REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

CARMEN COPPER CORPORATION, *Petitioner,*	**CTA Case Nos. 9124 and 9200**
-versus-	Members:
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	**CASTAÑEDA, JR.**, *Chairperson* **MANAHAN**, *JJ.*
	Promulgated: JAN 2 9 2019 10:50 AM

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RESOLUTION

MANAHAN, J.:

For resolution is petitioner's *Motion for Reconsideration (with Motion to Re-Open Case for the Presentation of Additional Evidence)* posted on October 17, 2018, with respondent's *Comment and Opposition (To Petitioner's Motion for Reconsideration with Motion to Re-Open the Case for the Presentation of Additional Evidence),* filed on November 19, 2018.

Petitioner seeks reconsideration of the Court's Decision promulgated on October 1, 2018, the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the instant Petitions for Review are **DENIED** for lack of merit."

Petitioner assails this Court's Decision denying its claim for refund or issuance of a tax credit certificate ("TCC") in the amount of P49,389,885.74 allegedly representing its excess and unutilized input value-added tax (VAT) for the first and second quarters of taxable year (TY) 2013.

Petitioner primarily asserts that it was able to prove the existence of its zero-rated sales with sufficient documentary evidence, contrary to this Court's conclusion. It enumerated the relevant evidence it submitted as follows:

A. The export sales schedule (which could be properly traced to the relevant sales invoice);
B. Sales to Philippine Associated Smelting & Refining Corporation;
C. Sales Invoice vis-à-vis Certificate of Inward Remittance;
D. Unreadable supporting documents.

In addition to the arguments against the Decision of this Court, petitioner seeks relief by requesting for a reopening of this case for presentation of additional evidence, in the interest of justice.

In his Comment, respondent reiterates that petitioner failed to substantiate its zero-rated sales with supporting documents and argues that in order to be entitled to a claim for refund of this nature, there must be full compliance with the substantiation requirements and not merely "substantial" compliance. Respondent alleges that petitioner failed to submit evidence to show the relationship of the inward remittances with the sales invoice, reminding petitioner of the fact that the claimant is burdened with proving the existence of zero-rated sales up to the last centavo.

With regard to petitioner's sales to the Philippine Associated Smelting and Refining Corporation (PASAR) which it claims to be registered with the Philippine Economic Zone Authority (PEZA), respondent claims that the Court is under no obligation to take notice of this in the absence of evidence that PASAR is indeed a PEZA-registered entity. Respondent maintains that the documents attached to petitioner's Motion for Reconsideration should not be given any probative weight because such were not offered in evidence during trial.

Lastly, respondent opposes petitioner's motion to re-open the case because this is repugnant to an orderly administration of justice as it sanctions presentation of piecemeal evidence. Respondent opines that the claimant must introduce, at first instance, all the evidence necessary to support its claim and that the re-opening of cases is allowed only under exceptional circumstances which are not attendant to this case.

RULING OF THE COURT

We now proceed to resolve the issues raised by petitioner as regards its claim of sufficiency of evidence to prove its claim for refund for taxable year 2013.

A. The export sales schedule can be properly traced to the relevant sales invoice.

In the assailed Decision, the Court disallowed the following zero-rated sales amounting to US$10,112,621.49 or ₱415,285,382.64 because the amount of sales per schedule cannot be traced to the supporting sales invoice:

Exh. No.	Customer	Invoice No.	Invoice Date	Amount in US$	Amount in Php
P-51-N-3	MRI Trading AG	200F	2/13/2013	$ 52,011.42	₱ 2,127,267.28
P-51-N-11	MRI Trading AG	362F	3/11/2013	159,037.73	6,528,498.74
P-51-N-11	MRI Trading AG	362F	3/11/2013	44,274.71	1,797,996.00
P-51-N-15	MRI Trading AG	367P	4/16/2013	9,716,853.87	399,119,772.74
P-51-N-15	MRI Trading AG	367F	4/16/2013	140,443.76	5,711,847.88
	Total			**$ 10,112,621.49**	**₱ 415,285,382.64**

In its Motion for Reconsideration, petitioner explains that the difficulty in tracing the export sales to the relevant sales invoices may be due to the fact that there is a variance in amounts indicated in the export sales schedule *vis-à-vis* the relevant sales invoice.

Petitioner alleges that this variance is a result of its practice of issuing a provisional invoice upon initial payment and a final invoice upon the final statement of the same, wherein the issuance of the provisional invoice and final invoice may or may not be made within the same taxable year. As such, the schedule of export sales may not always match with the final amount indicated in the sales invoice.

In order to clarify the above arguments, petitioner presented a Reconciliation Schedule of Zero-Rated Sales vs.

Sales Invoices attached as "Annex A" in the Motion. The relevant portion of said Reconciliation shows as follows:

Date	Invoice No.	Name of Buyer	Sales/Receipts in Foreign Currency	Per Invoice	Difference	Remarks
2/13/2013	200F	MRI Trading AG	(52,011.42)	9,908,890.26	(9,960,901.68)	Difference due to sales accounted in 2012 - 9,951,200.91. Remaining balance after acctg negative balance in 2013 (52,011.42) - 9,700.77
3/11/2013	362F	MRI Trading AG	(159,037.73)	10,279,124.37	(10,438,162.10)	Difference due to sales accounted in 2012 - 10,438,162.10
3/11/2013	362F	MRI Trading AG	44,274.71	-	44,274.71	Cannot be traced to invoice
4/16/2013	367P	MRI Trading AG	9,716,853.87	9,954,060.02	(96,762.39)	
4/16/2013	367F	MRI Trading AG	140,443.76			

Based on this Reconciliation, the variances noted were accounted in 2012. However, the Court observed that petitioner did not submit the 2012 export sales schedule and other corroborating documents (i.e. corresponding provisional invoice for sales invoice No. 200F and 362F and supporting accounting ledgers or schedules) in order verify the veracity of its allegations and satisfactorily account for the zero-rated sales in question.

As such, this Court cannot reconsider the disallowances amounting to ₱415,285,382.64 hence we uphold our conclusion on this mater as embodied in the assailed Decision dated October 1, 2018.

B. Sales to Philippine Associated Smelting & Refining Corporation

In the assailed Decision, zero-rated sales to PASAR amounting to US$15,928,042.28 or ₱676,082,401.45 were disallowed as they were found to have been shipped *locally* to Isabel, Leyte.

In it Motion, petitioner asserts that PASAR is a corporation duly-registered with the Philippine Economic Zone Authority ("PEZA"). The corresponding PEZA Certification issued to PASAR was attached as "Annex B" of its Motion.

Accordingly, petitioner's sales to PASAR are allegedly considered as export sales subject to zero-rating in accordance with the cross-border doctrine, which was expressly adopted by respondent. In Revenue Memorandum Circular No. 74-99, sales to such entities are deemed to be indirect exports subject to zero-rated VAT.

Moreover, petitioner points out that it submitted a Certification[1] dated January 23, 2014 issued by the Board of Investments ("BOI") certifying that the total sales of petitioner for the period covering January 1 to December 31, 2013 are one hundred percent (100%) export sales. This Certification was issued pursuant to the guidelines on the issuance of BOI Certification pursuant to Revenue Memorandum Order No. 9-2000 dated February 2, 2000.

Sale of goods to PEZA-registered entities pursuant to RA 7916 are considered export sales entitled to VAT zero-rating under Section 106(A)(2)(a)(5) of the Tax Code, which provides:

> SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* – x x x
>
> (A) *Rate and Base of Tax.* – x x x
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (a) *Export Sales.* – x x x
>
> (5) **Those considered export sales under** Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, and **other special laws**; (*emphasis supplied*)

In relation thereto, as for considered export sales under "other special laws", Sec. 4.106-5(c) of Revenue Regulations (RR) No. 16-05 provides that:

> SECTION 4.106-5. *Zero-Rated Sales of Goods or Properties.* — A zero-rated sale of goods or properties (by a VAT-registered person) is a taxable transaction for VAT purposes, but shall not result in any output tax. However, the input tax on purchases of goods, properties or services, related to such zero-rated sale, shall be available as tax credit or refund in accordance with these Regulations.
>
> The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> xx xx xx

[1] Exhibit "P-4", Docket, Vol. III.

> (c) *Sales to Persons or Entities Deemed Tax-exempt under Special Law or International Agreement.* —sales of goods or property to persons or entities who are tax-exempt under special laws, e.g. sales to enterprises duly registered and accredited with the Subic Bay Metropolitan Authority (SBMA) pursuant to R.A. No. 7227, **sales to enterprises <u>duly registered and accredited</u> with the Philippine Economic Zone Authority (PEZA)** or international agreements to which the Philippines is signatory, such as, Asian Development Bank (ADB), International Rice Research Institute (IRRI), etc., shall be effectively subject to VAT at zero-rate. (*emphasis supplied*)

Based on the foregoing, this Court reiterates that the following are the requisites to prove zero-rated sale of goods to PEZA-registered entities under Section 106(A)(2)(a)(5) of the 1997 National Internal Revenue Code (NIRC), in relation to Sec. 4.106-5(c) of RR No. 16-05:

1) The sales invoice as proof of sale of goods;
2) Any proof of the buyer's entitlement to tax incentives under other special laws (i.e. Certificates of Registration with the PEZA pursuant to RA 7916, for the corresponding taxable year).

However, a second look at the evidence submitted by petitioner would show that the sales invoices and bills of lading were indeed delivered to an ecozone, i.e. the addresses indicated therein, hence this Court finds this sufficient to prove zero-rated sales under Section 106(A)(2)(a)(5) of the 1997 NIRC. Seemingly, petitioner's sales to PASAR amounting to ₱676,082,401.45 for the 1st and 2nd quarters of TY 2013 may now be allowed as zero-rated sales for purposes of claiming VAT refund or issuance of TCC in this case. Unfortunately however, the amount of ₱16,709,417.72, detailed below, must still be disallowed since the amount of sales per schedule cannot be traced to the supporting sales invoice, thus:

Exh. No.	Invoice No.	Invoice Date	Amount in US$	Amount in Php
P-51-N-4	354F	3/31/2013	$ 18,822.90	₱ 773,432.81
P-51-N-5	355F	2/25/2013	54,363.42	2,232,977.30
P-51-N-6	356F	2/25/2013	110,663.75	4,544,960.23
P-51-N-7	357F	3/31/2013	94,326.16	3,879,163.42
P-51-N-8	358F	3/13/2013	75,950.04	3,117,749.06
P-51-N-9	359F	3/13/2013	52,646.40	2,161,134.90
	Total		**$ 406,772.67**	**₱ 16,709,417.72**

Consistent with our earlier discussion relative to the Reconciliation Schedule of Zero-Rated Sales vs. Sales Invoices attached as "Annex A" in petitioner's Motion for Reconsideration, the differences between the amount per sales invoice and the amount per schedule were attributed by petitioner to the year 2012. Again, petitioner did not submit the 2012 export sales schedule and other corroborating documents (i.e., corresponding provisional invoices for the above sales invoices and supporting accounting ledgers or schedules) for this Court to verify the veracity of its allegations and satisfactorily account for the zero-rated sales in question.

Verily then, out of the sales to PASAR amounting to ₱676,082,401.45, only the amount of ₱659,372,983.73[2] is allowable as zero-rated sales.

C. Sales invoice vis-à-vis Certificate of Inward Remittance

In the assailed Decision, petitioner's zero-rated sales to MRI Trading AG amounting to US$85,088,463.12 and ₱3,479,278,711.59 were disallowed as the foreign currency proceeds therefrom cannot be traced with certainty to the Certificate of Inward Remittance.

Asserting that all its zero-rated sales can be traced to the Certificate of Inward Remittance, petitioner explains that the payments from its customers were made in tranches. Thus, the remittances made by its customers are not always on a one-to-one basis against a single sales invoice.

Second, adjustments in price and assays are allegedly inevitable. Subsequent adjustments are made on the sale value at the time the final price and assay of the metal contents are determined.

Third, the initial price set by petitioner with its customers is allegedly based on agreed terms under the respective contracts of purchase, whereby petitioner agreed to sell a fixed volume of copper concentrate based on London Metal Exchange prices and as averaged over the quotational period defined in the contracts of purchase.

From the foregoing, it is allegedly clear that the sales invoices and the amounts indicated in the Certificate of Inward Remittances will never match singularly.

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[2] ₱676,082,401.45 less ₱16,709,417.72.

To support the above arguments, petitioner submitted a Reconciliation of Export Sales and Dollar Remittance for the 1st and 2nd Quarters of TY 2013 attached as "Annexes D and E", respectively, in the Motion.

We find petitioner's arguments bereft of merit.

This Court is well aware of the possibility of staggered dollar remittances for a particular invoice. However, this Court, after taking a second look at the evidence, still could not find any combination which would equal the invoice price. Thus, we are constrained to disallow the corresponding zero-rated sales.

An examination of the Reconciliations submitted by petitioner in its Motion for Reconsideration shows that there were various Customer's Charges which were deducted from the invoice price before arriving at the net remittances made on various dates as indicated in the Certificate of Inward Remittance from MRI Trading AG.

Without such reconciliation, the undersigned cannot possibly find an exact combination of remittances on various dates to account for a particular invoice, especially considering that there were deductions by way of Customer's Charges from the invoice price to arrive at the net remittance.

These deductions were not explained by petitioner during trial, hence, were not factored in by the Court in its analysis of the evidence submitted. This notwithstanding, petitioner still failed to present evidence to support the Customer's Charges which were deducted from the invoice price before arriving at the net remittance. The Certificates of Inward Remittance do not even show the details of these Customer's Charges. It merely enumerated the net remittances on various dates during 2013 thus preventing this Court to verify the veracity of such deductions. As such, we uphold our ruling on this particular disallowance on the ground that the proceeds from zero-rated sales cannot be traced with certainty to the Certificates of Inward Remittance.

D. Unreadable supporting documents

In the assailed Decision, the Court disallowed petitioner's zero-rated sales amounting to US$35,646,425.08 or ₱1,514,644,887.13, broken down below, since the supporting sales invoices are unreadable:

Exh. No.	Customer	Invoice No.	Invoice Date	Amount in US$	Amount in Php
P-51-O-9	MRI Trading AG	5009P	7/10/2013	$ 8,990,235.80	₱ 369,678,496.09
P-51-O-10	MRI Trading AG	5010P	7/12/2013	9,394,276.99	397,002,145.39
P-51-O-17	MRI Trading AG	5014P	8/1/2013	8,652,442.55	376,035,153.02
P-51-O-18	MRI Trading AG	5015P	8/14/2013	8,609,469.74	371,929,092.63
	Total			***$35,646,425.08***	***₱1,514,644,887.13***

In its Motion, petitioner submitted "readable copies" of the above invoices and attached the same as "Annexes F to I".

An examination of the readable copies discloses that the amounts therein do not match the amounts per export sales schedule as summarized above. Neither did petitioner account for any discrepancies arising from those invoices in the Reconciliation Schedule of Zero-Rated Sales vs. Sales Invoices attached as "Annex A" in the Motion. In fact, the reconciliation did not even show any discrepancy arising from the above disallowed zero-rated sales when compared to the corresponding sales invoices.

On the other hand, the Reconciliation of Export Sales and Dollar Remittance for the 2nd Quarter of TY 2013, where the above disallowed zero-rated sales were reported, attached as "Annex E" in the Motion, accounts for the mismatch between the export sales schedule and the above sales invoices. The relevant portion of the reconciliation is presented as follows:

			Invoice by Period Reported (in US$)			Invoice Amount (in US$)		
Invoice No.	**Date**	**Name of Buyer**	**Reported in Current Quarter**	**Reported in Succeeding Quarters**	**Total**	**Sales Invoice**	**Despatch**	**Total**
5009P	7/10/2013	MRI Trading AG	8,990,236.00	53,383.00	9,043,619.00	9,042,826.00	792.00	9,043,618.00
5010P	7/12/2013	MRI Trading AG	9,394,277.00	(315,670.00)	9,078,607.00	9,077,725.00	883.00	9,078,608.00
5014P	8/1/2013	MRI Trading AG	8,652,442.55	170,879.00	8,823,321.55	8,822,591.00	731.00	8,823,322.00
5015P	8/14/2013	MRI Trading AG	8,609,469.74	498,297.00	9,107,766.74	9,106,996.00	771.00	9,107,767.00

As highlighted above, the difference between the export sales schedule for the 2nd quarter of TY 2013 and the corresponding sales invoices was indicated as "Reported in the Succeeding Quarters". However, petitioner failed to present the export sales schedule of the succeeding quarters when these differences were allegedly reported. This Court cannot verify the veracity of petitioner's claims on the matter hence we find no reason to reverse the disallowance in the assailed Decision.

Finally, it must be emphasized that bare allegations, unsubstantiated by evidence, are not equivalent to proof. In short, mere allegations are not evidence.[3] As cases filed before the Court are litigated de novo, party litigants should prove every minute aspect of their cases.[4] Actions for tax refund, as in the instant case, are in the nature of a claim for exemption hence must be construed in *strictissimi juris* not only against the taxpayer, but also with respect to scrutinizing and analyzing the evidence presented.[5]

Based on the foregoing, we provide the revised breakdown of disallowances of zero-rated sales, which is thus reduced to ₱5,440,831,247.66, to wit:

Exh. No.	Customer	Invoice No.	Invoice Date	Amount in US$	Amount in Php
Amount of sales per schedule CANNOT be TRACED to the supporting sales invoice					
P-51-N-3	MRI Trading AG	200F	2/13/2013	₱ 52,011.42	₱ 2,127,267.28
P-51-N-11	MRI Trading AG	362F	3/11/2013	159,037.73	6,528,498.74
P-51-N-11	MRI Trading AG	362F	3/11/2013	44,274.71	1,797,996.00
P-51-N-15	MRI Trading AG	367P	4/16/2013	9,716,853.87	399,119,772.74
P-51-N-15	MRI Trading AG	367F	4/16/2013	140,443.76	5,711,847.88
P-51-N-4	Philippine Associated Smelting & Refining Corp	354F	3/31/2013	18,822.90	773,432.81
P-51-N-5	Philippine Associated Smelting & Refining Corp	355F	2/25/2013	54,363.42	2,232,977.30
P-51-N-6	Philippine Associated Smelting & Refining Corp	356F	2/25/2013	110,663.75	4,544,960.23
P-51-N-7	Philippine Associated Smelting & Refining Corp	357F	3/31/2013	94,326.16	3,879,163.42
P-51-N-8	Philippine Associated Smelting & Refining Corp	358F	3/13/2013	75,950.04	3,117,749.06
P-51-N-9	Philippine Associated Smelting & Refining Corp	359F	3/13/2013	52,646.40	2,161,134.90
P-51-O-9	MRI Trading AG	5009P	7/10/2013	8,990,235.80	369,678,496.09
P-51-O-10	MRI Trading AG	5010P	7/12/2013	9,394,276.99	397,002,145.39
P-51-O-17	MRI Trading AG	5014P	8/1/2013	8,652,442.55	376,035,153.02
P-51-O-18	MRI Trading AG	5015P	8/14/2013	8,609,469.74	371,929,092.63
	Subtotal			***46,165,819.24***	***1,946,639,687.49***
Zero-rated sales with sales invoice and export documents but amount in sales invoice CANNOT BE TRACED WITH CERTAINTY in the Certificate of Inward Remittance					
P-51-N-13	MRI Trading AG	363P/F	3/13/2013	9,767,544.56	396,855,335.35
P-51-N-14	MRI Trading AG	364P/F	3/22/2013	10,335,867.16	420,514,755.44
P-51-N-16	MRI Trading AG	371P	5/8/2013	9,900,648.51	403,500,929.99
P-51-N-16	MRI Trading AG	371F	5/8/2013	(104,334.79)	(4,252,164.51)
P-51-N-17	MRI Trading AG	372P	5/8/2013	9,188,806.13	374,260,073.69

[3] *Real vs. Belo*, G.R. No. 146224, January 26, 2007.
[4] *Commissioner of Internal Revenue vs. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.
[5] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 159490, February 18, 2008.

P-51-N-17	MRI Trading AG	372F	5/8/2013	(205,709.36)	(8,378,542.28)
P-51-N-18	MRI Trading AG	377P	5/21/2013	9,473,354.15	386,512,849.41
P-51-N-18	MRI Trading AG	377F	5/21/2013	(206,679.88)	(8,432,539.24)
P-51-N-19	MRI Trading AG	378P	6/4/2013	9,464,952.27	386,170,052.50
P-51-N-19	MRI Trading AG	378P	6/4/2013	(209,268.48)	(8,538,154.18)
P-51-N-19	MRI Trading AG	378F	6/4/2013	(284,865.42)	(11,622,508.96)
P-51-O-2	MRI Trading AG	379P	6/13/2013	9,266,094.55	382,411,722.12
P-51-O-2	MRI Trading AG	379F	6/13/2013	(59,702.09)	(2,463,905.18)
P-51-O-4	MRI Trading AG	380P	6/13/2013	8,555,189.76	352,644,921.96
P-51-O-4	MRI Trading AG	380F	6/13/2013	687,075.96	28,321,271.03
P-51-O-15	MRI Trading AG	381P	6/13/2013	8,901,498.29	366,341,162.02
P-51-O-15	MRI Trading AG	381F	6/13/2013	617,991.80	25,433,452.43
	Subtotal			***85,088,463.12***	***3,479,278,711.59***
Zero-rated sales WITHOUT proof of foreign currency inward remittance					
P-51-N-1	Goldwin Holdings Ltd	368F	3/31/2013	8,230.69	338,034.51
P-51-N-2	Goldwin Holdings Ltd	369P/F	3/22/2013	358,147.54	14,574,814.07
	Subtotal			***366,378.23***	***14,912,848.58***
	GRAND TOTAL			**₱131,620,660.59**	**₱5,440,831,247.66**

In sum, out of the total export sales for the 1st and 2nd quarters of taxable year 2013 amounting to ₱6,100,204,231.39, only the amount of ₱659,372,983.73 is allowed as zero-rated sales, as computed below:

Total per Schedule of Export Sales	₱6,100,204,231.39
Less: Disallowance by the Court	5,440,831,247.66
Allowable zero-rated sales for the 1st and 2nd Qtr. of 2013	**₱ 659,372,983.73**

We shall now proceed to determine compliance of petitioner with the other requisites for entitlement to VAT refund/issuance of tax credit certificate.

We list down the following requisites to be entitled to a refund of excess input VAT attributable to zero-rated sales:

1. that the taxpayer is VAT-registered;
2. that the claim for refund was filed within the prescriptive period both in the administrative and judicial levels;
3. that there must be zero-rated or effectively zero-rated sales;
4. that input taxes were incurred or paid;
5. that the input taxes due or paid were attributable to zero-rated sales or effectively zero-rated sales; and
6. that the input taxes were not applied against any output VAT liability.

Having settled that petitioner complied with the 1st to 3rd requisites mentioned above, we now proceed to the determination of petitioner's compliance with the 4th to 5th requisites.

Petitioner's 1st and 2nd Quarterly VAT Returns for TY 2013[6] reflected input taxes amounting to ₱136,854,529.08, computed as follows:

	1st Quarter	2nd Quarter	Total
Input tax deferred on capital goods exceeding P1million from previous quarter	₱ 135,437,226.51	₱ 189,765,606.36	₱ 325,202,832.87
Purchase of capital goods exceeding P1million	71,208,444.00	87,639,187.57	158,847,631.57
Domestic purchases of goods other than capital goods	4,940,970.80	4,568,414.45	9,509,385.25
Importation of goods other than capital goods	34,135,880.00	53,551,961.00	87,687,841.00
Domestic purchase of services	1,034,697.76	655,026.17	1,689,723.93
Total available input tax	**₱246,757,219.07**	**₱336,180,195.55**	**₱582,937,414.62**
Less: Input tax on purchases of capital goods exceeding P1million deferred for the succeeding period	189,765,606.36	256,317,279.18	446,082,885.54
Total allowable input tax	**₱ 56,991,612.71**	**₱ 79,862,916.37**	**₱136,854,529.08**

The following shows the summary of the above details:

	1st Quarter	2nd Quarter	Total
Importations	₱ 34,135,880.00	₱ 53,551,961.00	₱ 87,687,841.00
Domestic purchases	5,975,668.56	5,223,440.62	11,199,109.18
Amortized input VAT from purchases of capital goods exceeding ₱1M	16,880,064.15	21,087,514.75	37,967,578.90
Total	**₱56,991,612.71**	**₱79,862,916.37**	**₱136,854,529.08**

Deducting the output VAT payable for the 1st and 2nd quarters of taxable year 2013 amounting to ₱995,105.63[7] from the total allowable input VAT of ₱136,854,529.08 leads to excess/unutilized input VAT of ₱135,859,423.45, which was the subject of the administrative claims for refund filed by petitioner[8].

It may be recalled however, that for this particular claim, respondent sent petitioner two (2) letters stating therein that the recommended amount for issuance of a tax credit certificate is ₱86,469,537.71, computed below:[9]

	1st Letter	2nd Letter	Total

[6] Exhibits "P-6" and "P-7", CTA Case No. 9124, Docket, vol. III, pp. 874 and 875.
[7] The sum of ₱202,493.09 (Line 15B, Exhibit "P-6") and ₱792,612.54 (Line 15B, Exhibit "P-7"), Docket, Vol. III, pp. 874 and 875.
[8] Exhibits "P-8" and "P-9", CTA Case No. 9124, Docket, vol. III, pp. 876 to 885.
[9] Exhibits "P-22" and "P-23", CTA Case No. 9124, Docket, vol. III, pp. 898 to 900.

Unutilized input tax per BIR 1914	₱ 56,789,119.62	₱ 79,070,303.83	₱ 135,859,423.45
Total disallowance	38,654,759.77	10,735,125.97	49,389,885.74
Allowable claim for TCC	**₱18,134,359.85**	**₱68,335,177.86**	**₱86,469,537.71**

As such, what petitioner appealed to this Court by way of Petition for Review was only the total amount disallowed by respondent of ₱49,389,885.74,[10] as shown above.

As alleged by petitioner, respondent failed to provide a detailed breakdown of his disallowances, hence petitioner opted to substantiate the total allowable input taxes of ₱136,854,529.08 by presenting the corresponding sales invoices, official receipts, Import Entry Declarations, Statements of Settlement of Settlement of Duties and Taxes, and Bureau of Customs (BOC) Official Receipts[11] which were examined by the Court-commissioned ICPA, Mr. Neil U. Sison.

Based on the report[12] of the ICPA, petitioner's input VAT claim in the amount of ₱4,229,377.87 should be disallowed for not being properly substantiated in accordance with Sections 110(A) and 113(A) and (B) of the 1997 NIRC, in relation to Sections 4.110-2, 4.110-3, 4.110-8 and 4.113-1 of RR No. 16-05, as amended. Below is the detailed breakdown of the disallowed input VAT of ₱4,229,377.87:

ICPA Report Exhibit Ref.	Description	1st Quarter	2nd Quarter	Total
DOMESTIC PURCHASES				
P-51-X	Domestic purchase of goods with no supporting documents	₱ 2,375.13	₱ 9,819.64	₱ 12,194.77
P-51-Y	Domestic purchase of goods supported by documents other than VAT Invoices/ORs	91,526.96	22,620.26	114,147.22
P-51-Z	Domestic purchase of services supported by documents other than VAT Invoices/ORs	141,634.74	233,253.82	374,888.56
P-51-AA	Domestic purchase of goods and services supported by VAT Invoice claimed outside the taxable period/year	1,363,544.85	33,215.91	1,396,760.76
P-51-AB	Domestic purchase of goods and services with missing/outdated/invalid ATP	325,042.72	31,196.95	356,239.67
P-51-AC	Domestic purchase of goods supported by VAT Invoices issued in the name of the Petitioner wherein VAT amount was not	26,124.04	30,150.20	56,274.24

[10] Decision dated October 1, 2018, p. 1.
[11] Exhibits "P-51-P" to "P-51-AV", including sub-markings.
[12] Exhibit "P-53", CTA Case No. 9124, Docket, vol. II, pp. 712 to 715.

	separately disclosed			
P-51-AD	Domestic purchase of services supported by VAT ORs issued in the name of the Petitioner wherein VAT amount was not separately disclosed	179,603.32	140,959.21	320,562.53
P-51-AE	Domestic purchase of goods and services supported by VAT Invoices/ VAT ORs issued in the name of the Petitioner but without/incorrect name, TIN and/or address of the Petitioner	352,027.41	116,673.61	468,701.02
P-51-AF	Domestic purchase of goods wherein TIN was handwritten on computer-generated invoice but without countersign	1,709.29	358.45	2,067.74
P-51-AG	Domestic purchase of goods and services supported by VAT Invoice that were undated	642.31	256.09	898.40
P-51-AH	Domestic purchase of goods and services issued in the name of "CCC" and/or Employee of the Petitioner	10,543.89	63,593.68	74,137.57
P-51-AI	Domestic purchase of goods and services supported by tape receipts which are unreadable	44,847.94	56,322.62	101,170.56
P-51-AJ	Domestic purchase of goods and services supported by tape receipts which are non compliant with POS/CRM receipt/invoice data requirements	19,738.97	713.51	20,452.48
P-51-AK	Domestic purchase of goods and services supported by tape receipts but without the TIN and address of the Petitioner	58,874.85	61,613.29	120,488.14
	Subtotal	***₱2,618,236.42***	***₱800,747.24***	***₱3,418,983.66***
IMPORTATIONS				
P-51-AM	Out-of-period claim of input tax on importation of goods		₱ 313,291.00	₱ 313,291.00
P-51-AN	Input tax on importation not supported by Import Entry Declaration and Statement of Settlement of Duties and Taxes		2,051.00	2,051.00
	Subtotal		***₱315,342.00***	***₱ 315,342.00***
AMORTIZED INPUT VAT ON PURCHASES OF CAPITAL GOODS EXCEEDING ₱1MILLION				
P-51-AP to AV; P-51-AQ-1	Purchases of 2 units BOOM TRUCK W/ CRANE & 1 UNIT L300 (PICK-UP) from MITSUBISHI MOTORS CEBU CORP. with no original document vouched			₱ 26,357.14
P-51-AR	Pertains to Import Processing Fees and/or Service Charges included in the total amount to be deferred			7,828.20
P-51-AS	Amount of claim is higher than the VAT in IED. No additional VAT payment noted.			19,982.50
P-51-AT	Supported by undated VAT sales invoice			21,428.57
P-51-AU	VAT sales invoice without petitioner's TIN or with TIN but was only handwritten and not countersigned			358,512.51

P-51-AV	Unsupported importations			60,943.29
	Subtotal			***₱ 495,052.21***
	TOTAL			**₱4,229,377.87**

Based on the foregoing, petitioner's input VAT allowable as tax credits for the 1st and 2nd quarters of TY 2013 only amounted to ₱132,496,651.25, computed below:

Total Input VAT reported for the 1st and 2nd Qtrs of TY 2013	**₱136,854,529.08**
Less: Disallowed input taxes	**4,229,377.87**
Allowable Input VAT for the 1st and 2nd Qtrs of TY 2013	**₱132,625,151.21**

However, a portion of the ₱132,625,151.21 shall be applied against the reported output VAT liability of ₱995,105.61. Consequently, only the remaining input VAT of ₱131,501,545.64 can be attributed to the entire zero-rated sales amounting to ₱6,100,204,231.39 and only the input VAT of ₱14,214,043.21 is attributable to the valid zero-rated sales of ₱659,372,983.73, computed as follows:

Allowable Input VAT		**₱ 132,625,151.21**
Less: Output VAT		995,105.63
Excess Input VAT Available for Refund		**₱ 131,630,045.58**
Multiply by Percentage of Valid Zero-Rated Sales over Total Zero-Rated Sales:		
Valid Zero-Rated Sales	₱ 659,372,983.73	
Divided by Total Reported Zero-Rated Sales	6,100,204,231.39	10.8090313%
Excess Input VAT Attributable to the Valid Zero-Rated Sales		**₱ 14,227,932.83**

To ensure that the present input VAT claim for refund will no longer be available for application to future output VAT liabilities, it was ascertained that the excess input VAT for the 1st quarter of TY 2013 amounting to ₱56,789,119.62[13] was no longer carried over to the 2nd quarter of TY 2013[14] and the excess input VAT for the 2nd quarter of TY 2013 amounting to ₱79,070,303.83[15] was no longer carried over to the 3rd quarter of taxable year 2013.[16]

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[13] Line 29, Exhibit "P-6", CTA Case No. 9124, Docket, vol. III, p. 874.
[14] Line 20A, Exhibit "P-7-a", CTA Case No. 9124, Docket, vol. III, p. 875.
[15] Line 29, Exhibit "P-7", CTA Case No. 9124, Docket, vol. III, p. 875.
[16] Line 20A, Exhibit "P-10-a", CTA Case No. 9124, Docket, vol. III, p. 886.

On a final note, it was mentioned earlier that the amount being appealed by petitioner in this case amounted to ₱49,389,885.74, which pertains to the disallowances made by respondent in the administrative level

However, as per final determination of the Court, the excess input VAT attributable to valid zero-rated sales only amounts to ₱14,227,932.83. Hence, the total input VAT disallowed in this case thus aggregates to ₱121,631,490.64, as computed below:

Excess input VAT originally claimed for refund	₱135,859,423.47
Less: Valid excess input VAT attributable to zero-rated sales as determined by the Court	14,227,932.83
Aggregate amount of input VAT disallowed for refund	**₱121,631,490.64**

With the amount disallowed by the Court (in the amount of Php121,631,490.64) being evidently higher than the appealed amount in this case which is Php49,389,885.74, as disallowed by the BIR, we find that petitioner is no longer entitled to the amount claimed in the judicial level.

With regard to petitioner's motion to re-open the case for submission of additional evidence, we find this to be without merit.

It is well-established that a motion to re-open the case like a motion for new trial may be granted only upon specific, well-defined grounds, set forth in the Rules.[17] Other than reasons of substantial justice, petitioner did not mention any circumstance that would justify the grant of re-opening a case for reception of additional evidence. Neither did petitioner attach any document required under the Rules of Court that is inherent in a motion for new trial.

We quote Sections 1 and 2 of Rule 37 of the Rules of Court to illustrate our point:

> Section 1. *Grounds of and period for filing a motion for new trial or reconsideration.* – Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes, materially affecting the substantial rights of said party:

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[17] Ramon Alegre vs. Manuel Reyes, G.R. No. L-56923, May 9, 1988.

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or
(b) Newly discovered evidence, which he could not, with reasonable diligence have discovered and produced at the trial, and which if presented would probably alter the result.

xxx xxx xxx

Section 2. *Contents of motion for new trial or reconsideration and notice thereof.* - xxx xxx

A motion for new trial shall be proved in the manner provided for proof of motions. **A motion for the cause mentioned in paragraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by affidavits. A motion for the cause mentioned in paragraph (b) shall be supported by affidavits of witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.**" (emphasis supplied)

xxx xxx xxx

Based on the foregoing provisions of the Rules of Court, petitioner failed to comply with the requirements for establishing its cause that would enable this Court to determine the merits of its motion to re-open the case.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration (with Motion to Re-Open Case for the Presentation of Additional Evidence)* posted on October 17, 2018, is **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

I CONCUR:

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

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