REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

WNS PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 8219

Members:

UY, *Chairperson and*
FABON-VICTORINO, *JJ*

Promulgated:

MAY 02 2013 2:55 pm

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DECISION

Fabon-Victorino, J.:

In the instant Petition for Review filed on January 26, 2011, petitioner asks this Court to review its claim for refund or issuance of tax credit certificate in the amount of P6,589,937.24, allegedly representing its unutilized input value-added tax (VAT) attributable to zero-rated sales for the second to the fourth quarter (July 2008 to March 2009) of fiscal year ending March 31, 2009, which respondent failed to act upon to its prejudice.

Petitioner is a duly organized domestic corporation, with office address at the 15th Floor 6750 Ayala Avenue, Makati City.[1] It is engaged in the business of outsourced services through the medium of telephone, email and web medium of telephone, and email and web-based interaction,

[1] Par. 1, Joint Stipulation of Facts (JSF), docket, p. 236; Exhibit "F"; also par. 1 of Petition for Review dated Jan. 26, 2011, which was admitted in the Answer dated Feb. 28, 2011.

as well as other I.T. enabled services, including outsourced back-office services, among others.[2]

Petitioner is registered with the Bureau of Internal Revenue (BIR) as a VAT enterprise, with BIR Certificate of Registration No. OCN 9RC0000296641 dated July 7, 2008.[3] It is likewise registered with the Board of Investments (BOI) as an ICT Export Service Enterprise, with Certificate of Registration No. 2009-078.[4]

On the other hand, respondent Commissioner of the Bureau of Internal Revenue (BIR), has the authority to implement and enforce the provisions of the National Internal Revenue Code (NIRC) and other tax laws, including the power to grant claims for refund of internal revenue taxes. She holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.

On July 31, 2010,[5] petitioner entered into a service contract with WNS Global Services (UK) Limited and WNS North America, Inc. under which it shall provide IT-enabled services to them.

For the second to the fourth quarter of fiscal year ended March 31, 2009 (July 2008 to March 2009), all of petitioner's sales of services were to WNS UK and WNS North America. Allegedly, such sales were paid in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas. These sales transactions were zero-rated pursuant to Section 108(B)(2) of the Tax Code, as amended, detailed as follows:[6]

PERIOD	**AMOUNT**
Second Quarter	P 9,535,775.05
Third Quarter	P76,600,330.09
Fourth Quarter	P67,788,779.58

[2] Exhibit "F-1".
[3] Exhibit "G".
[4] Par. 2, JSF, docket, p. 236.
[5] Exhibits "I" and "J" to "J-2".
[6] Par. 7, Petition for Review, docket, p. 4.

Within the same period, petitioner allegedly incurred and paid input VAT in the total amount of P6,589,937.24, which remains unutilized on account of its zero-rated sales. The unutilized amount is broken down as follows:[7]

PERIOD	AMOUNT
2nd Quarter (July to September 2008)	P 184,980.75
3rd Quarter (October to December 2008)	P2,167,869.17
4th Quarter (January to March 2009)	P4,237,087.30
TOTAL	P6,589,937.24

On September 3, 2010, petitioner filed with the One-Stop-Shop Center of the Department of Finance (DOF) an administrative claim for refund or issuance of tax credit certificate (TCC) for the said unutilized input VAT attributable to zero-rated sales.[8] To date, respondent has not acted on the said application for refund,[9] prompting petitioner to seek judicial intervention via the instant Petition for Review filed on January 26, 2011.

In her Answer filed on March 4, 2011,[10] respondent has put forward the following special and affirmative defenses:

> 5) Petitioner's claim for refund is still subject to investigation by the Bureau of Internal Revenue;
>
> 6) Petitioner failed to demonstrate that the tax, which is the subject of this case, was erroneously or illegally collected;

[7] Par. 8, Petition for Review, docket, pp. 4 to 5.
[8] Par. 4, JSF, docket, p. 236.
[9] Par. 5, JSF, docket, p. 236.
[10] Docket, pp. 218 to 220.

7) Taxes paid and collected are presumed to be made in accordance with the laws and regulations, hence, not refundable;

8) It is incumbent upon the Petitioner to show that it has complied with the provision of Section 204(C) in relation to Section 229 of the 1997 Tax Code, as amended;

9) Petitioner's claim for refund or issuance of tax credit certificate in the amount of P6,589,937.24 as alleged unutilized input VAT paid on purchases of goods and services attributable to its zero-rated sales for the 2nd, 3rd and 4th Quarters of fiscal year 2008 was not fully substantiated by proper documents, such as sales invoices, official receipts and others.

10) In an action for tax credit or refund, the burden is upon the taxpayer to prove that he is entitled thereto, and failure to discharge the said burden is fatal to the claim (*Emmanuel & Zenaida Aguilar v. Commissioner, CA-GR No. Sp. 16432, March 30, 1990 cited in Aban, Law of Basic Taxation in the Philippines, 1st Edition, p. 206*);

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

Respondent filed her Pre-Trial Brief on March 31, 2011,[11]while petitioner, on April 5, 2011.[12] On May 2, 2011,[13] the Court approved the parties' Joint Stipulation of Facts filed on April 28, 2011,

Petitioner first witness **Gaudelia Villanueva** testified that she is petitioner's Vice President for Finance in charge of the supervision and preparation of its tax returns as well as filing of claims for tax refund with the BIR.

Per its Articles of Incorporation, [14] petitioner is in the field of providing business process outsourcing and other IT related services and registered as such with the Securities and Exchange Commission (SEC).[15] It is also registered with the BIR with Certificate of Registration dated July 7, 2008. [16]

Petitioner is claiming for refund of unutilized input VAT attributable to zero-rated sales with non-resident foreign corporations for the period covering July 2008 to March 2009. This unutilized input VAT is indicated in petitioner's Monthly VAT Returns for the months of July,[17] August,[18] October,[19] November[20] of year 2008, and January[21] to February[22] of year 2009. In relation to the contention, the witness also presented petitioner's Quarterly VAT Returns for the periods covering July to September 2008,[23] October to December 2008,[24] January to March 2009,[25] April to June 2009,[26] July to September 2009,[27] October to December 2009,[28] and January to March 2010.[29]

[11] Respondent's Pre-trial Brief, docket, pp. 223 to 225.
[12] Petitioner's Pre-trial Brief, docket, pp. 226 to 230.
[13] Docket, p. 240.
[14] Exhibit F-1.
[15] Exhibit F – Certificate of Incorporation.
[16] Exhibit G.
[17] Exhibit L.
[18] Exhibit L-1.
[19] Exhibit L-3.
[20] Exhibit L-4.
[21] Exhibit L-6.
[22] Exhibit L-7.
[23] Exhibit L-2.
[24] Exhibit L-5.
[25] Exhibit L-8.
[26] Exhibit M.
[27] Exhibit M-1.
[28] Exhibit M-2.
[29] Exhibit M-3.

Petitioner is claiming for refund of P6,589,937.24, covering the period July 2008 to March 2009, broken down as follows:

PERIOD	**AMOUNT**
July to September 2008	P 184,980.00
October to December 2008	2,100,000.00
January to March 2009	4,200,000.00
TOTAL	P 6,589,937.24

To establish that petitioner's clients were non-resident foreign corporations, Villanueva presented two SEC Certifications of Non-Registration of Company, one for WNS UK dated May 23, 2011,[30] and the other for WNS North America dated May 20, 2011.[31] Petitioner's transactions with WNS UK was covered by the Agreement dated July 31, 2010[32], while WNS North America by three (3) Agreements all dated July 31, 2010[33].

The Quarterly VAT Returns for April to June 2009,[34] July to September 2009,[35] October to December 2009,[36] and January to March 2010[37] show that the accumulated input VAT for the subject fiscal year has not been utilized in the succeeding quarters. Since the sales of petitioner as shown in the Quarterly VAT Returns are zero-rated, it follows that there is no output VAT upon which petitioner could apply its input VAT accumulated in the subject fiscal year.

On September 3, 2010, petitioner filed with the DOF One-Stop Shop (OSS) an administrative claim for refund of its unutilized input VAT through a Letter dated August 26,

[30] Exhibit K.
[31] Exhibit K-1.
[32] Exhibit I.
[33] Exhibit J to J-2.
[34] Exhibit M.
[35] Exhibit M-1.
[36] Exhibit M-2.
[37] Exhibit M-3.

2010.[38] Due to respondent's inaction, petitioner sought judicial intervention.

Gaudelia Villanueva added that although she had no participation in the preparation and actual filing of the subject tax returns for the Year 2009 having been employed as Vice-President by petitioner only in 2010, nonetheless she was able to review them since all the financial documents of petitioner were turned over to her by her predecessor. Petitioner's business of process outsourcing is like a call center only that it includes data. For services rendered, petitioner is paid in US dollars through banks.

In corroboration with the foregoing declaration, petitioner's President and CEO Prabhakar Bisen testified that he was among the signatories in the Agreement dated July 31, 2010[39] with WNS UK, and in the three (3) Agreements all dated July 31, 2010,[40] with WNS North America. He identified his actual signature as well as his digital signature appearing in the said documents.

Court-commissioned Independent Certified Public Accountant (ICPA) **Emmanuel Y. Mendoza**[41] submitted to the Court his Audit Report dated September 12, 2011,[42] indicating that only P3,555,505.14 of the total input VAT of P6,589,742.03 is properly substantiated. He proposed the disallowance of the total amount of P3,034,236.89 on the following grounds:

	Item of claim	Amount	Observation by ICPA
1	input VAT on domestic purchase of services	P45,832.88	supported by documents other than ORs (i.e., job order slips, order slips, and statement of accounts)
2	input VAT on domestic purchases of goods	P3,791.03	supported by documents other than invoices (i.e., ORs and pro-forma invoices)
3	input VAT on domestic purchases of services	P265,132.65	supported by documents which are not issued under

[38] Exhibit H.
[39] Exhibit I.
[40] Exhibits J to J-2.
[41] Exhibit Y.
[42] Exhibit X.

			petitioner's name
4	input VAT on domestic purchases of capital goods	P2,790.16	supported by invoices/ORs which are not issued under petitioner's name
5	input VAT on domestic purchases of services	P1,008.31	supported by VAT ORs but the corresponding invoices were not issued under petitioner's name
6	input VAT on domestic purchases of services	P18,000.00	supported only by photocopied ORs stamped with the words "Certified True Copy" by the supplier
7	input VAT on domestic purchases of goods	P2,216.57	supported only by photocopied invoices stamped with the words "Certified True Copy" by the supplier
8	input VAT on domestic purchases of services supported by VAT Ors	P26,333.08	higher than the same category of input VAT in the amount of P7,549.89 as stated in the Schedule prepared by petitioner
9	input VAT on domestic purchases of goods	P18.00	supported by invoices with pre-printed TIN only
10	input VAT on domestic purchases of services	P3,750.00	supported by ORs with pre-printed Non-VAT/NV
11	input VAT on domestic purchases of goods	P1,029,185.13	supported by invoices with pre-printed Non-VAT/NV
12	input VAT on domestic purchases of services	P1,029,185.13	supported by VAT ORs dated after the period of the claim
13	input VAT on domestic purchases of goods	P89.73	supported by a document which contains unreadable details
14	input VAT on domestic purchases of services, goods, and capital goods	P1,654,167.25	have no available supporting documents

With the adverse findings of the ICPA, petitioner recalled Gaudelia Villanueva. She explained that there were really no ORs for the disallowed input VAT of P45,832.88 since only Job Order Slip from Fax Parcel Print and the Order Slip from Aling Tonya's Seafood Pulutan were issued by the vendors. As to the Statement of Account submitted in evidence, the said Statement of Account indicates Invoice No.MB09-001 which is the payment made by petitioner to Eastern Telecommunications. The 12% R-VAT is explicitly indicated in the Statement of Account.

The disallowed amount of P3,791.03 was paid in cash to Lightline Co. Inc., Gabriel Flower Shop, Everyday Convenience Stores, Inc., Landmark Corporation, Red Ribbon Bakeshop Inc., and Pasteleria Ilustrado Inc. for which only ORs were issued by the vendors.

Insofar as the amount of P2,790.16 is concerned, Villanueva admitted that the invoices issued by suppliers for the covered transactions were in the name of Advanced Contract Solutions (ACS). However, they were actually paid by petitioner in whose favor ORs were issued. All these were due to the joint-venture agreement between petitioner and ACS under which the latter provided petitioner with accounting and procurement services.

As to the disallowed amount of P1,654,167.25 on the ground that it was not substantiated by supporting documents, such was only due to petitioner following the accrual method of accounting. Out of the P1,654,167.25, the amount of P1,053,836.64 input VAT was recorded during the year-end accrual process which pertains to the March 2009 seat cost which was payable to ACS by virtue to their joint venture agreement. The invoices in the name of ACS were received and paid by petitioner in the succeeding fiscal year.

On the other hand, the original invoices and ORs for the disallowed amounts of P18,000.00 and P2,216.57 were lost hence, only photocopies stamped as "Certified True Copy" secured from suppliers were presented by petitioner.

Finally, Villanueva clarified while it is true that the disallowed amount of P1,029,185.13 was supported by ORs dated after the period of the claim, this was only due to time difference in the recognition or recording of input VAT. Petitioner records input taxes in its books upon billing or upon receipt of the invoices rather than upon payment of the purchases when the ORs issued.

On January 9, 2012,[43] petitioner rested its case after it formally offered its evidence.[44]

Atty. Villamor Ventura S. Plan, the executive director of the DOF - OSS Center Inter-Agency Tax Credit and Duty Drawback Center, was first to take the witness stand for respondent. He testified that he manages the OSS Center which processes the application of taxpayers for tax credit and duty drawback. In a Letter dated August 4, 2011,[45] petitioner requested for the withdrawal of its administrative claim for refund of input VAT covering fiscal year 2009 subject of the instant Petition. He acknowledged receipt of such letter in a Letter[46] dated August 8, 2011. On August 5, 2011, he issued a Certification[47] dated February 1, 2012 to the effect that petitioner withdrew its claim for VAT Tax Credit for the period July 2008 to March 2009 in the amount of P6,589,937.22.

Atty. Ventura further testified that petitioner filed its administrative claim for refund on September 6, 2010. This prompted the OSS-Center to send a Letter of Authority (LOA) to petitioner on January 28, 2011. Such LOA was however not served due to petitioner's change of address. Thus, another LOA was issued and served upon petitioner on March 11, 2011. At that time, the instant Petition for Review was already filed. Be that as it may, the OSS-Center continued to process the administrative claim until petitioner withdrew it.

Respondent filed her Formal Offer of Evidence[48] on March 2, 2012 and was deemed to have rested her case in the Resolution[49] dated March 29, 2012.

The issues[50] raised in the present petition are as follows:

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[43] Docket pp. 941-942.
[44] Docket, FOE starting p. 335.
[45] Exhibit 1.
[46] Exhibit 1.
[47] Exhibit 3.
[48] Docket pp. 953-960
[49] Docket pp.972-973
[50] Statement of the Issues, Joint Stipulation of Facts dated March 28, 2011, docket, p. 237

1. Whether, for the 2nd to the 4th quarters of the Fiscal Year ended 31 March 2009, Petitioner rendered services in the Philippines to persons engaged in business conducted outside the Philippines, the payments for which were made in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas;

2. Whether Petitioner's sale of services in the Philippines to persons engaged in business conducted outside of the Philippines is subject to VAT at zero-percent;

3. Whether Petitioner has accumulated excess input VAT for the 2nd to the 4th quarters of Fiscal Year ended 31 March 2009 amounting to P6,589,937.24;

4. Whether Petitioner's input VAT in the amount of P6,589,937.24 is directly attributable to its alleged zero-rated sales for the 2nd to the 4th quarters of Fiscal Year ended 31 March 2009;

5. Whether Petitioner's input VAT in the amount of P6,589,937.24 remains unutilized;

6. Whether Petitioner's claim for refund or tax credit of alleged input VAT for the 2nd to the 4th quarters of Fiscal Year ended 31 March 2009 is duly substantiated by documentary evidence;

7. Whether Petitioner has complied with the invoicing requirements pursuant to Revenue Regulations 16-2005;

8. Whether Petitioner is entitled to claim a refund or tax credit in the amount

> of P6,589,937.24 representing unutilized (sic)

Summing up the foregoing, the only issue for resolution is:

> Whether petitioner is entitled to a refund or issuance of tax credit certificate for its alleged unutilized input VAT in the total amount of P6,589,937.24 for the second to the fourth quarters of fiscal year ended March 31, 2009.

THE RULING OF THE COURT

Section 112(A) of the NIRC of 1997, as amended, provides:

> 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.
>
> x x x x x x x x x
>
> (C) *Period within which Refund or Tax Credit of Input Taxes shall be Made*. – In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.
>
> In case of full or partial denial of the claim for tax refund or tax credit, 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 twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.

Thus, in a claim for refund/TCC of input VAT attributable to zero-rated sales, the following requisites must be complied with:

> 1) the taxpayer must be VAT-registered;
> 2) the taxpayer must be engaged in sales which are zero-rated or effectively zero-rated;
> 3) the claim must be filed within two 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.[51]

Under the obtaining circumstances, the Court finds it necessary to first determine the timeliness of the filing of the instant Petition for Review.

Evidence show that September 30, 2008 was the earliest taxable quarter when the subject zero-rated export sales were made. Thus, petitioner had until September 30, 2010 to file its administrative claim for refund pursuant to Section 112(A) of the NIRC of 1997. Hence, **petitioner seasonably filed its administrative claim for refund/TCC** with respondent on September 3, 2010 for the period covering the second quarter to the fourth quarter of fiscal year ending March 31, 2009, in the total amount of P6,589,937.24.

The same is true insofar as petitioner's judicial claim for refund is concerned. Applying Section 112(C) of the NIRC of 1997, as amended, respondent had 120 days from September 3, 2010, or until January 1, 2011, within which to decide on the said claim. After the lapse of the said 120-day period without action on the part of respondent, as obtaining in the instant case, petitioner had 30 days or until January 31, 2011 to appeal with the Court. In fine, the instant Petition for Review was also timely filed on January 26, 2011.

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[51] Silicon Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 172378, January 17, 2011.

But was petitioner able to satisfy the other requisites to be entitled to the refund sought?

It was established that petitioner is engaged in providing a range of information technology enabled services from the Philippines to its foreign affiliates WNS UK, and WNS North America.[52]

For the second to the fourth quarters of fiscal year ended March 31, 2009, petitioner generated sales in the amount of P153,924,884.72 from rendering call center services to WNS UK and WNS North America, for which it was paid in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP). Petitioner claims that such services qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997, which reads as follows:

> 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:
>
> xxx xxx xxx
>
> (2) Services other than those mentioned in the preceding paragraph, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

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[52] Exhibits "F-1", "I", and "J" to "J-2".

In the case of *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*[53], the Supreme Court held that for supply of services to be VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, the following requisites must be satisfied:

1. the services must be other than processing, manufacturing or repacking of goods;
2. the payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations; and
3. the recipient of such services is doing business outside the Philippines.

The evidence presented, namely: Schedule of Billings and Remittances for Zero-rated Sales[54] and the related official receipts[55], various service agreements with non-resident foreign clients[56], SEC Certifications of Non-Registration of petitioner's clients[57], as well as Certificates of Inward Remittances issued by the Hong Kong and Shanghai Banking Corporation, Ltd. (HSBC),[58] show that petitioner has complied with the first requisite. The call center service it rendered to the WNS UK and WNS North America is not in the same category as "processing, manufacturing or repacking of goods".

The second requisite was likewise satisfied considering that the foreign currency payments received by petitioner for the services rendered in fiscal year 2009 were accounted for in accordance with the BSP rules and regulations as evidenced by the official receipts issued by petitioner to its non-resident foreign clients and the Certificates of Inward Remittances issued by HSBC.

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[53] G.R. No. 153205, January 22, 2007.
[54] Exhibit "V-1" to "V-17".
[55] Exhibits "S-1" to "S-8" and "S-9" to "S-16".
[56] Exhibits "I" and "J" to "J-2".
[57] Exhibits "K" and "K-1".
[58] Exhibits "T-1" to "T-14" and "U-1" to "U-2".

It is unfortunate however that petitioner failed to comply with the third requisite. Petitioner failed to sufficiently establish that the recipient of the call center services, namely, WNS UK and WNS North America, are doing business outside the Philippines. The SEC Certificates of Non-Registration presented by petitioner merely show that the records of the SEC do not indicate the registration of the two companies as corporations or as partnerships. In fine, the Certifications do not prove in any way that such corporations are non-resident companies doing business outside the Philippines. *Sans* more to establish compliance with the third requisite, it cannot safely be assumed that WNS UK and WNS North America are non-resident companies doing business outside the Philippines, an element explicitly required in the Burmeister case.[59] Any judgment must be anchored on concrete and categorical evidence which is simply lacking in this instance. Conjectures and surmises cannot substitute for the facts,[60] which must be established by evidence.

Significantly, in the later case of *Accenture, Inc., v. Commissioner of Internal Revenue,*[61] the Supreme Court in no uncertain terms ruled that "the recipient of service must be doing business outside the Philippines for the transaction to qualify for zero-rating under Section 108(B) of the Tax Code".

Thus, for failure to prove the third and equally important requisite, petitioner's purported sales to WNS UK and WNS North America in the amount of P153,924,884.72 cannot qualify for VAT zero-rating under Section 108(B)(2) of the NIRC of 1997. Clear under Section 112(A) of the NIRC of 1997, as amended, that the refund or tax credit of unutilized input VAT is premised on the existence of zero-rated or effectively zero-rated sales. Consequently, the refund or issuance of TCC input VAT of P6,589,937.24 prayed for by petitioner cannot be granted.

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[59] *Supra.*
[60] Spouses William Guidangen and Mary Guidangen vs. Devota B. Wooden, G.R. No. 174445, February 15, 2012.
[61] G.R. No. 190102, July 11, 2012.

Well established is the legal principle that a claim for tax refund is in the nature of tax exemption. The law does not look with favor on tax exemptions and he who thus seeks to be privileged must justify it by words too plain to be mistaken and too categorical to be misinterpreted.[62]

WHEREFORE, the Petition for Review filed by petitioner WNS Philippines, Inc., on January 26, 2011 is hereby **DENIED,** for insufficiency of evidence.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

I Concur:

ERLINDA P. UY
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.

ERLINDA P. UY
Associate Justice
Chairperson

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[62] *Sea-Land Services, Inc. vs. Court of Appeals*, 223 SCRA 316.

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice