

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Second Division

**PURE
INTERNATIONAL
INCORPORATED,**

ESSENCE CTA CASE NO. 11198

Members:

Petitioner,

**RINGPIS-LIBAN, Chairperson,
MODESTO-SAN PEDRO, and
FERRER-FLORES, JJ.**

-versus-

**COMMISSIONER
INTERNAL REVENUE,**

OF

Promulgated:

SEP 22 2026

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Respondent.

x -----

DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before this Court is a Petition for Review (“Petition”) praying for this Court to render judgment ordering respondent to refund or issue a tax credit certificate in favor of petitioner the amount of Php74,868,794.34, representing its excess and unutilized input value added tax (“VAT”) attributable to its zero-rated sales of power generated from renewable sources of energy for the four quarters of taxable year (“TY”) 2021.¹

The Parties

Petitioner Pure Essence International Incorporated is a corporation duly registered and existing by virtue of the laws of the Philippines under Securities and Exchange Commission (“SEC”) Certificate of Registration No. CS200411768 with the following primary purpose:✓

¹ Petition, Records, pp. 6-53; See Summary of the Case, Pre-Trial Order, Records, p. 134.

To engage in, manufacture, handle, buy and sell, at wholesale and retail, deal in, license the manufacture of, export and import, toll manufacture soaps, detergents and cleansing compounds of every character and descriptions, cosmetics and personal care products, drugs and pharmaceuticals, bleach/disinfectant, soap noodles, glycerin, bio fuel and other products that can be derived from but not limited to coconut.

It has principal office address at No. 4 Avis St., Bagong-ilog, Pasig City with Tax Identification Number (“TIN”) 232-837-898-000.² Moreover, petitioner is accredited by the Department of Energy (“DOE”) and was issued a DOE Certificate of Accreditation No. DOE-COA-2019-BD004 as a renewable energy developer engaged in the production of bio fuel, and registered with the Board of Investment (“BOI”) under Certificate of Registration No. 2006-123 as an exporter and producer of coco-diesel and its by-products.³

Respondent, on the other hand, is the duly appointed Commissioner of the Bureau of Internal Revenue (“BIR”) (“CIR”) vested under the law with the authority to carry out the functions, duties, and responsibilities of said office, including *inter alia*, the power to decide, approve, and grant refunds of excess and unutilized input VAT pursuant to the pertinent provisions of the *National Internal Revenue Code of 1997, as amended*, (“NIRC”) and other laws, rules, and regulations. He may be served summons, pleadings, and other processes of this Court at his office at the 5th Floor BIR National Office Building, BIR Road, Diliman, Quezon City.⁴

The Facts

Petitioner filed its Quarterly VAT Returns (BIR Form No. 2550-Q) for the 1st to 4th quarters of TY 2021, with the BIR on the following dates through the BIR’s Electronic Filing and Payment System (“eFPS”):

TY 2021	Filing Reference No.	Date of Filing
1 st quarter ⁵	102100041393561	April 24, 2021
2 nd quarter ⁶	102100042805660	July 23, 2021
3 rd quarter ⁷	102100044230695	October 25, 2021
4 th quarter ⁸	102200045762891	January 24, 2022

² Exhibits “P-1” and “P-2”.
³ Exhibits “P-3” and “P-4”.
⁴ Records, p. 7.
⁵ Exhibit “P-6”.
⁶ Exhibit “P-7”.
⁷ Exhibit “P-8”.
⁸ Exhibit “P-9”.

Subsequently, on March 14, 2023, petitioner filed with the BIR – Large Taxpayers Service (“LTS”) a claim for refund with Application for Tax Credits/Refunds (BIR Form No. 1914)⁹ seeking the refund of Php74,868,794.34 representing excess/unutilized input VAT for the 1st, 2nd, 3rd and 4th quarters of TY 2021. The documents submitted by petitioner were marked under the Revised Checklist of Mandatory Requirements on Claims for VAT Credit/Refund.¹⁰

On May 24, 2023, petitioner received a Letter, dated May 19, 2023, signed by OIC – Assistant Commissioner (LTS) Jethro M. Sabriaga,¹¹ denying petitioner’s VAT refund claim due to petitioner’s failure to issue official receipts (“ORs”) in accordance with *Joint Administrative Order No. 2008*.

Accordingly, petitioner filed the present Petition on June 20, 2023.¹²

On July 5, 2023, this Court issued Summons¹³ requiring respondent to file an Answer on the Petition. Respondent, then, on August 8, 2023, filed his Answer.¹⁴ Respondent later elevated the entirety of the BIR Records before this Court on August 14, 2023.¹⁵

Also on August 14, 2023, the Court issued a Notice of Pre-Trial Conference.¹⁶

On same date, respondent submitted the Judicial Affidavit of revenue officer (“RO”), Ms. Kathrina D. Quimosing.¹⁷ Respondent submitted afterwards, on September 4, 2023, his Pre-Trial Brief.¹⁸

Meanwhile, petitioner submitted its Pre-Trial Brief on November 6, 2023.¹⁹

On November 9, 2023, Pre-Trial ensued.²⁰

⁹ Exhibit “P-5”.
¹⁰ Exhibit “P-10”.
¹¹ Exhibit “P-11”.
¹² Records, pp. 6-53.
¹³ *Id.*, pp. 54-55.
¹⁴ *Id.*, pp. 56-66.
¹⁵ *Id.*, pp. 68-71.
¹⁶ Records.
¹⁷ Exhibit “R-6”, *Id.*, pp. 73-95.
¹⁸ Records, pp. 97-101.
¹⁹ *Id.*, pp. 103-107.
²⁰ *Id.*, pp. 110-114.

Then, on December 11, 2023, petitioner moved to commission Mr. Sanriel Chris D. Ajero as the Court – appointed Independent Certified Public Accountant (“ICPA”).²¹

The parties failed to file a Joint Stipulation of Facts and Issues.²² Accordingly, a Pre-Trial Order was issued on March 4, 2024.²³

On March 5, 2024, petitioner presented Mr. Ajero in relation to his commissioning as the ICPA for the instant case. The Court subsequently commissioned Mr. Ajero as the ICPA who would assist this Court with respect to the present VAT refund claim.²⁴

On June 6, 2024, petitioner presented its witness, Ms. Divine Cailing.²⁵

Thereafter, petitioner submitted the Judicial Affidavit of Mr. Ajero and his ICPA Report on July 12, 2024.²⁶ On August 6, 2024, petitioner placed Mr. Ajero into the witness stand.²⁷

On August 22, 2024, petitioner filed its Formal Offer of Evidence,²⁸ with respondent interposing no objections therewith.²⁹ In a Resolution, dated March 17, 2025,³⁰ this Court admitted all of petitioner’s Exhibits except for Exhibits “P-5-A” and “P-5-B” for failure to identify, and Exhibits “P-13” for not being found in the records.

Afterwards, on March 27, 2025, respondent presented its witness, RO Quimosing.³¹ Then, on March 28, 2025, respondent filed his Formal Offer of Evidence.³² In a Resolution, dated September 17, 2025, the Court admitted all of respondent’s Exhibits.³³

Subsequently, on October 16, 2025, petitioner filed its Memorandum.³⁴ On the other hand, respondent filed his Memorandum on October 15, 2025.³⁵

²¹ *Id.*, pp. 115-126.

²² *Id.*, p. 132.

²³ *Id.*, pp. 133-138.

²⁴ *Id.*, pp. 139-142.

²⁵ *Id.*, pp. 145-146.

²⁶ Exhibit “P-18” and “P-19”, *id.*, pp. 150-159.

²⁷ *Id.*, pp. 162-164.

²⁸ *Id.*, pp. 165-168.

²⁹ *Id.*, pp. 169-173.

³⁰ *Id.*, pp. 230-234.

³¹ *Id.*, pp. 235-236.

³² *Id.*, pp. 238-244.

³³ *Id.*, pp. 245-247.

³⁴ *Id.*, pp. 249-259.

³⁵ *Id.*, pp. 261-270.

Finally, this Court submitted the instant case for Decision in a Resolution, dated November 11, 2025.³⁶

The Issue³⁷

“Whether or not [p]etitioner is entitled to a refund of alleged excess and unutilized input VAT in the amount of Php74,868,794.34 for [TY] 2021.”

Arguments of the Parties

Petitioner’s arguments.³⁸

Petitioner argues that the sole ground relied upon by respondent in denying petitioner’s VAT refund claim – its alleged failure to issue ORs – is erroneous, without factual or legal basis, and contrary to law. Further, petitioner insists that it has substantially complied with all the requirements for refund under *Section 112 of the NIRC*. Moreover, petitioner alleges that the findings of the ICPA support its claim, and as such, the same must be granted. In totality, petitioner argues that it is entitled to a refund of its unutilized input VAT for TY 2021.

Respondent’s counter-arguments.³⁹

Respondent contends that the Petition must be dismissed for failure of petitioner to substantiate its administrative claim for refund. Further, respondent insists that petitioner is not entitled to refund of alleged input VAT in the amount of Php74,868,794.34 as it failed to prove its entitlement thereto. Respondent reiterates that tax refunds are strictly construed against the taxpayer, thus, the instant claim must be denied.

THE COURT’S RULING

The *Petition for Review* lacks merit. ✓

³⁶ Records.

³⁷ See Stipulation of Issue, Pre Trial Order, *Id.*, p. 135.

³⁸ See petitioner’s Memorandum, Records, pp. 251-258.

³⁹ See respondent’s Memorandum, Records, pp. 261-267.

*Requisites for claiming unutilized
input VAT attributable to zero-rated
sales.*

The provision that governs the present claim for refund of excess and/or unutilized input VAT attributable to zero-rated sales is *Section 112 (A) and (C) of the NIRC*, which reads:

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 of 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.*

(B)...

(C) Period within which Refund or Tax Credit of Input Taxes shall be Made. - In proper cases, the Commissioner shall grant a refund for creditable input taxes within ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof: Provided, That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.

In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals: Provided, however, That failure on the part of any official, agent, or employee of the BIR to act on the application within ninety (90) days period shall be punishable under Section 269 of this Code.
(Italics, Ours.)

Based on the foregoing provisions, jurisprudence has laid down the following requisites that must be complied with by the taxpayer-applicant to successfully obtain a tax refund/credit: ✓

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

1. the refund claim is filed with the BIR within 2 years after the close of the taxable quarter when the sales were made;⁴⁰
2. the judicial claim is filed with this Court within 30 days from receipt of an adverse decision (*i.e.*, partial or full denial of the administrative claim);⁴¹

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

3. the taxpayer is a VAT-registered person;⁴²

In relation to the taxpayer's output VAT:

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

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;⁴⁵
7. the input taxes are due or paid;⁴⁶

⁴⁰ Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 155732, 27 April 2007; San Roque Power Corporation v. Commissioner of Internal Revenue, G.R. No. 180345, 25 November 2009; AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 182364, 3 August 2010.

⁴¹ Steag State Power, Inc. vs. Commissioner of Internal Revenue, G.R. No. 205282, 14 January 2019; Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue, G.R. No. 168950, 14 January 2015.

⁴² Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 155732, 27 April 2007; San Roque Power Corporation v. Commissioner of Internal Revenue, G.R. No. 180345, 25 November 2009; AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 182364, 3 August 2010.

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

8. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume;⁴⁷ and
9. the input taxes have not been applied against output taxes during and in the succeeding quarters.⁴⁸

At this juncture, it must be emphasized that cases filed before the Court of Tax Appeals (“CTA”) are litigated *de novo*.⁴⁹ Parties are thus expected to litigate and prove every minute aspect of their case anew by presenting, formally offering, and submitting to the CTA all evidence required for the successful prosecution of its claim.⁵⁰ Consequently, petitioner must competently establish its claim for refund or tax credit following the foregoing requisites.

Petitioner’s administrative and judicial claim for refund were timely filed.

Pursuant to *Sections 112 (A) and (C) of the NIRC*, the refund of unutilized input VAT attributable to zero-rated or effectively zero-rated sales must be administratively filed with the BIR within two years counted from the close of the taxable quarter when the relevant sales were made. Meanwhile, the judicial claim for refund must be filed in Court within 30 days from receipt of respondent’s adverse decision. This comprise the *first and second requisites* for a successful VAT refund claim.

Applying the foregoing, the table below summarizes the relevant dates pertaining to the filing of the administrative and judicial claims for refund;

⁴⁷ Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 155732, 27 April 2007; San Roque Power Corporation v. Commissioner of Internal Revenue, G.R. No. 180345, 25 November 2009.

⁴⁸ Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 155732, 27 April 2007; San Roque Power Corporation v. Commissioner of Internal Revenue, G.R. No. 180345, 25 November 2009; AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 182364, 3 August 2010.

⁴⁹ Commissioner of Internal Revenue v. Univation Motor Philippines, Inc., G.R. No. 231581, 10 April 2019.

⁵⁰ *Id.*; Philippine Airlines, Inc. v. Commissioner of Internal Revenue, G.R. No. 206079-80 and 206309, 17 January 2018.

Period of claim	Close of the taxable quarter	Last day for filing of the administrative claim	Date of filing of the administrative claim	Date of receipt of the CIR's denial of the administrative claim	Last day for filing of the judicial claim (30 days)	Date of filing of judicial claim
1 st Quarter of TY 2021	March 31, 2021	March 31, 2023	March 14, 2023 ⁵¹	May 24, 2023 ⁵²	June 23, 2023 ⁵³	June 20, 2023 ⁵⁴
2 nd Quarter of TY 2021	June 30, 2021	June 30, 2023	March 14, 2023 ⁵⁵	May 24, 2023 ⁵⁶	June 23, 2023 ⁵⁷	June 20, 2023 ⁵⁸
3 rd Quarter of TY 2021	September 30, 2021	September 30, 2023	March 14, 2023 ⁵⁹	May 24, 2023 ⁶⁰	June 23, 2023 ⁶¹	June 20, 2023 ⁶²
4 th Quarter of TY 2021	December 31, 2021	December 31, 2023	March 14, 2023 ⁶³	May 24, 2023 ⁶⁴	June 23, 2023 ⁶⁵	June 20, 2023 ⁶⁶

The present case covers the four taxable quarters of TY 2021. Counting two years from close of the 1st, 2nd, 3rd, and 4th quarters of TY 2021 on March 31, 2021, June 30, 2021, September 30, 2021, and December 31, 2021, respectively, petitioner had until March 31, 2023, June 30, 2023, September 30, 2023, and December 31, 2023, respectively, to file its administrative claim for VAT refund for the 1st, 2nd, 3rd and 4th quarters of TY 2021.

Petitioner, in the instant case, filed its administrative claim for refund with the BIR's LTS on March 14, 2023.⁶⁷ Thus, the administrative claim for VAT refund for the entire subject period is timely filed.

The same can equally be said with respect to the filing of the judicial claim. As found by this Court, petitioner received the CIR's partial denial of its administrative claim (*i.e.*, Vat Refund Notice) on May 24, 2023.⁶⁸ Counting

⁵¹ Exhibit "P-5".
⁵² Exhibit "P-11".
⁵³ June 24, 2023 fell on a Saturday. Hence, the last day for filing is moved to the next working day.
⁵⁴ Records, pp. 6-53.
⁵⁵ Exhibit "P-5".
⁵⁶ Exhibit "P-11".
⁵⁷ June 24, 2023 fell on a Saturday. Hence, the last day for filing is moved to the next working day.
⁵⁸ Records, pp. 6-53.
⁵⁹ Exhibit "P-5".
⁶⁰ Exhibit "P-11".
⁶¹ June 24, 2023 fell on a Saturday. Hence, the last day for filing is moved to the next working day.
⁶² Records, pp. 6-53.
⁶³ Exhibit "P-5".
⁶⁴ Exhibit "P-11".
⁶⁵ June 24, 2023 fell on a Saturday. Hence, the last day for filing is moved to the next working day.
⁶⁶ Records, pp. 6-53.
⁶⁷ Exhibit "P-5".
⁶⁸ Exhibit "P-11".

30 days from said date, petitioner had until June 23, 2023 within which to file a judicial claim before this Court. On June 20, 2023, petitioner filed the instant Petition questioning respondent's denial of its administrative claim before this Court.⁶⁹ Thus, the judicial claim is timely filed.

Accordingly, the *first and second requisites* have been duly complied with by petitioner.

Petitioner is VAT-registered.

With respect to the compliance with the *third requisite*, petitioner is duly registered with the BIR as a VAT taxpayer with a TIN 232-837-898-000 as evidenced by petitioner's BIR Certificate of Registration, dated August 11, 2004, wherein "Value – Added Tax" is displayed prominently among the tax types.⁷⁰

While petitioner is entitled to a VAT zero-rating of its sale of biodiesel, petitioner is not entitled to input VAT refund because its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities and the whole process of exploring and developing renewable energy sources up to its conversion into power are subject to VAT zero-rating.

Based on the VAT Refund Application filed by petitioner,⁷¹ the legal basis upon which petitioner is claiming the VAT zero-rating of its sale is *Section 108 (B) (7) of the NIRC*, which then provided, *to wit.*:

SEC. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. –

(A) Rate and Base of Tax. -

(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: 

...

⁶⁹ Records, pp. 6-53.

⁷⁰ Exhibit "P-2".

⁷¹ Exhibit "P-5".

(7) *Sale of power or fuel generated through renewable sources of energy* such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels.
(Italics, Ours)

This provision is implemented by *Section 4.108-5 (b) (7) of Revenue Regulation No. (“RR”) 16-2005*, as follows:

SEC. 4.108-5. Zero-Rated Sale of Services.- (b) Transactions Subject to Zero Percent (0%) VAT Rate. -The following services performed in the Philippines by a VAT registered person shall be subject to zero percent (0%) VAT rate:

...

(7) Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal and steam, ocean energy, and other emerging sources using technologies such as fuel cells and hydrogen fuels; Provided, however, that zero-rating shall apply strictly to the sale of power or fuel generated through renewable sources of energy, and shall not extend to the sale of services related to the maintenance or operation of plants generating said power.

Further, a perusal of petitioner’s Certificate of Accreditation No. DOE-COA-2019-BD004 issued by the DOE⁷² will show that petitioner is accredited as a manufacturer of biodiesel and is entitled to incentives for non-power application under *Section 15 of Republic Act No. (“RA”) 9513 or the Renewable Energy Act of 2008*. Moreover, an examination of petitioner’s BOI Certificate of Registration No. 2006-123 will show that it is registered as an exporter and producer of coco – diesel and its by-products.⁷³

Taken together, these documents constitute preponderant evidence establishing petitioner’s registration as a Renewable Energy (“RE”) Developer which is qualified to avail of tax incentives under *RA 9513*. It is thus evident that petitioner is claiming VAT zero-rating for its sales of bio-diesel (*i.e.*, coco-diesel) pursuant to *Section 108 (B) (7) of the NIRC*, in conjunction with *RA 9513*, specifically, *Section 15 (g) of RA 9513* which grants certain tax incentives to RE Developers.

But it must be emphasized that while *Section 15 (g) of RA 9513* grants VAT zero-rating on the sale of bio-diesel by RE Developers, it also provides for the VAT zero-rating of an RE Developer’s purchases, *viz.* 

⁷² Exhibit “P-3”.

⁷³ Exhibit P-4”.

CHAPTER VII
GENERAL INCENTIVES

Section 15. Incentives for Renewable Energy Projects and Activities. - RE developers of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications, as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives:

...

(g) Zero Percent Value-Added Tax Rate. - The sale of fuel or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337.

All RE Developers shall be entitled to zero-rated value added tax on its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities.

This provision shall also apply to the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors.

(Italics, Ours.)

The fact that the local purchases by an RE Developer is likewise subject to VAT zero-rating has severe implications. The Supreme Court in *Coral Bay Nickel Corporation vs. Commissioner of Internal Revenue*,⁷⁴ (“Coral Bay case”) held that the proper party to seek VAT refund or credit should be the suppliers of an ecozone enterprise, and not the ecozone enterprise itself such as Coral Bay Nickel Corporation in the aforementioned case considering that one of the incentives given to an ecozone enterprise is the VAT zero-rating of its purchases, to wit:

The petitioner's principal office was located in Barangay Rio Tuba, Bataraza, Palawan. Its plant site was specifically located inside the Rio Tuba Export Processing Zone — a special economic zone (ECOZONE) created by Proclamation No. 304, Series of 2002, in relation to Republic Act No. 7916. As such, the purchases of goods and services by the petitioner that were destined for consumption within the ECOZONE should be free of VAT; hence, no input VAT should then be paid on such purchases, rendering the petitioner not entitled to claim a tax refund or credit. Verily, if the petitioner had paid the input VAT, the CTA was correct in holding that the petitioner's proper recourse was not against the Government but against the seller who had shifted to it the output VAT following RMC No. 42-03, which provides:

⁷⁴ G.R. No. 190506, June 13, 2016.

In case the supplier alleges that it reported such sale as a taxable sale, the substantiation of remittance of the output taxes of the seller (input taxes of the exporter-buyer) can only be established upon the thorough audit of the suppliers' VAT returns and corresponding books and records. It is, therefore, imperative that the processing office recommends to the concerned BIR Office the audit of the records of the seller.

In the meantime, the claim for input tax credit by the exporter-buyer should be denied without prejudice to the claimant's right to seek reimbursement of the VAT paid, if any, from its supplier.

*We should also take into consideration the nature of VAT as an indirect tax. Although the seller is statutorily liable for the payment of VAT, the amount of the tax is allowed to be shifted or passed on to the buyer. However, reporting and remittance of the VAT paid to the BIR remained to be the seller/supplier's obligation. Hence, **the proper party to seek the tax refund or credit should be the suppliers, not the petitioner.***
(Emphasis and italics, Ours.)

The *Coral Bay* case contemplates a situation where the taxpayer-buyer is entitled to zero-rated VAT for its transactions and the seller should not have passed on the VAT to such taxpayer-buyer. Thus, in the *Coral Bay* case, the rule established is that the taxpayer-buyer should go after the supplier who is, in turn, entitled to file a refund claim with the government.

In the case at bar, again, it is undisputed that petitioner is registered with the DOE⁷⁵ and the BOI⁷⁶ as an RE Developer of biodiesel under RA 9513. As provided, *Section 15 (g) of RA 9513*, which was enacted to law on December 16, 2008, provides that all RE Developers, such as herein petitioner, are entitled to zero-rated VAT on their purchases of local supply of goods, properties and services needed for the development, construction and installation of their plant facilities and to the whole process of exploring and developing renewable energy sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors. Moreover, *Part III, Rule 5, Section 13 G., of the Implementing Rules and Regulations ("IRR") of RA 9513*⁷⁷ provides:

SECTION 13. *Fiscal Incentives for Renewable Energy Projects and Activities –*

DOE-certified existing and new RE Developers of RE facilities, including Hybrid Systems, in proportion to and to the extent of the RE component, for both Power and Non-Power Applications, shall be entitled to the following incentives:

⁷⁵ Exhibit "P-3".

⁷⁶ Exhibit "P-4".

⁷⁷ Department Circular No. DC2009-05-0008 dated May 25, 2009 issued by the DOE.

...

G. Zero Percent Value-Added Tax Rate

The following transactions/activities shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337:

- (a) Sale of fuel from RE sources or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels;
- (b) *Purchase of local goods, properties and services needed for the development, construction, and installation of the plant facilities of RE Developers; and*
- (c) *Whole process of exploration and development of RE sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors.*

(Italics, Ours)

To the point of being repetitive, as an RE developer, petitioner is thus entitled to zero-rated purchases from its local suppliers of goods, properties and services needed for the development, construction, and installation of the plant facilities and for the whole process of exploration and development of RE sources up to its conversion into power.

Petitioner’s Quarterly VAT Returns for the four quarters of TY 2021⁷⁸ shows that all its input VAT amounting to Php74,868,794.34 arose only from domestic or local purchases, broken down as follows:

Quarter	Domestic Purchases of Goods Other Than Capital Goods	Domestic Purchase s of Services	Total input VAT for the quarter	Output VAT for the quarter	Excess Input VAT sought to be refunded
1 st Quarter	27,318,417.55	0	27,318,417.55	2,563,403.57	24,755,013.98
2 nd Quarter	3,522,617.16	0	3,522,617.16	8,959,849.29	(5,437,232.13)
3 rd Quarter	19,969,817.05	0	19,969,817.05	5,076,668.57	14,893,148.48
4 th Quarter	43,454,236.87	0	43,454,236.87	2,991,372.86	40,462,864.01
Total	94,265,088.63	0	94,265,088.63	19,591,294.29	74,673,794.34

As such, pursuant to the *Coral Bay* case, petitioner should not have paid input VAT on the foregoing local purchases and thus cannot be entitled to claim a tax refund or credit. If petitioner had paid the above input VAT,

⁷⁸ Exhibits “P-6” to “P-9”.

petitioner's proper recourse is not against the BIR but against the seller who had erroneously shifted to it the output VAT.

In sum, petitioner failed to prove its entitlement to the refund being sought. While petitioner is entitled to a VAT zero-rating of its sale of biodiesel, petitioner is not entitled to input VAT refund because its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities and the whole process of exploring and developing renewable energy sources up to its conversion into power are subject to VAT zero-rating. Petitioner failed to show adherence to the *Coral Bay* case. Given this, the Court will no longer belabor the other requisites for VAT refund as provided above.

It bears stressing that actions for tax refund or credit, as in the present case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven. The burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit. Since taxes are the lifeblood of the government, tax laws must be faithfully and strictly implemented as they are not intended to be liberally construed.⁷⁹

The proper remedy for RE Developers and all other taxpayers whose purchases are declared by law to be zero-rated but whose suppliers of goods or services have passed on input VAT to them is to file a claim for refund of erroneously paid taxes under Section 229 of the NIRC.

Nonetheless, this Court observes that the application of the *Coral Bay* case in the resolution of the present controversy would unjustly deprive petitioner of any chance of reclaiming its input VAT since, at this point, there will be no effective judicial remedy available to petitioner. The judicial remedy proposed in the *Coral Bay* case, to this Court's mind, would not resolve the problem, considering that the money at this time would have already been remitted to the BIR. Furthermore, a judicial action for claim of money to obtain refund from petitioner's local suppliers is within the jurisdiction of trial courts, to which the BIR and respondent cannot be impleaded. ✓

⁷⁹ Coca-Cola Bottlers Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 222428, February 19, 2018

This Court should look past technicalities and legalisms and afford litigants substantial justice, equity, and fair play with its decisions. On this score, the ruling in *San Roque Power Corporation v. Commissioner of Internal Revenue*⁸⁰ is instructive, to wit:

Substantial justice, equity and fair play are on the side of petitioner. Technicalities and legalisms, however exalted, should not be misused by the government to keep money not belonging to it, thereby enriching itself at the expense of its law-abiding citizens. Under the principle of *solutio indebiti* provided in Art. 2154, Civil Code, the BIR received something "when there [was] no right to demand it," and thus, it has the obligation to return it. Heavily militating against respondent Commissioner is the ancient principle that no one, not even the State, shall enrich oneself at the expense of another. Indeed, simple justice requires the speedy refund of the wrongly held taxes.

Thus, denying the case on the basis of an inapplicable doctrine would unjustly enrich the government of money which rightfully belongs to petitioner. The case of *Commissioner of Internal Revenue v. Co*⁸¹ illustrates this point:

At this juncture, the Court emphasizes that while tax refunds are strictly construed against the taxpayer, *the Government should not resort to technicalities and legalisms, much less frivolous appeals, to keep the money it is not entitled to at the expense of the taxpayers.*

Substantial justice, equity and fair play are on the side of [respondents]. Technicalities and legalisms, however exalted, should not be misused by the government to keep money not belonging to it and thereby enrich itself at the expense of its law-abiding citizens. If the State expects its taxpayers to observe fairness and honesty in paying their taxes, so must it apply the same standard against itself in refunding excess payments of such taxes. Indeed, the State must lead by its own example of honor, dignity and uprightness.
(Emphasis and italics, Ours.)

Finally, this Court also take cue from the legislative policy of the *Renewable Energy Act of 2008*.⁸² The law provides the incentive of VAT zero-rating to RE Developers, such as petitioner, for both its sale of renewable energy and its local purchases of goods and services, to promote and encourage the development and utilization of renewable energy in the Philippines. In line with this, this Court simply cannot turn a blind eye to such legislative policy and allow terrible injustice to RE Developers, such as petitioner, by not giving them a feasible remedy when they were made to pay for input VAT when, in the first place, no input VAT should be passed to them. Thus, this Court is duty bound to provide rulings in line with such ✓

⁸⁰ G.R. No. 180345, 25 November 2009.

⁸¹ G.R. No. 241424, 26 February 2020.

⁸² An Act Promoting the Development, Utilization and Commercialization of Renewable Energy Resources and for other Purposes, Republic Act No. 9513, 16 December 2008.

legislative policy by providing RE Developers a feasible remedy to enforce their VAT zero-rating status, for both their sales and local purchases. This is in line with the Supreme Court's pronouncement in *Philippine Airlines, Inc. v. Commissioner of Internal Revenue*,⁸³ which provides:

Finally, both the Commissioner and the Court of Tax Appeals should have appreciated the unreasonable difficulty that it would have put the taxpayer — in this case PAL — to claim a statutory exemption granted to it. In requiring that it prove actual remittance, the court a quo and the Commissioner effectively put the burden on the payee to prove that both government and the banks complied with their legal obligation. It would have been near impossible for the taxpayer to demand to see the records of the payor bank or the ledgers of the government. The legislative policy was to provide incentives to the taxpayer by unburdening it of taxes. By administrative and judicial interpretation, such policy would have been unreasonably reversed. This is not this Court's view of equity. Clearly, the taxpayer in this case is entitled to relief.
(Emphasis and italics, Ours.)

Thus, for the benefit of RE Developers and all other taxpayers whose purchases are declared by law to be zero-rated but whose suppliers of goods or services have passed on input VAT to them, and for the appreciation of the bench and the bar, this Court issues the following guidance:

RE Developers and all other taxpayers whose purchases are declared by law to be zero-rated but whose suppliers of goods or services have passed on input VAT to them cannot claim an input VAT refund under *Section 112 (A) and (C) of the NIRC* considering that Congress intended them not to be burdened with any input VAT at all from their purchases, and as such, there is technically no input VAT which they can incur, and ultimately, which can be refunded. Rather, the proper remedy for them is to file a claim for erroneously paid taxes under *Section 229 in relation to Section 204 (C) of the NIRC*, which provides, as follows:

Section 229:

SEC. 229. Recovery of Tax Erroneously or Illegally Collected. - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be filed unless there is a full or partial denial of the claim for refund or credit by the Commissioner or there

⁸³ G.R. Nos. 206079-80 & 206309, 17 January 2018.

is a failure on the part of the Commissioner to act on the claim within the one hundred eighty (180)-day period under Section 204 of this Code; Provided, however, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.

In case of full or partial denial of the claim for tax refund, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred eighty (180)-day period, appeal the decision with the Court of Tax Appeals.

Section 204:

SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes. – The Commissioner may –

...

(C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty as provided under Section 229 of this Code: Provided, however, That a return filed showing an overpayment shall be considered as a written claim for credit or refund: *Provided, further,* That the Commissioner shall process and decide the refund under this provision within one hundred eighty (180) days from date of submission of complete documents in support of the application filed: Provided, furthermore, That should the Commissioner deny, in full or in part, the claim for refund, the Commissioner shall state the legal and/or factual basis for the denial: Provided, finally, That failure on the part of any official, agent, or employee of the Bureau of Internal Revenue to process and decide on the application within the one hundred eighty (180)-day period shall be punishable under Section 269 of this Code.

In *Commissioner of Internal Revenue v. Carrier Airconditioning Philippines, Inc.*,⁸⁴ the Supreme Court laid down the requisites for a claim for refund of erroneously paid taxes, viz.:

Section 204 refers to the Commissioner of Internal Revenue's administrative authority to credit or refund erroneously paid or illegally collected taxes. Under this provision, an administrative claim for refund or credit must be filed within two years from payment of the tax.

Section 229, on the other hand, requires... an administrative claim must be filed first... before the judicial claim. ✓

⁸⁴ G.R. No. 226592, July 27, 2021.

Therefore, for a claim for refund of erroneously paid taxes to prosper, the following must be present: a) that a tax has been erroneously paid or illegally collected; b) an administrative claim for refund must be filed within two years from the payment of the tax; c) a judicial claim was filed with this Court within thirty days after receiving a full or partial denial of the claim from the BIR, or after the lapse of the 180-day period given to respondent CIR to act on the claim and the latter failed to act thereon.

For the first requisite (*i.e.*, that a tax has been erroneously paid or illegally collected), if a local supplier of goods or services passes on VAT to an RE Developer, then the input VAT is erroneously paid by the RE Developer. This is because *Section 15 (g) of the Renewable Energy Act of 2008* clearly provides that the local purchases of RE Developers are VAT zero-rated, or in other words, no VAT must be passed on to such taxpayers.

It must be emphasized that VAT is an indirect tax. As such, the person who bears the incidence of taxation is different from the person who bears the burden of taxation.⁸⁵ The incidence of taxation refers to the actual liability to pay the tax or, simply put, the liability pertaining to the statutory taxpayer. On the other hand, the burden of taxation refers to the economic burden of the tax. In the VAT system, it is the seller of goods and/or services who bears the incidence of VAT based on *Sections 105, 106 and 108 of the NIRC*. On the other hand, it is the buyer of such goods and/or services who bears the burden of VAT as the same is passed on by the seller to the buyer in accordance with *Section 105 of the NIRC*. Here, an RE Developer who enjoys input VAT zero-rating actually bears the burden of the VAT passed on to it by its local suppliers of goods and services, who are the statutory taxpayers of VAT, and as such bear the incidence of taxation, even when law actually forbids any VAT burden being imposed upon such RE Developer.

This Court is aware of the Supreme Court case of *Manila Peninsula Hotel, Inc. v. Commissioner of Internal Revenue*,⁸⁶ where it was ruled that if there is an erroneous payment of input VAT, it is the statutory taxpayer who can file a claim for refund under *Section 229 of the NIRC*, *viz.*:

Only the person legally liable to pay the tax can file the judicial claim for refund. The person to whom the tax is passed on as part of the purchase price has no personality to file the judicial claim under Section 229.

However, such ruling must be revisited in light of the actual circumstances surrounding the imposition of VAT. Whenever VAT is imposed on a particular transaction, the statutory taxpayer does not take a hit economically considering that it passes on the financial burden of paying the VAT due from his or her sales to his or her customers. In effect, what actually

⁸⁵ Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue, G.R. No. 211303, June 15, 2021.

⁸⁶ G.R. No. 229338, April 17, 2024.

occurs in a VAT transaction is that the statutory taxpayer only becomes a tax agent whose sole function is to collect VAT from the succeeding customer. While it is true that the seller of goods or services becomes liable for interest and penalties should he or she fail to properly declare and remit the correct VAT due, in reality, such interest and penalties only serve to ensure that the seller collects the correct amount of VAT from his or her customers. The economic burden always remains with the purchaser. Thus, applying the precepts of substantial justice, equity and fairness, the purchaser should be considered a taxpayer in relation to the input VAT that he or she paid to his or her suppliers, and as such, should have standing to claim any erroneously paid input VAT. Forcing the seller of goods or services to still be the one to claim for refund an erroneously paid tax would result in an absurd scenario of requiring someone to sue for recovery of an amount which such person is not even interested in recovering considering that said amount did not even come from his or her coffers. Accordingly, it is only just and proper to allow a purchaser enjoying input VAT zero-rating to claim refund of any input VAT passed on to it by its local suppliers of goods and services as said purchase was actually the one who paid for such input VAT, and is actually protected by law and intended by Congress to be shielded from the effects of the VAT system.

Accordingly, in order that an RE Developer or any other taxpayer enjoying input VAT zero-rating to be deemed to have erroneously paid tax in accordance with the first requisite, it must initially point to a specific law granting it an incentive of VAT zero-rating of its purchases of goods and/or services. After this, such taxpayers must show that it indeed paid input VAT on its local purchases of goods and/or services by showing the particular invoices reflecting the imposition of input VAT on its purchases. Moreover, the RE Developer or any other taxpayer enjoying input VAT zero-rating must present evidence that the input VAT that they paid to their local suppliers of goods and/or services was actually remitted to the BIR by presenting the VAT returns and Summary List of Sales of their corresponding suppliers showing the remittance of such input VAT to the BIR.

As to the second requisite (*i.e.*, that a prior administrative refund claim be filed with the BIR within two years from payment of the erroneously paid tax), RE Developers and other taxpayers enjoying input VAT zero-rating should file their claim within two years from the time their suppliers of goods and/or services actually remitted the subject input VAT to the BIR, or simply put, when such suppliers file and pay their monthly or quarterly VAT returns which include the subject input VAT. It is only upon the filing of the corresponding monthly or quarterly VAT return containing the subject input that such input VAT is deemed paid to the BIR.

With respect to the third requisite (*i.e.*, that the judicial claim be filed within thirty days from receipt of a partial or full denial from the BIR, or from the lapse of the one hundred eighty days given to the BIR to decide the claim),

and the latter failed to act thereon), it is important that these periods be timely complied with considering that these periods are jurisdictional and the power of the Court to act on these claims are dependent upon compliance with these periods.

Only with the compliance of these requisites can the Court grant a claim for erroneously paid input VAT by an RE Developer or other taxpayer enjoying input VAT zero-rating.

ACCORDINGLY, in light of the foregoing considerations, the present Petition for Review is **DENIED** for lack of merit.

SO ORDERED.


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CORAZON G. FERRER-FLORES
Associate Justice

C E R T I F I C A T I O N

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


MA. BELEN M. RINGPIS-LIBAN
Presiding Justice