REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

THIRD DIVISION

MD EXPRESS MANILA, INC.,	**CTA CASE NOS. 8388, 8389 & 8390** *Re: Assessment*
Petitioner,	Members:
-versus-	**Bautista**, Chairperson, **Fabon-Victorino**, and **Ringpis-Liban** *JJ.*
COMMISSIONER OF INTERNAL REVENUE,	Promulgated:
Respondent.	APR 17 2015 cetir 9:40 a.m.

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DECISION

RINGPIS-LIBAN, J.:

These consolidated cases involve claims for refund or issuance of tax credit certificate in the total amount of ₱4,605,610.45[1], representing MD Express Manila, Inc.'s alleged excess and unutilized input value-added tax (VAT) arising from its zero-rated sales for the fourth quarter of taxable year 2008 to the fourth quarter of taxable year 2009, broken down as follows:

CASE NO.	PERIOD COVERED	AMOUNT CLAIMED
8388	January to March 2009	₱ 921,015.02
8389	April to December 2009	2,302,692.23
8390	October to December 2008	1,381,903.20
TOTAL		**₱4,605,610.45**

THE FACTS

Petitioner MD Express Manila, Inc. is a corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at the 11th Floor Marc Tower, 1973 Taft Avenue corner San Andres Street,

[1] Exhibits "C-2", "D-2", and "E-2".

Malate, Manila.[2] It is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer, as evidenced by its Certificate of Registration No. OCN1RC0000171151, with Taxpayer Identification No. 200-054-734-000.[3]

Respondent is the Commissioner of the Bureau of Internal Revenue, empowered to perform the duties of her office, including, among others, the duty to act upon claims for refund or issuance of tax credit certificate as provided by law. She holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

Petitioner filed its Monthly and Quarterly VAT Returns for the periods covering October 2008 to December 2009 with the BIR.[4]

Petitioner likewise filed with respondent, through Revenue District Office No. 33, the administrative claims for refund or issuance of tax credit certificate in the amounts of ₱1,381,903.02 for the fourth quarter of taxable year 2008, ₱921,015.02 for the first quarter of taxable year 2009, and ₱2,302,692.23 for the second to fourth quarters of taxable year 2009 on December 23, 2010[5], March 30, 2011[6], and June 30, 2011[7], respectively.[8] It submitted the pertinent supporting documents simultaneously for all the administrative claims for refund for the fourth quarter of taxable year 2008 to the fourth quarter of taxable year 2009 on June 30, 2011.[9]

On November 28, 2011, petitioner filed all three Petitions for Review due to the inaction of respondent on its administrative claims for refund.

On January 13, 2012, petitioner filed the Motion for Consolidation of Cases[10] in CTA Case No. 8390, while the two separate Manifestations with Motions for Consolidation of Cases were filed in CTA Case Nos. 8388 and 8389, both on January 31, 2012[11].

On January 18, 2012, respondent filed two (2) separate Answers, one each for CTA Case Nos. 8389 and 8390, while the Answer for CTA Case No. 8388 was filed on February 16, 2012. The special and affirmative defenses for each of the three Answers are as follows:

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[2] Par. 1, Facts Admitted, Joint Stipulation of Facts and Issues (JSFI), docket, p. 130; Exhibit "A".
[3] Exhibit "B".
[4] Par. 4, Facts Admitted, JSFI, docket, p. 130; Exhibits "I", "J", "K", "L", "M", "N", "O", "P", "Q", "R", "S", "T", "U", "V", "W", "X", "Y", "Z", "AA", "BB", "CC", "DD", "EE", "FF", "GG", "HH", "II", "JJ", "KK", and "LL".
[5] Exhibits "C" and "C-1".
[6] Exhibits "D" and "D-1".
[7] Exhibits "E" and "E-1".
[8] Pars. 5, 7, and 9, Facts Admitted, JSFI, docket, p. 131.
[9] Pars. 6, 8, and 10, Facts Admitted, JSFI, docket, p. 131; Exhibits "F", "F-1", "G", "G-1", "H", and "H-1".
[10] Docket, pp. 69 to 71, CTA Case No. 8390.
[11] Docket, p. 63, CTA Case No. 8388; Docket, p. 104, CTA Case No. 8389.

CTA Case No. 8389[12]

1. The petition is premature considering that petitioner's administrative claim for tax refund or application for issuance of tax credit certificate of its alleged unutilized input value-added tax (VAT) on purchases of services attributable to its zero-rated sales for the second to fourth quarters of taxable year 2009 amounting to ₱2,302,692.23 is still pending investigation with Revenue District Office No. 33, Revenue Region No. 6, BIR-Manila.

2. Petitioner has the *burden of proof* to show that it is entitled to the refund of the amounts claimed as refundable because taxes are *presumed* to have been collected in accordance with laws and regulations.

3. Claims for refund are to be construed strictly against the petitioner, the same being in the nature of an exemption from taxation. Failure on the part of the petitioner to prove the same is fatal to its claim for tax refund.

4. Petitioner must prove that the alleged refundable taxes were not automatically applied against its tax liability for the succeeding quarters of the succeeding year nor included as creditable taxes declared or applied to the succeeding years.

5. Petitioner is barred from claiming a tax refund because the said amount was already carried over by the petitioner in its quarterly VAT returns for taxable year 2010 following the "irrevocability rule" under Section 76 of the 1997 National Internal Revenue Code[13], stating that "once the carry-over option is taken, actually or constructively, it becomes irrevocable"[14].

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[12] Docket, pp. 100 to 101.

[13] "SEC. 76. Fiscal Adjustment Return – Every corporation liable to tax under Section 27 shall file a final adjustment return covering the total taxable income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable income of that year, the corporation shall either:

(A) Pay the balance of tax still due; or
(B) Carry-over the excess credit; or
(C) Be credited or refunded with the excess amount paid, as the case may be.

In case the corporation is entitled to a tax credit or refund of the excess estimated quarterly income taxes paid, the excess amount shown on its final adjustment return may be carried over and credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable years. Once the option to carry-over and apply the excess quarterly income tax against income tax due for the taxable quarters of the succeeding taxable years has been made, such option shall be considered irrevocable for that taxable period and no application for cash refund or issuance of a tax credit certificate shall be allowed therefor."

[14] Commissioner of Internal Revenue vs. Bank of the Philippine Islands, G.R. No.178490, July 7, 2009; Systra Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 716290, September 21, 2007;Philam Asset Management, Inc. vs. Commissioner of Internal Revenue, G.R. Nos. 156637 and

CTA Case No. 8390

1. The judicial claim for tax refund or issuance of tax credit certificate for allegedly erroneously paid VAT for the fourth quarter ending December 31, 2008 for the amount of ₱1,381,903.20 was filed outside the two (2)-year prescriptive period prescribed by law. In this case, the two (2)-year period counted from December 31, 2008, ended on December 31, 2010. Although the administrative claim for refund was filed on December 23, 2010, the petition for review was filed only on November 28, 2011 or around eleven (11) months after its expiration; hence, the claim has prescribed;

2. After investigation or audit of its VAT case, petitioner still has a VAT deficiency for taxable year 2008 in the amount of ₱3,107,686.88, inclusive of compromise penalty and interest from January 26, 2009 to December 31, 2011[15], and, therefore, its claim for refund is not only misplaced, but also premature;

3. Petitioner has the *burden of proof* to show that it is entitled to the refund of the amounts claimed as refundable because taxes are *presumed* to have been collected in accordance with laws and regulations[16] and claims for refund are to be construed strictly against the petitioner, the same being in the nature of an exemption from taxation. Failure on the part of the petitioner to prove the same is fatal to its claim for tax refund[17];

CTA Case No. 8388[18]

1. In its claim for unutilized input value-added tax attributable to its zero-rated sales for the first quarter of taxable year 2009, petitioner had until March 31, 2011 within which to file its petition for review as the law gives petitioner an option to claim for refund, or apply for the issuance in its favor of a Tax Credit Certificate for such excess input Value-Added Tax within two (2) years after the close of the taxable quarter when the sale or purchase was made. However, petitioner filed the above-entitled case only on November 28, 2011 which makes the petition prescribed for being filed after the two (2) years prescribed by law.

2. The petition has prescribed for being filed beyond thirty (30) days after the lapse of one hundred twenty days (120) as prescribed by law. Petitioner filed its administrative claim for Tax Credit Certificate on March 30,

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162004, December 14, 2005.

[15] Covered by Preliminary Assessment Notice (PAN) dated 12 December 2011.

[16] Caltex Phils., Inc. vs. Commissioner of Internal Revenue, CTA Case No. 2871, January 29, 1986.

[17] Meralco Electric Co. vs. Commissioner of Internal Revenue, 67 SCRA 351; Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95.

[18] Docket (CTA Case No. 8388), pp. 74 to 78.

2011, and submitted documents to support its claim only on June 30, 2011. However, it filed its petition only on November 28, 2011.

3. Jurisprudence is replete with cases that tax refunds or tax credits are construed strictly against the claimants[19] and petitioner must prove its right to claim for tax credit.

4. The amount being claimed for refund by petitioner was already carried over by the petitioner in its original monthly and quarterly VAT returns. Hence, the carrying over bars petitioner from applying for tax refund or issuance of tax credit following the irrevocability rule under Section 76 of the 1997 NIRC.

Petitioner filed its respective Pre-Trial Briefs for CTA Case Nos. 8389[20] and 8390[21] both on February 20, 2012, while respondent filed its Pre-Trial Brief for CTA Case No. 8390[22] on February 21, 2012.

On February 23, 2012[23], the Court granted the motion for consolidation both in CTA Case Nos. 8389 and 8390. In CTA Case No. 8388, the Court likewise granted the Motion for Consolidation of Cases on March 20, 2012. Afterwards, the parties were ordered to file their respective consolidated Pre-Trial Briefs.[24]

The Consolidated Pre-Trial Brief (For the Respondent)[25] was submitted on March 26, 2012; while petitioner's Pre-Trial Brief[26] was filed on March 27, 2012.

On April 30, 2012, the parties submitted their Joint Stipulation of Facts and Issues[27]. Subsequently, the Court issued the Pre-Trial Order[28] on May 8, 2012, and terminated the pre-trial.

Upon motion of petitioner[29], the Court commissioned Ms. Myra Celeste O. Dabalos as the Independent Certified Public Accountant (CPA) on August 6, 2012.[30]

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[19] Citing ECW Joint Venture, Inc. v. Commissioner of Internal Revenue, CTA EB No. 14, March 22, 2006, CTA Case No. 6509.
[20] Docket (CTA Case No. 8389), pp. 110 to 121.
[21] Docket (CTA Case No. 8390), pp. 78 to 86.
[22] Docket (CTA Case No. 8390), pp. 87 to 90.
[23] Docket (CTA Case No. 8389 and 8390), pp. 124 and 93, respectively.
[24] Resolution, docket (CTA Case No. 8388), pp. 90 to 91.
[25] Docket, pp. 92 to 98.
[26] Docket, pp. 99 to 114.
[27] Docket, pp. 129 to 133.
[28] Docket, pp. 139 to 145.
[29] Motion for Commissioning of Independent Certified Public Accountant, docket, pp. 168 to 181.
[30] Docket, p. 193.

During trial, petitioner presented Ms. Glenda S. Embile and Ms. Myra Celeste O. Dabalos as its witnesses.

On the other hand, respondent presented Revenue Officers Petronila DL. Palabrica, Cesar P. Pulhin, Ma. Paz Arcilla, and Francisco A. Ramos IV as its witnesses.

Both parties also presented and formally offered their respective documentary and testimonial evidence.

Petitioner's Memorandum[31] was filed on August 1, 2014 while respondent's Memorandum[32] was filed on August 15, 2014. The consolidated case was then submitted for decision on August 20, 2014.[33]

STATEMENT OF ISSUE

The parties submitted the following issue[34] for this Court's resolution:

> Whether or not petitioner is entitled to a refund or issuance of tax credit certificate in the amount of ₱4,605,610.45[35], representing its alleged unutilized input tax attributable to zero-rated sales for the fourth quarter of taxable year 2008 to the fourth quarter of taxable year 2009.[36]

DISCUSSION/RULING

Pertinent to the proper resolution of the stipulated issue is Section 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended, which 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

[31] Docket, pp. 810 to 874.
[32] Docket, pp. 877 to 903.
[33] Resolution, docket, p. 905.
[34] Docket, p. 132.
[35] ₱4,605,610.27 in the Joint Stipulation of Facts and Issues.
[36] Docket, p. 132.

> quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however*, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further*, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally*, That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales."

Based on the afore-quoted provision, in order to be entitled to a refund or tax credit of input tax due or paid attributable to zero-rated or effectively zero-rated sales, the following requisites must be satisfied:

1. that there must be zero-rated or effectively zero-rated sales;
2. that input taxes were incurred or paid;
3. that such input taxes are attributable to zero-rated or effectively zero-rated sales;
4. that input taxes were not applied against any output VAT liability; and
5. that the claim was filed within the two-year prescriptive period.

The Court shall first address the fifth requisite to determine the jurisdiction of this Court to entertain the present appeal.

As explicitly stated in Section 112(A) of the NIRC of 1997, as amended, the application for tax credit or refund of unutilized excess input VAT must be filed within two years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The claims cover the fourth quarter of 2008 and the four quarters of 2009, which closed on December 31, 2008; March 31, 2009; June 30, 2009; September 30, 2009; and December 31, 2009, respectively. Counting two years from the said dates, petitioner had until December 31, 2010; March 31, 2011; June 30, 2011; September 30, 2011; and December 31, 2011, respectively, within which to file its administrative claims for tax credit or refund. Thus,

petitioner's administrative claims for refund were timely filed on December 23, 2010; March 30, 2011; and June 30, 2011, as shown below:

CTA Case No.	Period Covered	Close of the Taxable Quarter	Last Day to File Administrative Claim	Date of Filing of Administrative Claim[37]
8390	4th Qtr of 2008	31-Dec-2008	31-Dec-2010	23-Dec-2010
8388	1st Qtr of 2009	31-Mar-2009	31-Mar-2011	30-Mar-2011
8389	2nd Qtr of 2009	30-Jun-2009	30-Jun-2011	30-Jun-2011
	3rd Qtr of 2009	30-Sep-2009	30-Sep-2011	
	4th Qtr of 2009	31-Dec-2009	31-Dec-2011	

As to the timeliness of petitioner's judicial appeal, Section 112(C) of the NIRC of 1997, as amended, provides that the Commissioner of Internal Revenue (CIR) has 120 days from the date of submission of complete documents in support of the application for refund or tax credit within which to grant or deny the claim. In case of full or partial denial by the CIR, the taxpayer's recourse is to file an appeal before this Court within 30 days from receipt of the decision of the CIR. However, if after the 120-day period, the CIR fails to act on the application for refund or tax credit, the remedy of the taxpayer is to appeal the inaction of the CIR to this Court within 30 days.

Section 112(C) of the NIRC of 1997, as amended, is quoted hereunder, thus:

"SEC. 112. *Refunds or Tax Credits of Input Tax.* –

xxx xxx xxx

(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.

[37] Pars. 5, 7 and 9, Facts Admitted, JSFI, docket, p. 131.

> 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.**" *(Emphasis supplied)*

Applying Section 112(C) of the NIRC of 1997, as amended, the following are the pertinent dates to petitioner's claim for refund:

CTA Case No.	Period Covered	Date of Filing of Admin. Claim[38]	Date of Submission of Complete Documents[39]	End of 120 days for BIR Commissioner to Decide on the Claim	End of 30 days from expiration of the 120 days	Date of Filing of Judicial Claim
8390	4th Qtr of 2008	December 23, 2010	June 30, 2011	October 28, 2011	November 27, 2011	November 28, 2011
8388	1st Qtr of 2009	March 30, 2011				
8389	2nd Qtr of 2009	June 30, 2011				
	3rd Qtr of 2009					
	4th Qtr of 2009					

Since November 27, 2011 fell on a Sunday, petitioner filed the Petition for Review on the next working day, which was on November 28, 2011.

Considering the foregoing, petitioner's judicial claims for the fourth quarter of 2008 to the fourth quarter of 2009 were timely filed within the "120+30-day" period required under Section 112(C) of the NIRC of 1997, as amended.

The Court shall now proceed to determine petitioner's compliance with the remaining requisites.

Petitioner is a VAT-registered taxpayer principally engaged in the business of transportation of freight by land by means of motor vehicles, auto/trucks and/or other means of conveyances, and in undertaking and carrying the business of domestic and international freight and cargo forwarders of all classes of goods.[40] Petitioner avers that its sales of services to entities registered with the Philippine Economic Zone Authority (PEZA) and Clark Freeport Zone (CFZ) are subject to zero percent (0%) VAT under Section 108(B)(3) of the NIRC of 1997, as amended, which states:

[38] Pars. 5, 7, and 9, Facts Admitted, JSFI, docket, p. 131.
[39] Pars. 6, 8, and 10, Facts Admitted, JSFI, docket, p. 131; Exhibits "F-1", "G-1", and "H-1".
[40] Exhibits "A" and "B".

"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

(3) Services rendered to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects the supply of such services to zero percent (0%) rate."

The Court agrees with petitioner that sales of services by VAT-registered taxpayer to PEZA and CFZ-registered entities are effectively subject to zero percent (0%) VAT.

Section 15 of Republic Act (RA) No. 7227, otherwise known as the "Bases Conversion Development Act of 1992", as amended by RA No. 9400, provides as follows:

"SEC. 15. *Clark Special Economic Zone (CSEZ) and Clark Freeport Zone (CFZ).* – xxx

The CFZ shall be operated and managed as a separate customs territory ensuring free flow or movement of goods and capital equipment within, into and exported out of the CFZ, as well as provide incentives such as tax and duty-free importation of raw materials and capital equipment. However, exportation or removal of goods from the territory of the CFZ to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Tariff and Customs Code of the Philippines, as amended, the National Internal Revenue Code of 1997, as amended, and other relevant tax laws of the Philippines.

The provisions of existing laws, rules and regulations to the contrary notwithstanding, no national and local taxes shall be imposed on registered business enterprises within the CFZ. In lieu of said taxes, a five percent (5%) tax on gross income earned shall be paid by all registered business enterprises within the CFZ and shall be directly remitted as follows: three percent (3%) to the

National Government, and two percent (2%) to the treasurer's office of the municipality or city where they are located."

Likewise, Section 24 of Republic Act No. 7916, as amended by RA No. 8748, otherwise known as "The Special Economic Zone Act of 1995", expresses that:

"SECTION 24. *Exemption from National and Local Taxes.* – Except for real property taxes on land owned by developers, no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE. In lieu thereof, five percent (5%) of the gross income earned by all business enterprises within the ECOZONE shall be paid and remitted as follows:

(a) Three percent (3%) to the National Government;

(b) Two percent (2%) which shall be directly remitted by the business establishments to the treasurer's office of the municipality or city where the enterprise is located."

Clearly, both RA Nos. 7227 and 7916 are special laws that grant exemptions from national (including VAT) and local taxes to duly registered business establishments operating within their proper jurisdiction, except payment of the preferential tax rate of five percent (5%) on gross income earned. Considering so, sales of services by VAT- registered entities in the Customs Territory to PEZA and CFZ- registered entities are effectively subject to zero percent (0%) VAT under Section 108(B)(3) of the NIRC of 1997, as amended.

In the case of *Commissioner of Internal Revenue vs. Toshiba Information Equipment (Phils.), Inc.*[41], the Supreme Court explained the foregoing rule in this wise:

"Section 8 of Rep. Act No. 7916, as amended, mandates that the PEZA shall manage and operate the ECOZONES as a separate customs territory; thus, creating the fiction that the **ECOZONE is a foreign territory**. As a result, sales made by a supplier in the Customs Territory to a purchaser in the ECOZONE shall be treated as an exportation from the Customs Territory. Conversely, sales made by a supplier from the ECOZONE to a purchaser in the Customs Territory shall be considered as an importation into the Customs Territory.

[41] G.R. No. 150154, August 9, 2005.

> Given the preceding discussion, what would be the VAT implication of sales made by a supplier from the Customs Territory to an ECOZONE enterprise?
>
> The Philippine VAT system adheres to the **Cross Border Doctrine**, according to which, no VAT shall be imposed to form part of the cost of goods destined for consumption outside of the territorial border of the taxing authority. Hence, **actual export of** goods and **services from the Philippines to a foreign country must be free of VAT**; while, those destined for use or consumption within the Philippines shall be imposed with ten percent (10%) VAT." *(Emphasis supplied)*

Similarly, in the case of *Commissioner of Internal Revenue vs. Sekisui Jushi Philippines, Inc.*[42], the High Court held:

> "Notably, **while an ecozone is geographically within the Philippines, it is deemed a separate customs territory and is regarded in law as foreign soil.** Sales by suppliers from outside the borders of the ecozone to this separate customs territory are deemed as exports and treated as export sales. These sales are zero-rated or subject to a tax rate of zero percent." *(Emphasis supplied)*

Accordingly, to qualify for VAT zero-rating, petitioner must be able to establish that it actually generated zero-rated sales from services rendered to PEZA and CFZ-registered entities.

Petitioner submitted Certifications issued by the PEZA and the CFZ to Yokohama Tire Philippines[43], Inc., STTT Philippines, Inc.[44], Nikko Metals Philippines, Inc.[45], and Hiblow Philippines, Inc.[46] to prove that these companies are qualified and registered enterprises for the purpose of VAT zero-rating of its transactions with its local suppliers, properties and services.

However, the admission of the aforesaid Certifications was denied by this Court in its Resolution dated March 20, 2013[47] for failure to submit the original documents for comparison and, again, in its Resolution dated October

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[42] G.R. No. 149671, July 21, 2006.
[43] Exhibit "OO".
[44] Exhibit "PP".
[45] Exhibit "QQ".
[46] Exhibit "RR".
[47] Docket, p. 453.

1, 2013[48] because the evidence petitioner presented did not fall under the exceptions to the Best Evidence Rule.

Despite petitioner's argument that the original copies of the subject documents are in the possession of third parties[49], the Court ruled that the said documents are public records and, as such, proof of their contents may be given by presenting the certified true copies of the original documents issued by the public officer who has custody of the documents[50] which petitioner failed to do. Furthermore, petitioner was given more than ample time to secure certified true copies of the documents for the timely presentation of its evidence.

In a claim for refund or tax credit, the applicant must prove not only entitlement to the grant of the claim under substantive law. It must also satisfy all the documentary and evidentiary requirements of an administrative claim for refund or tax credit. Being a derogation of the sovereign authority, a statute granting tax exemption is strictly construed against the person or entity claiming the exemption. When based on such statute, a claim for tax refund partakes of the nature of an exemption. Hence, the same rule of strict interpretation against the taxpayer-claimant applies to the claim.[51]

WHEREFORE, premises considered, the Petitions for Review are hereby **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

[48] Docket, p. 592.
[49] Par. 6, Motion for Reconsideration with Motion to Recall Witnesses, docket, p. 460.
[50] Resolution dated October 1, 2013, docket, p. 593.
[51] *Western Mindanao Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 181136, June 13, 2012.

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.

LOVELL R. BAUTISTA
Associate Justice
Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice