.59	24,935,243.96	41,550,876.55
Difference/Unsupported	₱ 101,139.55	₱ 134,794.88	₱ 235,934.43

Moreover, based on the ICPA table summary, as presented earlier, the input VAT amounting to ₱5,376,974.21, classified under “B. Non-compliant purchase documents” in the amounts of ₱2,965,356.65 and ₱2,411,617.56 for TYs 2020 and 2021, respectively, shall be disallowed for failure to comply with the invoicing requirements under Section 113 of the NIRC of 1997, as amended, and Section 4.113-1 of RR No. 16-2005, as amended.

Furthermore, the purchase of goods from supplier Mt. Kalatungan Agri-Ventures Inc. on November 1, 2021, amounting to ₱297,808.58, with corresponding input VAT of ₱35,737.03, shall also be disallowed since the CAS Permit indicated in the lower right of the invoice is dated March 20, 2022, issued after the date of that invoice.⁹²

In fine, for purposes of compliance with the *seventh* requisite, of the total reported input VAT amounting to ₱41,786,810.98, only the total amount of **₱36,138,165.31** represents petitioner’s valid and substantiated input VAT for TYs 2020 and 2021, computed as follows:

Particulars	2020	2021	Total
Per Quarterly VAT Returns	₱ 16,716,772.14	₱ 25,070,038.84	₱ 41,786,810.98
<i>Deductions from claim:</i>			
Disallowances by ICPA	2,965,356.65	2,411,617.56	5,376,974.21
Disallowances by the Court			
Unsupported input VAT	101,139.55	134,794.88	235,934.43
Disallowance per Court	-	35,737.03	35,737.03
Valid Input VAT	₱13,650,275.94	₱22,487,889.37	₱36,138,165.31

Eighth requisite: A portion of petitioner’s valid input VAT of ₱36,138,165.31 is attributable to its zero-rated sales.



⁹² Exhibit “P-1979”, USB (Exhibit “P-18-3”); See also Docket – Vol. I, p. 318, Exhibit “P-18”, Annex 5.

The *eighth* requisite is to the effect that the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume.

To reiterate, in its amended *Quarterly VAT Returns* for the TY 2021, petitioner declared total sales amounting to ₱157,922,596.06, consisting of the following:⁹³

Particulars	Total
Vatable Sales	₱ 35,548,343.75
Zero-Rated Sales	122,374,252.31
Total Sales	₱157,922,596.06

However, since petitioner’s valid input VAT for the TYs 2020 and 2021 amounting to **₱36,138,165.31** cannot be directly or entirely attributed to any of the sales transactions, the said valid input VAT shall be allocated based on the volume of its total sales, as follows:

Nature of Sales	Amount		Allocation Factor	Allocated Valid Input VAT	
	[a]		[c = a ÷ b]	[e = c x d]	
Vatable Sales	₱ 35,548,343.75		22.5099793423%	₱ 8,134,693.55	
Zero-Rated Sales	122,374,252.31		77.4900206577%	28,003,471.76	
Total Sales	₱157,922,596.06	[b]	100%	₱36,138,165.31	[d]

Thus, for purposes of, and with regard to petitioner’s compliance with the *eighth* requisite, only the amount of **₱28,003,471.76** represents valid input VAT attributable to its total zero-rated sales for the TY 2021.

Ninth requisite: The input VAT has not been applied against output VAT during and in the succeeding quarters.

Having determined that petitioner had valid input VAT attributable to its zero-rated sales, the Court shall now

⁹³ Docket - Vol. I, pp. 169–176, Exhibits “P-8” to “P-11”.

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determine whether the same was not applied against its output VAT liability during and in the succeeding quarters, relative to the *ninth* requisite for the successful prosecution of an input VAT refund claim.

For TY 2021, petitioner reported output VAT from its taxable sales in the aggregate amount of ₱4,265,801.25, to wit:⁹⁴

TY 2021	Exhibit	VATable Sales	Output VAT
1 st Quarter	"P-8"	₱ 21,814,560.33	₱ 2,617,747.24
2 nd Quarter	"P-9"	13,733,783.42	1,648,054.01
3 rd Quarter	"P-10"	-	-
4 th Quarter	"P-11"	-	-
Total		₱ 35,548,343.75	₱4,265,801.25

In *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) vs. Commissioner of Internal Revenue*,⁹⁵ the Supreme Court held that the input tax attributable to zero-rated sales may, at the option of the VAT-registered taxpayer, be: (1) charged against output tax from regular 12% VAT-able sales, and any unutilized or "excess" input tax may be claimed for refund or the issuance of tax credit certificate; or (2) claimed for refund or tax credit in its entirety, and such option is vested with the taxpayer-claimant, to wit:

Thus, the input tax attributable to zero-rated sales may, **at the option of the VAT-registered taxpayer**, be: (1) **charged against output tax from regular 12% VAT-able sales, and any unutilized or 'excess' input tax may be claimed for refund or the issuance of tax credit certificate; or** (2) **claimed for refund or tax credit in its entirety**. It must be stressed that the **remedies of charging the input tax against the output tax and applying for a refund or tax credit are alternative and cumulative**. Furthermore, **the option is vested with the taxpayer-claimant**. ... (Emphasis and underscoring supplied)

Applying the foregoing, records show that petitioner chose the **first** option, *i.e.*, it computed its claim for refund in the aggregate amount of ₱37,521,009.73 by offsetting its output VAT from taxable sales for the TY 2021 against its available input VAT for the TY 2021, as shown hereafter:

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⁹⁴ *Id.*
⁹⁵ G.R. No. 215159, July 5, 2022 [Per J. M. Lopez, *En Banc*].

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Particulars	TY 2020	TY 2021	Total
Total current input VAT	₱16,716,772.14	₱25,070,038.84	₱41,786,810.98
Less: Output Tax	-	4,265,801.25	4,265,801.25
Applied for Tax Refund	₱16,716,772.14	₱20,804,237.59	₱37,521,009.73

Following the same computation, the refundable input VAT shall be computed net of output tax liability. Since petitioner's valid input VAT allocated to vatable sales in the amount of ₱8,134,693.55, as earlier determined, is enough to cover its output VAT liability amounting to ₱4,265,801.25, the valid input VAT allocated to total zero-rated sales in the amount of ₱28,003,471.76 shall all be attributed to petitioner's total zero-rated sales amounting to ₱122,374,252.31.

Considering that the entire zero-rated sales amounting to ₱122,374,252.31 are valid, the valid input VAT allocated to total zero-rated sales in the amount of ₱28,003,471.76 shall be refunded in favor of petitioner.

Finally, to ensure that the present input VAT claim for refund will no longer be available for application to future output VAT liabilities, it was ascertained that:

- a. the amount of ₱16,716,772.14 or the amount of excess input tax attributable to petitioner's zero-rated sales for TY 2020 was deducted as "VAT Refund/TCC claimed" in its amended *Quarterly VAT Return* for the 1st quarter of TY 2021;⁹⁶ and
- b. the amount of ₱20,804,237.59, or the amount of excess input tax attributable to petitioner's zero-rated sales for TY 2021, was deducted as "VAT Refund/TCC claimed" in its amended *Quarterly VAT Return* for the 1st quarter of TY 2022.⁹⁷

Accordingly, the subject claim no longer formed part of the excess input VAT of ₱5,455,728.72⁹⁸ as of the end of the 1st quarter of TY 2022, which was carried over to the 2nd quarter of TY 2022.⁹⁹ Hence, petitioner is deemed to have fulfilled the *ninth* requisite for the refund of input VAT under Section 112(A) of the NIRC of 1997, as amended.

⁹⁶ Docket - Vol. I, p. 169, Exhibit "P-8", Line 23D.

⁹⁷ Docket - Vol. I, p. 179, Exhibit "P-14", Line 23D; With ₱0.10 difference between the amount deducted per *Quarterly VAT Return* of ₱20,804,237.69 vs. *Application for Tax Credits/Refunds* (Exhibit "P-13", Docket - Vol. I, p. 178) of ₱20,804,237.59.

⁹⁸ Docket - Vol. I, p. 180, Exhibit "P-14", Line 29.

⁹⁹ Line 20A, Exhibit "P-2912", USB (Exhibit "P-18-3").

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In fine, petitioner has sufficiently proven its entitlement to a total input VAT refund amounting to ₱28,003,471.76. However, since respondent has already granted the amount of ₱11,365,474.30, then, petitioner is entitled to the refund in the amount of **₱16,637,997.46**, representing the remaining balance of its excess and unutilized input VAT for TYs 2020 and 2021 attributable to its valid zero-rated sales for TY 2021, that was disallowed by respondent, computed as follows:

Valid Input VAT attributable to Zero-rated Sales	₱ 28,003,471.76
Less: Final Amount Recommended for VAT Refund by the BIR ¹⁰⁰	11,365,474.30
Valid Input VAT available for Refund	₱16,637,997.46

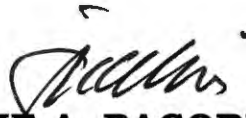
WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**.

Accordingly, respondent is **ORDERED TO REFUND** to petitioner the additional amount of **₱16,637,997.46**, representing the latter’s excess and unutilized input VAT for taxable years 2020 and 2021 attributable to its zero-rated sales for taxable year 2021.

SO ORDERED.


LANEE S. CUI-DAVID
Associate Justice

I CONCUR:


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

¹⁰⁰ Docket – Vol. I, p. 181, Exhibit “P-15”.

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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.



JEAN MARIE A. BACORRO-VILLENA

Acting Presiding Justice

