REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

ASURION HONG KONG LIMITED – ROHQ, *Petitioner,*	**CTA CASE NO. 9518** For: Refund
-versus-	Members: CASTAÑEDA, JR., *Chairperson,* MINDARO-GRULLA, and BACORRO-VILLENA, *JJ.*
COMMISSIONER OF INTERNAL REVENUE *Respondent.*	Promulgated: OCT 02 2019 3:30 pm

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DECISION

MINDARO-GRULLA, J.:

Submitted for decision on January 18, 2019 is a Petition for Review filed by petitioner Asurion Hong Kong Limited – ROHQ against respondent Commissioner of Internal Revenue on January 12, 2017.

Petitioner seeks for the refund or issuance of a Tax Credit Certificate (TCC) in the amount of Thirteen Million Five Hundred Fifty Two Thousand Two Hundred Ninety Two Pesos and 30/100 (₱13,552,292.30) representing petitioner's excess and unutilized input value-added tax (VAT) attributable to its zero-rated sales for the period covering September 1, 2014 to December 31, 2014.

The undisputed facts[1] are as follows:

Petitioner Asurion Hong Kong Limited – ROHQ is the Philippine Branch of a multinational company organized and existing under the laws of Hong Kong. As such, petitioner is licensed by the Securities and

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1 Joint Stipulation of Facts and Issues (JSFI), Docket, volume (vol.), I, pp. 275-286.

Exchange Commission (SEC) to transact business in the Philippines as a regional operating headquarters (ROHQ) under SEC Registration No. FS201413422 dated July 17, 2017. Petitioner holds office at the 17/F ACCRALAW Tower, 30th St. cor. 2nd Avenue, Crescent Park West, Bonifacio Global City, Taguig City.

Respondent on the other hand, is the duly appointed Commissioner of Internal Revenue (CIR) vested under the appropriate laws with the authority to carry out the functions, duties and responsibilities of the Office, including *inter alia*, the duty to act upon and approve claims for refund of tax credit pursuant to the provisions of the National Internal Revenue Code (Tax Code) and other tax laws, rules and regulations.

Petitioner is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer with Taxpayer Identification No. (TIN) 008-817-591-000.

Petitioner rendered services in the Philippines to (i) Asurion Insurance Services, Inc. (AISI), a corporation duly established and doing business under the laws of Nashville, Tennessee, United States of America (USA), and (ii) Acyan Corporation (AC), a corporation organized and existing under the laws of Japan.

AISI and AC conduct their business outside the Philippines.

Petitioner filed with the BIR its Original and Amended Quarterly VAT Returns (BIR Form No, 2550-Q) for the 3rd and 4th quarters of CY 2014 on the following dates:

VAT Return	Date of Filing
Original VAT Return for the 3rd Quarter	October 20, 2014
Amended VAT Retrun for the 3rd Quarter	September 12, 2016
Original VAT Return for the 4th Quarter	January 23, 2015
Amended VAT Return for the 4th Quarter	September 25, 2016

On September 30, 2016, petitioner filed with the BIR, Revenue District Office (RDO) No. 44 an administrative claim for the refund of and/or the issuance of TCC for its unutilized input VAT for the period from 3rd and 4th quarters of CY 2014 amounting to ₱13,552,292.30.

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On October 12, 2016, Petitioner received Letter of Authority (LOA) No. AUDM04/008044/2016 (eLA201200036933) dated October 12, 2016 for the examination of petitioner's books of accounts and other accounting records for VAT for the 3rd and 4th quarters of CY 2014.

On December 14, 2016, Petitioner received a letter signed by Ms. Bethsheba R. Bautista, the Revenue District Officer of BIR, RDO No. 44, stating that the Petitioner's administrative claim for refund of excess input taxes for 3rd and 4th quarters of CY 2014 is denied.

Hence, petitioner filed a Petition for Review with the Court of Tax Appeals (CTA) on January 12, 2017.[2]

In his Answer[3], respondent interposed the following Special and Affirmative Defenses:

> " xxx xxx xxx
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> 2) Petitioner failed to demonstrate that the tax, which is the subject of this case, was erroneously or illegally collected;
>
> 3) Taxes paid and collected are presumed to be made in accordance with the laws and regulations, hence, not refundable;
>
> 4) It is incumbent upon the Petitioner to show that it has complied with the provision of Section 204(C) in relation to Section 229 of the 1997 Tax Code, as amended;
>
> 5) Petitioner's claim for refund or issuance of tax credit certificate in the amount of Thirteen Million Five Hundred Fifty Two Thousand Two Hundred Ninety Two Pesos and 30/100 Pesos (Php13,552,292.30) as alleged excess and unutilized input VAT attributable to its zero-rated sales of service for the third and fourth quarters of calendar year 2014 was not fully substantiated by proper documents, such as sales invoices, official receipts and others;

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[2] Docket, vol. I, pp. 10-21.
[3] Docket, vol. I, pp. 81-84.

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6) In a claim for tax refund or tax credit, taxpayer must prove not only entitlement to the grant of the claim under substantive law, it must also show satisfaction of all the documentary and evidentiary requirements for an administrative claim for a refund or tax credit (*Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, 518 SCRA 425);

7) Claims for refund are construed strictly against the claimant, the same partake the nature of exemption from taxation (*Commissioner of Internal Revenue vs. Ledesma*, 31 SCRA 95) and as such, they are looked upon with disfavour (*Western Minolco Corp. vs. Commissioner of Internal Revenue*, 124 SCRA 121)."

A Notice of Pre-Trial Conference[4] was issued by the Court on February 27, 2017, setting the case for pre-trial conference on June 8, 2017. Accordingly, both petitioner and respondent filed their respective Pre-Trial Briefs on June 5, 2017.[5]

Pre-trial conference ensued. The parties submitted their Joint Stipulation of Facts and Issues (JSFI)[6] on July 18, 2017. Thereafter, the Court issued the Pre-Trial Order[7] on September 11, 2017, approving and adopting the joint stipulations filed by the parties and the pre-trial was deemed terminated.

During trial, petitioner presented its witness, Mr. Santiago De Guzman II[8], the Finance Manager of Asurion Hong Kong Limited - ROHQ as well as the Court commissioned Independent Certified Accountant (ICPA), Enrico E. Baluyut.[9] Thereafter, petitioner formally offered its evidence[10] on January 22, 2018. The Court admitted all of petitioner's exhibits except for Exhibit "P-10-1" for failure of the exhibit to correspond with document actually marked.[11]

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4 Docket, vol. I, pp. 86-87.
5 Docket, vol. I, pp. 220-223; 224-239.
6 Docket, vol. I. pp. 275-286.
7 Docket, vol. I, pp. 323-330.
8 Minutes of the Hearing dated September 14, 2017, Docket, vol. I, pp. 331-332.
9 Minutes of the Hearing dated April 25, 2018, Docket, vol. I, pp. 410-412.
10 Docket, vol. I, pp. 450-477.
11 Resolution dated August, 2018, Docket, vol. II, pp. 725-730.

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The admitted documentary exhibits for the petitioner are as follows:

Exhibit:	Description:
P-1	Petitioner's Certificate of Registration and License issued by the Securities and Exchange Commission (SEC) dated July 17, 2014 under SEC Registration No. FS201413422
P-2	Memorandum of Association of Asurion Hong Kong Limited certified by the Registrar of Companies in Hong Kong
P-3	Petitioner's Certificate of Registration with Tax Identification Number (TIN) issued by the Bureau of Internal Revenue (BIR) with TIN. 008-817-591-000
P-4	Service Agreement between petitioner and AISI dated July 17, 2014
P-5	Second Amended and Restated Charter of Asurion Insurance Services, Inc., dated November 20, 2008 certified by the Secretary of the State of Nashville, Tennessee
P-6	Translated Amended Articles of Incorporation of Acyan Corporation dated March 31, 2014
P-7	Certification dated November 14, 2016 issued by the SEC stating that Asurion Insurance Services, Inc. (AISI) is not registered as a corporation in the Philippines
P-8	Certification dated November 14, 2016 issued by the SEC stating that Acyan Corporation is not registered as a corporation in the Philippines
P-9	Certificate of Inward Remittance dated September 14, 2016 issued by the Bank of America
P-10	Original Quarterly VAT Return (BIR Form No. 2550Q) for the 3rd quarter of CY 2014
P-11	Amended Quarterly VAT Return (BIR Form No. 2550Q) for the 3rd quarter of CY 2014
P-11-1	Email confirming the successful filing of Petitioner's Amended Quarterly VAT Return (BIR Form No. 2550Q) for the 3rd quarter of CY 2014
P-12	Original Quarterly VAT Return (BIR Form No. 2550Q) for the 4th quarter of CY 2014
P-13	Amended Quarterly VAT Return (BIR Form No. 2550Q) for the 4th quarter of CY 2014
P-13-1	Email confirming the successful filing of Petitioner's Amended Quarterly VAT Return (BIR Form No. 2550Q) for the 4th quarter of CY 2014
P-14	Petitioner's Administrative Claim of Refund entitled "Claim for Refund of Excess Input Value-Added Tax

	September 1, 2014 to December 31, 2014" dated September 30, 2016
P-15	Application for Tax Credits/Refunds (BIR Form No. 1914) dated September 30, 2016 and stamped received by Revenue District Office (RDO) No. 44 on even date
P-16	Letter of Authority (LOA) No. AUDM04/008044/2016 (eLA201200036933) dated October 12, 2016
P-17	BIR's letter dated December 14, 2016 denying Petitioner's administrative claim for refund
P-18	Amended Quarterly VAT Return (BIR Form No. 2550Q) for the 1st quarter of CY 2015
P-18-1	Email confirming the successful filing of Petitioner's Amended Quarterly VAT Return for the 1st quarter of CY 2015
P-19	Amended Quarterly VAT Return (BIR Form No. 2550Q) for the 2nd quarter of CY 2015
P-19-1	Email confirming the successful filing of Petitioner's Amended Quarterly VAT Return (BIR Form No. 2550Q) for the 2nd quarter of CY 2015
P-20	Amended Quarterly VAT Return (BIR Form No. 2550Q) for the 3rd quarter of CY 2015
P-20-1	Email confirming the successful filing of Petitioner's Amended Quarterly VAT Return (BIR Form No. 2550Q) for the 3rd quarter of CY 2015
P-21	Amended Quarterly VAT Return (BIR Form No. 2550Q) for the 4th quarter of CY 2015
P-21-1	Email confirming the successful filing of Petitioner's Amended Quarterly VAT Return (BIR Form No. 2550Q) for the 4th quarter of CY 2015
P-22	Amended Quarterly VAT Returns (BIR Form No. 2550Q) for the 1st quarter of CY 2016
P-22-1	Email confirming the successful filing of Petitioner's Amended Quarterly VAT Return (BIR Form No. 2550Q) for the 1st quarter of CY 2016
P-23	Amended Quarterly VAT Returns (BIR Form No. 2550Q) for the 2nd quarter of CY 2016
P-23-1	Email confirming the successful filing of Petitioner's Amended Quarterly VAT Return (BIR Form No. 2550Q) for the 2nd quarter of CY 2016
P-24	Sworn Statement of Mr. Santiago de Guzman II dated May 31, 2017
P-24-a	Signature of Mr. Santiago de Guzman II
P-25	ICPA Report dated September 25, 2017
P-25-a	Signature of Mr. Enrico E Baluyut
P-26	Petitioner's Summary of Input Taxes
P-26-a to P-26-jz	Amount of Petitioner's VAT per Summary of Input Taxes
P-27	Official Receipt to support the claim for input VAT

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P-27-a	Amount of petitioner's VAT per Official Receipt
P-28	Official Receipts (OR) – domestic purchase of goods support with OR only
P-29	Invoices – domestic purchase of services supported with invoice only
P-30 to P-35	Petitioner's Statement of Account/Billing Statement/Delivery Receipt Statement/Acknowledgement Receipt/Non-VAT Acknowledgement Receipt/Collection Receipt
P-36 to P-50	Tape receipts
P-51 to P-57	ORs or Invoices dated out of the fiscal/calendar year
P-51-a P-53-a P-56-a	Date indicated in ORs or Invoice/s
P-58 to P-60	ORs or Invoices with VAT not properly indicated or without VAT breakdown
P-58-a to P-60-a	Amount of petitioner's VAT per ORs or Invoices
P-61	Petitioner's Invoice without the Authority to Print (ATP)
P-62 to P-102	ORs or Invoices that failed to comply with at least two (2) of the invoicing requirements in RMC No. 62-2005
P-103	Petitioner's Invoice of its purchase of capital goods exceeding Php1,000,000.00
P-103-a	Amount of petitioner's VAT per Invoice
P-104 to P-131	ORs or Invoices to support the claim for input VAT
P-104-a to P-131-a	Amount of petitioner's VAT per ORs or Invoices
P-132 to P-142	Petitioner's ORs (Supplemental Report) – domestic purchase of goods supported with OR only
P-143 to P-146	Petitioner's Invoices (Supplemental Report) – domestic purchase of services supported with invoice only
P-14 to P-159	Petitioner's Statement of Account/Billing Statement/Delivery Receipt Statement/Acknowledgment Receipt/Non-VAT Acknowledgement Receipt/Collection Receipt
P-160 to P-232	Tape Receipts
P-233 to P-288	ORs or Invoices dated out of the fiscal/calendar year
P-233-a to P-235-a P-239-a to P-240-a P-247-a to	Date indicated in the ORs or Invoices

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P-250-a P-253-a to P-262-a P-267-a P-271-1 to P-288-a	
P-289 to P-290	ORs or Invoices with VAT not properly indicated or without VAT breakdown
P-291	Invoice without the Authority to Print (ATP)
P-292 to P-514	ORs or Invoices that failed to comply with at least two (2) of the invoicing requirements in RMC No. 62-2005
P-515 to P-517	Petitioner's Invoices – schedule of overclaimed input VAT
P-515-a to P-517-a	Amount of petitioner's VAT per Invoices
P-518 to P-545	Documents not in the petitioner's name
P-546 to P-550	Suppliers' Invoices without the indication of the Petitioner's TIN
P-551 to P-559	Suppliers' ORs of Invoices without the indication of petitioner's business address or with incorrect business address
P-560 to P-561	ORs with incorrect business style
P-562 to P-564	ORs to support its zero-rated sales
P-565	Letter of Authorization dated October 4, 2017, authorizing Mr. Gjimuel Ronmar Palumbarit by Tesoro Alegre Inc. (formerly known as Ascendas E-Square Properties Corporation) to be its authorized representative
P-566	Certificate of Filing of Amended Articles of Incorporation dated 21 November 2014 of the change in the name of Ascendas E-Square Properties Corporation to Tesoro Alegre Inc.
P-567	Certificate of Non-registration of Company dated November 14, 2016 issued by the SEC to certify the non-registration of AISI in the Philippines
P-568	Certificate of Authentication of AISI's Articles of Incorporation dated September 12, 2017
P-569	Supplemental ICPA Report dated December 1, 2017
P-569-a	Signature of Mr. Enrico E. Baluyut
P-570	Sworn Statement of Mr. Enrico E. Baluyut dated October 24, 2017
P-570-a	Signature of Mr. Enrico E. Baluyut
P-571	Supplemental Sworn Statement of Mr. Enrico E. Baluyut
P-571-a	Signature of Mr. Enrico E. Baluyut

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P-572	USB containing the scanned copies of the supporting documents examined by the ICPA for the preparation of the ICPA Report and the Supplemental ICPA Report

Meanwhile, respondent manifested that he will no longer present evidence.[12]

In view of the filing of respondent's Memorandum[13] on October 8, 2018 and petitioner's Memorandum[14] on January 9, 2019, the case was submitted for decision on January 18, 2019.[15]

ISSUE[16]

Whether or not petitioner is entitled to the refund of or the issuance of a TCC for its excess and unutilized input VAT attributable to its zero-rated sales of service for the 3rd and 4th quarters of CY 2014 in the amount of Thirteen Million Five Hundred Fifty Two Thousand Two Hundred Ninety Two Pesos and 30/100 (₱13,552,292.30).

Petitioner's claim for refund/TCC of excess or unutilized input VAT finds legal support in Section 108(B)(2), in relation to Sections 110(B) and 112(A) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended, which states:

> ***"SEC. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. –***
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> xxx xxx xxx
>
> **(B) Transactions Subject to Zero Percent (0%) Rate.** - The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate.
>
> (2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business

12 Order dated May 24, 2018, Docket, vol. II, pp. 683-684.
13 Docket, pp. 409-416.
14 Docket, pp. 425-454.
15 Resolution dated October 4, 2018, Docket, p. 456.
16 JSFI, Docket, vol. I, p. 277.

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conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);

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SEC. 110. Tax Credits. —

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(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.

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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.

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(C) Period within which Refund or Tax Credit of Input Taxes shall be made. — In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsections (A) hereof.

"<u>In case of full or partial denial of the claim for tax refund or tax credit</u>, or the failure on the part of the Commissioner to act on the application within the period prescribed above, <u>the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim</u> or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals."

From the foregoing provisions, in order to be entitled to a refund/TCC of excess input VAT attributable to zero-rated or effectively zero-rated sales, the following requisites must be complied with:

1. The taxpayer-claimant must be VAT-registered;
2. There must be zero-rated or effectively zero-rated sales;
3. That input taxes were incurred or paid;
4. That such input taxes are attributable to zero-rated or effectively zero-rated sales;
5. That the input taxes were not applied against any output VAT liability during and in the succeeding quarters; and
6. The claim for refund was filed within the prescriptive period both in administrative and judicial levels.

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First and sixth requisites:

Petitioner is a VAT-registered entity.

It is undisputed that petitioner is registered with the Bureau of Internal Revenue (BIR) as VAT taxpayer with Tax Identification Number (TIN) 008-817-591-000 per Certificate of Registration No. OCN9RC0000425791 effective 22 August 2014.[17]

Petitioner timely filed its administrative and judicial claims.

Pursuant to the above-quoted Section 112(A) of the NIRC of 1997, as amended, the administrative claim for the issuance of a TCC or refund of unutilized excess 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 were made. Thus, petitioner's last day for filing of its administrative claim for the third and fourth quarters of calendar year (CY) 2014 fell on the following dates:

Taxable Quarter	Close of the taxable quarter	Last day for filing Administrative claim
3rd Quarter (1 July 2013 to 30 Sept. 2014)	September 30, 2014	September 30, 2016
4th Quarter (1 Oct. 2014 to 31 Dec. 2014)	December 31, 2014	December 31, 2016

Clearly, petitioner's administrative claim was timely filed on 30 September 2016.[18]

As to the timeliness of petitioner's judicial claim, Section 112(C) of the NIRC of 1997, as amended, provides that the Commissioner of Internal Revenue (CIR) has one hundred twenty (120) days from the date of submission of the complete documents in support of the application for refund or tax credit certificate within which to grant or deny the claim. In

[17] Exhibit "P-3", Docket, vol. I, p. 555.
[18] Exhibits "P-14" to "P-15", Docket, vol. I, pp. 626-631.

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case of full or partial denial by the CIR, the taxpayer's recourse is to file an appeal before the Court of Tax Appeals within 30 days from receipt of the decision of the CIR. However, if after the 120-day period the CIR fails to act on the application for tax refund/credit, the remedy of the taxpayer is to appeal the inaction of the CIR to the Court of Tax Appeals within 30 days.

Accordingly, from the filing of petitioner's administrative claim, together with the supporting documents on 30 September 2016, respondent had one hundred twenty (120) days or until 28 January 2017 to act on the said claim. However, on 14 December 2016, petitioner received a letter from the BIR stating the denial of petitioner's claim. From thereon, petitioner had until 13 January 2017, the last day of the 30-day period, within which to file its appeal before this Court. Evidently, petitioner's judicial claim filed on 12 January 2017 is well within the period prescribed by law.

Second requisite:

Petitioner submits that it rendered services in the Philippines to (i) Asurion Insurance Services, Inc. (AISI), a corporation duly established and doing business under the laws of Nashville, Tennessee, United States of America (USA), and (ii) Acyan Corporation (AC), a corporation organized and existing under the laws of Japan.[19] Petitioner contends that both are not engaged in business in the Philippines, and that the service fees were paid in acceptable foreign currencies and accounted for in accordance with the rules and regulations of BSP are subject to zero percent (0%) VAT pursuant to Section 108(B)(2) of the NIRC of 1997, as amended.

In the case of ***Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.***[20], the Supreme Court held that in order for the supply of services to be VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the following requisites must be met:

1. the services must be other than processing, manufacturing or repacking of goods;

[19] No. 5, Stipulated Facts, Joint Stipulation of Facts and Issues, Docket, vol. I, p. 276.
[20] G.R. No.153205, 22 January 2007.

2. the recipient of such services is doing business outside the Philippines; and
3. Payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations.

Per Philippine Securities and Exchange Commission (SEC) Certificate of Registration and License No. FS201413422, petitioner Asurion Hong Kong Limited – ROHQ is engaged in: general administration and planning; business planning and coordination; sourcing/procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistics services; research and development services, and product development; technical support and maintenance; data processing and communication; and business development.[21] Clearly then, the nature of services being offered by petitioner to its clients is other than processing, manufacturing or repacking of goods, in compliance with the first requisite.

In ***Accenture, Inc. v. Commissioner of Internal Revenue***[22], the Supreme Court ruled that it is not enough that the recipient of the service be shown to be a foreign corporation, it must likewise be established that the said recipient is a "non-resident foreign corporation". Moreover, there must not be any indication that the recipient of the services is doing business in the Philippines, consistent with the ruling in ***Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.***[23]

Hence, to be considered as non-resident foreign corporation doing business outside the Philippines, each entity must be supported, at the very least, by **both** SEC certificate of non-registration of corporation/partnership **and** proof of incorporation, association or registration in a foreign country.

Petitioner presented the following documents proving that its customers, AISI and AC, are non-resident foreign corporations doing business outside the Philippines:

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21 Exhibit "P-1", Docket, vol. I, p. 478.
22 G.R. No. 190102, 11 July 2012.
23 *Commissioner of Internal Revenue vs. Chevron Holdings, Inc.,* CTA EB No 1509, 21 March 2018.

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(a) Second Amended and Restated Charter of AISI;[24]
(b) Translated Amended Articles of Incorporation of AC;[25]
(c) SEC Certification of Non-registration of AISI;[26] and
(d) SEC Certification of Non-registration of AC.[27]

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

> **"SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* —**
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> "(A) *Invoicing Requirements.* — A VAT-registered person shall issue:
>
> xxx xxx xxx
>
> "(2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services
>
> "(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);
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> "(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:

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[24] Exhibit "P-5", Docket, vol. II, pp. 689-717.
[25] Exhibit "P-6", Docket, vol. I, pp. 587-611.
[26] Exhibit "P-7", Docket, vol. I, p. 612.
[27] Exhibit "P-8", Docket, vol. I, p. 613.

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

xxx xxx xxx

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

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

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

xxx xxx xxx

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

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

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

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

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

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

xxx xxx xxx

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

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

In its amended Quarterly VAT Returns for the 3rd and 4th quarters of CY 2014, petitioner declared total zero-rated sales of ₱149,271,326.81, as follows:[28]

Exhibit	Period	Amount
P-11	3rd Quarter	₱ -
P-13	4th Quarter	149,271,326.81
	Total Zero-Rated Sales	**₱149,271,326.81**

To prove that it rendered services to AISI for the 4th quarter of CY 2014 in the amount of US$3,370,000 with peso equivalent of ₱149,271,326.81, which was paid in foreign currency duly accounted for in accordance with the rules and regulations of the BSP, petitioner submitted the certificate of inward remittance dated 14 September 2016 issued by the Bank of America,[29] as well as the official receipts supporting its zero-rated sales, summarized as follows:

Per Certificate of Inward Remittance			
Date	**USD Amount**	**Reference**	**Remitter's Name**
14-12-05	$1,165,000.00	6059 339LAC21	Asurion LLC
14-10-02	1,005,000.00	6059 274LAJ09	Asurion Insurance Services Inc.
14-10-31	1,200,000.00	6059 304LAA01	Asurion Insurance Services Inc.
Total	**$3,370,000.00**		

Per Official Receipts

[28] Docket, vol. I, pp. 619 and 623.
[29] Exhibit "P-9", Docket, vol. I, pp. 614-615.

Registered Name	OR No.	OR Date	Amount ($)	PDEX/ BSP Rate	Amount	Exhibit No.
Asurion Insurance Services, Inc.	0051	10/2/2014	1,005,000.00	44.06256885	₱ 44,282,881.69	P-562
Asurion Insurance Services, Inc.	0052	10/31/2014	1,200,000.00	44.06256885	52,875,082.62	P-563
Asurion Insurance Services, Inc.	0053	12/5/2014	1,165,000.00	44.7325	52,113,362.50	P-564
Total			**$3,370,000.00**		**₱149,271,326.81**	

Upon examination of the documents submitted by the petitioner, it can be gleaned that the total amount of ₱149,271,326.81 are earnings from valid zero-rated sales under Section 108(B)(2) of the NIRC of 1997, as amended.

Third and fourth requisites:

In its amended Quarterly VAT Returns for the 3rd and 4th quarters of CY 2014, petitioner reported unutilized input tax derived from domestic purchases of capital goods exceeding ₱1 million, goods other than capital goods, and domestic purchases of services in the total amount of ₱13,552,292.30, broken down as follows:[30]

Particulars	3rd Quarter	4th Quarter	Total
Domestic Purchases of Goods other than CG	₱ 853,641.34	₱ 209,079.45	₱ 1,062,720.79
Domestic Purchases of Services	280,566.56	2,615,829.49	2,896,396.05
Others[31]	9,593,175.46	-	9,593,175.46
Total	**₱10,727,383.36**	**₱2,824,908.94**	**₱13,552,292.30**

Pursuant to the examination performed by the Court-commissioned Independent Certified Public Accountant (ICPA), R.G. Manabat & Co., through its Audit Partner, Mr. Enrico E. Baluyut, the following exceptions on petitioner's claimed input VAT in the aggregate amount of ₱9,487,129.27 was noted, summarized as follows:

Purchase of Services, Goods and Capital Goods not exceeding 1 million		
Input tax in the 3rd Quarter of 2014 with noted exceptions:[32]		
Particulars	**Amount**	**Annex Reference/ Exhibit No.**
a. Domestic purchase of goods supported with OR only	₱ 109.29	Annex "B" / Exhibit "P-28"

30 Exhibits "P-11" and "P-13", Docket, vol. I, pp. 619 and 623.

31 Refers to the Purchases of Capital Goods exceeding 1 million claimed in the Petition for Review.

32 ICPA Report, Exhibit "P-25", Docket, pp. 342-343.

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b. Domestic purchase of services supported with Invoice only	1,078.43	Annex "C" / Exhibit "P-29"
c. Domestic purchase of goods/services supported with Statement of Account/Billing Statement/Delivery Receipt Statement/Acknowledgement Receipt/Non-VAT Acknowledgement Receipt/Collection Receipt only	9,097.20	Annex "D" / Exhibits "P-30" to "P-35"
d. Domestic purchase of goods/services supported with tape receipt	235.40	Annex "E" / Exhibits "P-36" to "P-50"
e. Domestic purchases of goods/services with invoices/ORs dated out of the fiscal/calendar year	139,074.44	Annex "F" / Exhibits "P-51" to "P-57"
f. Domestic purchase of goods/services with VAT not properly indicated or without VAT breakdown in the invoices/ORs	30,552.00	Annex "G" / Exhibits "P-58" to "P-60"
g. Domestic purchase without authority to print	8,720.40	Annex "H" / Exhibit "P-61"
h. Domestic purchases of goods/services supported with VAT invoices/ORs that failed to comply with at least two (2) of the invoicing requirements in RMC No. 62-2005	53,239.99	Annex "I" / Exhibits "P-62" to "P-102"
i. Domestic purchases without supporting documents	39,028.15	Annex "J"
Total input VAT in the 3rd quarter of 2014 with Noted Exceptions	**₱ 281,135.30**	
Input tax in the 4th Quarter of 2014 with noted exceptions:[33]		
Particulars	**Amount**	**Annex Reference/ Exhibit No.**
a. Domestic purchase of goods supported with OR only	₱ 2,855.18	Annex "M" / Exhibits "P-132" to "P-142"
b. Domestic purchase of services supported with Invoice only	8,182.39	Annex "N" / Exhibits "P-143" to "P-146"
c. Domestic purchase of goods/services supported with Statement of Account/Billing Statement/Delivery Receipt Statement/Acknowledgement Receipt/Non-VAT Acknowledgement Receipt/Collection Receipt only	63,613.68	Annex "O" / Exhibits "P-147" to "P-159"

[33] ICPA Report, Exhibit "P-569", Docket, pp. 372-375.

d. Domestic purchase of goods/services supported with tape receipt	10,734.22	Annex "P" / Exhibits "P-160" to "P-232"
e. Domestic purchases of goods/services with invoices/ORs dated out of the fiscal/calendar year	500,728.13	Annex "Q" / Exhibits "P-51", "P-53", "P-56", "P-233" to "P-288"
f. Domestic purchase of goods/services with VAT not properly indicated or without VAT breakdown in the invoices/ORs	28,141.22	Annex "R" / Exhibits "P-289" to "P-290"
g. Domestic purchase without authority to print	720.00	Annex "S" / Exhibit "P-291"
h. Domestic purchases of goods/services supported with VAT invoices/ORs that failed to comply with at least two (2) of the invoicing requirements in RMC No. 62-2005	207,349.81	Annex "T" / Exhibits "P-292" to "P-514"
i. Domestic purchase with over claimed input vat	2,388.70	Annex "U" / Exhibits "P-515" to "P-517"
j. Domestic purchase of goods/services already reported in the previous quarters	1,207.84	Annex "V" / Exhibit "P-69"
k. Domestic purchases with support not in the Company's name	7,830.34	Annex "W"/ Exhibits "P-518" to "545"
l. Domestic purchases without the Company's TIN indicated in the invoices/ORs	21,856.76	Annex "X" / Exhibits "P-546" to "P-550"
m. Domestic purchases without Company's business address or with incorrect business address	89,993.37	Annex "Y" / Exhibits "P-551" to "P-559"
n. Domestic purchases with incorrect business style	5,004.00	Annex "Z" / Exhibits "P-560" to "P-561"
o. Domestic purchases without supporting documents	42,063.66	Annex "AA"
p. Disallowed input VAT debits	(78,553.11)	Annex "AB"
Total input VAT in the 4th quarter of 2014 with Noted Exceptions	**₱ 914,116.19**	
Purchase of Capital Goods exceeding 1 million		
3rd and 4th Quarters-2014		
Particulars	**Amount**	**Annex Reference**
a. Unamortized input VAT on purchases of capital goods exceeding PHP1,000,000.00	₱ 8,291,877.78[34]	Annex "K-2"
Total unamortized input VAT for the calendar year 2014	**₱8,291,877.78**	
Grand Total	**₱9,487,129.27**	

[34] ICPA Report, Exhibit "P-25", Docket, p. 345.

Upon verification of the supporting documents, the Court determined the foregoing results to be in order. Thus, the input VAT of ₱9,487,129.27 shall be disallowed for petitioner's failure to meet the substantiation requirements under Sections 110(A) and 113(A) and (B) and 237 and 238 of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-8 and 4.113-1 of RR No. 16-05, as amended.

In sum, out of petitioner's claimed unutilized input VAT of ₱13,552,292.30, only the amount of ₱4,065,163.03[35] represents petitioner's valid input VAT for the 3rd and 4th quarters of CY 2014.

Since petitioner reported 100% zero-rated sales for the 4th quarter of CY 2014, the substantiated input VAT of ₱4,065,163.03 is wholly attributable thereto.

Fifth requisite:

The claimed input VAT amounting to ₱13,552,292.30 was carried over by petitioner in its succeeding Quarterly VAT Returns until the 2nd quarter of CY 2016.[36] The same remained unutilized since petitioner had no output tax liability for the period and it was eventually deducted as "VAT Refund/TCC Claimed" in its amended Quarterly VAT Return for the 2nd quarter of CY 2016 in the aggregate amount of ₱32,170,384[37], including the claimed input VAT of ₱13,552,292.30; thus, preventing the carry-over or application of the claimed input VAT in the next taxable periods.

In sum, petitioner has sufficiently proven its entitlement to a refund/TCC in the reduced amount of ₱4,065,163.03, representing unutilized input VAT attributable to its zero-rated sales for the 3rd and 4th quarters of CY 2014.

WHEREFORE, in view of the foregoing, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent should be **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTFICATE** in favor of petitioner in the amount of **₱4,065,163.03** representing

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35 ₱13,552,292.30 less ₱9,487,129.27.
36 Exhibits "P-18" to "P-23", Docket, vol. I, pp. 635-650.
37 Line 23D, Exhibit "P-23", Docket, vol. I, p. 650.

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unutilized input VAT attributable to its zero-rated sales for the period of September 1, 2014 to December 31, 2014.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
2nd Division Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice