REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

PILIPINAS KYOHRITSU, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. **10463**

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated: MAR 22 2024

x - x
4:22 p.m.

DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Pilipinas Kyohritsu, Inc. (**petitioner/PKI**) pursuant to Section 3(a)[2], Rule 8 in relation to Section 3(a)(1)[3], Rule 4 of the Revised Rules of the Court of

[1] Filed on 04 February 2021, Division Docket, Volume I, pp. 6-119, with annexes.

[2] **SEC. 3**. *Who may appeal; period to file petition.* —
(a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

[3] **SEC. 3**. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue[.]

Tax Appeals (**RRCTA**). It seeks the refund and/or issuance of a tax credit certificate (**TCC**) in the amount of ₱2,768,348.41, allegedly representing the disallowed portion of its unutilized input value-added tax (**VAT**) on its domestic purchases of goods and services and importations of goods attributable to zero-rated sales for the period from 01 July 2018 to 30 September 2018 or the 2nd quarter of the fiscal year (**FY**) ending 31 March 2019.

PARTIES TO THE CASE

Petitioner is a domestic corporation registered with the Securities and Exchange Commission (**SEC**) with Company Registration No. 157828 and located at Km. 75 Laurel Highway Inosloban, Lipa City, Batangas.[4] It is engaged in the business of manufacturing and exporting parts and accessories, specifically wiring harness, weld cap and engineering design activity. Petitioner is also duly registered with the Bureau of Internal Revenue (**BIR**) as a VAT taxpayer with Taxpayer's Identification No. (**TIN**) 000-269-082-000, as evidenced by BIR Certificate of Registration No. OCN 8RC0000906901E.[5] Furthermore, it is registered with the Board of Investments (**BOI**) as an export producer of automotive wiring harness and weld cap for automotive application with BOI Registration Nos. EP 2000-058[6], 2003-046[7], 2007-060[8], and 2015-080.[9]

Respondent, on the other hand, is the Commissioner of Internal Revenue (**respondent/CIR**), vested by law to enforce and implement the provisions of the National Internal Revenue Code (**NIRC**) of 1997, as amended, as well as related statutes and their implementing rules and regulations (**IRR**), with office address at the BIR National Office Building, BIR Road, Diliman, Quezon City.[10]

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4 Exhibit "P-24-C", USB.
5 Exhibit "P-1", Division Docket, Volume II, pp. 558-559; Exhibit "R-4", BIR Records, Folder 1, pp. 262-263.
6 Registration as a New Producer; Exhibit "P-3", Division Docket, Volume II, pp. 566-570.
7 Registration as a New IT-Enabled Service Exporter in the Field of Engineering Design of Automotive Wiring Harness; Exhibit "P-5", id., pp. 580-585.
8 Registration as a New Export Producer of Automotive Wiring Harness; Exhibit "P-2", id., pp. 560-565.
9 Registration as a New Export Producer of Tie Band Products for Automotive Wiring Harness; Exhibits "P-4", id. pp. 571-579.
10 Paragraph 1, I. Admitted Facts, Joint Stipulation of Facts and Issues (JSFI), id., p. 459.

FACTS OF THE CASE

Petitioner avers that from 01 July 2018 to 30 September 2018, or the 2nd quarter of FY ending 31 March 2019, it exported and sold its products to various foreign clients. These transactions are purportedly eligible for VAT zero-rating under Section 106(A)(2)(a)(1)[11] of the NIRC of 1997, as amended by Republic Act (**RA**) No. 10963[12], otherwise known as the Tax Reform for Acceleration and Inclusion Act (**TRAIN Law**).

During the period in question, petitioner claims that it had excess input VAT credits arising from its local purchases of goods and services and amortization of deferred input taxes on capital goods exceeding ₱1 million, allocable to its zero-rated sales, in the aggregate amount of ₱11,300,008.55, which allegedly had not been applied against output tax as reported in its VAT Returns for the subject period.

Under Section 112(A)[13] of the NIRC of 1997, as amended, a VAT-registered person whose sales are zero-rated may, within two (2) years

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[11] **SEC. 106.** *Value-Added Tax on Sale of Goods or Properties.* —
(A) *Rate and Base of Tax.* — There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, **a value-added tax equivalent to twelve percent (12%) of the gross selling price or gross value in money of the goods** or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor.
...
(2) The following sales by VAT-registered persons shall be **subject to zero percent (0%) rate**:
(a) *Export Sales.* — The term "*export sales*" means:
(1) **The sale and actual shipment of goods from the Philippines to a foreign country,** irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)[.] (Emphasis supplied)

[12] AN ACT AMENDING SECTIONS 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237- A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35, 62, AND 89; ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

[13] **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 or properties or services, and the amount of creditable input tax due

after the close of the taxable quarter when the sales were made, apply for a refund to the extent that such input tax attributable to zero-rated sales has not been applied against the output tax.

Thus, on 25 September 2020, petitioner filed a Letter-Application for VAT Refund[14] (**administrative claim**) with the BIR-VAT Credit Audit Division (**BIR-VCAD**). This claim was accompanied by an Application for Tax Credits/Refunds (BIR Form No. 1914)[15] in which petitioner requested a refund and/or issuance of a TCC amounting to ₱11,300,008.55, allegedly representing excess or unutilized input VAT attributable to zero-rated sales made from 01 July 2018 to 30 September 2018. Along with the application, petitioner also submitted the corresponding "Revised Checklist of Mandatory Requirements on Claims for VAT Refund."[16]

Thereafter, on 06 January 2021, petitioner received a copy of the VAT Refund Notice dated 09 December 2020[17], duly signed by Maria Luisa I. Belen, Assistant Commissioner of the Assessment Service (**ACIR Belen**), the contents of which are as follows:

> ...
>
> This has reference to your claim for value-added tax (VAT) refund covering the period from July 1, 2018 to September 30, 2018 in the amount of Php11,300,008.55 pursuant to Section 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended.
>
> Please be informed that upon processing of the aforementioned claim under Tax Verification Notice No. TVN201800142959 dated September 25, 2020, the amount of input tax allowable on local purchases and importations is **Php7,601,215.22** net of disallowances. Details are shown on the attached sheet marked as Annex "A" and summarized as follows:

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. (Emphasis supplied)

14 Exhibit "P-6", Division Docket, Volume II, pp. 586-587.

15 Exhibit "P-7", id., p. 588; Exhibit "R-4", BIR Records, Folder 1, p. 445.

16 Exhibit "P-10", id., p. 618; Exhibit "R-4", id., p. 446.

17 Exhibit "P-9", id., pp. 591-617; Exhibit "R-4", id., Folder 2, pp. 506-522.

A. Local Purchases

VAT Refund Claimed	Php 7,308,375.71
Less: Deductions from claim	(3,629,516.87)
Net Allowable VAT Refund	**Php 3,678,858.84**

B. Importations

VAT Refund Claimed	Php 3,991,632.84
Less: Deductions from claim	(69,276.46)
Recommended Net Allowable VAT Refund	**Php 3,922,356.38**

Total Amount Allowable for VAT Refund (sum of A and B) Php 7,601,215.22

The amount of **Php3,922,356.38** representing the recommended VAT refund on importations is subject to further verification and processing by the Bureau of Customs (BOC), in compliance with the requirements of the Commission on Audit (COA).

The approved report on the said claim shall be subject to post-audit by the COA as mandated under Section 112(D) of the NIRC of 1997, as amended, and/or further audit/investigation under the directive of higher authorities. Should there be findings requiring adjustment/deduction on the amount granted, the deficiency tax or excess tax refund/credit shall be collected and/or deducted from future tax refund claim/s, if there is any.[18]

...

PROCEEDINGS BEFORE THE COURT

On 04 February 2021, within thirty (30) days from receipt of the VAT Refund Notice[19], petitioner filed the instant Petition for Review[20] before the Second Division[21], docketed as CTA Case No. 10463. On 08 February 2021, the Court issued Summons[22] to respondent directing him or her to submit an Answer within 30 days from service. Respondent received the said Summons on 10 February 2021.[23]

18 Emphasis and underscoring in the original text.
19 Exhibit "P-9", supra at note 17.
20 Supra at note 1.
21 The Second Division is composed of Associate Justice Juanito C. Castañeda, Jr. (Ret.), as Chairperson, and Associate Justice Jean Marie A. Bacorro-Villena, as Member.
22 Division Docket, Volume I, p. 120.
23 See Summons dated 08 February 2021, id.

On 10 March 2021, respondent filed a "Motion for Extension of Time to File Answer"[24], which the Court granted in the Order dated 12 March 2021.[25]

On 26 May 2021, respondent filed his or her Answer[26], therein citing the following special and affirmative defenses: (1) the instant claim should be denied for petitioner's failure to substantiate its claim for refund at the administrative level; (2) it is incumbent upon petitioner to prove that it is entitled to the additional refund sought because a claim for refund is not *ipso facto* granted upon filing of the claim; (3) tax refunds are subject to administrative routinary investigation; and, (4) tax refunds are strictly construed against the taxpayer and in favor of the government.

On 28 May 2021, the Court issued a Notice of Pre-Trial Conference[27], setting the Pre-Trial Conference on 02 August 2021. Accordingly, respondent filed his or her Pre-Trial Brief[28] on 22 July 2021, while petitioner filed its Pre-Trial Brief[29] on 28 July 2021.

After the Second Division granted[30] respondent's "Motion to Defer the Transmittal of BIR Records"[31], respondent transmitted to the Second Division the present case's BIR Records, consisting of two (2) folders (*i.e.*, Folder 1 and Folder 2, with documents consecutively numbered from 190 to 497 and 498 to 522, respectively), on 22 July 2021.[32] The Second Division noted the same in the Minute Resolution dated 28 July 2021.[33]

On 29 September 2021, the Pre-Trial Conference earlier set on 02 August 2021 was cancelled and reset to 06 October 2021, given the Enhanced Community Quarantine (**ECQ**), Modified Enhanced Community Quarantine (**MECQ**), and General Community Quarantine (**GCQ**) Alert Level 4 restrictions imposed in the National Capital Region

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24 Id., pp. 132-134.
25 Id., p. 136.
26 Id., pp. 137-147.
27 Id., pp. 150-151.
28 Id., pp. 158-165.
29 Id., pp. 179-193.
30 See Order dated 02 June 2021, id., p. 157.
31 Id., pp. 152-155.
32 See Compliance dated 19 July 2021, id., pp. 174-176.
33 Id., p. 178.

(**NCR**) and considering the physical closure of the Court pursuant to Supreme Court Administrative Circular (**AC**) No. 56-2021.[34]

At the re-scheduled Pre-Trial Conference on 06 October 2021, the Second Division granted the parties a twenty (20)-day period to file their Joint Stipulation of Facts and Issues (**JSFI**).[35] On 26 October 2021, the parties submitted their JSFI[36], which was approved and adopted by the Second Division in its Pre-Trial Order[37] on 22 November 2021, thereby terminating the pre-trial.

In the trial that ensued thereafter, petitioner presented its testimonial and documentary evidence. It offered the testimonies of the following witnesses: (1) Edna Luisa Lopez (**Lopez**)[38], petitioner's Manager of Finance and Management Accounting Department; (2) Evelyn Ocampo (**Ocampo**)[39], petitioner's Assistant Manager of Management Accounting Section; and, (3) Neil U. Sison (**Sison**)[40], the Court-commissioned Independent Certified Public Accountant (**ICPA**).[41]

On 22 November 2021, petitioner presented the testimony of its witnesses, Lopez and Ocampo.[42]

Lopez's testimony, as detailed in her Judicial Affidavit dated 26 July 2021[43], was offered to prove that: (1) petitioner timely filed administrative and judicial claims for VAT refund for the period covering 01 July 2018 to 30 September 2018; (2) petitioner submitted all the required and other relevant documents in support of its claim for refund of unutilized input VAT for the period 01 July 2018 to 30 September 2018 in the amount of ₱2,768,348.41; (3) petitioner did not apply the input VAT of ₱2,768,348.41, which is the subject of the instant petition, to any output VAT; (4) petitioner has taxable sales during the relevant period; and, (5) petitioner is entitled to the additional VAT refund amounting to ₱2,768,348.41 for the relevant period.

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34 See Notice of Resetting dated 29 September 2021, id., Volume II, p. 429.
35 See Order dated 06 October 2021, id., p. 430.
36 Id., pp. 459-465.
37 Id., pp. 469-473.
38 Exhibit "P-21", id., Volume I, pp. 309-409, with attached exhibits.
39 Exhibit "P-22", id., pp. 410-428, with attached exhibits.
40 Exhibit "P-26", id., Volume II, pp. 500-516.
41 See Judicial Affidavit of Neil U. Sison dated 11 November 2021, id., pp. 433-446, with annexes.
42 See Order dated 22 November 2021, id., p. 467.
43 Exhibit "P-21", supra at note 38.

Respondent did not conduct any cross-examination.[44]

As for Ocampo, she identified her Judicial Affidavit dated 26 July 2021[45], where she declared that: (1) petitioner timely filed administrative and judicial claims for VAT refund for the period covering 01 July 2018 to 30 September 2018; (2) petitioner incurred and paid input VAT on various purchases attributable to the its sales during the same period covered by the subject VAT refund claim; (3) petitioner has unapplied and unutilized input VAT during the relevant period; (4) petitioner is entitled to the additional refund of unutilized input VAT for the relevant period in the amount of ₱2,768,348.41; (5) petitioner submitted all the required and other relevant documents in support of its claim for refund of unutilized input VAT for the relevant period in the amount of ₱2,768,348.41; and, (6) the disposal of certain capital assets were included in petitioner's taxable sales for the relevant period.

Respondent did not conduct any cross-examination.[46]

On 09 February 2022, the Second Division received ICPA Sison's Report dated 05 January 2022.[47]

On 16 February 2022[48], petitioner presented the testimony of ICPA Sison. He identified his Judicial Affidavit dated 11 February 2022[49], in which he stated that the Court had commissioned him to perform the duties and responsibilities of an ICPA under Rule 32[50] of the Rules of Court (**ROC**), in relation to Rule 13[51] of the RRCTA.

ICPA Sison's testimony was offered to prove that: (1) petitioner was engaged in zero-rated sales of goods and services covering the period from 01 July 2018 to 30 September 2018; (2) the input tax claimed for a refund was attributable to petitioner's zero-rated sales of goods and services; (3) the input tax claimed for a refund has not been applied against the output tax; (4) petitioner has complied with the invoicing

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44 TSN dated 22 November 2021, p. 9.
45 Exhibit "P-22", supra at note 39.
46 TSN dated 22 November 2021, p. 12.
47 Exhibit "P-24", Division Docket, Volume II, pp. 477-496.
48 See Order dated 16 February 2022, id., p. 537.
49 Exhibit "P-26", supra at note 40.
50 *Trial by Commissioner.*
51 *Trial by Commissioner.*

and substantiation requirements under Sections 113[52] and 237[53] of the NIRC of 1997, as amended; and, (5) the amount of zero-rated sales of goods and services reflected in the supporting documents corresponds to the amount reflected in the VAT returns for the relevant period from 01 July 2018 to 30 September 2018.

As with the previous witnesses, respondent did not conduct any cross-examination.[54]

On 24 March 2022, after completing the presentation of its testimonial evidence, petitioner filed its "Formal Offer of Evidence with Motion to Remark Exhibits"[55] (**FOE**), consisting of Exhibits "P-1" to "P-26.1", inclusive of sub-markings. On 19 April 2022, respondent filed his or her Comment[56] thereto.

In the Resolution dated 29 April 2022[57], the Second Division (1) denied petitioner's "Motion to Remark" ICPA Sison's Judicial Affidavit dated 11 February 2022, from Exhibits "P-26" to "P-26.1" to Exhibits "P-25" to "P-25.1", on the ground that the USB containing the ICPA Report was already marked as Exhibit "P-25", and (2) admitted petitioner's exhibits, *except* for the following: (**a**) Exhibits "P-1", "P-2", "P-3", "P-4", "P-5", "P-6" to "P-6.1", "P-7", "P-8" to "P-8.1", "P-9", "P-10" to "P-10.1", "P-11" to "P-11.2", "P-12" to "P-12.1", "P-13" to "P-13.2", "P-14" to "P-14.2", "P-15" to "P-15.1", "P-16" to "P-16.1", "P-17" to "P-17.2", "P-18" to "P-18.1", "P-19" to "P-19.1", and "P-20"[58], for failure to submit the duly

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52 SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* —

53 SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* — ...

54 TSN dated 16 February 2022, p. 9.

55 Division Docket, Volume II, pp. 544-556.

56 Id., pp. 632-634.

57 Id., pp. 637-639.

58

Exhibit No.	Description
"P-1"	BIR Certificate of Registration OCN No. 8RC0000906901E with Revenue District No. 116.
"P-2"	BOI Certificate of Registration No. 2007-060.
"P-3"	BOI Certificate of Registration No. 2000-058.
"P-4"	BOI Certificate of Registration No. 2015-080.
"P-5"	BOI Certificate of Registration No. 2003-046.
"P-6" to "P-6.1"	PKI's Letter Application for VAT Refund dated 23 September 2020 for the period 01 July 2018 to 30 September 2018, stamped received by the BIR on 25 September 2020.
"P-7"	PKI's BIR Form No. 1914 stamped received by the BIR on 25 September 2020.
"P-8" to "P-8.1"	PKI's Quarterly VAT Return (BIR Form 2550-Q) for the period 01 July 2019 to 30 September 2019.
"P-9"	PKI's VAT Refund Notice dated 09 December 2020.

marked original documents/exhibits; and, (**b**) Exhibits "P-24-A", "P-24-R" ("P-24-R-1" to "P-24-R-348"), "P-24-S" ("P-24-S-1" to "P-24-S-9"), "P-24-T" ("P-24-T-1" to "P-24-T-121"), "P-24-U" ("P-24-U-1" to "P-24-U-32"), "P-24-V" ("P-24-V-1" to "P-24-V-270"), "P-24-W" ("P-24-W-1" to "P-24-W-3"), "P-24-X" ("P-24-X-1" to "P-24-X-17"), "P-24-Y" ("P-24-Y-1" to "P-24-Y-166"), "P-24-Z" ("P-24-Z-1" to "P-24-Z-58"), "P-24-AA" ("P-24-AA-1" to "P-24-AA-15") and "P-24-AB" ("P-24-AB-1" to "P-24-AB-441")[59], as the PDF files of such exhibits (that were saved in petitioner's USB) were either not supported or have been damaged (collectively, "**Denied Exhibits**").

"P-10" to "P-10.1"	PKI's Revised Checklist of Mandatory Requirements on Claims for VAT Refund with attached notarized sworn certification attesting to the completeness of the documents submitted.
"P-11" to "P-11.2"	PKI's Sales Invoice No. 2513 dated 08 September 2018.
"P-12" to "P-12.1"	PKI's Packing List of Scrap Sales for September 1-8, 2018.
"P-13" to "P-13.2"	PKI's Collection Receipt No. 5361.
"P-14" to "P-14.2"	PKI's Sales Invoice No. 2514 dated 12 September 2018.
"P-15" to "P-15.1"	PKI's Delivery Receipt No. 3425 dated 12 September 2018.
"P-16" to "P-16.1"	PKI's Schedule of Hauling and Payment for the period 06 September 2018 to 12 September 2018.
"P-17" to "P-17.2"	PKI's Collection Receipt No. 5391.
"P-18" to "P-18.1"	PKI's Schedule of Taxable Sales for the period 01 July 2018 to 30 September 2018.
"P-19" to "P-19.1"	PKI's Quarterly VAT Return (BIR Form 2550-Q) for the Second Quarter of Fiscal Year 2019.
"P-20"	Secretary's Certificate duly notarized on 19 January 2018.

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Exhibit No.	Description
"P-24-A"	Petition for Review filed with the CTA on 04 February 2021 for Case No. 10463.
"P-24-R" ("P-24-R-1" to "P-24-R-348")	Documents Supporting Valid Zero-Rated Sale of Goods.
"P-24-S" ("P-24-S-1" to "P-24-S-9")	Documents Supporting Valid Zero-Rated Sale of Services.
"P-24-T" ("P-24-T-1" to "P-24-T-121")	Certification of Suppliers' Authorized Employee and Signature
"P-24-U" ("P-24-U-1" to "P-24-U-32")	Documents Supporting VATable Sales Supported by Sales Invoices and Official Receipts.
"P-24-V" ("P-24-V-1" to "P-24-V-270")	Documents Supporting Valid Input Tax on Disallowed Purchases due to Invoicing Requirements.
"P-24-W" ("P-24-W-1" to "P-24-W-3")	
"P-24-X" ("P-24-X-1" to "P-24-X-17")	
"P-24-Y" ("P-24-Y-1" to "P-24-Y-166")	Documents Supporting Valid Input Tax on Disallowed Input Tax from Reimbursed Charges.
"P-24-Z" ("P-24-Z-1" to "P-24-Z-58")	
"P-24-AA" ("P-24-AA-1" to "P-24-AA-15")	
"P-24-AB" ("P-24-AB-1" to "P-24-AB-441")	

On 04 May 2022[60], respondent presented his or her lone witness, Revenue Officer Jelly Anne T. Mateo (**RO Mateo**), who testified through her Judicial Affidavit dated 19 July 2021.[61] She stated that: (1) she holds the position of RO II and is assigned to the Tax Audit Review Division (**TARD**); (2) her duties include the review and evaluation of tax credit or refund cases forwarded by the BIR-VCAD and Regional Offices; (3) she was tasked with reviewing and evaluating petitioner's refund claim for alleged unutilized input VAT covering 01 July 2018 to 30 September 2018, totalling ₱11,300,008.55; (4) as detailed in the Memorandum Report dated 09 December 2020[62], her team noted several findings, including: (**a**) disallowed input VAT on reimbursable charges to customer amounting to ₱2,698,457.58 pursuant to Revenue Memorandum Circular (**RMC**) No. 09-2006[63], (**b**) a discrepancy on input VAT reported *per* Quarterly VAT Returns and the submitted Schedule, amounting to ₱343,176.39, which was unsupported and not verified during the verification process, (**c**) a review of the Quarterly Remittance Return of Final Income Taxes Withheld (BIR Form No. 1601-FQ) showed that petitioner paid royalty fees during the period of claim to its non-resident parent company, Sumitomo Wiring Systems, Ltd. (**SWS**), totalling ₱78,826.60, (**d**) output VAT of ₱24,478.35 was assessed on the proceeds from the disposal of petitioner's capital assets during the period of claim, and (**e**) a compromise penalty of ₱6,250.00 was imposed for failing to supply correct and accurate sales information in petitioner's Quarterly VAT Return for the 2nd Quarter of FY ending 31 March 2019, due to a discrepancy of ₱2,206,440.22 between the amount reported in said return and the Schedule of Zero-Rated Sales submitted; and, (**5**) on 09 December 2020, a VAT Refund Notice[64] was issued, informing petitioner of a reduction of ₱7,601,215.22 in its refund claim.

On cross-examination, RO Mateo confirmed that one of the reasons for the denial of a portion of petitioner's refund claim is the imposition of output VAT on the gain on sale of various fixed assets, amounting to ₱53,125.01, as stated in the VAT Refund Notice. She also acknowledged that before imposing output VAT on the said gain, she

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[60] See Minutes of the Hearing and Order, both dated 04 May 2022, Division Docket, Volume II, pp. 640 and 641, respectively.
[61] Exhibit "R-5", id., Volume I, pp. 167-173.
[62] Exhibit "R-2", BIR Records, Folder 1, pp. 480-495.
[63] *Clarifying the Amount Subject to VAT and Expanded Withholding Tax (Income Tax) of Brokers and Others Similarly Situated and the Other Parties with Whom They Transact Business.*
[64] Exhibit "P-9", supra at note 17.

verified petitioner's schedule of taxable sales, the invoices mentioned therein, and the descriptions of the items sold.[65]

Petitioner did not conduct any redirect examination.[66]

On 17 May 2022, petitioner filed a "Partial Motion for Reconsideration"[67] (**MPR on the FOE Resolution**) relative to the Denied Exhibits. Respondent filed his or her Comment[68] thereto on 15 June 2022.

Meanwhile, on 19 May 2022, respondent filed his or her FOE[69], consisting of Exhibits "R-1" to "R-5-A". Petitioner filed its Comment[70] thereto on 23 May 2022.

In the Resolution dated 21 September 2022[71], the Second Division (1) admitted all of respondent's exhibits, (2) granted petitioner's MPR on the FOE Resolution to the extent of admitting Exhibits "P-1" and "P-4"[72], as they are found in the BIR Records, along with Exhibits "P-24-A", "P-24-R" ("P-24-R-1" to "P-24-R-348"), "P-24-S" ("P-24-S-1" to "P-24-S-9"), "P-24-T" ("P-24-T-1" to "P-24-T-121"), "P-24-U" ("P-24-U-1" to "P-24-U-32"), "P-24-V" ("P-24-V-1" to "P-24-V-270"), "P-24-W" ("P-24-W-1" to "P-24-W-3"), "P-24-X" ("P-24-X-1" to "P-24-X-17"), "P-24-Y" ("P-24-Y-1" to "P-24-Y-166"), "P-24-Z" ("P-24-Z-1" to "P-24-Z-58"), "P-24-AA" ("P-24-AA-1" to "P-24-AA-15") and "P-24-AB" ("P-24-AB-1" to "P-24-AB-441")[73], in light of the Court-commissioned ICPA's subsequent submission of uncorrupted or undamaged soft copies of these exhibits, (3) still denied Exhibits "P-2", "P-3", "P-5", "P-6" to "P-6.1", "P-7", "P-8" to "P-8.1", "P-9", "P-10" to "P-10.1", "P-11" to "P-11.2", "P-12" to "P-12.1", "P-13" to "P-13.2", "P-14" to "P-14.2", "P-15" to "P-15.1", "P-16" to "P-16.1", "P-17" to "P-17.2", "P-18" to "P-18.1", "P-19" to "P-19.1", and "P-20"[74], for failure to attach the originally marked documents to its MPR on the FOE Resolution[75], (4) scheduled a Commissioner's Hearing on 17 October

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65 TSN dated 04 May 2022, pp. 5-6.
66 Id., p. 7.
67 Division Docket, Volume II, pp. 646-664, with annexes.
68 Id., pp. 677-680.
69 Id., pp. 667-669.
70 Id., pp. 671-673.
71 Id., pp. 683-689.
72 Supra at note 58.
73 Supra at note 59.
74 Supra at note 58.
75 Supra at note 67.

2022 to mark the certified machine copies of Exhibits "P-1" and "P-4" as faithful reproductions of the certified true copies found in the BIR Records, and (5) granted both parties a period of 30 days from notice within which to file their respective memoranda.

In compliance with the Court's directive, on 27 October 2022, respondent filed his or her Manifestation[76], therein stating that he or she is adopting the arguments raised in his or her Answer dated 21 May 2021[77] as his or her Memorandum.

On 28 October 2022, petitioner filed a "Motion for Extension of Time and Motion to Re-Open the Case".[78] In its Resolution dated 22 November 2022[79], the Second Division granted petitioner's "Motion for Extension of Time" to file its Memorandum (**First Motion for Time Extension**) and ordered respondent to comment on petitioner's "Motion to Re-Open the Case".

In the *interim*, petitioner filed another "Manifestation and Motion for Extension of Time"[80] (to file its Memorandum) (**Second Motion for Time Extension**) on 25 November 2022.

In the Resolution dated 07 February 2023[81], the Second Division (1) granted petitioner's "Motion to Re-Open the Case", (2) admitted the aforesaid still Denied Exhibits (*i.e.*, Exhibits "P-2", "P-3", "P-5", "P-6" to "P-6.1", "P-7", "P-8" to "P-8.1", "P-9", "P-10" to "P-10.1", "P-11" to "P-11.2", "P-12" to "P-12.1", "P-13" to "P-13.2", "P-14" to "P-14.2", "P-15" to "P-15.1", "P-16" to "P-16.1", "P-17" to "P-17.2", "P-18" to "P-18.1", "P-19" to "P-19.1", and "P-20") that were previously presented for comparison, found to be either faithful reproductions of the original documents or original computer print-outs, and duly offered in evidence, and (3) granted petitioner's Second Motion for Time Extension, thereby allowing it another 30-day period from notice to file its Memorandum.

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76 Division Docket, Volume II, pp. 690-691.
77 Supra at note 26.
78 Division Docket, Volume II, pp. 694-697.
79 Id., p. 700.
80 Id., pp. 701-704.
81 Id., pp. 709-714.

In compliance with the Court's directive, petitioner filed its Memorandum[82] on 15 March 2023.

On 24 March 2023, the Second Division considered the instant case submitted for decision.[83]

ISSUES

As the parties so stipulated[84], the issues for this Court's resolution are —

I.
WHETHER RESPONDENT COMMISSIONER OF INTERNAL REVENUE (CIR) PROPERLY DISALLOWED INPUT VALUE-ADDED TAX (VAT) OF ₱63,515.83 DUE TO VIOLATIONS OF THE INVOICING REQUIREMENTS;

II.
WHETHER RESPONDENT COMMISSIONER OF INTERNAL REVENUE (CIR) PROPERLY DISALLOWED INPUT VALUE-ADDED TAX (VAT) OF ₱2,698,457.58 FROM REIMBURSED CHARGES;

III.
WHETHER RESPONDENT COMMISSIONER OF INTERNAL REVENUE (CIR) PROPERLY DISALLOWED INPUT VALUE-ADDED TAX (VAT) OF ₱6,375.00 FOR OUTPUT VALUE-ADDED TAX (VAT) ON PROCEEDS FROM DISPOSAL OF CAPITAL ASSETS; AND,

IV.
WHETHER THE VALUE-ADDED TAX (VAT) REFUND NOTICE DATED 09 DECEMBER 2020 SERVED TO PETITIONER PILIPINAS KYOHRITSU, INC. PROPERLY REDUCED THE CLAIM FOR REFUND BASED ON THE SUBMITTED DOCUMENTS.

Essentially, the main issue for this Court's determination is —

WHETHER PETITIONER PILIPINAS KYOHRITSU, INC. IS ENTITLED TO THE ADDITIONAL REFUND OF ITS ALLEGED UNUTILIZED INPUT VALUE-ADDED TAX (VAT) IN THE TOTAL AMOUNT OF ₱2,768,348.41 COVERING THE PERIOD FROM

82 Id., pp. 715-727.
83 See Resolution dated 24 March 2023, id., p. 731.
84 Pars. 1-4, II. Issues, JSFI, supra at note 36, p. 460.

01 JULY 2018 TO 30 SEPTEMBER 2018 OR THE 2ND QUARTER OF THE FISCAL YEAR (FY) ENDING 31 MARCH 2019.

ARGUMENTS

Petitioner contends that the following input VAT disallowances were incorrect: (1) ₱63,515.33 due to violations of the invoicing requirements; (2) ₱2,698,457.58 from reimbursable charges; and, (3) ₱6,375.00 for output VAT on the proceeds from the disposal of capital assets.

First, as to the disallowance of ₱63,515.33, petitioner claims that the BIR has no basis to disallow the same. This assertion is allegedly supported by the fact that it submitted billing invoices for the disallowed amounts on 25 September 2020, alongside its administrative claim. Such submission is evidenced by the "Revised Checklist of Mandatory Requirements on Claims for VAT Refund"[85] and the administrative claim.[86]

Second, regarding the disallowance of ₱2,698,457.58, petitioner argues that it has substantiated the offsetting transactions with SWS by submitting the Schedule of Offsetting Receivables and Payables[87] (**Schedule of Offsetting**) for the period from 01 July 2018 to 30 September 2018, as part of its VAT refund application. Petitioner maintains that a valid offsetting occurred, as it exported goods to SWS, which compensated petitioner with goods sold by SWS to, and imported by, petitioner. Consequently, petitioner contends that the disallowance of ₱2,698,457.58 in input VAT—corresponding to ₱22,698,457.58 in expenses—is incorrect.

Lastly, with respect to the disallowance of ₱6,375.00, petitioner asserts that this amount of output VAT, recognized upon the disposal of capital assets, was included as a deductible amount in its VAT refund application for the claim period.

Respondent, on the other hand, counters that the instant claim should be denied due to petitioner's failure to substantiate its claim for

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85 Exhibit "P-10", supra at note 16.
86 Exhibit "P-6", supra at note 14.
87 Exhibit "P-24-AM", USB.

refund at the administrative level. Respondent also claims that it is incumbent upon petitioner to prove entitlement to the refund sought, as a claim for refund is not granted *ipso facto* upon the claim's filing, and tax refunds are subject to administrative routinary investigation. Finally, respondent asserts that tax refunds are strictly construed against the taxpayer and in favor of the government.

RULING OF THE COURT

After a careful review of the case records, this Court finds no merit in the present Petition for Review.

We essay the reasons below, in *seriatim*. Petitioner anchors its claim for refund on Section 110(B), in relation to Section 112(A) and (C) of the NIRC of 1997, as amended by the TRAIN Law. The said provisions read as follows:

> ...
>
> SEC. 110. *Tax Credits.* —
>
> ...
>
> (B) *Excess Output or Input Tax.* — If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters: *Provided,* That the input tax inclusive of input VAT carried over from the previous quarter that may be credited in every quarter shall not exceed seventy percent (70%) of the output VAT: *Provided, however,* that any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.
>
> ...
>
> 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 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.

...

(C) *Period within which Refund 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 the ninety (90)-day period shall be punishable under Section 269 of this Code.

...

In *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*[88] (**Deutsche Knowledge Services**), the Supreme Court laid down the requisites for the entitlement to tax refund or credit of excess input VAT attributable to zero-rated sales, to wit:

...

Under Section 4.112-1(a) of Revenue Regulations No. (RR) 16-05, otherwise known as the Consolidated VAT Regulations of 2005, in relation to Section 112 of the Tax Code, a claimant's entitlement to a tax refund or credit of excess input VAT attributable to zero-rated sales hinges upon the following requisites: "(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

[88] G.R. No. 234445, 15 July 2020; Citations omitted.

to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax."

...

Guided by the foregoing pronouncement, the Court shall now proceed to the determination of petitioner's compliance with the aforementioned requisites.

FIRST (1ST) REQUISITE:

PETITIONER MUST BE VALUE-ADDED TAX (VAT)-REGISTERED.

Undisputedly, petitioner is a VAT-registered taxpayer with TIN 000-269-082-000, as evidenced by BIR Certificate of Registration No. OCN No. 8RC0000906901E dated 14 March 2017.[89]

SECOND (2ND) REQUISITE:

PETITIONER MUST BE ENGAGED IN SALES WHICH ARE ZERO-RATED OR EFFECTIVELY ZERO-RATED.

The 2nd requisite requires that the taxpayer is engaged in zero-rated or effectively zero-rated sales and, for zero-rated sales under Sections 106(A)(2)(a)(1)[90] and 108(B)(1) and (2)[91] of the NIRC of 1997, as amended[92], the acceptable foreign currency exchange proceeds must have been duly accounted for in accordance with the Bangko Sentral ng Pilipinas (**BSP**) rules and regulations.

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89 Exhibit "P-1", supra at note 5.

90 Supra at note 11.

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

...

(B) *Transactions Subject to Zero Percent (0%) Rate.* – The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

(1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

(2) Services other than those mentioned in the preceding paragraph, rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)[.]

92 As amended by Republic Act (RA) No. 10963, otherwise known as the Tax Reform for Acceleration and Inclusion Act (TRAIN Law).

In this case, petitioner alleges that, in the course of manufacturing parts and accessories for motor vehicles, it purchased goods, specifically wiring harness, weld cap and spare parts, supplies and capital goods from its local and foreign suppliers. These raw materials or goods are intended to complete its finished products. The spare parts and capital goods and/or equipment are also used for the manufacture of its products in the course of its registered activities. During the period of claim, petitioner exported and sold its products to various foreign clients or customers. Being export sales, all of these are considered zero-rated for VAT purposes under Section 106(A)(2)(a)(1)[93] of the NIRC of 1997, as amended. Consequently, petitioner was charged with and has an unutilized and/or unused input VAT and paid the same, in the aggregate amount of ₱11,300,008.55, for the period from 01 July 2018 to 30 September 2018.[94]

In its Amended 2nd Quarterly VAT Return for the 2nd Quarter of FY ending 31 March 2019[95], petitioner reported total sales of ₱2,317,122,495.71, which included zero-rated sales of ₱2,310,283,311.78, as shown below:

	Amount
Zero-Rated Sales/Receipts	₱2,310,283,311.78
VATable Sales/Receipts	6,839,183.93
Total Sales/Receipts	**₱2,317,122,495.71**

However, in the ICPA Report, it is observed that there is a discrepancy of ₱2,206,440.13 in the amount of zero-rated sales reported in petitioner's Amended Quarterly VAT Return *vis-à-vis* its Summary List of Sales (**SLS**) for the 2nd Quarter of FY ending 31 March 2019:[96]

Nature of Transaction	***Per* BIR Form No. 2550-Q**[97]	***Per* SLS**[98]	**Difference**
Zero-Rated Sales/Receipts	₱2,310,283,311.78	₱2,312,489,751.91	₱2,206,440.13
Vatable Sales/Receipts	6,839,183.93	6,839,183.93	-
Total Sales	**₱2,317,122,495.71**	**₱2,319,328,935.84**	**₱2,206,440.13**

93 Supra at note 11.
94 Par. 5, Statement of Facts, Petitioner's Memorandum, supra at note 82, p. 716.
95 Exhibit "P-19", Division Docket, Volume II, pp. 628-629; Exhibit "P-24-G", USB.
96 ICPA Report, Exhibit "P-24", supra at note 47, p. 483.
97 Exhibit "P-19", supra at note 95, p. 628.
98 Exhibit "P-24-I", USB.

Also, *per* ICPA Report, petitioner's total zero-rated sales should be ₱2,312,489,751.91, as shown in its Schedule of Zero-Rated Sales[99] for the 2nd quarter of FY ending 31 March 2019, categorized as follows:[100]

Type of Zero-Rated Sale	Amount
Actual export sales of goods to related parties	₱2,295,766,507.92
Actual export sales of services to related parties	14,108,025.00
Sales to PEZA-registered entities	2,615,218.99
Total	**₱2,312,489,751.91**

Based on the above breakdown, petitioner has three (3) sources of zero-rated sales, namely:

(i) Actual export sale of goods under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended;

(ii) Actual export sale of services under Section 108(B)(2) of the NIRC of 1997, as amended; and,

(iii) Sale to Philippine Economic Zone Authority (**PEZA**)-registered entities under Section 106(A)(2)(a)(5) of the NIRC of 1997, as amended.

i. Actual export sales of goods under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended (₱2,295,766,507.92)

Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, states:

...

SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* —

(A) *Rate and Base of Tax.* — ...

(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

(a) *Export Sales.* - The term '**export sales**' means:

99 Exhibits "P-24-M-1" to "P-24-M-2", USB. (₱2,298,381,726.91 plus ₱14,108,025.00).
100 ICPA Report, Exhibit "P-24", supra at note 47, p. 485.

(1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)[.][101]

...

Based on the foregoing, in order for an export sale of goods to qualify as zero-rated under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, the following essential elements must be present:

1. The sale was made by a VAT-registered person;

2. There was a sale and actual shipment of goods from the Philippines to a foreign country; and,

3. The sale was paid for in acceptable foreign currency accounted for in accordance with the rules and regulations of the BSP.

As for the *first* essential element, it has already been settled that petitioner is a VAT-registered person.

As for the *second* essential element, Sections 113(A)(1), (B)(1) and (2)(c) of the NIRC of 1997, as amended, and Sections 4.113-1(A)(1), (B)(1) and (2)(c) of Revenue Regulations (**RR**) No. 16-2005[102], as amended, respectively provide:

NIRC of 1997, as amended

...

SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* —

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

101 Italics in the original text and emphasis supplied.
102 *Consolidated Value-Added Tax Regulations of 2005.*

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

...

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

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

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

...

(c) If the sale is subject to zero percent (0%) value-added tax, the term '**zero-rated sale**' shall be written or printed prominently on the invoice or receipt[.][103]

...

<u>RR No. 16-2005</u>

...

SEC. 4.113-1. *Invoicing Requirements.* —

(A) A VAT-registered person shall issue: —

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

...

Only VAT-registered persons are required to print their <u>TIN followed by the word 'VAT' in their invoice</u> or official receipts. Said documents shall be considered as a 'VAT Invoice' or VAT official receipt. All purchases covered by invoices/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

VAT invoice/official receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records.

(B) <u>*Information contained in VAT invoice*</u> *or VAT official receipt.* — The following information shall be indicated in VAT invoice or VAT official receipt:

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[103] Italics in the original text, emphasis and underscoring supplied.

> (1) A statement that the seller is a VAT-registered person, followed by his TIN;
>
> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; *Provided*, That:
>
> (c) If the sale is subject to zero percent (0%) VAT, the term '<u>zero-rated sale</u>' shall be written or printed prominently on the invoice or receipt[.][104]
>
> ...

Based on the foregoing, any VAT-registered person claiming for VAT zero-rating in relation to export sales of goods must present the following documents, to wit:

1. Sales invoice as proof of sale of goods; and,

2. Bill of lading or airway bill as proof of actual shipment of goods from the Philippines to a foreign country.

In addition to the above requirements, the sales invoices supporting the export sales must be duly registered with the BIR and must contain all the required information, pursuant to Sections 237 and 238 of the NIRC of 1997, as amended, *viz*:

> ...
>
> SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* — All persons subject to an internal revenue tax shall, for each sale and transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, <u>issue duly registered</u> receipts or <u>sales</u> or <u>commercial</u> <u>invoices</u>, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service...
>
> SEC. 238. *Printing of Receipts or Sales or Commercial Invoices.* — All persons who are engaged in business shall secure from the Bureau of Internal Revenue an authority to print receipts or sales or commercial invoices before a printer can print the same.
>
> No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name,

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104 Italics in the original text and underscoring supplied.

> business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.[105]
>
> ...

Thus, only export sales supported by the above-stated documents shall qualify for VAT zero-rating under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended.

Records show that the bulk of petitioner's sales are from export of goods to SWS amounting to US$43,042,068.93 (with a peso equivalent of ₱2,295,766.507.92).[106] Considering that all of its export sales to SWS are supported by <u>valid sales invoices pre-printed with "*Zero-Rated Sale*", export declarations, and airway bills (**AWB**s)/bills of lading (**BL**s)</u>,[107] petitioner satisfactorily complied with the *second* essential element.

As for the *third essential* element (*i.e.,* the sale was paid for in acceptable foreign currency accounted for in accordance with the BSP rules and regulations), petitioner presented the Certificate of Inward Remittance issued by MUFG Bank - Manila Branch[108] and Schedule of Zero-Rated Sales (Goods)[109] to support that the export sales of US$43,042,068.93 (with a peso equivalent of ₱2,295,766.507.92) were paid for in acceptable foreign currency accounted for in accordance with the BSP rules and regulations.

Pertinently, the ICPA Report[110] states that: (1) petitioner and SWS entered into an agreement, in which, petitioner shall offset payments to be made by SWS for the sale against the purchase of materials from SWS based on Memorandum No. 1[111]; (2) the net proceeds or payments were also adjusted by copper price modifications under the Supply and Purchase Agreement[112] between SWS and petitioner; and, (3) the details

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105 Italics in the original text and underscoring supplied.
106 Exhibit "P-24-R", USB.
107 Exhibits "P-24-R-1" to "P-24-R-348", USB.
108 Exhibit "P-24-AK", USB.
109 Exhibit "P-24-R", supra at note 106.
110 Par. 6.a.1., Review of Petitioner's Sales Transactions, ICPA Report, Exhibit "P-24", supra at note 47, p. 486.
111 Exhibit "P-24-AJ", USB.
112 Exhibit "P-24-AI", USB.

of these transactions were supported by the Schedule of Offsetting[113] and the Reconciliation of Export Sales and Dollar Remittances[114] (**Reconciliation**).

As provided in RMC No. 42-2003, entitled *"Clarifying Certain Issues Raised Relative to the Processing of Claims for Value-Added Tax (VAT) Credit/Refund, Including Those Filed with the Tax and Revenue Group, One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center, Department of Finance (OSS) by Direct Exporters"*, the required documents in case of offsetting arrangements are, as follows:

> ...
>
> Q-8: *With the full liberalization of the BSP rules on foreign exchange and trade transactions (CB Circular No. 1389 dated April 13, 1993 enunciated in RMC No. 57-97), the BIR requirement for full documentation of proofs of inward remittances of export proceeds should no longer be enforced. Accordingly, what should be the acceptable documentary requirements in the processing of claims for TCC/refund, specifically on offsetting arrangements?*
>
> A-8: **In the case of offsetting arrangements, the following documents should be required:**
>
> a. Import documents which created liability accounts in favor of the foreign parent or affiliated company;
> b. Other contracts with the foreign or affiliated company that brought about the liabilities which were offset against receivables from export sales;
> c. Evidence of proceeds of loans, in case the claimant has received loans or advances from the foreign company;
> d. Documents or correspondence regarding offsetting arrangements;
> e. Confirmation of the offsetting arrangements by the heads of the business organizations involved;
> f. Documents to prove actual export of goods;
> g. Documents to prove that the sales are zero-rated sales.[115]
>
> ...

Aside from the fact that the offsetting of receivables and payables were unsubstantiated, it is worth mentioning that the BIR issued RMC

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113 Exhibit "P-24-AM", supra at note 87.
114 Exhibit "P-24-AN", USB.
115 Italics in the original text and emphasis supplied.

No. 61-2016[116], which prohibited "offsetting arrangements" for taxation purposes, *viz*:

> ...
> **BACKGROUND:**
>
> It is a general principle of accounting that the offsetting of assets and liabilities in the balance sheet is improper. Hence, under no circumstance is offsetting to be considered appropriate in recording transactions that are subject to a wide range of "netting" arrangements or similar practices, including those with standard commercial provisions that allow parties to "net settle", such as trade receivables and payables.
>
> Questions have been raised about offsetting amounts recognized for transactions for which the net amount of those transactions, rather than the gross amount is reported for accounting/tax purposes. In the absence of definitive policies for reporting assets and liabilities arising from those transactions, various financial reporting practices have developed giving rise to accounting treatments that result in offsetting which adversely affect the complete measurement of an asset or a liability.
>
> **TAX CONSEQUENCE:**
>
> **The practice of offsetting due to/due from and/or payable/receivable transactions of taxpayers and consequently the accounting and recording of the same and its related transactions in the books of the parties is strictly prohibited for taxation purposes. Thus, at all times, the accrued receivables or payables arising from sale or lease of goods or properties or the performance of service, shall be recognized at gross for income and value-added tax or percentage tax purposes.**[117]
> ...

To reconcile the sales and the payments of its customers, petitioner submitted a Schedule of Zero-Rated Sales (Goods)[118], wherein the invoice numbers, sales in foreign currency (USD), accredited bank (MUFG) and remittance reference numbers are listed. Scrutiny of these documents reveals that, although the amounts *per* sales invoice were traceable to the foreign currency inward remittances as summarized in the Schedule of Zero-Rated Sales (Goods), a portion thereof shows

116 *Prescribing Policies and Guidelines for Accounting and Recording Transactions Involving "Netting" or "Offsetting".*
117 Emphasis supplied.
118 Exhibit "P-24-R", supra at note 106.

significant adjustments on the invoice price (*e.g.*, "adjustment of sales based on BL date", "other receivable credited to PKI", "purchases", and "other charges debited from PKI") before arriving at the net remittances made on various dates, which are too substantial to be ignored. *However*, these adjustments are unsubstantiated, uncorroborated and unexplained.

In view of the foregoing principle against offsetting or netting for tax purposes and given that petitioner failed to present evidence relative to the above-mentioned adjustments, We cannot simply declare the full amount of adjusted sales as valid zero-rated export sales of goods. Consequently, these adjustments must be disallowed for purposes of determining the amount of gross receipts paid for in acceptable foreign currency accounted for in accordance with the BSP rules and regulations, as follows:

2nd Quarter of FY ending 31 March 2019	Unadjusted Sales (USD)	Sales Adjustments (USD)	Other Receivables Credited (USD)	Purchases (USD)	Other Charges Debited (USD)	Net Proceeds[119] (USD)
	(a)	(b)	(d)	(e)	(f)	(g) = (b) + (c) + (d) + (e) + (f)
July 2018						
SWS-JAPAN	\$5,787,379.96	\$602,481.31	\$15,070.20	\$(3,303,421.34)	\$(69,238.12)	\$3,032,272.01
SWS-USA/MEXICO	6,703,535.83	(305,599.90)	2,539.00	-	(65,893.00)	6,334,581.93
August 2018						
SWS-JAPAN	7,404,208.74	(820,226.69)	30,902.81	(4,257,613.96)	(71,609.76)	2,285,661.14
SWS-USA/MEXICO	8,315,102.44	(2,273,776.88)	7.19	-	(64,976.00)	5,976,356.75
September 2018						
SWS-JAPAN	6,554,542.00	(119,983.36)	25,327.27	(3,601,585.27)	(100,714.56)	2,757,586.08
SWS-USA/MEXICO	8,277,299.96	2,538,531.91	-	-	(173,965.00)	10,641,866.87[120]
	----------------	----------------	----------------	----------------	----------------	----------------
Total	\$43,042,068.93	\$(378,573.61)	\$73,846.47	\$(11,162,620.57)	\$(546,396.44)	\$31,028,324.78
	============	============	============	============	============	============

Accordingly, out of petitioner's ₱2,422,224,965.01 adjusted[121] reported zero-rated sales arising from export sales of goods to its non-resident foreign affiliates (*i.e.*, SWS-Japan and SWS-USA/Mexico), only ₱1,528,902,082.41 (the peso equivalent of US\$28,663,757.87) could

119 Amounts were traced to the remittances *per* Certificate of Inward Remittance.

120 Only \$8,277,299.96 is supported with zero-rated sales invoice. The difference of \$2,364,566.91 is treated as undeclared zero-rated receipts with no corresponding zero-rated sales invoice.

121 Petitioner's reported export sales of goods amounting to ₱2,295,766,507.92 *plus* undeclared export sales of goods amounting to ₱126,458,457.09 (the peso equivalent of US\$2,364,566.91, converted using the average exchange rate on the remittance date *i.e.*, 14 November 2018).

qualify for VAT zero-rating under Section 106(A)(2)(a)(1) of the NIRC of 1997, as amended, computed as follows:

2nd Quarter of FY ending 31 March 2019	Valid Zero-Rated Sales (USD)	Date of Remittance	Ave. Exchange Rate	Valid Zero-Rated Sales (PHP)
July 2018				
SWS-JAPAN	$3,032,272.01	24-Aug-18	53.34	₱ 161,741,389.01
SWS-USA/MEXICO	6,334,581.93	14-Sep-18	53.33	337,840,991.16
August 2018				
SWS-JAPAN	2,285,661.14	25-Sep-18	53.09	121,357,178.23
SWS-USA/MEXICO	5,976,356.75	12-Oct-18	53.18	317,825,640.14
September 2018				
SWS-JAPAN	2,757,586.08	25-Oct-18	53.47	147,461,915.63
SWS-USA/MEXICO	8,277,299.96[122]	14-Nov-18	53.48	442,674,968.24
	-----------------			--------------------
Total	**$28,663,757.87**			**₱1,528,902,082.41**
	===========			=============

ii. Actual export sales of services under Section 108(B)(2) of the NIRC of 1997, as amended (₱14,108,025.00).

Petitioner's zero-rated sales of services amounting to ₱14,108,025.00 pertain to the services requested by SWS and Sumitomo Electric Wiring System, Inc. (**SEWS**) for the input and maintenance of designing data of automotive wiring harness as well as engineering design.[123]

Section 108(B)(2) of the NIRC of 1997, as amended, states:

...

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

...

(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:**

---

122 Only $8,277,299.96 from unadjusted sales, supported by zero-rated sales invoices—not the corresponding net proceeds remitted of $10,641,866.87—is considered as valid zero-rated sales.

123 Par. 6.a.2., Review of Petitioner's Sales Transactions, Exhibit "P-24", Division Docket, Volume II, p. 486; Exhibit "P-24-S", Schedule of Zero-Rated Sales (Services), USB.

(1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

(2) **Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)**[.][124]

...

Based on the foregoing, in order for a sale or supply of services to qualify as zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the following *essential elements* must be present:

1. The services fall under any of the categories under Section 108(B)(2),[125] or simply, the services rendered should be other than *"processing, manufacturing or repacking goods"*;[126]

2. The payment for such services should be in acceptable foreign currency accounted for in accordance with BSP rules;[127]

3. The recipient of the services is a foreign corporation, and the said corporation is doing business *outside* the Philippines, or is a nonresident person not engaged in business who is *outside* the Philippines when the services were performed;[128] and,

124 Italics in the original text and emphasis supplied.

125 *Commissioner of Internal Revenue v. American Express International, Inc. (Philippine Branch)*, G.R. No. 152609, 29 June 2005.

126 *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, 22 January 2007.

127 *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra; *Commissioner of Internal Revenue v. American Express International, Inc. (Philippine Branch)*, supra.

128 *Sitel Philippines Corporation (Formerly Clientlogic Phils. Inc.) v. Commissioner of Internal Revenue*, G.R. No. 201326, 08 February 2017; *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra; *Accenture, Inc. v. Commissioner of Internal Revenue*, G.R. No. 190102, 11 July 2012.

4. The service must be performed in the Philippines[129] by a VAT-registered person.

Relative to the *first* essential element, the Engineering Service Agreement[130] entered into by and between SWS and petitioner provides the services requested by the former and the services to be provided by the latter, to wit:

> ...
> ARTICLE 1. STATEMENT OF SERVICES
>
> (a) Services requested by SWS
>
> During the term of this Agreement, [Petitioner] shall furnish SWS with its services for the input and maintenance of designing data of automotive wiring harnesses in the capacity of an independent contractor. All arrangements for the services shall be made in writing duly executed on behalf of SWS by its authorized representative and duly accepted on behalf of [Petitioner] by its authorized representative.
>
> SWS shall specify the time period for performance and, if [Petitioner] shall have an issue with the time period specified, the parties shall consult.
>
> (b) Services provided by [Petitioner]
>
> All services shall be performed by [Petitioner] in accordance with the terms and conditions of this Agreement.
>
> Regarding other additional jobs, SWS shall give instructions to [Petitioner] in a separate letter. The compensation and other terms and conditions for such additional jobs as may be requested shall be agreed to by the parties in advance of work and paid to [Petitioner] by SWS separate from the contract fees of this Agreement.
> ...

Clearly, the above services to SWS are not in the same category as *"processing, manufacturing or repacking of goods"*. On the other hand, petitioner failed to establish that the services provided to SEWS are not in the same category as *"processing, manufacturing or repacking of*

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129 *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra; *Commissioner of Internal Revenue v. American Express International, Inc. (Philippine Branch)*, supra.

130 Exhibit "P-24-AL", USB.

goods". Thus, only the services provided to SWS by petitioner complied with the *first* essential element.

As regards the *second* essential element, petitioner presented the Certificate of Inward Remittance issued by MUFG Bank, Ltd. - Manila Branch[131], purportedly showing the remittances of SWS and SEWS. Considering that the certification (or proof) of inward remittances attests to the fact of payment *"in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP"*, petitioner is considered to have complied with the above-stated *second* essential element.

Anent the *third* essential element, petitioner presented SEC Certification of Non-Registration dated 09 September 2020[132] indicating that the SEC records "do not show the registration of Sumitomo Wiring Systems, Ltd. as a corporation, partnership or One Person Corporation (OPC)". However, such document is not sufficient to prove that petitioner's client, SWS, is a nonresident foreign corporation (**NRFC**) doing business outside the Philippines.

As held in *Deutsche Knowledge Services* and consistently echoed by this Court in a number of cases[133], to be considered as an NRFC doing business outside the Philippines, such must be proven by presenting, for each corporation involved, at the very least, **both** SEC Certification of Non-Registration **and** proof of incorporation or registration, and that there is no other indication which would disqualify said entity in being classified as an NRFC. Since there is no indication that SWS is an NRFC doing business outside the Philippines, it cannot be said that petitioner fulfilled the *third* essential element.

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131 Exhibit "P-24-AK", USB.

132 Exhibit "P-24-AG-1", USB.

133 *NCR Cebu Development Center, Inc. v. Commissioner of Internal* Revenue, CTA Case No. 9255, 04 April 2019; *Deutsche Knowledge Services Pte. Ltd. v. Commissioner of Internal Revenue*, CTA Case No. 9079, 09 January 2018; *Deutsche Knowledge Services Pte. Ltd. v. Commissioner of Internal Revenue*, CTA Case No. 8065, 20 September 2017; *Deutsche Knowledge Services Pte. Ltd. v. Commissioner of Internal Revenue*, CTA Case Nos. 8623, 8656, 8661 & 8685, 04 August 2017; *Emerson Electric (Asia) Limited-ROHQ v. Commissioner of Internal Revenue*, CTA Case No. 8657, 21 December 2016; *Procter & Gamble Asia, Pte. Ltd. v. Commissioner of Internal Revenue*, CTA Case No. 7820, 22 June 2016; *Deutsche Knowledge Services Pte. Ltd. v. Commissioner of Internal Revenue*, CTA Case No. 7808, 16 December 2014 affirmed *in toto* by the CTA *En Banc* on 16 August 2016 in CTA EB No. 1290.

Moreover, petitioner likewise failed to comply with the *fourth* essential element as it was not able to establish that the services it provided to SWS were performed in the Philippines since the same is not provided in the Engineering Service Agreement[134] nor in any other documents proffered by petitioner.

Verily, petitioner fell short in establishing that its sales of services amounting to ₱14,108,025.00 qualify for VAT zero-rating under Section 108(B)(2)[135] of the NIRC of 1997, as amended.

iii. Sales to PEZA-registered entities under Section 106(A)(2)(a)(5) of the NIRC of 1997, as amended (₱2,615,218.99).

Section 106(A)(2)(a)(5) of the NIRC of 1997, as amended[136], states:

...

SEC. **106.** *Value-Added Tax on Sale of Goods or Properties.* –

(A) *Rate and Base of Tax.* – ...

(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

(a) *Export Sales.* - The term '**export sales**' means:

...

(5) Those considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, and other special laws.

...

Relative thereto, Section 4.106-5(a)(5) of RR No. 16-2005[137], as amended by RR No. 04-2007[138], which implements the foregoing provision, provides:

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[134] Exhibit "P-24-AL", supra at note 130.
[135] Supra at pp. 28-29.
[136] Before the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Law.
[137] Supra at note 102.
[138] *Amending Certain Provisions of Revenue Regulations No. 16-2005, As Amended, Otherwise Known as the Consolidated Value-Added Tax Regulations of 2005.*

...

SEC. 4.106-5. *Zero-Rated Sales of Goods or Properties.* - ...

The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

(a) *Export sales.* - '*Export Sales*' shall mean:

...

(5) Transactions considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, and other special laws.

'Considered export sales under Executive Order No. 226' shall mean the Philippine port F.O.B. value determined from invoices, bills of lading, inward letters of credit, landing certificates, and other commercial documents, of export products exported directly by a registered export producer, or the net selling price of export products sold by a registered export producer to another export producer, or to an export trader that subsequently exports the same; *Provided*, That sales of export products to another producer or to an export trader shall only be deemed export sales when actually exported by the latter, as evidenced by landing certificates or similar commercial documents; *Provided, further*, That <u>pursuant to EO 226 and other special laws, even</u> without actual exportation, the following shall be considered constructively exported: (1) sales to bonded manufacturing warehouses of export-oriented manufacturers; (2) sales to export processing zones <u>pursuant to Republic Act (RA) Nos. 7916, as amended, 7903, 7922 and other similar export processing zones; (3) sale to enterprises duly registered and accredited with the Subic Bay Metropolitan Authority pursuant to RA 7227; (4)</u> sales to registered export traders operating bonded trading warehouses supplying raw materials in the manufacture of export products under guidelines to be set by the Board in consultation with the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC); <u>(5)</u> sales to diplomatic missions and other agencies and/or instrumentalities granted tax immunities, of locally manufactured, assembled or repacked products whether paid for in foreign currency or not.[139]

...

[139] Emphasis and italics in the original text, emphasis and underscoring supplied.

The special law applicable to this case is RA 7916[140], as amended by RA 8748[141], otherwise known as "The Special Economic Zone Act of 1995". Sections 8 and 24 thereof read:

> ...
>
> SEC. 8. *ECOZONE to be Operated and Managed as Separate Customs Territory.* – **The ECOZONE shall be managed and operated by the PEZA as separate customs territory.**
>
> The PEZA is hereby vested with the authority to issue certificates of origin for products manufactured or processed in each ECOZONE in accordance with the prevailing rules of origin, and the pertinent regulations of the Department of Trade and Industry and/or the Department of Finance.
>
> ...
>
> SEC. 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.[142]
>
> ...

Since the ecozone is viewed as a foreign territory by legal fiction, sales of goods and services made by a VAT-registered person in the Philippine customs territory to an entity registered and operating within the ecozone are considered exports to a foreign country subject to zero percent (0%) VAT. This was explained by the Supreme Court in the case of *Commissioner of Internal Revenue v. Toshiba Information Equipment (Phils.), Inc.*[143], *viz:*

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140 AN ACT PROVIDING FOR THE LEGAL FRAMEWORK AND MECHANISMS FOR THE CREATION, OPERATION, ADMINISTRATION, AND COORDINATION OF SPECIAL ECONOMIC ZONES IN THE PHILIPPINES, CREATING FOR THIS PURPOSE, THE PHILIPPINE ECONOMIC ZONE AUTHORITY (PEZA), AND FOR OTHER PURPOSES.

141 AN ACT AMENDING REPUBLIC ACT NO. 7916, OTHERWISE KNOWN AS THE "SPECIAL ECONOMIC ZONE ACT OF 1995".

142 Emphasis supplied.

143 G.R. No. 150154, 09 August 2005.

...

This Court agrees, however, **that PEZA-registered enterprises, which would necessarily be located within ECOZONES, are VAT-exempt entities**, not because of Section 24 of Rep. Act No. 7916, as amended, which imposes the five percent (5%) preferential tax rate on gross income of PEZA-registered enterprises, in lieu of all taxes; but, rather, **because of Section 8 of the same statute which establishes the fiction that ECOZONES are foreign territory**.

... An ECOZONE or a Special Economic Zone has been described as —

> ... [S]elected areas with highly developed or which have the potential to be developed into agro-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers whose metes and bounds are fixed or delimited by Presidential Proclamations. An ECOZONE may contain any or all of the following: industrial estates (IEs), export processing zones (EPZs), free trade zones and tourist/recreational centers.

The national territory of the Philippines outside of the proclaimed borders of the ECOZONE shall be referred to as the Customs Territory.

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.

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.[144]

...

[144] Now at 12% VAT rate. Citations omitted and emphasis supplied.

Based on the foregoing, in order for an export sale to qualify for VAT zero-rating under Section 106(A)(2)(a)(5)[145] of the NIRC of 1997, as amended, the following essential elements must be present:

1. The sale was made by a VAT registered person; and,

2. The sale of goods must be to an entity entitled to incentives under Executive Order (**EO**) No. 226, otherwise known as the Omnibus Investment Code of 1987 (**OIC**), and other special laws.

As determined earlier, petitioner is a VAT-registered person. Hence, the *first* essential element was already fulfilled.

Relative to the *second* essential element, records show that petitioner sold goods to International Wiring Systems (Phils.) Corp. (**IWSPC**) and Sumi Philippines Wiring Systems Corp. (**SPWSC**) amounting to ₱2,615,218.99 during the period from 01 July 2018 to 30 September 2018[146], which are duly supported by sales invoices[147] in accordance with law and regulations.

To prove that its clients are duly registered with the PEZA, petitioner presented the Letter dated 29 November 2019[148], signed by the PEZA Officer-In-Charge Deputy Director General for Operations, Mary Harriet O. Abordo, confirming the issuance of VAT zero-rating certifications to IWSPC and SPWSC, which are valid for the year 2018.

Based on the foregoing submissions, petitioner is considered to have complied with the above-stated *second* essential element. Accordingly, petitioner satisfactorily proved that its sales of goods to PEZA-registered entities amounting to ₱2,615,218.99, qualify for VAT zero-rating under Section 106(A)(2)(a)(5) of the NIRC of 1997, as amended.

To recapitulate, out of the total zero-rated sales for the 2nd quarter of FY ending 31 March 2019 amounting to ₱2,438,948,209.00, as

145 Supra at p. 32.
146 Exhibit "P-24-AO", USB.
147 Exhibits "P-24-AO-1" to "P-24-AO-4", USB.
148 Exhibit "P-24-Q", USB.

adjusted, only the amount of ₱1,531,517,301.40 represents petitioner's valid zero-rated sales for the same period, to wit:

Total Reported Zero-Rated Sales	₱2,312,489,751.91
Add: Undeclared Zero-Rated sales	126,458,457.09
Total Adjusted Zero-Rated Sales	**₱2,438,948,209.00**
Less:	
Undeclared Zero-Rated Sales not supported with sales invoice	₱126,458,457.09
Zero-Rated Sales not supported with Certificate of Inward Remittance	766,864,425.51[149]
Zero-Rated Receipts from NRFCs with no Articles of Association/Certificate of Incorporation stating that the affiliate is registered to operate in their respective home countries, outside the Philippines	14,108,025.00
Total Valid Zero-Rated Sales	**₱1,531,517,301.40**

THIRD (3RD) REQUISITE:
THE CLAIM MUST BE FILED WITHIN TWO (2) YEARS AFTER THE CLOSE OF THE TAXABLE QUARTER WHEN SUCH SALES WERE MADE.

In accordance with Section 112(A) and (C) of the NIRC of 1997, as amended by the TRAIN Law, the administrative claim for refund of unutilized input VAT must be filed with the BIR within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim covers the 2nd quarter of the FY ending 31 March 2019, or from 01 July 2018 to 30 September 2018. Counting two (2) years from the close of the said quarter, petitioner had until 30 September 2020, within which to file its administrative claim for refund. Thus, petitioner's administrative claim, together with the supporting documents, filed on 25 September 2020[150], fell within the two (2)-year prescriptive period.

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149 This amount pertains to the difference between the adjusted reported zero-rated sales from export sales of goods, totaling ₱2,422,224,965.01, and the valid zero-rated sales, which amount to ₱1,528,902,082.41 (the peso equivalent of the US$28,663,757.87 not supported with Certificate of Inward Remittance).

150 Exhibits "P-6", "P-7" and "P-10", Division Docket, Volume II, pp. 586-588 and 618-619, respectively.

As to the timeliness of petitioner's judicial claim, pursuant to the TRAIN Law amendment to Section 112(C) of the NIRC of 1997, as amended, it is required that the same must have been filed within 30 days from receipt of respondent's decision, or after the expiration of the 90-day period under Section 112(C) of the NIRC of 1997, as amended. Thus, from the filing of petitioner's administrative claim on 25 September 2020, respondent had ninety (90) days, or until 24 December 2020, to act on the said claim.

Respondent is thus considered to have acted on petitioner's claim within the 90-day period prescribed by law when ACIR Belen issued the VAT Refund Notice dated 09 December 2020[151], informing petitioner that its claim was partially approved in the amount of ₱7,601,215.22, although the same was received by petitioner only on 06 January 2021.

Considering that petitioner received the said VAT Refund Notice on 06 January 2021, the filing of the present *Petition for Review* on 04 February 2021[152] was timely made within the prescribed 30-day period.

Such being the case, the Court finds that petitioner satisfied the above-stated *third requisite.*

<u>FOURTH (4TH) REQUISITE:</u>

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.

To satisfy the *fourth requisite*, the following conditions must be satisfied:

a. 1st **condition**: the input taxes are due or paid;

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151 Exhibit "P-9", supra at note 17.

152 Division Docket, Volume I, pp. 6-34.

b. 2nd **condition**: the input taxes claimed are attributable to zero-rated or effectively zero-rated sales and 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;

c. 3rd **condition**: the input taxes are not transitional input taxes; and,

d. 4th **condition**: the input taxes have not been applied against output taxes during and in the succeeding quarters.

Petitioner complied with the ***3rd* and *4th conditions*** for the following reasons: (1) its input taxes do not appear to be transitional input taxes, which are meant to benefit only newly VAT-registered persons; and, (2) it deducted the input VAT claim of ₱11,300,008.55 as a "VAT Refund/TCC Claimed" in its VAT Return for the 2nd Quarter of FY 2020[153], thereby preventing the carry-over of the said amount to the succeeding taxable quarters.

As to the ***1st condition***, petitioner claims that for the 2nd quarter of FY ending 31 March 2019, it had a total allowable input tax of ₱12,463,887.01 arising from its current purchases of capital goods not exceeding ₱1 million, domestic purchases of goods other than capital goods, domestic purchases of services and amortization of input VAT on purchases of capital goods exceeding ₱1 million, as shown below:[154]

Input VAT on:		
Deferred Input Tax on Capital Goods from Previous Quarter	₱24,248,755.97	
Capital Goods Exceeding ₱1 million	279,295.32	
Input Tax on Capital Goods Deferred to Succeeding Period	(22,477,173.39)	
Amortization of Capital Goods		₱2,050,877.90
Capital Goods Not Exceeding ₱1 million		143,619.00
Goods Other Than Capital Goods		1,541,630.47
Importation of Goods		3,059,476.84

[153] Exhibit "P-24-H-6", Line 23D, USB.
[154] Par. 3, ICPA Report, Exhibit "P-24", supra at note 47, p. 483.

Services	5,668,282.80
Total Available Input Tax	**12,463,887.01**
Less: Output Tax	(820,702.07)
Total Allowable Input Tax	**11,643,184.94**
Less: Under Applied Input Tax	(343,176.39)
Amount of Claim *per* BIR Form No. 1914	**₱11,300,008.55**

However, out of the said ₱11,300,008.55 VAT refund claim, respondent only granted the reduced amount of ₱7,601,215.22, summarized as follows:[155]

A. <u>Local Purchases</u>	
VAT Refund Claimed	₱7,308,375.71
Less: Deductions from claim	(3,629,516.87)
Net Allowable VAT Refund	**₱3,678,858.84**
B. <u>Importations</u>	
VAT Refund Claimed	₱3,991,632.84
Less: Deductions from claim	(69,276.46)
Recommended Net Allowable VAT Refund	**₱3,922,356.38**
Total Amount Approved for VAT Refund	**₱7,601,215.22**

In arriving at the said reduced amount of ₱7,601,215.22, respondent disallowed the following items:[156]

Amount of Claim	**₱11,300,008.55**
Deductions from Claim	
Violations of invoicing requirements	₱534,681.77
Big-ticket disallowances	53,201.13
Disallowed input tax from reimbursed charges	2,698,457.58
Under-applied input tax which was unsupported and not deducted in QVRs	343,176.39
Output VAT on proceeds from disposal of capital assets	24,478.35
Output tax assessed on other income	29,088.92
Final Withholding VAT on royalty fees paid to NRFC	9,459.19
Compromise penalty on under declaration of zero-rated sales	6,250.00
Total Deductions	**₱3,698,793.33**
AMOUNT APPROVED FOR VAT REFUND	**₱7,601,215.22**

[155] Exhibit "P-9"/Exhibit "R-4", supra at note 17.
[156] BIR Records, Folder 2, p. 521.

Regarding the other portion of input VAT, *i.e.*, ₱8,834,370.14[157], which respondent found to be properly substantiated and compliant with the invoicing requirements under Section 113(A) of the NIRC of 1997, as amended, *per* VAT Refund Notice[158], this amount is not disputed and has not been raised as an issue by the parties.

It bears noting that in reviewing administrative decisions, the reviewing court cannot re-examine or weigh once more the factual basis and sufficiency of evidence submitted before the administrative body and substitute its own judgment for that of said body.[159] The general rule is that—courts will not disturb on appeal the factual findings of administrative agencies acting within the parameters of their own competence so long as such findings are supported by substantial evidence.[160]

Thus, what is left to be resolved is whether respondent erred in disallowing the input VAT of ₱2,768,348.41.

Petitioner submitted invoices and/or official receipts (**ORs**) for the following disputed disallowances made by respondent:

Particulars	**Amount**
a. Violations of the invoicing requirements	₱63,515.83
b. Disallowed input VAT from reimbursed charges	2,698,457.58
c. Output VAT on proceeds from disposal of capital assets	6,375.00
Total	**₱2,768,348.41**

The Court shall now assess whether petitioner's pieces of evidence meet the ***1st condition.***

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157 Total Available Input VAT of ₱12,463,887.01 *less* exceptions noted related to the invoicing requirements (*i.e.*, ₱534,681.77, ₱53,201.13, ₱2,698,457.58 and ₱343,176.39).

158 Exhibit "P-9", supra at note 17.

159 See *Maynilad Water Services, Inc. v. The Secretary of the Department of Environment and Natural Resources (DENR), et al.*, G.R. No. 202897, 06 August 2019.

160 *Substantial evidence* is more than a mere scintilla. It means such relevant evidence as a reasonable mind might make accept as adequate to support a conclusion. See *Protector's Services Inc. v. Court of Appeals, et al.*, G.R. No. 118176, 12 April 2000; *Gelmart Industries (Phils.), Inc. v. Hon. Vicente Leogardo Jr., et al.*, G.R. No. 70544, 05 November 1987; *Ang Tibay, et al. v. The Court of Industrial Relations, et al*, G.R. No. L-46496, 27 February 1940.

a. Disallowance of ₱63,515.83 input VAT due to violations of the invoicing requirements

Per ICPA Report, petitioner sufficiently complied with the invoicing requirements, to wit:[161]

Exhibit	Description	Total
"P-24-V" ("P-24-V-1" to "P-24-V-270")	Domestic purchase of goods or service properly substantiated by VAT Invoices/VAT ORs which complied with the invoicing requirements	₱57,984.00
"P-24-W" ("P-24-W-1" to "P-24-W-3")	Domestic purchase of goods or service below ₱1,000.00 supported by VAT Invoices/VAT ORs	218.13
"P-24-X" ("P-24-X-1" to "P-24-X-17")	Domestic purchase of goods or service supported by VAT Invoices/VAT ORs with alterations but countersigned by suppliers authorized representative of the supplier. Certification of authorized representative of the suppliers were marked as Exhibit "P-24-T" (Exhibit "P-24-T-1" to "P-24-T-121").	5,313.70
Total Input Tax Valid for Claiming Refund or Tax Credit on Violation of Invoicing Requirements		**₱63,515.83**

Thus, the foregoing invoices satisfy the *1st condition.*

b. Disallowance of ₱2,698,457.58 input VAT from reimbursed charges

A careful scrutiny of the invoices and/or ORs[162], and other pieces of evidence proffered by petitioner reveals that these reimbursed charges pertain to hauling, brokerage and shipping charges related to

161 Par. 8.a, Review of Petitioner's Disallowed Input Tax Credits, ICPA Report, Exhibit "P-24", supra at note 47, p. 489.

162 Exhibits "P-24-Y-1" to "P-24-Y-166", "P-24-Z-1" to "P-24-Z-58", "P-24-AA-1" to "P-24-AA-15", "P-24-AB-1" to "P-24-AB-441", "P-24-AC-1" to "P-24-AC-14", "P-24-AD-1" to "P-24-AD-2", USB.

the goods imported by petitioner from SWS that were initially paid for by petitioner. These were subsequently reimbursed by SWS as shown in petitioner's Schedule of Zero-Rated Sales (Goods)[163] under the item "Other Receivable Credited to PKI". Considering that these were reimbursed by SWS, these expenses could not be considered *paid for* by petitioner. It is also worth noting that petitioner does not even recognize the reimbursement as income or receipt. Consequently, petitioner cannot simultaneously receive reimbursement for the amount it advanced (on the premise that these were not really its expenses) and applied for refund of the related input VAT as if these were really incurred by petitioner.

Based on the foregoing, the Court finds the disallowance of ₱2,698,457.58 input VAT from reimbursed charges proper.

c. *Output VAT on proceeds from disposal of capital assets of ₱6,375.00*

As to the disallowed output VAT on proceeds from disposal of capital assets amounting to ₱6,375.00, petitioner contends that the amount of ₱53,125.01, which was derived by respondent from its "Gain on Sale of Fixed Assets", was already recognized and included as deductible amount in its VAT refund application and that the said amount consists of the following:[164]

Particulars	Net of VAT	VAT
Sale of fixed asset	₱52,232.15	₱6,267.86
Sale of refrigerator	892.86	107.14
Total	**₱53,125.01**	**₱6,375.00**

A scrutiny of the records indeed shows that the proceeds from disposal of capital assets were properly supported by Sales Invoice Nos. 2513[165] and 2514[166], as well as Collection Receipt Nos. 5361[167] and 5391[168],

163 Exhibit "P-24-R", supra at note 106.
164 Pars. 23-29, Arguments/Discussion, Petitioner's Memorandum, Division Docket, Volume II, pp. 721-724; Par. 8.c., Exhibit "P-24", Division Docket, Volume II, pp. 491-492.
165 Exhibit "P-11", id., p. 620; Exhibit "P-24-U-21", USB.
166 Exhibit "P-14", id., p. 623; Exhibit "P-24-U-22", USB.
167 Exhibit "P-13", id., p. 622.
168 Exhibit "P-17", id., p. 626.

and were included in petitioner's Schedule of Taxable Sales[169], the total amount for which is reported in petitioner's amended Quarterly VAT Return for the 2nd quarter of FY ending 31 March 2019.[170] Thus, the said disallowance is not proper.

Thus, for purposes of determining the total available valid and substantiated input VAT (in relation to the ***1st condition***), respondent's computation must be modified as follows:

Total Available Input VAT		**₱12,463,887.01**
Deductions:		
Violations of the invoicing requirements	₱534,681.77	
Big-ticket disallowances	53,201.13	
Disallowed input tax from reimbursed charges	2,698,457.58	
Under-applied input tax which was unsupported and not deducted in QVRs	343,176.39	
Output VAT on proceeds from disposal of capital assets	24,478.35	
Output tax assessed on other income	29,088.92	
Final Withholding VAT on royalty fees paid to NRFC	9,459.19	
Compromise penalty on under declaration of zero-rated sales	6,250.00	
Total Deductions	**₱3,698,793.33**	
Less: Adjustments		
Properly supported input tax	63,515.83	
Proceeds from disposal of capital assets already subjected to output tax	6,375.00	
Adjusted Total Deductions	**₱69,890.83**	**3,628,902.50**
TOTAL AVAILABLE INPUT VAT		**₱8,834,984.51**

Pursuant to the ***2nd condition***, 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 valid input taxes of ₱8,834,984.51 shall be allocated proportionately on the basis of sales volume, as follows:

	Amount		**Allocation Factor**	**Allocated Input VAT (*per* VAT Return)**		**Allocated *Valid* Input VAT**	
	[a]		*[c = a ÷ b]*	*[e= c x d]*		*[h= c x g]*	
VATable Sales/Receipts	₱6,839,183.93		0.28%	34,898.88		₱24,737.96	
Valid Zero-Rated Sales/Receipts	1,531,517,301.40		62.62%	12,428,988.13		5,532,467.30	

[169] Exhibit "P-18", id., p. 627; Exhibit "P-24-L", USB.

[170] Line 15A, Exhibit "P-19", supra at note 95, p. 628; Line 15A, Exhibit "P-24-G", USB.

	Amount		Allocation Factor	Allocated Input VAT (*per* VAT Return)		Allocated *Valid* Input VAT	
	[a]		*[c = a ÷ b]*	*[e= c x d]*		*[h= c x g]*	
Invalid Zero-Rated Sales/Receipts	907,430,907.60		37.10%			3,277,779.25	
Total Adjusted Sales	**₱2,445,787,392.93**[171]	*[b]*	**100.00%**	**₱12,463,887.01**	*[d]*	**₱8,834,984.51**	*[g]*

In *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue*[172] *(**Chevron**)*, the Supreme Court ruled that:

> ...
>
> ... [T]he input tax attributable to zero-rated sales may, at the option of the VAT-registered taxpayer, be: (1) **charged against output tax from regular 12% VAT-able sales, and any unutilized or "excess" input tax may be claimed for refund or the issuance of tax credit certificate; or (2) claimed for refund or tax credit in its entirety.** It must be stressed that **the remedies of charging the input tax against the output tax and applying for a refund or tax credit are alternative and cumulative.** Furthermore, **the option is vested with the taxpayer-claimant. It goes without saying that the CTA, and even the Court may not, on its own, deduct the input tax attributable to zero-rated sales from the output tax derived from the regular twelve percent (12%) VAT-able sales first and use the resultant amount as the basis in computing the allowable amount for refund.** The courts cannot condition the refund of input taxes allocable to zero-rated sales on the existence of "excess" creditable input taxes, which includes the input taxes carried over from the previous periods, from the output taxes. These procedures find no basis in law and jurisprudence.
>
> ...

Indubitably, with respect to its input taxes attributable to zero-rated sales, it is the taxpayer (and not the Court) who is given the option to either:

1. Charge a portion of its input taxes attributable to zero-rated sales to the output taxes, and refund the balance, if any; or,

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171 Total Adjusted Sales *per* SLS (as determined by the ICPA) of ₱2,319,328,935.84 *plus* noted undeclared zero-rated sales but not supported with zero-rated sales invoice of ₱126,458,457.09.

172 G.R. No. 215159, 05 July 2022; Citation omitted, emphasis in the original text and supplied.

2. Refund all of the input taxes attributable to zero-rated sales.

In the present case, petitioner is deemed to have chosen the first option. Petitioner's claimed input VAT attributable to zero-rated sales in the amount of ₱12,428,988.13 was partially applied against its reported output VAT liability to the extent of ₱785,803.19.[173] As such, only the excess amount of ₱11,300,008.55 is being claimed for refund, as shown below:

Input Tax Allocated to VATable Sales		₱34,898.88
Input Tax Allocated to Zero-Rated Sales		12,428,988.13
Total Input Tax *per* Return/SLP (July - September 2018)		**₱12,463,887.01**
Less: Output Tax Applied for the Period of Claim		820,702.07
Charged against Input Tax Allocated to VATable sales	₱34,898.88	
Charged against Input Tax Allocated to Zero-Rated Sales	785,803.19	
Net Input Tax Available for Refund		**₱11,643,184.94**
Less: Input VAT Not Applied for Refund by Petitioner		343,176.39
Total Input Tax Applied for *per* BIR Form No. 1914		**₱11,300,008.55**

Following the same computation, the amount to be charged against input VAT allocated to zero-rated sales of ₱785,803.19 or the "Output VAT Still Due" must be applied against the input VAT allocated to valid zero-rated sales, as determined by the Court:

Valid Input VAT Allocated to Total Zero-Rated Sales/Receipts	₱5,532,467.30
Less: Output VAT Still Due	785,803.19
Refundable Amount	**₱4,746,664.11**

As to using the Allocated Input VAT to VATable Sales *per* VAT Return instead of the Allocated ***Valid*** Input VAT to VATable Sales, the case of *Chevron* is instructive, to wit:

[173] Output VAT of ₱820,702.07 *less* the input VAT allocated to VATable sales of ₱34,898.88. The excess is deemed to be applied against the input VAT allocated to zero-rated sales.

> ...
>
> **Next, the substantiation of input taxes that can be <u>credited against the output tax</u> is an issue relevant to the assessment for potential deficiency output VAT liability.** In turn, it is not for the CTA and the Court to determine and rule in a judicial claim for refund under Section 112 (A) of the Tax Code that the taxpayer had insufficient or unsubstantiated input taxes to cover its output tax liability. This is for the BIR to determine in an administrative proceeding for assessment of deficiency taxes.[174]
>
> ...

It must be noted that **what can be credited against the output tax** (aside from the portion of input VAT allocable to zero-rated sales charged against output tax) are those input VAT directly attributable and/or allocable to VATable sales. Thus, the same should not be reduced by this Court without a prior determination from the BIR. Clearly, the Court is precluded from reducing the amount of input VAT allocated to VATable sales since it is tantamount to a **judicial assessment**.

However, due to the BIR's previous partial approval of petitioner's claim to the extent of ₱7,601,215.22, petitioner is no longer entitled to any additional grant of refund, as shown below:

Refundable Amount	₱4,746,664.11
Less: Amount partially granted by the BIR	7,601,215.22
Additional/(Excess) Refundable Amount	**₱ (2,854,551.11)**

On a final note, the Court reiterates its consistent ruling that actions for tax refund or credit, as in the instant 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.[175] 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.[176] 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.[177]

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174 Supra at note 172; Emphasis and underscoring supplied.

175 *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 159490, 18 February 2008.

176 *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222428, 19 February 2018.

177 Id.

Thus, in view of petitioner's failure to prove, to the satisfaction of the Court, its entitlement to the ***additional*** grant of tax refund or issuance of tax credit of input VAT in the amount of ₱2,768,348.41, the Court is constrained to deny the same.

WHEREFORE, the foregoing premises considered, the Petition for Review filed by petitioner Pilipinas Kyohritsu, Inc. on 04 February 2021 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
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.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Special 2nd Division Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Special 2nd Division Acting 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