REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

STEFANINI PHILIPPINES, INC., *Petitioner,*	**CTA Case No. 10826**
	Members:
- versus -	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** and **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	**Promulgated:** FEB 19 2025 1:15 p.m.

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DECISION

REYES-FAJARDO, J.:

Before the Court is a Petition for Review[1] filed by Stefanini Philippines, Inc. (petitioner or Stefanini Philippines) against respondent Commissioner of Internal Revenue (CIR), seeking the refund of or issuance of a tax credit certificate (TCC) amounting to ₱3,404,535.26 representing alleged unutilized input value-added tax (VAT) on purchases of goods and services attributable to zero-rated sales relative to the fourth quarter of calendar year (CY) 2019.

FACTS

Stefanini Philippines is a corporation organized under Philippine law, with registered office address at 3, 5 & 6/F iMET BPO Metrobank Ave., Metropolitan Park, Roxas Blvd., Pasay City 1300. It is engaged in the business of providing business process outsource solutions and allied contact or call center services[2] to clients, including non-resident foreign entities such as Stefanini, Inc., Stefanini Australia Pty Ltd., Stefanini NV SA, and Stefanini Canada Ltd.

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1 Docket – Vol. 1, pp. 6-13.
2 Par. 1.1, Stipulation of Facts, JSFI, incorporated in the parties' Compliance dated October 17, 2022, Docket – Vol. 1, p. 309.

Respondent is the head of the Bureau of Internal Revenue (BIR) empowered to perform the duties of the office, including acting upon and approving claims for refund or tax credit. Its office address is at the 5th Floor, BIR National Office Building, BIR Road, Diliman, Quezon City.[3]

Tax Returns.

1) *Output VAT*

For the fourth quarter of CY 2019, Stefanini Philippines filed its Quarterly Value-Added Tax Return (BIR Form No. 2550-Q),[4] reporting total sales of ₱243,152,391.15,[5] which included zero-rated sales of ₱239,334,455.69;[6] output VAT arising from its vatable sales amounted to ₱458,152.26,[7] *viz.*:

	Tax Base	VAT Rate	Output VAT
Vatable Sales/Receipts	₱3,817,935.46	12%	₱458,152.26
Zero-Rated Sales/Receipts	239,334,455.69	0%	-
Total Sales/Receipts	**₱243,152,391.15**		**₱458,152.26**

2) *Input VAT*

Stefanini Philippines also declared total input VAT amounting to ₱3,862,667.53 arising from its purchases of goods and services computed, as follows:

Input Tax Due on Capital Goods exceeding ₱1M (amortized)		
Deferred from previous quarter	₱2,589,866.40	
Purchase of Capital Goods Exceeding P1M	249,727.80	
Subtotal	₱2,839,594.20	
Less: Deferred for the succeeding period	2,518,902.24	₱320,691.96
Input Tax Due on Current Purchases of Goods other than Capital Goods		
Input tax on purchase of capital goods not exceeding ₱1M	₱97,788.00	
Input tax on domestic purchases of goods other than capital goods	149,153.56	246,941.56
Input Tax Paid on domestic purchases of services		3,295,034.01
Total input tax during the period		₱3,862,667.53

[3] Par. 2, Stipulation of Facts, Compliance dated October 1, 2020, Docket - Vol. 1, pp. 298 to 299.
[4] Exhibit "P-44", Docket - Vol. 2, pp. 832-833.
[5] Line 19A, Docket - Vol. 2, p. 832.
[6] Line 17, id.
[7] Line 19B, id.

3) *VAT Payable*

The total input VAT exceeded the total output VAT (₱458,152.26) during the subject quarter. Thus, Stefanini Philippines reported a net VAT *overpayment* amounting to ₱61,632,911.65.[8]

Proceedings before the BIR.

On **December 31, 2021**, Stefanini Philippines filed with the BIR its Application for Tax Credits/Refunds (BIR Form No. 1914),[9] accompanied by a letter[10] of even date (**administrative claim**), averring as follows: that it incurred excess and/or unutilized input VAT attributable to its zero-rated sales; and that it is entitled to the refund or credit of excess input VAT relative to the fourth quarter of CY 2019 in the amount of ₱3,404,535.26.[11]

The CIR issued a VAT Refund Notice[12] dated February 23, 2022, granting the administrative claim to the extent of ₱219,230.25, detailed as follows:

VAT Refund Claimed	₱3,404,535.26
Deductions from Claim	3,185,305.01
Net Allowable VAT Refund	**₱219,230.25**

Stefanini Philippines received a copy of the VAT Refund Notice on **March 3, 2022.**[13] Thereafter, it filed the present Petition for Review (**judicial claim**) on **April 1, 2022**.

Proceedings before the Court.

The CIR filed an Answer[14] and submitted[15] the BIR Records of the case on August 3, 2022 and September 7, 2022, respectively.

[8] Line 29, Docket - Vol. 2, p. 833.
[9] Exhibit "P-50," Docket - Vol. 2, p. 847.
[10] Exhibit "P-51," Docket - Vol. 2, pp. 848-850.
[11] Line 11, Exhibit "P-50," Docket - Vol. 2, p. 847.
[12] Exhibit "P-53," Docket - Vol. 1, pp. 54-61.
[13] Exhibit "P-53-A," Docket - Vol. 1, p. 54.
[14] Docket - Vol. 1, pp. 216-226.
[15] Respondent's *Compliance* dated September 5, 2022, Docket - Vol. 1, pp. 256-258.

After the parties submitted their respective pre-trial briefs;[16] the pre-trial conference was held on September 29, 2022.[17] Thereafter, the Court approved[18] the parties' Joint Stipulation of Facts and Issues (JSFI), which marked the termination of pre-trial. The Court issued a Pre-Trial Order on December 28, 2022.[19]

During trial, Stefanini Philippines presented the testimonies of the following: (1) Ms. Jeanina B. Pepito,[20] Finance Manager, Stefanini Philippines; and (2) Mr. Joseph Cedric V. Calica,[21] the Court-commissioned Independent Certified Public Accountant (ICPA).[22]

The ICPA's Report was submitted on January 10, 2023.[23]

Stefanini Philippines filed its Formal Offer of Evidence[24] on February 7, 2023. After the CIR' Comment[25] thereon, the Court resolved[26] to admit all exhibits offered by Stefanini Philippines.

For its part, the CIR presented the testimony of Jennefer I. Coronel, BIR Revenue Officer.[27] Subsequently, the Court also admitted[28] all exhibits offered[29] by the CIR.

Subsequently, respondent CIR filed a Manifestation, adopting the arguments contained in the Answer as its Memorandum. After petitioner's filing of its Memorandum,[30] the case was submitted for decision on February 19, 2024.[31]

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[16] For respondent, Docket - Vol. 1, pp. 236-239; For petitioner, Docket - Vol. 1, pp. 264-279.

[17] Notice of Pre-Trial Conference dated August 8, 2022, Docket - Vol. 1, pp. 228-230; Minutes of the hearing held on, and Order dated, September 29, 2022, Docket - Vol. 1, pp. 282-284, and 287-289, respectively.

[18] In a Resolution dated November 8, 2022, Docket - Vol. 1, p. 343.

[19] Docket - Vol. 1, pp. 372-391.

[20] Exhibit "P-54," Docket - Vol. 1, pp. 62 to 81; Minutes of the hearing held on, and Order dated, December 1, 2022, Docket - Vol. 1, pp. 362-364, and 366-367, respectively.

[21] Exhibit "P-91," Docket - Vol. 2, pp. 670 to 687; Minutes of the hearing held on, and Order dated, January 19, 2023, Docket - Vol. 2, pp. 688-692.

[22] *Oath of Commission* dated December 1, 2022, Docket - Vol. 1, p. 365; Minutes of the hearing held on, and Order dated, December 1, 2022, Docket - Vol. 1, pp. 362-364 and 366-367, respectively.

[23] Exhibit "P-88," Docket - Vol. 1, pp. 395-664.

[24] Docket - Vol. 2, pp. 695-725.

[25] Docket - Vol. III, pp. 1480-1483.

[26] In a Resolution dated March 14, 2023, Docket - Vol. 2, pp. 939-940.

[27] Exhibit "R-4," Docket - Vol. 1, pp. 246-251; Minutes of the hearing held on and Order dated August 1, 2023, Docket - Vol. 2, pp. 956-958.

[28] In a Resolution dated December 20, 2023, Docket - Vol. 2, pp. 971-972.

[29] Docket - Vol. 2, pp. 959-961.

[30] Docket - Vol. 2, pp. 977-1017.

[31] As per Minute Resolution dated February 19, 2024, Docket - Vol. 2, p. 1019.

Stefanini Philippines's Arguments.

Petitioner anchors its claim for refund or credit on Sections 108(B)(2) and 112(A), in relation to Section 110(B), of the National Internal Revenue Code (Tax Code), as amended.[32] It avers as follows: *First,* it is a VAT-registered taxpayer.[33] *Second,* the business process outsource solutions and allied contact or call center services rendered to its foreign clients, which were paid for in acceptable foreign currency and accounted for in accordance with Bangko Sentral ng Pilipinas (BSP) rules,[34] qualify for zero-rating.[35] *Third,* the input VAT subject of the present claim was derived from purchases of goods and services attributable to the above-described sales of services.[36] *Fourth,* said input VAT has remained unutilized and/or unapplied against its output VAT liability.[37] *Fourth,* it filed administrative and judicial claims within reglementary period prescribed by the Tax Code.[38]

The CIR's Arguments

Respondent CIR insists that Stefanini Philippines failed to substantiate its claim for refund; that a claim for refund is not *ipso facto* granted upon filing of the claim; that tax refunds are subject to administrative routinary investigation; and that tax refunds are strictly construed against the taxpayer and in favor of the government. The Court's jurisdiction over the present case is strictly appellate in nature; judicial scrutiny shall be confined to the same documents submitted before the BIR.

ISSUE

The Court is tasked to ascertain Stefanini Philippines's entitlement to a refund or credit of alleged unutilized input VAT attributable to zero-rated sales relative to the fourth quarter of CY 2019.

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[32] Par. 12, *Petition for Review,* Docket - Vol. 1, p. 9.

[33] Par. 13, *Petition for Review,* Docket - Vol. 1, p. 11; Par. 42, Petitioner's *Memorandum,* Docket - Vol. 2, p. 988.

[34] Par. 44, *Memorandum,* Docket - Vol. 2, p. 989.

[35] Pars. 46-63, *Memorandum,* Docket - Vol. 2, pp. 990-998.

[36] Par. 13, *Petition for Review,* Docket - Vol. 1, p. 11; Pars. 64-66, *Memorandum,* Docket - Vol. 2, pp. 998-1003.

[37] Par. 13, *Petition for Review,* Docket - Vol. 1, p. 11; Pars. 67-69, *Memorandum,* Docket - Vol. 2, pp. 1003-1006.

[38] Pars. 14-20, *Petition for Review,* Docket - Vol. 1, pp. 11-13; Pars. 36-41, Petitioner's *Memorandum,* Docket - Vol. 2, pp. 986-988.

OUR RULING

The Petition for Review is partly meritorious.

The Court may consider evidence not presented at the administrative level.

A taxpayer seeking a refund or credit bears the burden of establishing its entitlement to the claim by showing that it has strictly complied with the conditions for its grant.[39] The claimant must prove not only that it is entitled to a refund, but also that it observed the reglementary periods within which the administrative and judicial claims for refund must be filed.[40]

Verily, the law authorizes the CIR to issue a tax credit certificate relative to or refund creditable input VAT due or paid attributable to zero-rated sales.[41] Thus, the CIR is given sufficient discretion to grant or deny the claim for refund or credit, after evaluating the claimant's submissions in support of its request.

The CIR's denial is appealable to this Court.[42] On appeal, the claimant must convince the Court that the CIR's denial was not justified. **It may re-submit the documents already presented to the CIR, as well as additional documents which may further bolster its entitlement to a refund or credit. Put in another way, "part of the evidence to be submitted to the CTA must necessarily include whatever is required for the successful prosecution of an administrative claim."**[43]

It is settled that cases filed before this Court are litigated *de novo*. Our review shall not be "limited to whether or not the Commissioner committed gross abuse of discretion, fraud, or error of law, as

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[39] *Silicon Phils. Inc. v. Commissioner of Internal Revenue*, G.R. Nos. 184360, 184361 & 184384, February 19, 2014, 727 Phil. 487-506; *Silicon Phils., Inc. v. Commissioner of Internal Revenue*, G.R. No. 173241, March 25, 2015.

[40] *Commissioner of Internal Revenue v. United Cadiz Sugar Farmers Association Multi-Purpose Cooperative*, G.R. No. 209776, December 7, 2016, 802 Phil. 636-659.

[41] Section 112(C), Tax Code.

[42] Section 112(C), Tax Code.

[43] See *Atlas Consolidated Mining and Development Corp. v. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007, 547 Phil. 332-340.

contended by the Commissioner" and shall cover even the CIR's factual findings.[44]

Accordingly, We are not foreclosed from considering the totality of the evidence offered by Stefanini Philippines, whether or not submitted previously at the administrative level.

Stefanini Philippines is entitled to a <u>partial</u> refund or credit.

We find in favor of granting Stefanini Philippines a refund or credit to the extent of **₱588,078.40**.

In *Chevron Holdings, Inc. v. Commissioner of Internal Revenue*,[45] the Supreme Court set out the requisites for a grant of refund or credit of unutilized input VAT attributable to zero-rated sales, *viz.*:

> Under Section 112 (A) of the Tax Code, the taxpayer may claim for refund or issuance of tax credit certificate of unutilized input VAT attributable to zero-rated sales subject to the following conditions: (1) the taxpayer is VAT-registered; (2) the taxpayer is engaged in zero-rated or effectively zero-rated sales; (3) the claim must be filed within two (2) years after the close of the taxable quarter when such sales were made; and (4) the creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax.

The concurrence of the above-enumerated conditions in the present case is discussed below.

1) VAT Registration.

Stefanini Philippines's VAT registration is established by its Certificate of Registration[46] with TIN 006-960-314-00000.

2) VAT Zero-rating

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[44] *Philippine Airlines, Inc. v. Commissioner of Internal Revenue*, G.R. Nos. 206079-80 & 206309, January 17, 2018.

[45] G.R. No. 215159, July 5, 2022.

[46] Exhibits "P-4" and "P-5," Docket – Vol. 2, pp. 742-743.

Stefanini Philippines avers that the input VAT it seeks to refund is attributable to sales of services to its non-resident foreign clients, which they regard as subject to zero percent (0%) VAT, pursuant to Section 108(B)(2) of the Tax Code, *viz.*:

> Sec. 108. Value-Added Tax on Sale of Services and Use or Lease of Properties. -
>
> xxx xxx xxx
>
> (B) Transactions Subject to Zero Percent (0%) Rate. - The following **services performed in the Philippines** by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
>
> (2) **Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);"** (Emphases supplied)

<u>Philippines as the place where services were performed.</u>

The parties have stipulated[47] that Stefanini Philippines is engaged in the enterprise of providing business process outsource solutions and allied contact or call center services. That these services were performed **in the Philippines** is supported by its Amended Articles of Incorporation,[48] BIR Certificate of Registration,[49] and Agreements for Services[50] with its respective clients, among others, showing that its registered address and principal place of business is in the Philippines. Further, the **Addenda to the Agreements** for Services between petitioner and its clients Stefanini, Inc., Stefanini

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[47] Par. 1.1, Stipulation of Facts, Compliance dated October 17, 2022, Docket – Vol. 1, p. 309.
[48] Exhibits "P-2" and "P-3," Docket - Vol. 2, pp. 727-741.
[49] Exhibits "P-4" and "P-5," Docket - Vol. 2, pp. 742-743.
[50] Exhibits "P-6-1," "P-7-1," "P-8-1," and "P-9-1," Docket - Vol. II, pp. 750-752, 759-761, 768-770, and 778-780, respectively.

Australia Pty Ltd., Stefanini NV/SA and Stefanini Canada Ltd., **all dated January 3, 2019, indicate that the subject services will be performed, provided, and rendered by petitioner in the Philippines.** In Our view, that a corporation was incorporated in the Philippines and is registered herein are *prima facie* proofs that, necessarily, it conducts its business in the Philippines, where it resides and is registered.[51] Significantly, Stefanini Philippines's domestic registered address is no longer disputed, as this fact has been settled and accepted between the parties. [52]

<u>Nature of services rendered.</u>

Sales or supplies of services performed in the Philippines may fall into two categories for purposes of zero-rating: **export services** under sub-paragraph (B)(1) (*e.g.*, processing, manufacturing or repacking of goods intended for consumption outside the Philippines) and **other services** under sub-paragraph (B)(2) (*e.g.*, sale or supply of services other than those referred to in sub-paragraph (B)(1)).

That Stefanini Philippines's **"outsourced processing services to support [its clients'] internal operations and external customer contracts"** are "other services" is established by the following:

1. Agreement for Services entered into between the Petitioner and Stefanini, Inc.[53] and the related Addendum;[54]
2. Agreement for Services entered into between the Petitioner and Stefanini Australia Pty Ltd.[55] and the related Addendum;[56]
3. Agreement for Services entered into between the Petitioner and Stefanini NV/SA[57] and the related Addendum;[58]

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[51] *Stefanini Philippines, Inc. v. Commissioner of Internal Revenue,* C.T.A. Case No. 10188, November 23, 2022; *Stefanini Philippines, Inc. v. Commissioner of Internal Revenue,* C.T.A. Case No. 10226, August 23, 2023.

[52] Par. 1.1, Stipulation of Facts, *Compliance* dated October 17, 2022, Docket - Vol. 1, p. 309.

[53] Exhibit "P-6," Docket - Vol. 2, pp. 744-749.

[54] Exhibit "P-6-1," Docket - Vol. 2, pp. 750-752.

[55] Exhibit "P-7," Docket - Vol. 2, pp. 753-758.

[56] Exhibit "P-7-1," Docket - Vol. 2, pp. 759-761.

[57] Exhibit "P-8," Docket - Vol. 2, pp. 762-767.

[58] Exhibit "P-8-1," Docket - Vol. 2, pp. 768-770.

4. Agreement for Services entered into between the Petitioner and Stefanini Canada Ltd.[59] and the related Addendum;[60]

For VAT zero-rating, these "other services" must meet the criteria set out in Section 108 sub-paragraph (B)(2).

<u>VAT zero-rating of "other services."</u>

In *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*,[61] the Supreme Court enumerated the conditions under Section 108(B)(1), *viz.*:

> Sales of "other services," such as those qualifying services rendered by DKS to its foreign affiliates-clients, shall be zero-rated pursuant to Section 108 (B) (2) of the Tax Code if the following conditions are met: First, the seller is **VAT-registered**. Second, the services are rendered "to a **person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines** when the services are performed." Third, the services are "paid for in acceptable foreign currency and accounted for in accordance with [BSP] rules and regulations."
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> ...
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> Proof of NRFC Status
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> For purposes of zero-rating under Section 108 (B) (2) of the Tax Code, the claimant must establish the two components of a client's NRFC status, viz.: (1) that their client was established under the laws of a country not the Philippines or, simply, is not a domestic corporation; and (2) that it is not engaged in trade or business in the Philippines. To be sure, there must be sufficient proof of both of these components: showing not only that the clients are foreign corporations, but also are not doing business in the Philippines.

Stefanini Philippines established its compliance with the aforementioned requisites.

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[59] Exhibit "P-9," Docket - Vol. 2, pp. 771-777.
[60] Exhibit "P-9-1," Docket - Vol. 2, pp. 778-780.
[61] G.R. No. 234445, July 15, 2020.

First, as discussed above, its VAT-registration is shown by its **BIR Certificate of Registration**.

Second, to prove that the remittances it received as payments for the services rendered were in acceptable foreign currency and accounted for as required by applicable BSP rules, petitioner presented **Certificates of Inward Remittance** issued by the Bank of America.[62]

In the issuance of invoices and receipts evidencing the subject sales and collections of remittances, Stefanini Philippines must also comply with the mandatory invoicing requirements laid out in Section 113(A) and (B) of the Tax Code,[63] as further implemented by Section 4.113-1(A) and (B) of Revenue Regulations (RR) No. 16-05.

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[62] Exhibit "P-43," Docket - Vol. 2, p. 831.

[63] SEC. 113. Invoicing and Accounting Requirements for VAT-registered Persons. —

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

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

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

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

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

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

(a) The amount of the tax shall be shown as a separate item in the invoice or receipt;

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

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

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

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

(4) In the case of sales in the amount of One thousand pesos (₱1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client.

Stefanini Philippines's reported zero-rated sales relative to the fourth quarter of CY 2019, in the aggregate amount of ₱239,334,455.69, is supported by the following VAT official receipts:

Client Name	USD	Forex	PHP	OR No.	Exh.
Stefanini, Inc.	125,000.00	51.830	6,478,750.00	290	P-57-A-1
Stefanini, Inc.	125,000.00	51.645	6,455,625.00	291	P-57-A-2
Stefanini, Inc.	350,000.00	51.740	18,109,000.00	292	P-57-A-3
Stefanini, Inc.	115,000.00	51.785	5,955,275.00	293	P-57-A-4
Stefanini, Inc.	100,000.00	51.675	5,167,500.00	294	P-57-A-5
Stefanini Canada Ltd.	299,531.60	39.020	11,687,723.03	295	P-57-A-6
Stefanini Australia Pty Ltd	50,000.00	34.980	1,749,000.00	296	P-57-A-7
Stefanini NV/SA	150,000.00	56.870	8,530,500.00	297	P-57-A-8
Stefanini, Inc.	160,000.00	50.460	8,073,600.00	298	P-57-A-9
Stefanini, Inc.	550,000.00	50.540	27,797,000.00	299	P-57-A-10
Stefanini, Inc.	800,000.00	50.560	40,448,000.00	300	P-57-A-11
Stefanini, Inc.	100,000.00	50.940	5,094,000.00	301	P-57-A-12
Stefanini, Inc.	463,096.01	51.010	23,622,527.47	302	P-57-A-13
Stefanini, Inc.	221.15	51.010	11,280.86		
Stefanini, Inc.	318.80	51.010	16,261.99		
Stefanini, Inc.	11,364.04	51.010	579,679.68		
Stefanini Canada Ltd.	44,400.50	38.380	1,704,091.19	303	P-57-A-14
Stefanini Canada Ltd.	43,650.47	38.380	1,675,305.04		
Stefanini NV/SA	20,301.14	56.060	1,138,081.91	304	P-57-A-15
Stefanini NV/SA	74,542.44	56.060	4,178,849.18		
Stefanini, Inc.	450,000.00	50.530	22,738,500.00	305	P-57-A-16
Stefanini, Inc.	125,000.00	50.565	6,320,625.00	306	P-57-A-17
Stefanini Canada Ltd.	44,708.45	38.500	1,721,275.33	307	P-57-A-18
Stefanini Australia Pty Ltd	19,772.59	34.620	684,527.07	308	P-57-A-19
Stefanini Australia Pty Ltd	40,494.49	34.620	1,401,919.24		
Stefanini Australia Pty Ltd	39,285.76	34.620	1,360,073.01		
Stefanini Australia Pty Ltd	40,206.70	34.620	1,391,955.95		
Stefanini Australia Pty Ltd	45,625.77	34.620	1,579,564.16		
Stefanini Australia Pty Ltd	24,392.42	34.620	844,465.58		
Stefanini, Inc.	450,000.00	50.710	22,819,500.00	309	P-57-A-20
TOTAL	4,861,912.33		**239,334,455.69**		

Per examination, each official receipt complies with the invoicing requirements under the law and applicable VAT regulations. In addition, the dollar amounts reflected therein were traced to the corresponding **billing statement/s**[64] and **inward remittance/s**,[65] showing that the collections pertained to supplies of outsourced processing services to its foreign clients, received in acceptable foreign currency and accounted for as required by applicable BSP rules. The aggregate peso amount (₱239,334,455.69) was traced to the **VAT return**;[66] the per transaction peso amounts were traced to the corresponding entries in the **General Ledger** (*i.e.*, Revenue Account);[67] these show that the sales declared as zero-rated in the subject return were duly recorded in Stefanini Philippines's books of account.

Third, that Stefanini Philippines's clients for whom it rendered the subject services are (a) non-resident foreign corporations (NRFC) (b) not engaged in trade or business in the Philippines are established by the **Philippine SEC Certifications of Non-Registration** and **Proofs of Foreign Incorporation/Registration** relative to each of its foreign clients, *viz*:

Company Name	Certification of Non-Registration	Incorporation / Registration	
		Country	Proof
Stefanini, Inc.	P-32[68]	United States of America	"P-36,"[69] "P-36-A,"[70] "P-37,"[71] "P-37-A,"[72] "P-37-B"[73]
Stefanini Australia Pty Ltd.	P-33[74]	Australia	"P-38,"[75] "P-38-A"[76]
Stefanini NV SA	P-34[77]	Belgium	"P-39",[78] "P-39-A"[79]
Stefanini Canada Ltd.	P-35[80]	Canada	"P-40",[81] "P-41",[82] "P-42"[83] .

64 *Schedule of Billing Statements with Cross Reference to Official Receipts of Zero-Rated Sales*, Exhibit "P-57-B", USB.
65 *Summary of Zero-Rated Sales with Cross Reference to Amount Inwardly Remitted to Stefanini Philippines, Inc.*, Exhibit "P-58", USB.
66 Line 17, id.
67 *Schedule of Credits to Revenue Account Per General Ledger Transaction Listing*, Exhibit "P-64," USB.
68 Docket - Vol. 2, p. 802.
69 Docket - Vol. 2, p. 806.
70 Docket - Vol. 2, p. 807.
71 Docket - Vol. 2, p. 808.
72 Docket - Vol. 2, p. 809.
73 Docket - Vol. 2, pp. 810-811.
74 Docket - Vol. 2, p. 803.
75 Docket - Vol. 2, p. 812.
76 Docket - Vol. 2, p. 813.
77 Docket - Vol. 2, p. 804.
78 Docket - Vol. 2, pp. 814-816.
79 Docket - Vol. 2, p. 817.
80 Docket - Vol. 2, p. 805.
81 Docket - Vol. 2, pp. 818-821.
82 Docket - Vol. 2, pp. 822-826.
83 Docket - Vol. 2, pp. 827-830.

3) Timeliness of Administrative and Judicial Claims

Stefanini Philippines observed the reglementary periods set out by the law.

The present claim covers the fourth taxable quarter of CY 2019, the closing of which was on December 31, 2019. Counting two years therefrom, the last day for filing of the administrative claim was on December 31, 2021. It is established that Stefanini Philippines filed its **administrative claim** exactly on this deadline.[84]

Upon petitioner's filing, respondent CIR had 90 days or until March 31, 2022 to act on the administrative claim.

It is not disputed that Stefanini Philippines received a copy of the VAT Refund Notice on March 3, 2022.[85] Counting 30 days, therefrom, it had until April 2, 2022, to proceed to this Court. It is on record that the present **judicial claim** was filed on April 1, 2022.

4) Validity of unutilized input VAT.

In the subject VAT returns, Stefanini Philippines declared input VAT in the aggregate amount of ₱3,862,667.53. After applying the output VAT due for the quarter (₱458,152.26), remaining unutilized input VAT amounted to ₱3,404,535.26; this is the subject of the present claim.

To be valid, the input VAT: (a) must not be transitional input taxes,[86] (b) must be due or paid[87] and substantiated by supporting documents that, in turn, meet the applicable VAT invoicing requirements,[88] (c) must be attributable to zero-rated or effectively

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[84] Exhibits "P-50" and "P-51", Docket - Vol. 2, pp. 847-850.
[85] Exhibit "P-53-A," Docket - Vol. 1, p. 54.
[86] Ibid.
[87] Ibid.
[88] *Team Energy Corporation v. Commissioner of Internal Revenue, et seq.*, G.R. Nos. 197663 and 197770, March 14, 2018.

zero-rated sales or supplies of service,[89] and (d) must not have been applied against output taxes during and in the succeeding quarters.[90]

Stefanini Philippines's compliance with the above-enumerated requisites is discussed in detail below.

Not transitional input VAT

There is no showing that the input VAT credits subject of the instant claim are **transitional input VAT** within the meaning of Section 111(A) of the Tax Code. The input VAT's non-transitional nature has not been put in issue nor questioned by the CIR.

Actually due and paid; supported by VAT invoices and official receipts

Whether input VAT was due or paid is conditioned upon the presentation of documents that (a) substantiate the amount of input tax credits, as prescribed under Section 4.110-8 of RR No. 16-2005, and (b) comply with the invoicing requirements under Sections 113(A) and (B), 237 and 238 of the Tax Code, and implemented by Section 4.113-1(A) and (B) of RR No. 16-2005.

Only 27.09%[91] of the total input VAT reported in the returns was established to have been **due and paid**, as supported by VAT invoices and official receipts, *viz.*:

Input VAT per return (100%)			₱3,862,667.53
Less:	Disallowances		
	Per ICPA findings	361,033.21	
	Per Court's further verification	2,455,403.66	2,816,436.87
Substantiated valid input VAT (27.09%)			**₱1,046,230.66**

[89] *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.

[90] *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc.*, supra.

[91] Valid input VAT ÷ Total claim = ₱ 1,046,230.66 ÷ ₱ 3,862,667.53 = 0.270857031 ≈ 27.09%

Here, Stefanini Philippines submitted VAT invoices and official receipts to support its input taxes from domestic purchases of goods and services for the fourth quarter of CY 2019. Based on the ICPA Report, documents supporting input taxes amounting to **₱361,033.21** failed to meet the substantiation and invoicing requirements prescribed under the law and VAT regulations; these must be disallowed. Details of the exceptions noted by the ICPA follow.

		Amount	
Exh. No.	**Supplier**	**Purchase**	**Input VAT disallowed**
No supporting attachments.			
P-56-A-246	Wellthy Solutions Inc.	₱10,000.00	₱1,200.00
P-56-A-248	Wellthy Solutions Inc.	10,000.00	1,200.00
P-56-A-250	Wellthy Solutions Inc.	1,400.00	168.00
P-56-A-252	Wellthy Solutions Inc.	10,000.00	1,200.00
Incorrect/incomplete address.			
P-56-A-178	Powermax Consulting Group Inc	4,695.00	563.40
Out of period.			
P-56-A-67	Extra Ordinaire Manpower Services Inc.	338,132.54	40,575.90
P-56-A-68	Extra Ordinaire Manpower Services Inc.	-	-
P-56-A-196	Synergenius Inc.	119,101.00	14,292.12
P-56-A-198	Synergenius Inc.	104,388.50	12,526.62
P-56-A-239	Unison Computer Systems Inc	3,200.00	384.00
P-56-A-240	Unison Computer Systems Inc	12,750.00	1,530.00
No date indicated.			
P-56-A-103	Globe Telecom	220,010.05	26,401.21
Does not bear petitioner's TIN.			
P-56-C-1	Westcon Solutions Philippines, Inc.	107,943.00	647.66
No valid supporting invoice/official receipt.			
	PLDT	247,088.96	29,650.68
	PLDT	424,238.32	50,908.60
	Axa Philippines	325,610.75	39,073.29
	Maxcore Technologies Inc	157,572.00	18,908.64
	Ricoh Philippines Inc.	86,493.42	10,379.21
	Promocentral Inc	4,375.00	525.00
	Federal Land Inc	1,115.93	133.91
	Htech Corporation	69,029.00	8,283.48
	Mendoza Antero Calnea Mangundayao & Associates	120,000.00	14,400.00
	Powermax Consulting Group Inc.	3,995.00	479.40
	SGV & Co	540,177.58	64,821.31
Company name not properly indicated.			
P-56-C-3	Hi-end Office Design Corporation	97,500.00	975.00
P-56-C-32	Hi-End Office Design Corporation	1,404,203.00	8,425.22
P-56-C-33	Hi-End Office Design Corporation	427,500.00	2,565.00
No supporting attachments			
P-56-C-1	Jobstreet.com Philippines, Inc.	625,000.00	6,250.00

		Amount	
Exh. No.	**Supplier**	**Purchase**	**Input VAT disallowed**
With discrepancy in amount.			
P-56-C-8	Unison Computer Systems Inc.	449,101.00	898.20
P-56-C-12	Unison Computer Systems Inc.	8,630,667.25	3,667.37
		Total	**₱361,033.21**

Upon further verification, the Court finds that additional input VAT on domestic purchases of goods and services amounting **₱2,455,403.66** must also be disallowed on account of irregularities in the form and contents of the supporting invoices/official receipts. We cite the specific reasons below.

		Amount	
Exh. No.	**Supplier**	**Purchase**	**Input VAT Disallowed**
OR does not comply with RR 10-15, as amended.[92]			
P-56-A-81	Federal Land Inc.	₱5,078,412.93	₱609,409.55
P-56-A-82	Federal Land Inc.	836,995.50	100,439.46
P-56-A-84	Federal Land Inc.	836,995.50	100,439.46
P-56-A-86	Federal Land Inc.	4,988,195.56	598,583.47
P-56-A-87	Federal Land Inc.	913,973.28	109,676.79
P-56-A-88	Federal Land Inc.	4,236,696.06	508,403.53
P-56-A-89	Federal Land Inc.	835,861.88	100,303.43
P-56-A-187	SGV & Co	252,300.00	30,276.00
P-56-A-195	Sycip Salazar Hernandez & Gatmaitan	30,390.00	3,646.80
Nature of service not indicated on OR.[93]			
P-56-A-112	Asalus Corporation	144,044.05	17,285.29
P-56-A-113	Asalus Corporation	41,309.18	4,957.10
P-56-A-114	Asalus Corporation	2,022,684.71	242,722.17
P-56-A-120	Jones Lang LaSalle (Phils.) Inc.	58,483.47	7,018.02
P-56-A-125	Loreanne Rose Food Corner	134,400.00	14,400.00
P-56-A-126	Loreanne Rose Food Corner	9,000.00	964.29
With alterations; no valid counter-signature.			
P-56-C-43	Hi-End Office Design Corp.	159,000.00	1,590.00
P-56-C-49	Hi-End Office Design Corp.	290,000.00	2,900.00
Incorrect TIN.[94]			
P-56-C-45	Integrated Computer Systems, Inc.	238,830.33	2,388.30
		Total	**₱2,455,403.66**

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92 Input VAT on purchases of services supported by VAT ORs but without the phrase "THIS INVOICE/RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF THE PERMIT TO USE," as required under RR No. 10-2015, as amended by RR No. 16-2018.

93 Input VAT on purchases of services supported by VAT ORs but the nature of service was not indicated therein or the documents bearing the reference indicated is not attached to the OR.

94 Input VAT on purchase of capital goods exceeding P1 million supported by sales invoice with incorrect TIN of petitioner.

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<u>Attributable to zero-rated sales.</u>

Only 98.43%[95] of the valid input VAT computed above is **attributable to zero-rated sales** and, thus, eligible for refund.

When the claimant was engaged in both VAT-able or zero-rated sales and input taxes due or paid cannot be attributed directly and entirely to either type of activity, it shall be allocated proportionately based on sales volume.[96]

In the subject taxable quarters, Stefanini Philippines was engaged in both VAT-able and zero-rated sales. Furthermore, its input taxes were not shown to be attributable exclusively to either activity. Thus, the amount of ₱1,046,230.66 of valid input VAT computed above shall be apportioned between the two activities per quarter, *viz.*:

	Sales	%	**Input VAT Allocation**
Vatable	₱3,817,935.46	1.57%	₱16,427.73
Zero-rated	239,334,455.69	**98.43%**	**1,029,802.93**
Total	₱243,152,391.15	100.00%	₱1,046,230.66

<u>Not applied against output tax during the subject quarter.</u>

In its fourth quarter CY 2019 VAT return, Stefanini Philippines reported an output VAT amount of ₱458,152.26, which was well-within its available input VAT credit amount. While its total input VAT arising from current transactions amounted to ₱3,862,667.53, the present refund claim only pertains to ₱3,404,535.26; this is already net of the output VAT for the quarter, *viz.*:

Total input VAT arising from transactions during the period	₱3,862,667.53
Less Output VAT due (offset)	458,132.27
Input VAT claimed as refund/credit	**₱3,404,535.26**

[95] Reported zero-rated sales ÷ Total sales per return = ₱239,334,455.69 ÷ ₱243,152,391.15 = 98.43%.
[96] Section 112(A), Tax Code.

<u>Not applied against output tax in any subsequent period.</u>

That the input VAT claimed has remained unutilized is supported by Stefanini Philippines's VAT return for the third quarter of CY 2021, where an amount equal to the present claim was deducted[97] from the total available input VAT. This ensured that the amount will not be applied in future periods.

Computation of refundable unutilized input VAT.

Based on the discussions above, We determine that Stefanini Philippines is entitled to a refund or credit amounting to **₱588,078.40**, computed as follows:

Input VAT per return		₱3,862,667.53
Less Disallowed input VAT		2,816,436.87
Valid input VAT		₱1,046,230.66
Multiply by Percentage allocation		98.43%
Input VAT attributable to zero-rated sales		₱1,029,802.93
Less Output VAT due	₱58,152.26	
Less Input tax attributable to vatable sales	16,427.73	441,724.53
Refundable amount		**₱588,078.40**

WHEREFORE, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **DIRECTED TO REFUND OR ISSUE TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **₱588,078.40**, representing its unutilized input VAT attributable to zero-rated sales relative to the fourth quarter of CY 2019.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

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[97] Line 23D, Exhibit "P-47," Docket - Vol. 2, p. 842.

WE CONCUR:

CATHERINE T. MANAHAN
Associate Justice

(Please see my Separate Concurring Opinion).
HENRY S. ANGELES
Associate Justice

ATTESTATION

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

CATHERINE T. MANAHAN
Chairperson
Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Third 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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

STEFANINI PHILIPPINES, INC., *Petitioner,*	**CTA Case No. 10826**
	Members:
- versus -	**MANAHAN,** Chairperson, **REYES-FAJARDO,** and **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: FEB 19 2025 1:15 p.m.

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SEPARATE CONCURRING OPINION

ANGELES, *J.*:

I agree with the Decision to partially grant in favor of petitioner a refund or credit in the amount of ₱588,078.40, based on the requisites for the grant of a refund or credit of unutilized input VAT attributable to zero-rated sales per jurisprudence.

Nonetheless, with due respect to the *ponente*, I would like to discuss further my position on the issue of whether the CTA may consider evidence not presented at the administrative level.

In the Decision, the *ponente*, citing *Atlas Consolidated Mining and Development Corporation v. CIR*[1] and *Philippine Airlines, Inc. v. CIR*,[2] held that the CTA may consider evidence not presented at the administrative level. The pertinent portion of the Decision states, *viz.*:

> The CIR's denial is appealable to this Court. On appeal, the claimant must convince the Court that the CIR's denial was not justified. **It may re-submit the documents already presented to the CIR, as well as additional documents which may further bolster its entitlement to a refund or credit. Put in**

[1] G.R. No. 145526, March 16, 2007.
[2] G.R. Nos. 206079-80 & 206309, January 17, 2018.

> **another way, "part of the evidence to be submitted to the CTA must necessarily include whatever is required for the successful prosecution of an administrative claim."**
>
> It is settled that cases filed before this Court are litigated de novo. Our review shall not be "limited to whether or not the Commissioner committed gross abuse of discretion, fraud, or error of law, as contended by the Commissioner" and shall cover even the CIR's factual findings.
>
> Accordingly, **We are not foreclosed from considering the totality of the evidence offered by Stefanini Philippines, whether or not submitted previously at the administrative level.** *(Emphasis supplied)*

I would like to point out that the foregoing pronouncement failed to distinguish between the matters to be proved in an appeal from an unsuccessful administrative claim, and the matters to be proved in an appeal from the inaction of the CIR on such claim, pursuant to the ruling of the Supreme Court in *Pilipinas Total Gas, Inc. v. CIR.*[3]

To recall, in *Pilipinas Total Gas*, the Supreme Court, in resolving the issue of whether the submission of incomplete documents at the administrative level rendered the judicial claim for refund premature, discussed the **nature** of a judicial claim before the CTA, to wit:

> At this stage, a review of the nature of a judicial claim before the CTA is in order. In *Atlas Consolidated Mining and Development Corporation v. CIR*, it was ruled –
>
> > ...First, **a judicial claim for refund or tax credit in the CTA is by no means an original action but rather an appeal by way of petition for review of a previous, unsuccessful administrative claim. Therefore, as in every appeal or petition for review, a petitioner has to convince the appellate court that the quasi-judicial agency *a quo* did not have any reason to deny its claim. In this case, it was necessary for petitioner to show the CTA not only that it was entitled under substantive law to the grant of its claims but also that it satisfied all the documentary and evidentiary requirements for an administrative claim for refund or tax credit. Second, cases filed in the CTA are litigated *de novo*. Thus, a petitioner should prove every minute aspect of its case by presenting, formally offering and submitting its evidence to the CTA.** Since it is crucial for a petitioner in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first place, part of the evidence to be submitted to the CTA must necessarily include whatever is required for the successful prosecution of an administrative claim.

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[3] G.R. No. 207112, December 8, 2015.

> A distinction must, thus, be made between administrative cases appealed due to inaction and those dismissed at the administrative level due to the failure of the taxpayer to submit supporting documents. If an administrative claim was dismissed by the CIR due to the taxpayer's failure to submit complete documents despite notice/request, then the judicial claim before the CTA would be dismissible, not for lack of jurisdiction, but of the taxpayer's failure to substantiate the claim at the administrative level. **When a judicial claim for refund or tax credit in the CTA is an appeal of an unsuccessful administrative claim, the taxpayer has to convince the CTA that the CIR had no reason to deny its claim. It, thus, becomes imperative for the taxpayer to show the CTA that *not only* is he entitled under substantive law to his claim for refund or tax credit, *but also* that he satisfied all the documentary and evidentiary requirements for an administrative claim.** It is, thus, crucial for a taxpayer in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first place. Consequently, a taxpayer cannot cure its failure to submit a document requested by the BIR at the administrative level by filing the said document before the CTA.
>
> In the present case, however, **Total Gas filed its judicial claim due to the inaction of the BIR. Considering that the administrative claim was never acted upon; there was no decision for the CTA to review on appeal *per se*. Consequently, the CTA may give credence to all evidence presented by Total Gas, including those that may not have been submitted to the CIR as the case is being essentially decided in the first instance. The Total Gas must prove every minute aspect of its case by presenting and formally offering its evidence to the CTA**, which must necessarily include whatever is required for the successful prosecution of an administrative claim. *(Emphasis supplied)*

Based on the foregoing jurisprudence, there is now a clear distinction between the matters to be proved in an appeal from an unsuccessful administrative claim, and the matters to be proved in an appeal from the inaction of the CIR on such claim.

When a judicial claim for refund or tax credit is in the nature of an appeal from an unsuccessful administrative claim, the taxpayer has to convince the Court that the CIR had no reason to deny its claim.[4] In *Atlas Consolidated Mining*, the Supreme Court noted that under RA No. 1125 (the law creating the CTA), the CTA only had appellate jurisdiction; it had no power to take cognizance of original actions. With the advent of RA No. 9282 (the law expanding the jurisdiction of the CTA), however, the CTA began to exercise original jurisdiction over certain actions. Nonetheless, its jurisdiction over refund claims has remained purely appellate.[5]

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[4] *Supra*, note 3.
[5] *Supra*, note 1.

V

Section 7(a)(1) of RA No. 9282 in particular confers upon the CTA exclusive appellate jurisdiction over decisions of the CIR in cases involving refunds of internal revenue taxes. It must be remembered that appellate jurisdiction refers to the authority of a court higher in rank to re-examine the final order or judgment of a lower court which tried the case now elevated for judicial review.[6]

Following this, the Supreme Court in *Pilipinas Total Gas* has required taxpayers appealing from an unsuccessful administrative refund claim, to prove before the CTA that, ***one***, it is entitled to its refund claim under substantive law; and ***two***, it satisfied all the documentary and evidentiary requirements for such refund claim. Surely, the first matter to be proved entails a determination by the Court of petitioner's compliance with the requisites established by law for the refund or credit of input tax.

Relatedly, the second matter to be proved entails a review by the Court of the basis of the CIR's denial of the administrative claim **based on the documents presented at the administrative level.** The phrase "*but also that he satisfied all the documentary and evidentiary requirements* <u>***for an administrative claim***</u>", could only mean that the sufficiency of petitioner's documents and evidence shall be measured in relation to the administrative claim.

On another note, when a judicial claim for refund or tax credit is in the nature of <u>an appeal from the inaction of the CIR on the administrative claim</u>, such as in the case of *Pilipinas Total Gas*, the Court may give credence to all evidence presented by the taxpayer, including those that may not have been submitted to the CIR, as the case is essentially being decided in the first instance.[7]

In the *PAL* case,[8] the Supreme Court squarely ruled on the issue of whether evidence not presented at the BIR level can be presented in the CTA. Indeed, the High Court held that the CTA is not limited by the evidence presented at the administrative level. The claimant may present new and additional evidence to the CTA to support its case for tax refund. It also held that the review of the CTA is not limited to whether the CIR committed gross abuse of discretion, fraud, or error of law. As evidence is considered and evaluated again, the scope of the CTA's review covers factual findings.

One must tread carefully when reading the foregoing pronouncements on the admission of evidence not presented at the

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[6] *Garcia, et al. vs. De Jesus, et al.*, G.R. Nos. 88158 and 97108-09, March 4, 1992.
[7] *Supra*, note 38.
[8] *Supra*, note 2.

BIR level. Scrutiny of the *PAL* case reveals that **such pronouncements were said in view of the CIR's failure to act on the taxpayer's administrative claim for refund. Nowhere in the said case was it stated, expressly or impliedly, that such pronouncements apply to all appeals filed before the CTA, including appeals from unsuccessful administrative claims.** Hence, such pronouncements should only be applied to cases involving the inaction of the CIR on the taxpayer's administrative claim for refund, as such was the situation in the *PAL* case. A contrary interpretation would render useless the distinction drawn by the *Pilipinas Total Gas* case between appeals from an unsuccessful administrative claim and appeals from the inaction of the CIR.

For the above-mentioned reasons, the rule in *Pilipinas Total Gas* on the matters to be proved in an appeal from unsuccessful administrative claim, stands.

Consequently, when a taxpayer fails to submit a document in support of its refund claim at the administrative level, and the CIR decides on such claim based on the documents submitted before him, the taxpayer may not later on assail the decision of the CIR on the basis of the document it never submitted before him. As a matter of fairness and case law, a taxpayer cannot be allowed to cure its failure to submit a document before the CIR, by filing the same before the CTA, when it had every opportunity to submit such document at the administrative level.

As for the rule in *Pilipinas Total Gas* with respect to appeals from the inaction of the CIR on the taxpayer's administrative refund claim, the *PAL* case reinforced the rule that the CTA may consider all pieces of evidence formally offered by the taxpayer, whether or not they were submitted at the administrative level.

Whether a judicial claim is an appeal from an unsuccessful administrative claim, or an appeal from the inaction of the CIR on the administrative claim, the principle that cases filed with the CTA are litigated *de novo* (or litigated anew) shall apply. This means that whether the evidence of petitioner in its appeal to the CTA includes or excludes those documents not presented at the BIR level, as limited by the rules laid down in *Pilipinas Total Gas*, petitioner must prove every minute aspect of its case by presenting and formally offering such evidence to the CTA.[9]

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[9] *Supra*, note 38.

V

In this case, as the instant Petition is an appeal from an unsuccessful administrative claim, in view of the *VAT Refund Notice* dated February 23, 2022, the Court must determine whether petitioner has sufficiently proved its entitlement to its refund claim under substantive law, and whether it satisfied all the documentary and evidentiary requirements for the administrative claim. Failure to establish one of the said matters before this Court shall result in the denial of the refund claim.

Anent the first matter, petitioner should have shown to this Court that respondent had no reason to deny its refund claim in the amount of ₱3,185,305.01.

It is noteworthy that there is no indication in the records that petitioner presented before this Court the very same documents it submitted to the BIR in support of its administrative claim.

A cursory examination of the Formal Offer of Evidence of petitioner would disclose that no evidence was specifically offered to prove which documents were actually submitted to respondent at the administrative level.[10] As such, this Court cannot determine with certainty whether respondent had indeed the factual bases in partially denying petitioner's administrative claim. Without the said evidence, this Court cannot determine whether the said administrative claim should have been granted in the first place. Consequently, petitioner failed to prove that its administrative claim amounting to ₱3,404,535.26 should have been granted in the first place.

Despite the foregoing, I still vote to partially grant the instant Petition (to the extent of ₱588,078.40) considering the BIR's failure to object to the documents that were not actually submitted at the administrative level, if any. Sans any objections, this Court correctly considered all evidence presented by petitioner to support its judicial claim for tax refund.

HENRY S. ANGELES
Associate Justice

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[10] Docket – Vol. 2, pp. 695 to 725