REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

PHILIPPINE MINING SERVICE CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. **10494**

Members:

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

Promulgated:
JUL 08 2024

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DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Philippine Mining Service Corporation (**petitioner/PMSC**) pursuant to Section 3(a)[2], Rule 8 in relation to Section 3(a)(2)[3], Rule 4 of the Revised Rules

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[1] Filed on 17 May 2021, Division Docket, pp. 7-21.

[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 Divisions.* – The Court in Division shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
...

of the Court of Tax Appeals (**RRCTA**). It seeks the refund or issuance of tax credit certificate (**TCC**) in the total amount of ₱104,888,177.67, representing excess and unutilized input Value-Added Tax (**VAT**) on purchases of goods and services attributable to zero-rated sales for the first (1st) to fourth (4th) quarters of calendar year (**CY**) 2019.

PARTIES OF THE CASE

Petitioner is a domestic corporation duly organized and existing under Philippine laws with registered address at 5th floor, Mercedes-Benz Tower, Mindanao Avenue, Cebu Business Park, Barrio Luz, Cebu City.[4] It is engaged principally to enter into a service contract with Dolomite Mining Corporation in accordance with law for financial, technical, management and other forms of assistance relative to the exploration, development, exploitation or utilization of the dolomite mining claims of said corporation in the Province of Cebu, including the marketing of such dolomite and its products, and for this purpose to the extent permitted by law to import, purchase, install, construct and/or operate such mills, factories, building, machinery, equipment, structures and works of all kinds, facilities, tools, ships, vessels, lighters, submarines, docks, piers, warehouses, storage and shipping facilities, instruments and apparatus and other properties as may be necessary or convenient for carrying on the business of the corporation, and to pay or receive payment for the foregoing either on cash or in stock, bonds, debentures or other securities.[5] Petitioner is also registered with the Bureau of Internal Revenue (**BIR**) as a VAT taxpayer with Taxpayer Identification No. (**TIN**) 000-136-814-000 as evidenced by Certificate of Registration (**COR**) No. OCN 2RC0001045342.[6] It has two (2) registered branches: one in Pugalo Alcoy, Cebu, with TIN 000-136-814-002[7]; and, one in West Canayaon Garcia-Hernandez, Bohol, with TIN 000-136-814-003.[8]

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(2) Inaction by 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, where the National Internal Revenue Code or other applicable law provides a specific period for action...*Provided, still further*, that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code[.]

4 See Amended Articles of Incorporation, Exhibit "P-1-A", Division Docket, pp. 413-427.
5 Id.
6 Exhibit "P-2", id., p. 428.
7 Exhibit "P-2-A", id., p. 429.
8 Exhibit "P-2-B", id., p. 430.

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue (**respondent/CIR**) who is tasked to assess and collect all national internal revenue taxes, fees, and charges, and enforce all forfeitures, penalties, and fines connected therewith, with authority, among others, to decide, approve, and grant tax credits and/or refunds of unutilized/excess input VAT. Respondent holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.[9]

FACTS OF THE CASE

For CY 2019, petitioner filed its Quarterly VAT Returns (BIR Form No. 2550-Q) through the BIR's Electronic Filing and Payment System (**eFPS**) on the following dates:

Return	Date filed
Amended VAT Return for the First Quarter[10]	September 23, 2019
Amended VAT Return for the Second Quarter[11]	September 15, 2019
Amended VAT Return for the Third Quarter[12]	October 30, 2019
Amended VAT Return for the Fourth Quarter[13]	January 27, 2020

Petitioner avers that it incurred input VAT in the aggregate amount of ₱141,463,505.78 for the four (4) quarters of CY 2019 attributable to zero-rated sales and sales subject to VAT. The breakdown[14] is as follows:

Input VAT	Amount
Input VAT from local purchases	₱128,317,807.39
Input VAT from interest on loans	4,574,582.39
Input VAT from importation	8,571,116
Total Input VAT	₱141,463,505.78

Petitioner explains that out of its total sales of ₱1,583,231,247.24[15], 80.76% is zero-rated sales of goods to nonresident foreign corporations (**NRFC**) and Philippine Economic Zone Authority (**PEZA**) or Board of

9 Paragraph 2, Admitted Facts, Joint Stipulation of Facts and Issues (JSFI), id., p. 315.
10 Exhibit "P-10-4", USB. w
11 Exhibit "P-10-9", id.
12 Exhibit "P-10-13", id.
13 Exhibit "P-10-18", id.
14 Table lifted from Petition for Review, Division Docket, p. 9.
15 Amount lifted from Petition for Review, id. The above amount of total sales exempt sales of ₱1,300,000.00

Investment (**BOI**) registered entities, while the remaining 19.24% is sales subject to VAT.[16] With the foregoing ratio, petitioner allocated its total input VAT and deducted the remaining output VAT payable to determine its claim for refund[17]:

Total Input VAT for CY 2019		₱ 141,463,505.78[18]
Percentage of sales attributable to zero-rated sales		80.76%
Input VAT attributable to zero-rated sales		114,245,927.27
Less: Output VAT payable		(9,357,749.60)
Total Output VAT	₱36,575,328.11	
Less: Input VAT attributable to sales subject to VAT	(27,217,578.51)	
Total Input VAT	**₱141,463,505.78**	**₱104,888,177.67**

On 17 December 2020, petitioner filed with the BIR its Application for Tax Credits or Refunds (BIR Form No. 1914)[19], an Affidavit of Breakdown of Claim for VAT Refund[20], and the Revised Checklist of Mandatory Requirements on Claims for VAT Refund (**Checklist**).[21] It requested for the refund of its excess and unutilized input VAT for CY 2019 in the total amount of ₱104,888,177.67. On the same day, respondent issued a Tax Verification Notice with No. TVN2018 00143000[22] authorizing Revenue Officers (**ROs**) Marjorie C. Dioso (**Dioso**) and Michele J. Alonzo-Bucayu (**Alonzo-Bucayu**) to verify the supporting documents to petitioner's claim for VAT refund.

Within the 90-day period to decide on the refund claim, respondent issued the VAT Refund Notice dated 15 February 2021[23] (with the attached Annex "A") denying the entire claim for lack of factual and legal basis.

Dissatisfied, petitioner filed before this Court the instant Petition for Review[24] on 17 May 2021. On 22 July 2021, respondent filed his or her Answer[25] wherein he or she alleged that the judicial appeal must be

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16 Percentage lifted from Petition for Review, id.
17 Table is lifted from Petition for Review, id., p. 10.
18 Petitioner excluded the input VAT on Domestic Purchases of Capital Goods not exceeding ₱1 million amounting to ₱750,537.39.
19 Exhibit "P-3", Division Docket, p. 431.
20 Exhibit "P-3-A", id., pp. 432-433.
21 Exhibit "P-3-B", id., p. 434.
22 Exhibit "P-3-C", id., p. 435.
23 Exhibit "P-4", id., pp. 436-472.
24 Supra at note 1.
25 Division Docket, pp. 182-190.

denied on the ground that petitioner failed to fully substantiate its refund claim.

The Pre-Trial Conference was then set for 29 September 2021[26] and was later moved to 29 November 2021[27] and prior thereto, respondent filed his or her Pre-Trial Brief on 14 October 2021.[28] On the other hand, petitioner filed its Pre-Trial Brief on 22 November 2021.[29]

During the Pre-Trial Conference, the Court granted both parties thirty (30) days within which to file their Joint Stipulation of Facts and Issues (**JSFI**).[30] On 11 January 2022, the parties filed their JSFI[31] through registered mail. Approving the same and setting the hearing dates, the Court issued its Pre-Trial Order dated 03 March 2022.[32]

In the trial that ensued subsequently, petitioner presented its witnesses, namely: (1) Ian John M. Guillena (**Guillena**), the Accounting Department Manager; (2) June Sun M. Pugoy (**Pugoy**), the Accounting Section Manager; and, (3) Katherine O. Constantino (**Constantino**), the Court-commissioned Independent Certified Public Accountant (**ICPA**).

On the witness stand, Guillena identified his Judicial Affidavit[33], where he declared essentially that: (1) petitioner's new address as indicated in the COR is 5th floor, Mercedes-Benz Tower, Mindanao Avenue, Cebu Business Park, Barrio Luz, Cebu City; (2) there are few documents showing petitioner's previous address at Rm. 805 Keppel Ctr., Samar Loop cor. Cardinal Rosales Ave., Cebu Business Park, Cebu City as reflected in its old COR which was surrendered to the BIR; (3) as Accounting Department Manager, he oversees petitioner's tax matters such as refunds; (4) petitioner incurred input VAT attributable to its zero-rated sales arising from its sales to PEZA-registered entities (as evidenced by sales invoices, bill of ladings, credit memos) and sales to NRFC (as evidenced by sales agreements); (5) with the excess input VAT, petitioner filed an administrative claim for refund for TY 2019 on 17 December 2020 with the BIR VAT Credit Audit Division (**VCAD**);

26 See Notice of Pre-Trial Conference, id., pp. 192-193.
27 See Notice of Resetting, id., p. 194.
28 Id., pp. 195-198.
29 Id., pp. 202-218.
30 See Order dated 29 November 2021, id., p. 220.
31 Id., pp. 315-319.
32 Id., pp. 323-326.
33 See Judicial Affidavit of Ian John M. Guillena, Exhibit "P-5", id., pp. 82-90.

(6) however, BIR denied the whole claim for refund; and **(7)** due to the denial, petitioner filed its judicial appeal before this Court.

In his cross-examination[34], Guillena declared that although petitioner submitted the complete requirements as required in the checklist, respondent still denied the refund claim. No redirect examination was conducted.

As for Pugoy, he testified through his Judicial Affidavit[35] that as the Accounting Section Manager: (1) he is familiar with the circumstances of the case since he prepares and reviews the documents related to petitioner's tax matters such as refunds; (2) petitioner is engaged in both VATable and zero-rated sales; (3) petitioner's total taxable sales for TY 2019 were ₱1,584,531,247.24, comprised of 80.76% of zero-rated sales (amounting to ₱1,279,736,846.23) and 19.24% of taxable sales (amounting to ₱304,794,401.01 with output taxes of ₱36,575,328.12); (4) the total input tax incurred in TY 2019 amounted to ₱141,463,505.78 (which when ratably allocated between zero-rated sales and taxable sales amounts to ₱114,245,927.27 and ₱27,217,578.51 respectively); (5) after deducting the input taxes (attributable to taxable sales) from the output taxes, petitioner still had an output tax liability of ₱9,357,749.60; **(6)** petitioner deducted the said output tax liability from the input tax attributable to zero-rated sales and the remaining amount of ₱104,888,177.67 was claimed for VAT refund; (7) the claimed amount was deducted from the 2nd quarter VAT return of TY 2020, thus it was not carried over and unutilized in the succeeding quarters; **(8)** petitioner submitted complete documents to substantiate its claim as enumerated in Annex A of Revenue Memorandum Circular (**RMC**) No. 54-2014[36]; (9) based on the letter, respondent allegedly found: (*i*) insertions and alterations in the documents submitted; and, (*ii*) discrepancies in the bank statements, statement of accounts (**SOAs**) and other documents, which led to the denial of the claim; (10) however, contrary to respondent's findings, there are no alterations or insertions in the documents; and, (11) for the alleged discrepancies, petitioner submitted to the BIR the complete set of bank statements.

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34 TSN dated 21 February 2022, pp. 8-9.
35 See Judicial Affidavit of June Sun M. Pugoy, Exhibit "P-6", Division Docket, pp. 151-161.
36 Clarifying Issues Relative to the Application for Value Added Tax (VAT) Refund/Credit under Section 112 of the Tax Code, as amended.

During his cross-examination[37], Pugoy stated that petitioner submitted documents without alterations. No redirect examination was conducted.

Last to assume the witness stand is Constantino where she testified in her Judicial Affidavit[38] that: (1) she is the Court-commissioned ICPA; (2) as such, she prepared the amended ICPA Report[39] (which she submitted to the Court on 22 June 2022) enclosing the audit procedures performed and the findings of the verification, and a USB[40] containing the scanned copies of the documents examined; (3) petitioner only provided the computer print-out of the copy of the letter from PEZA certifying and confirming its VAT zero-rating; (4) petitioner failed to provide any certification from the BOI; and, (5) should petitioner provide the original certifications from PEZA and BOI, she recommends the amount of ₱84,313,656.23 as VAT refund.

During cross-examination[41], Constantino confirmed that her recommendation for refund is anchored on whether petitioner could provide the originals of the PEZA and BOI Certifications. Responding to the Court's inquiry, Constantino corrected her Judicial Affidavit and changed the word "original" to "computer print-out" which she referred to in Answer No. 9 and Question No. 11.[42] No redirect examination was conducted.

On 30 September 2022, petitioner filed its Formal Offer of Evidence[43] (**FOE**) consisting of Exhibits "**P-1**" to "**P-34**", inclusive of sub-markings. Respondent interposed his or her objection on the admission of Exhibit "**P-40**" for being a scanned copy.[44] In the Resolution dated 22 November 2022[45], the Court admitted all exhibits except Exhibits "**P-32**" to "**P-32-5**"[46] and "**P-30**" to "**P-30-256**"[47] for failure of identification; and "**P-20-51173**"[48] for failure to locate the marked

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[37] TSN dated 21 February 2022, pp. 12-13.
[38] See Judicial Affidavit of Katherine O. Constantino (as Independent Certified Public Accountant), Exhibit "P-41", Division Docket, pp. 353-365.
[39] Exhibit "P-39".
[40] Exhibit "P-39-1".
[41] TSN dated 31 August 2022, pp. 9-11.
[42] Id., pp. 12-13.
[43] Division Docket, pp. 374-411.
[44] See Comment (Re: Formal Offer of Evidence), id., pp. 474-476.
[45] Id., pp. 479-481.
[46] Offered as Cash Receipts Journal Vouchers, and Credit Memos and Debit Memos.
[47] Offered as Mate's Receipt.
[48] Offered as Sales Invoices for CY 2019.

document. After petitioner filed its Motion for Partial Reconsideration[49] (**MPR**), and without respondent's comment[50], the Court admitted the denied exhibits.[51]

Later, respondent proceeded to present his or her lone witness, RO Orlando B. Torre (**Torre**) who testified through his Judicial Affidavit[52] that: (1) petitioner filed an administrative claim for refund and submitted documents in accordance with the Checklist; (2) based on the Memorandum Report dated 15 February 2021[53], the entire claim was denied mostly because petitioner allegedly failed to substantiate it; and, (3) petitioner was notified of the denial of its refund claim. No cross-examination was conducted.[54]

Still later, or on 02 March 2022, respondent filed his or her FOE.[55] Over petitioner's objections[56], the Court admitted all the offered exhibits.[57] The Court then directed the parties to file their respective memoranda.[58] On 02 May 2023, respondent filed his or her Memorandum[59] while petitioner filed its Memorandum[60] on 24 May 2023. Accordingly, on 26 May 2023, the Court considered the case submitted for decision.[61]

<u>ISSUE</u>

As culled from the JSFI[62], the main issue for this Court's determination is —

49 See Motion for Partial Reconsideration (of the Resolution dated 22 November 2022), Division Docket, pp. 482-485.
50 See Records Verification dated 27 January 2023, id., p. 490.
51 See Resolution dated 08 February 2023, id., pp. 492-493.
52 See Judicial Affidavit of Orlando B. Torre, Exhibit "R-6", id., pp. 334-339.
53 BIR Records, pp. 493-495.
54 See Order dated 22 February 2023, Division Docket, pp. 494-495.
55 Id., pp. 499-502.
56 See Comment/Opposition (to Respondent's Formal Offer of Evidence dated 28 February 2023), id., pp. 504-507.
57 See Resolution dated 18 April 2023, id., pp. 510-511.
58 Id.
59 Id., pp. 512-519.
60 Id., pp. 521-564.
61 See Resolution dated 26 May 2023, id., p. 566.
62 Supra at note 31.

WHETHER PETITIONER PHILIPPINE MINING SERVICE CORPORATION IS ENTITLED TO A REFUND OR ISSUANCE OF A TAX CREDIT CERTIFICATE (TCC) IN THE AGGREGATE AMOUNT OF ₱104,888,177.67, REPRESENTING ITS EXCESS AND UNUTILIZED INPUT VALUE-ADDED TAX (VAT) FOR THE FIRST TO FOURTH QUARTERS OF CALENDAR YEAR (CY) 2019 ATTRIBUTABLE TO ZERO-RATED SALES.

ARGUMENTS

Summarizing several jurisprudences[63] in support of its instant petition, it enumerates the following requirements for a claim for input VAT refund/TCC (attributable to zero-rated sales) to prosper, thus:

...

1. The refund claim is filed with BIR within two (2) years after the close of taxable quarter when the sales were made;
2. In case of full or partial denial of the refund claim rendered within a period of ninety (90) days from the date of submission of the ORs or invoices and other documents in support of the application, the judicial claim shall be filed with the Court within thirty (30) days from receipt of the decision;
3. The taxpayer is a VAT-registered person;
4. The taxpayer is engaged in zero-rated or effectively zero-rated sales;
5. For zero-rated sales under Sections 106(A)(2)(1) and (2); 106(B) and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with Bangko Sentral ng Pilipinas (**BSP**) rules and regulations;
6. The input taxes are due or paid;
7. The input taxes claimed are attributable to zero-rated or effectively zero-rated sales;
8. The input taxes have not been applied against output taxes during and in the succeeding quarters;

...

Petitioner maintains that, with its testimonial and documentary evidence, it was able to establish that it complied with all the aforementioned conditions.

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63 The enumeration came from the cases of *Tetra Pak Philippines, Inc. v. Commissioner of Internal Revenue*, CTA Case No. 10113, 23 November 2022; *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, 27 April 2007; *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182364, 03 August 2010; *Silicon Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 172378, 17 January 2011.

Petitioner also avers that the ICPA validated the zero-rated sales transactions and the supporting documents which are all reflected in the ICPA Report. Similarly, the ICPA verified the related input taxes on the zero-rated sales, thus recommending an estimate of ₱84 million for VAT refund. With the foregoing, respondent's disallowances due to insufficient documentation, unreadable documents, alterations without countersignatures and violation of invoicing requirements have no basis to stand on.

Lastly, petitioner asserts that cases before this Court are litigated *de novo*, thus this Court is not precluded from considering evidence even if not presented in the administrative level.

Expectedly, respondent debunks every ground that petitioner relies on in its pursuit of a refund. Contrary to petitioner's claim and relying on the Memorandum Report of 15 February 2021, respondent emphasizes on petitioner's failure to fully substantiate the refund sought. Moreover, respondent insists that this Court should confine itself on the findings of denial and only consider pieces of evidence which were submitted in the administrative level. Lastly, respondent points out that claims for refund are construed strictly against the taxpayer. With petitioner's failure to comply with the refund's documentary and evidentiary requirements, it must necessarily be denied.

RULING OF THE COURT

After a careful and thorough evaluation of the applicable laws, rules and regulations and the evidence presented by petitioner, the Court finds the instant petition partly meritorious.

Petitioner anchors its claim on Sections 110(B), 112(A) and (C) of the National Internal Revenue Code (**NIRC**) of 1997, as amended, which are all quoted hereunder:

> ...
> **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, 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 or Tax Credit of Input Taxes shall be Made.* — In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.

In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.[64]

...

[64] Italics in the original text.

In *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*[65] (**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 to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax."
>
> ...

Applying the foregoing principle, the Court will proceed to determine whether petitioner complied with the aforementioned requisites. Since the Court's jurisdiction over the instant case is material, We shall first determine the third (3^{rd}) requisite.

<u>THIRD (3^{RD}) REQUISITE:</u>
THE CLAIM MUST BE FILED WITHIN TWO (2) YEARS AFTER THE CLOSE OF THE TAXABLE QUARTER WHEN SUCH SALES ARE MADE.

In accordance with Section 112(A) and (C)[66] of the NIRC of 1997, as amended by Republic Act (**RA**) No. 10963 or *Tax Reform for Acceleration and Inclusion* (**TRAIN**), 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 are made.

Petitioner's present claim covers the 1^{st}, 2^{nd}, 3^{rd} and 4^{th} quarters of CY 2019. Counting two (2) years from the respective close of the said quarters, the last day for the filing of the administrative claim for the

65 G.R. No. 234445, 15 July 2020; Citations omitted.
66 Supra at p. 11.

said four (4) quarters, *vis-à-vis* the date of filing of the administrative claim by petitioner, pursuant to Section 112(A) of the NIRC of 1997, as amended, are shown below, *viz*:

Quarter (CY 2019)	Close of taxable quarter	Last day for filing an administrative claim	Date of filing of claim for refund
1st Quarter	31 March 2019	31 March 2021	17 December 2020[67]
2nd Quarter	30 June 2019	30 June 2021	
3rd Quarter	30 September 2019	30 September 2021	
4th Quarter	31 December 2019	31 December 2021	

Clearly, petitioner's administrative claim was timely filed.

As to the timeliness of petitioner's judicial claim, Section 112(C) of the NIRC of 1997, as amended, necessitates that it must have been filed within thirty (30) days from its receipt of respondent's decision or after the expiration of the ninety (90)-day period. Thus, from the filing of petitioner's administrative claim, respondent had 90 days to act on the said claim.

Relative thereto, Section 7(a)(1) and (2) of RA 1125[68], as amended by RA 9282[69], provides that CTA has exclusive appellate jurisdiction over decisions or inactions of CIR on refund cases:

> ...
>
> SEC. 7. *Jurisdiction*. – The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> (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 or other laws administered by the Bureau of Internal Revenue;

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67 Supra at notes 19, 20 and 21.

68 AN ACT CREATING THE COURT OF TAX APPEALS.

69 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

(2) **Inaction by the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, **where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial**[.][70]

...

Based on the foregoing, petitioner's administrative claim was timely filed on 17 December 2020. As such, respondent had 90 days from the said date or until 17 March 2021 to act on the said claim. Accordingly, respondent issued the VAT Refund Notice of 15 February 2021 which petitioner received on 01 March 2021. Counting 30 days from receipt thereof, petitioner had until 31 March 2021 to file the judicial claim.

However, within the period allowed by law to file its respective Petition for Review, the Supreme Court issued the following administrative circulars in view of the surge of cases of COVID-19 in the National Capital Judicial Region and nearby provinces which ordered courts to be physically closed, and the period of filing of pleadings and other court submissions to be suspended until 14 May 2021, to wit[71]:

Administrative Circular (AC) No.	**Issued on**	**Contents**
AC No. 14-2021	March 28, 2021	*Re: Extension of Filing Periods for Pleadings/Court Submissions for Courts in the National Capital Judicial Region and Nearby Provinces Placed under Enhanced Community Quarantine from March 29 to April 4, 2021.* "The filing periods of pleadings and other court submissions that fall during the period from March 29 to March 31, 2021 are hereby extended for three (3) calendar days, counted from April 5, 2021."
AC No. 15-2021	April 3, 2021	*"RE: Extension of the Physical Closure of Courts and the filing periods for pleadings and other court submissions in light of the further extension of the enhanced community quarantine from April 5 to April 11, 2021."* "The filing periods of pleadings and other court submissions that fell due or would fall due

[70] Italics in the original text and emphasis supplied.

[71] Table lifted from *Philippine Geothermal Production Company, Inc. v. Commissioner of Internal Revenue*, CTA EB Case Nos. 2455 & 2460, 09 January 2023.

		during the period beginning from March 29 to April 11, 2021 are hereby EXTENDED for seven (7) calendar days, counted from April 12, 2021. Accordingly, Administrative Circular No. 14-2021 is hereby modified in this respect."
AC No. 21-2021	April 10, 2021	*"RE: Extension of Physical Closure of Courts"* "ALL the courts and the judicial offices in the National Capital Region and the provinces of Bulacan, Cavite, Laguna, and Rizal (NCJR+) shall remain physically closed until April 18, 2021. The time for filing and service of pleadings and motions during this period is suspended and shall resume seven (7) calendar days counted from the first day of physical reopening of the relevant court."
AC No. 22-2021	April 14, 2021	*"RE: Physical Closure of Courts in Enhanced Community Quarantine and Modified Enhanced Community Quarantine Areas"* "The physical closure of courts in the areas of NCR among others is likewise extended to April 30, 2021. The time for filing and service of pleadings and motions during this period is suspended and shall resume seven (7) calendar days counted from the first day of physical reopening of the relevant court."
AC No. 29-2021	April 30, 2021	*"RE: Work arrangements in Courts on May 3-14, 2021"* "The time for filing and service of pleadings and motions during this period in these areas is suspended and shall resume after seven (7) calendar days counted from the first day of the physical reopening of the relevant court."
AC No. 33-2021	May 14, 2021	*"RE: Court operations starting May 17, 2021"* "All first and second level courts, and appellate collegiate courts (except the Supreme Court), and the judicial offices in these areas under GCQ shall be physically opened with a skeleton force of at least thirty percent (30%) to at most fifty percent (50%), beginning 17 May 2021 until further notice."

Based on the foregoing circulars, the courts reopened on 17 May 2021. Thus, counting seven (7) days therefrom, the deadline for the filing of the Petition for Review fell on 24 May 2021. Petitioner filed its Petition for Review on 17 May 2021[72], thus, the *3rd requisite* is satisfied.

72 Supra at note 1.

FIRST (1ST) REQUISITE:
PETITIONER MUST BE VALUE-ADDED TAX (VAT)-REGISTERED.

Indisputably, petitioner is a VAT-registered taxpayer with TIN 000-136-814-000, as evidenced by BIR COR No. OCN 2RC0001045342.[73] Also, it has two (2) registered branches as evidenced by BIR COR Nos. OCN 2RC0001566561[74] and OCN 2RC0000587843.[75]

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) and (3)[76], and 108(B)(1) and (2)[77] of the

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73 Supra at note 6.
74 Supra at note 7.
75 Supra at note 8.
76 **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);
...
(3) Sale of raw materials or packaging materials to a nonresident buyer for delivery to a resident local export-oriented enterprise to be used in manufacturing, processing, packing or repacking in the Philippines of the said buyer's goods and paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)[.]
...
77 **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);

NIRC of 1997, as amended, the acceptable foreign currency exchange proceeds must have been duly accounted for in accordance with Bangko Sentral ng Pilipinas (**BSP**) rules and regulations.

As reflected in the 1st to 4th Amended Quarterly VAT Returns for CY 2019[78], petitioner reported its total sales amounting to ₱1,584,531,247.24 which is comprised of VATable sales, zero-rated sales, and exempt sales:

Quarter	Total Sales	Vatable	Zero-rated	Exempt
1st	₱437,242,862.64	₱69,712,925.27	₱367,529,937.37	-
2nd	386,457,757.42	67,672,494.70	318,785,262.72	-
3rd	411,384,230.88	88,183,728.60	321,900,502.28	₱1,300,000.00
4th	349,446,396.30	79,225,252.44	270,221,143.86	-
Total	**₱1,584,531,247.24**	**₱304,794,401.01**	**₱1,278,436,846.23**	**₱1,300,000.00**

Of the ₱1,278,436,846.23 that petitioner claims to have been derived from its zero-rated sales, ₱638,235,837.84 consisted of direct exports, or sales of goods to NRFCs; while the remaining ₱640,201,009.19[79] is composed of indirect exports, or sales of goods to PEZA-registered and BOI-registered entities. As summarized in the amended ICPA Report[80]: 8

	1st quarter of CY 2019 covering January to March 2019	2nd quarter of CY 2019 covering April to May 2019	3rd quarter of CY 2019 covering July to September 2019	4th quarter of CY 2019 covering October to December 2019	Total
Zero-rated sales per Amended Quarterly VAT returns for the CY 2019 (*Exhibits P-10-4, P-10-9, P-10-13 and P-10-18*)	₱367,529,937.37	₱318,785,262.72	₱321,900,502.28	₱270,221,143.86	₱1,278,436,846.23
Zero-rated sales per Schedule of Sales for the CY 2019 a. Export Sales – Schedule of Zero-rated Sales of Goods - Direct Export Sales (*Exhibit P-11*)	202,338,445.40	125,234,195.36	149,548,779.60	161,114,416.68	**638,235,837.04**

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(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)[.]

...

78 Supra at notes 10, 11, 12 and 13.

79 With an insignificant discrepancy of ₱0.80.

80 Table lifted from amended ICPA Report, p. 13, Exhibit "P-39", USB.

b. Sale to PEZA and BOI registered customers – Schedule of Zero-rated Sales of Goods - Indirect Export Sales (*Exhibit P-11-1*)	165,191,491.97	193,551,067.36	172,351,722.68	109,106,727.18	**640,201,009.19**
Subtotal	367,529,937.37	318,785,262.72	321,900,502.28	270,221,143.86	1,278,436,846.23
Difference	₱–	₱–	₱–	₱–	₱–

Thus, based on the breakdown, petitioner has two (2) 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; and,

(ii) Sale to 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 (₱638,235,837.84)

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:

(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)[.][81]

...

[81] Italics in the original text and emphasis supplied.

Based on the foregoing, in order for an export sale of goods to qualify as zero-rated under the said provision, 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 entity.

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[82], as amended, respectively provide:

<u>NIRC of 1997, as amended</u>

...

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

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

(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);

82 Consolidated Value-Added Tax Regulations of 2005.

(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[.][83]

...

RR No. 16-2005

...

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

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

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

...

Only VAT-registered persons are required to print their TIN followed by the word 'VAT' in their invoice 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) *Information contained in VAT invoice or VAT official receipt.* — The following information shall be indicated in VAT invoice or VAT official receipt:

(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:

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83 Italics in the original text, emphasis and underscoring supplied.

> (c) If the sale is subject to zero percent (0%) VAT, the term 'zero-rated sale' shall be written or printed prominently on the invoice or receipt[.][84]
>
> ...

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 or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices, 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, 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.[85]
>
> ...

To summarize the foregoing requirements, the following information should be reflected in the VAT invoice:

1. A statement that the seller is a VAT-registered person, followed by its TIN;

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84 Italics in the original text and underscoring supplied.

85 Italics in the original text and underscoring supplied.

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: (a) the amount of tax shall be shown as a separate item in the invoice or receipt; (b) if the sale is exempt from VAT, the term "VAT exempt sale" shall be written or printed prominently on the invoice or receipt; (c) if the sale is subject to zero percent (0%) VAT, the term "zero-rated sale" shall be written or printed prominently on the invoice or receipt; or, (d) if the sale involves goods, properties or services, some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the breakdown of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale;

3. In the case of sales in the amount of one thousand pesos (₱1,000.00) or more, where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and TIN of the purchaser, customer or client;

4. Date of transaction; and,

5. Quantity, unit cost and description of merchandise or nature of service.

Corollarily, Revenue Memorandum Circular (**RMC**) No. 42-03[86] expressly provides that a taxpayer's failure to comply with the invoicing requirements will result in the disallowance of the claim for input tax, as follows:

...

Q-13: *Should penalty be imposed on TCC application for failure of claimant to comply with certain* ***invoicing requirements****, (e.g., sales invoices must bear the TIN of the seller)?*

86 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.

> A-13: Failure by the supplier to comply with the invoicing requirements on the documents supporting the sale of goods and services will result to the disallowance of the claim for input tax by the purchaser-claimant.
>
> If the claim for refund/TCC is based **on the existence of zero-rated sales by the taxpayer** but **it fails to comply with the invoicing requirements in the issuance of sales invoices (e.g., failure to indicate the TIN), its claim for tax credit/refund of VAT on its purchases shall be <u>denied</u>** considering that the invoice it is issuing to its customers does not depict its being a VAT-registered taxpayer whose sales are classified as zero-rated sales. Nonetheless, this treatment is without prejudice to the right of the taxpayer to charge the input taxes to the appropriate expense account or asset account subject to depreciation, whichever is applicable. Moreover, the case shall be referred by the processing office to the concerned BIR office for verification of other tax liabilities of the taxpayer.[87]
>
> ...

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; (2) bill of lading or airway bill as proof of actual shipment of goods from the Philippines to a foreign country; and, (3) documents showing inward remittances as proof that the sale was paid for in acceptable foreign currency in accordance with the rules and regulations of the BSP.

In the VAT Refund Notice, respondent averred that the following direct sales must be disallowed[88]:

1. No remittance – ₱3,426,769.73;
2. Bill of Lading not in customer's name – ₱364,883,742.97; and,
3. Customer is not the remitter – ₱10,568,156.25.

The Court shall now evaluate whether it shall affirm respondent's findings and observations *vis-à-vis* petitioner's pieces of evidence.

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87 Italics in the original text, emphasis and underscoring supplied.

88 See Annex "A.5", Part I, VAT Refund Notice, Exhibit "P-4", Division Docket, p. 472.

1. DIRECT SALES WITHOUT REMITTANCE – ₱3,426,769.73

The ICPA observed that the direct sales without remittance pertained to dispatch amounts that shall be paid by the customer to petitioner *per* day for laytime saved in the delivery of the goods or *pro rata* offset against penalty fees for delays in the delivery of the goods based on presentation of laytime statements by petitioner. These sales adjustments are evidenced by supporting debit memos and bank transactions history which the ICPA verified. However, these remittances were not collected in 2019, or the subject period claim.[89] Thus, We upheld respondent's disallowance of ₱3,426,769.73.[90]

2. DIRECT SALES WITH BILL OF LADING NOT IN CUSTOMER'S NAME – ₱364,883,742.97

The ICPA noted that respondent disallowed direct sales with bill of lading not in customer's name in the amount of ₱364,883,742.97. However, the amount could not be verified or traced in BIR's notices and annexes. Notwithstanding, the ICPA conducted its own audit and found that the following export sales with bills of lading not in customer's name amounted to ₱461,464,926.30:[91]

Description	Annex Reference	1st Quarter Zero-rated sales	2nd Quarter Zero-rated sales	3rd Quarter Zero-rated sales	4th Quarter Zero-rated sales	Total
Zero-rated sales pertaining to export sales properly supported by original zero-rated Shipping Invoice and bank certification of inward remittances. This is further supported by original Bill of Lading not in the name of the customer.	Annex 2-1Q-a Annex 2-2Q-a Annex 2-3Q-a Annex 2-4Q-a	₱134,438,069.71	₱94,094,996.90	₱103,350,536.96	₱114,441,379.93	₱ 446,324,983.50

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89 See amended ICPA Report, p. 69, Exhibit "P-39", USB.

90

Annex Reference	Amount
Annex 2-2Q-e	₱973,858.14
Annex 2-2Q-d	1,125,121.10
Annex 2-3Q-d	755,874.27
Annex 2-4Q-e	571,916.22
Total	**₱3,426,769.73**

91 Table extracted from the amended ICPA Report, p. 14, Exhibit "P-39", USB.

Zero-rated sales pertaining to export sales properly supported by original zero-rated Shipping Invoice and bank certification of inward remittances. This is further supported by certified true copy of Bill of Lading not in the name of the customer.	**Annex 2-1Q-c Annex 2-4Q-c**	9,349,840.50	–	–	2,858,914.80	12,208,755.30
Zero-rated sales pertaining to export sales supported by original zero-rated Shipping Invoice and bank certification of inward remittances. This is further supported by original Bill of Lading not in the name of the customer.	**Annex 2-1Q-e**	2,931,187.50	–	–	–	2,931,187.50
Total						**₱461,464,926.30**

As examined, the following are export sales with bills of lading not in customer's name but are properly verified and supported by the following documents[92]:

Name of Buyer	Sales in USD	Sale in JPY	Sales in Peso	Supporting Documents
SUN JIN C& S CO. LTD. (a)	$32,447,072.20	JPY–	₱156,762,262.34	The sales to Sun Jin C&S Co. Ltd. are raw materials further sold by Sun Jin to PT Krakatau Posco, an NRFC organized and existing under the laws of Indonesia and the end user of the purchased goods. The zero-rated sales were verified with the Sale and Purchase Agreement with Sunjin C and S Co., Ltd. dated June 28, 2019. In the said agreement, it is provided that payment shall be made by irrevocable letter of credit at sight by first class international bank with mode on submission of the shipping documents to the bank for drawing 100% of cargo value against letter of credit. Thus, the bill of lading is the issuing bank rather than the buying entity due to the payment procedures and terms as indicated in the agreement.
JFE SHOJI TRADE CORPORATION (JSTC) (b)	4,961,282.09	64,027,390.00	287,528,611.56	There is a Service Agreement for Shipments in Taiwan and noted that JFE Shoji Trade Corporation have concluded a Comprehensive Agreement with the Petitioner for the supply of Limestone and Dolomite to China Steel Corporation (CSC) and Dragon Steel Corporation (DSC) which are the buying entities. The consignee named in the bill of lading is the buying entity. There are also bill of ladings in which consignee is named "To Order of the Shipper" and the Notify Party is JSTC. As represented by the Petitioner, Notify Party is the payor of the goods and also the shipper. There is a Sale and Purchase Contract of Bohol Limestone Philippines Origin with Contract No. JFE-EB-18FS-2 and noted that under "Letter A of Clause 6 Documents" Seller shall issue complete set of "Clean on Board" shipped Bill of Lading made out of order. ICPA also noted that there is bill of lading in which the consignee is named "Blue Scope Steel Limited" and counterchecked with the Sales and Purchase Contract of

92 See amended ICPA Report, pp. 69-70, Exhibit "P-39", USB.

				Alcoy Dolomite Philippines Origin with Contract No. JFE-BlueScope-19FS-1 and noted that the bill of lading is made out to "The Order." In addition, Petitioner represented that the contract is for the supply to Blue Scope Steel Limited as its name is indicated in the contract number.
MEGALOGICS CO. LTD. (c)	143,000.00	–	7,458,880.00	There is a Sale and Purchase Agreement with Megalogics Co., Ltd. dated February 7, 2019 and noted that the buyer needs such limestone for its supply to Hyundai Steel as raw material for their steel making process. Thus, Hyundai Steel is the consignee under the bill of lading.
JFE MINERAL COMPANY LTD. (d)	130,086.00	–	6,783,984.90	The consignee under the bill of lading is "To the Order of the Shipper" and Notify Party is JFE Mineral Company, Ltd. It is verified in the Sales and Purchase Agreement between JFE Mineral Company, Ltd. that the destination is either in Chiba, Keihin, Fukuyama and Kurashiki, Japan.
JFE SHOJI TRADE MALAYSIA SDN. BHD.	56,250.00	–	2,931,187.50	ICPA recommends the disallowance of the sale for lack of supporting documents
TOTAL	$37,737,690.29	JPY64,027,390.00	**₱461,464,926.30**	

Thus, out of the zero-rated sales with bill of lading not in the customer's name amounting to ₱461,464,926.30, only ₱458,533,738.80 were verified to sales contracts and agreements, and customers identified as Notify Party in the bill of lading. The amount of ₱2,931,187.50 (or the sale made to JFE SHOJI TRADE MALAYSIA SDN. BHD) shall be disallowed for failure of substantiation.

3. DIRECT SALES WITH CUSTOMER WHO IS NOT THE REMITTER – ₱10,568,156.25

The ICPA also noted that the sales made to Heidelbergcement Bangladesh Ltd. is supported with a bill of lading named "to the order of Standard Chartered Bank". However, in the bank certifications, it was noted that the name of the remitter is the Ocean Trade Shipping, Inc. Other than petitioner's representation that Ocean Trade Shipping, Inc. is the owner of the vessel, no other supporting documents were presented. For such, We are constrained to disallow the sales of ₱10,568,156.25[93] for failure of substantiation.

With the foregoing disallowances, we shall now proceed to determine the valid zero-rated export sales.

[93] See Exhibits "P-17-142", "P-18-16" and "P-16-2", USB.

To support the said zero-rated sales, petitioner submitted in evidence the (1) sales invoices[94]; (2) bills of lading[95]; and, (3) bank certifications issued by RCBC dated 02 September 2020[96] and 23 February 2022[97], and Mizuho Bank Ltd., Manila branch dated 16 July 2020[98] reflecting the buyers' inward remittances, which the ICPA had all examined. Upon scrutiny of the supporting documents and the amended ICPA Report[99], after removing the above disallowances, the following table summarizes petitioner's valid zero-rated sales arising from direct exports which are duly supported and verified with supporting documents:

Schedule of zero-rated sales							Bill of Lading		Bank Certification (Exhibit P-16 to P-16-2)	
Exhibit No.	SI No.	Date	Name of Buyer	Amount (in USD)	Amount (in JPY)	Amount of Sales (in Php)	Exhibit No.	No.	Date	Reference Number
17-6	928	01/18/2019	JFE SHOJI TRADE CORPORATION		¥6,123,530.00	2,930,227.30	18-9	ACPKJ-1	06/02/2019	001-3510067
17-8	930	01/22/2019	JFE SHOJI TRADE CORPORATION		¥5,333,040.00	2,540,531.40	18-10	ACPOJ-1	12/02/2019	001-3514384
17-135	1784	01/24/2019	SUNJIN C AND S CO., LTD.	$ 281,050.00		14,831,008.50	18-12	GHPHCI-1	22/02/2019	BCA-789-800050
17-24	946	03/05/2019	JFE SHOJI TRADE CORPORATION		¥6,318,550.00	2,909,429.60	18-23	ACPKJ-1	29/03/2019	001-3574191
17-181	1834	03/15/2019	SUNJIN C AND S CO., LTD.	$ 281,050.00		14,780,419.50	18-25	GHPHCI-1	12/04/2019	BCA-789-900001
17	922	01/08/2019	JFE SHOJI TRADE CORPORATION	$ 120,393.40		6,303,798.42	18	ACPKT-1		
17-1	923	01/08/2019	JFE SHOJI TRADE CORPORATION	$ 57,476.00		3,009,443.36	18-1	ACPTT-2		
17-127	1776	01/08/2019	JFE SHOJI TRADE CORPORATION	$ 40,260.00		2,108,013.60	18-2	GHBKT-3	08/02/2019	TT010000629485
17-3	925	01/14/2019	JFE SHOJI TRADE CORPORATION	$ 117,041.09		6,114,226.54	18-7	ACPKT-1		
17-4	926	01/14/2019	JFE SHOJI TRADE CORPORATION	$ 68,400.00		3,573,216.00	18-8	ACPTT-2	21/02/2019	001-3525570
17-9	931	01/23/2019	JFE SHOJI TRADE CORPORATION	$ 129,283.00		6,837,777.87	18-11	ACPCKJ-1	15/02/2019	TT010000644822
17-11	933	01/28/2019	JFE SHOJI TRADE CORPORATION	$ 115,200.00		6,074,496.00	18-14	ACPTT-2		
17-12	934	01/28/2019	JFE SHOJI TRADE CORPORATION	$ 79,200.00		4,176,216.00	18-15	ACPKT-1	04/03/2019	001-3541060
17-15	937	02/08/2019	JFE SHOJI TRADE CORPORATION	$ 123,120.00		6,440,407.20	18-18	ACPKT-1	14/03/2019	001-3550768

94 Exhibit "P-17" series, USB.
95 Exhibit "P-18" series, id.
96 Exhibit "P-16", USB.
97 Exhibit "P-16-1", id.
98 Exhibit "P-16-2", id
99 Supra at note 39.

17-16	938	02/08/2019	JFE SHOJI TRADE CORPORATION	$ 37,440.00		1,958,486.40	18-19	ACPKT-2		
17-17	939	02/08/2019	JFE SHOJI TRADE CORPORATION	$ 37,440.00		1,958,486.40	18-20	ACPTT-3		
17-29	951	03/27/2019	JFE SHOJI TRADE CORPORATION	$ 108,000.00		5,674,320.00	18-28	ACPKT-1		
17-30	952	03/27/2019	JFE SHOJI TRADE CORPORATION	$ 36,000.00		1,891,440.00	18-29	ACPKT-2		
17-31	953	03/27/2019	JFE SHOJI TRADE CORPORATION	$ 44,640.00		2,345,385.60	18-30	ACPTT-3	07/05/2019	TT010000903226
17-33	955	03/29/2019	JFE SHOJI TRADE CORPORATION	$ 144,000.00		7,600,320.00	18-31	ACPKT-1		
17-34	956	03/29/2019	JFE SHOJI TRADE CORPORATION	$ 118,224.00		6,239,862.72	18-32	ACPTT-2	09/05/2019	001-3612642
17-171	1824	03/08/2019	MEGALOGICS CO. LTD.	$ 143,000.00		7,458,880.00	18-24	GHPHD	01/04/2019	BCA-789-800057
							18-3	GHBPTI-2B		
		01/11/2019	JFE SHOJI TRADE CORPORATION	$ 102,300.00		5,336,991.00	18-4	GHBPTI-1B		
							18-5	GHBPTI-1A		
17-128	1777	01/11/2019	JFE SHOJI TRADE CORPORATION	$ 87,420.00		4,560,701.40	18-6	GHBPTI-2A	06/02/2019	001-3510068
17-22	944	02/25/2019	JFE MINERAL COMPANY LTD.	$ 130,086.00		6,783,984.90	18-22	ACPKJ-1	08/03/2019	7459497067FS
		01/27/2019	VALE NOUVELLE CALEDONIE	$ 64,159.20		3,383,114.62				
17-136	1785	01/27/2019	VALE NOUVELLE CALEDONIE	$ 208,462.66		10,992,236.06	18-13	GHBPPNC-1	28/02/2019	F602277199238000
		02/04/2019	VALE NOUVELLE CALEDONIE	$ 132,997.28		6,947,777.91				
17-143	1794	02/04/2019	VALE NOUVELLE CALEDONIE	$ 160,058.85		8,361,474.32	18-17	GHBPPNC-1	28/03/2019	F60326159542000
		03/18/2019	VALE NOUVELLE CALEDONIE	$ 131,355.36		6,921,113.92				
17-182	1835	03/18/2019	VALE NOUVELLE CALEDONIE	$ 160,286.10		8,445,474.61	18-27	GHBPPNC-1	29/04/2019	F60426213425000
17-27	949	03/18/2019	JFE SHOJI TRADE CORPORATION	$ 177,450.00		9,349,840.50	18-26	ACPPKA-1	22/04/2019	001-3596892
1st quarter valid zero-rated sales						**188,839,101.65**				
17-204	1859	04/25/2019	SUNJIN C AND S CO., LTD.	$ 281,050.00		14,670,810.00	18-37	GHPHCI-1	30/05/2019	BCA-789-900005
17-44	966	05/06/2019	JFE SHOJI TRADE CORPORATION		¥6,250,020.00	2,918,985.30	18-38	ACPKJ-1	23/05/2019	TT010000954211
17-47	969	05/09/2019	JFE SHOJI TRADE CORPORATION		¥5,348,460.00	2,506,323.60	18-40	ACPOJ-1	30/05/2019	TT010000979122
17-223	1880	05/23/2019	SUNJIN C AND S CO., LTD.	$ 281,050.00		14,749,504.00	18-41	GHPHCI-1	18/06/2019	BCA-789-900017
17-67	989	06/26/2019	JFE SHOJI TRADE CORPORATION		¥6,061,720.00	2,886,945.60	18-48	ACPKJ-1	12/07/2019	TT010001119206
17-36	958	04/04/2019	JFE SHOJI TRADE CORPORATION	$ 122,400.00		6,427,224.00	18-33	ACPKT-2		
17-37	959	04/04/2019	JFE SHOJI TRADE CORPORATION	$ 36,000.00		1,890,360.00	18-34	ACPKT-1	14/05/2019	001-3615431

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17-39	961	04/10/2019	JFE SHOJI TRADE CORPORATION	$ 57,600.00		3,005,568.00	18-35	ACPKT-1		
17-40	962	04/10/2019	JFE SHOJI TRADE CORPORATION	$ 100,800.00		5,259,744.00	18-36	ACPTT-2	15/05/2019	TT010000926782
17-52	974	05/28/2019	JFE SHOJI TRADE CORPORATION	$ 133,200.00		6,974,352.00	18-42	ACPKT-1	08/07/2019	TT010001101942
17-53	975	05/28/2019	JFE SHOJI TRADE CORPORATION	$ 122,100.00		6,393,156.00	18-43	ACPTT-2	17/07/2019	TT010001125283
17-238	1895	06/07/2019	JFE SHOJI TRADE CORPORATION	$ 44,100.00		2,283,057.00	18-44	GHBTT-2	17/07/2019	TT010001125283
17-246	1903	06/16/2019	JFE SHOJI TRADE CORPORATION	$ 138,600.00		7,194,726.00	18-46	GHBFJ-1	03/07/2019	TT010001091861
17-68	990	06/28/2019	JFE SHOJI TRADE CORPORATION	$ 88,800.00		4,574,976.00	18-49	ACPKT-1		
17-69	991	06/28/2019	JFE SHOJI TRADE CORPORATION	$ 59,200.00		3,049,984.00	18-49	ACPKT-1	31/07/2019	TT010001182378
17-56	978	06/11/2019	JFE SHOJI TRADE CORPORATION	$ 179,820.00		9,309,281.40	18-45	ACPTT-1	17/07/2019	TT010001125283
		05/07/2019	VALE NOUVELLE CALEDONIE	$ 139,033.31		7,231,122.45				
17-212	1867	05/07/2019	VALE NOUVELLE CALEDONIE	$ 165,571.98		8,611,398.68	18-39	GHBPPNC-1	28/06/2019	F60627541843000
		06/20/2019	VALE NOUVELLE CALEDONIE	$ 160,942.95		8,351,329.68				
17-249	1906	06/20/2019	VALE NOUVELLE CALEDONIE	$ 140,297.70		7,280,047.65	18-47	GHBPPNC-1	01/08/2019	F60730181739000
2nd quarter valid zero-rated sales						**125,568,895.36**				
17-258	1917	07/01/2019	SUNJIN C AND S CO., LTD.	$ 281,050.00		14,398,191.50	18-50	GHPHCI-1	23/07/2019	BCA-789-900031
17-288	1949	08/07/2019	SUNJIN C AND S CO., LTD.	$ 281,050.00		14,614,600.00	18-58	GHPHCI-1	09/09/2019	BCA-789-900045
17-81	1003	08/09/2019	JFE SHOJI TRADE CORPORATION		¥5,155,740.00	2,514,514.20	18-59	ACPOJ-1	28/08/2019	001-3724614
17-87	1009	08/27/2019	JFE SHOJI TRADE CORPORATION		¥5,934,670.00	2,941,469.30	18-63	ACPKJ-1	12/09/2019	TT010001304664
17-299	1962	08/29/2019	SUNJIN C AND S CO., LTD.	$ 255,500.00		13,354,985.00	18-64	GHPHCI-1	25/09/2019	BCA-789-900046
17-75	997	07/26/2019	JFE SHOJI TRADE CORPORATION	$ 170,570.00		8,740,006.80	18-52	ACPTT-2	23/08/2019	001-3719630
17-76	998	07/29/2019	JFE SHOJI TRADE CORPORATION	$ 130,086.00		6,655,199.76	18-53	ACPCJ-1	19/08/2019	TT010001224887
		08/03/2019	JFE SHOJI TRADE CORPORATION	$ 102,300.00		5,255,151.00	18-54 18-55	GHBPTI-1B GHBPTI-2B		
17-286	1947	08/03/2019	JFE SHOJI TRADE CORPORATION	$ 170,500.00		8,758,585.00	18-56 18-57	GHBPTI-1A GHBPTI-2A	27/08/2019	TT010001255737
17-84	1006	08/27/2019	JFE SHOJI TRADE CORPORATION	$ 37,000.00		1,932,880.00	18-61	ACPKT-1		
17-85	1007	08/27/2019	JFE SHOJI TRADE CORPORATION	$ 37,000.00		1,932,880.00	18-61	ACPKT-1		
17-86	1008	08/27/2019	JFE SHOJI TRADE CORPORATION	$ 162,800.00		8,504,672.00	18-62	ACPTT-2	26/09/2019	TT010001349177

17-308	1971	09/08/2019	JFE SHOJI TRADE CORPORATION	$ 50,400.00		2,614,752.00	18-65	ACPTT-3	04/10/2019	TT010001382822
17-90	1012	09/10/2019	JFE SHOJI TRADE CORPORATION	$ 37,000.00		1,919,560.00	18-66	ACPKT-1	08/10/2019	001-3764836
17-91	1013	09/10/2019	JFE SHOJI TRADE CORPORATION	$ 105,820.00		5,489,941.60	18-67	ACPTT-2	04/10/2019	TT010001382822
17-96	1019	09/30/2019	JFE SHOJI TRADE CORPORATION	$ 71,820.00		3,723,148.80	18-69	ACPAJ-1	21/10/2019	TT010001425697
		07/04/2019	VALE NOUVELLE CALEDONIE	$ 164,367.50		8,413,972.32				
17-259	1918	07/04/2019	VALE NOUVELLE CALEDONIE	$ 144,417.32		7,392,722.61	18-51	GHBPPNC-1	29/08/2019	F60827137970000
		08/22/2019	VALE NOUVELLE CALEDONIE	$ 135,696.24		7,109,126.01				
17-295	1956	08/22/2019	VALE NOUVELLE CALEDONIE	$ 162,860.64		8,532,268.93	18-60	GHBPPNC-1	27/09/2019	F60925442448000
		09/17/2019	VALE NOUVELLE CALEDONIE	$ 136,836.66		7,151,083.85				
17-312	1975	09/17/2019	VALE NOUVELLE CALEDONIE	$ 166,081.75		8,679,432.25	18-68	GHBPPNC-1	31/10/2019	F61029126539000
3rd quarter valid zero-rated sales						**150,629,142.93**				
17-328	1993	10/07/2019	SUNJIN C AND S CO., LTD.	$ 281,050.00		14,533,095.50	18-70	GHPHCI-1	29/10/2019	BCA-789-900053
17-337	2004	10/25/2019	SUNJIN C AND S CO., LTD.	$ 255,500.00		13,045,830.00	18-76	GHPHCI-1	21/11/2019	BCA-789-900059
17-105	1028	11/07/2019	JFE SHOJI TRADE CORPORATION		¥5,271,120.00	2,419,855.20	18-77	ACPOJ-1	22/11/2019	TT010001527124
17-348	2017	11/17/2019	SUNJIN C AND S CO., LTD.	$ 282,758.20		14,304,737.34	18-81	GHPHCI-1	16/12/2019	BCA-789-900063
17-119	1043	12/19/2019	JFE SHOJI TRADE CORPORATION		¥6,146,840.00	2,827,074.60	18-88	ACPKJ-1	17/01/2020	001-3574434
17-363	2032	12/28/2019	SUNJIN C AND S CO., LTD.	$ 265,650.00		13,479,081.00	18-89	GHPHCI-25	16/12/2019	BCA-789-900066
17-98	1021	10/21/2019	JFE SHOJI TRADE CORPORATION	$ 85,100.00		4,369,034.00	18-72	ACPKT-2		
17-99	1022	10/21/2019	JFE SHOJI TRADE CORPORATION	$ 37,000.00		1,899,580.00	18-73	ACPKT-1		
17-100	1023	10/21/2019	JFE SHOJI TRADE CORPORATION	$ 122,100.00		6,268,614.00	18-74	ACPTT-2	18/11/2019	TT010001506570
17-106	1029	11/14/2019	JFE SHOJI TRADE CORPORATION	$ 169,838.90		8,575,166.06	18-79	ACPKT-1	06/12/2019	TT010001574944
17-107	1030	11/14/2019	JFE SHOJI TRADE CORPORATION	$ 80,881.90		4,083,727.13	18-80	ACPTT-2	09/12/2019	001-3531731
17-109	1032	11/19/2019	JFE SHOJI TRADE CORPORATION	$ 128,557.80		6,503,739.10	18-82	ACPKJ-1	19/12/2019	TT010001608489
17-111	1034	11/28/2019	JFE SHOJI TRADE CORPORATION	$ 140,600.00		7,136,856.00	18-83	ACPKT-2	26/12/2019	TT010001648096
17-112	1036	11/28/2019	JFE SHOJI TRADE CORPORATION	$ 59,200.00		3,004,992.00	18-84	ACPKT-3	13/01/2020	001-3566926
17-115	1039	11/28/2019	JFE SHOJI TRADE CORPORATION	$ 37,000.00		1,878,120.00	18-85	ACPKT-1	26/12/2019	TT010001648096
17-117	1041	12/18/2019	JFE SHOJI TRADE CORPORATION	$ 125,800.00		6,366,738.00	18-86	ACPKT-1	28/01/2020	TT010001725889

17-118	1042	12/18/2019	JFE SHOJI TRADE CORPORATION	$ 74,000.00		3,745,140.00	18-87	ACPTT-2		
		10/18/2019	VALE NOUVELLE CALEDONIE	$ 131,870.97		6,790,036.25				
17-331	1996	10/18/2019	VALE NOUVELLE CALEDONIE	$ 162,221.90		8,352,805.63	18-71	GHBPPNC-1	29/11/2019	F61128138564000
		11/08/2019	VALE NOUVELLE CALEDONIE	$ 140,917.00		7,123,354.35				
17-343	2010	11/08/2019	VALE NOUVELLE CALEDONIE	$ 168,020.75		8,493,448.91	18-78	GHBPPNC-1	19/12/2019	F61217246233000
		12/31/2019	VALE NOUVELLE CALEDONIE	$ 152,064.08		7,715,731.42				
17-364	2033	12/31/2019	VALE NOUVELLE CALEDONIE	$ 156,645.16		7,948,175.42	18-90	GHBPPNC-1	28/02/2020	F60226389642000
17-101	1024	10/23/2019	JFE SHOJI TRADE CORPORATION		¥6,083,700.00	2,858,914.80	18-75	ACPKJ-1	12/11/2019	TT01000140664
4th quarter valid zero-rated sales						**163,723,846.71**				
Total valid zero-rated sales						**628,760,986.65**				

The ICPA also noted the price adjustments on the above sales pertaining to moisture penalties which are duly supported by credit memos:

Exh. No.	**SI No.**	**Date**	**Name of Buyer**	**Sales in Foreign Currency**	**Amount of Sales (in Php)**	**No.**	**Date**	**Reference**	**Debit**	**Credit**
19-77	CM 2268	05/17/2019	JFE SHOJI TRADE CORPORAT ION	$ (2,375.00)	(124,473.75)	CM GJ 0000002268	17/05/2019	JFE SHOJI DEMURRAGE MV PORT BOTANY	124,473.75	
				$ (3,753.75)	(198,085.39)					
				$ (7,507.50)	(394,819.43)					
				$ (11,261.25)	(587,837.25)					
19-79	CM 2275	05/31/2019	SUNJIN C AND S CO., LTD.	$ (15,015.00)	(787,987.20)	CM GJ 0000002275	31/05/2019	PT KRAKATAU POSCO - UNDERSIZE PENALTY	1,968,729.27	
19-21	CM 2306	06/28/2019	JFE SHOJI TRADE CORPORAT ION	$ (6,572.90)	(340,476.22)	DM GJ 0000002306	28/06/2019	CSC DEMURRAGE SI# 958 & 959	340,476.22	
2nd quarter credit memos due to moisture penalties (Annex 2-2Q-c)										**2,433,679.24**
19-28	CM 2351	07/31/2019	SUNJIN C AND S CO., LTD.	$ (15,015.00)	(769,218.45)	CM GJ 0000002351	31/07/2019	PT KRAKATAU POSCO - UNDERSIZE PENALTY	769,218.45	
				$ (7,507.50)	(390,390.00)					
19-41	CM 2371	08/30/2019	SUNJIN C AND S CO., LTD.	$ (10,237.50)	(535,114.13)	CM GJ 0000002371	30/08/2019	PT KRAKATAU POSCO - UNDERSIZE PENALTY AUG 2019	925,504.13	
19-42	CM 2372	08/30/2019	SUNJIN C AND S CO., LTD.	$ (9,427.08)	(482,949.31)	CM GJ 0000002372	30/08/2019	SUNJIN DEMURRAGE MV BENE AUG 2019	482,949.31	

19-49	DM 2396	09/30/2019	SUNJIN C AND S CO., LTD.	$ 3,359.38	174,687.76	DM GJ 0000002396	30/09/2019	PT KRAKATAU POSCO DESPATCH MV NANJING SEPT 2019		174,687.76
19-50	DM 2397	09/30/2019	SUNJIN C AND S CO., LTD.	$ 3,190.10	166,746.53	DM GJ 0000002397	30/09/2019	PT KRAKATAU POSCO DESPATCH MV TS JASMINE SEPT 2019		166,746.53
Total amount									2,177,671.89	341,434.29
3rd quarter credit memos due to moisture penalties (Annex 2-3Q-c)										**1,836,237.60**
19-59	CM 2444	10/31/2019	SUNJIN C AND S CO., LTD.	$ (11,261.25) $ (13,650.00)	(582,319.24) (696,969.00)	CM GJ 0000002444	31/10/2019	PT KRAKATAU POSCO UNDERSIZE PENALTY OCT 2019	1,279,288.24	
19-60	CM 2452	11/26/2019	JFE SHOJI TRADE CORPORATION	$ (2,460.00)	(124,918.80)	CM GJ 0000002452	26/11/2019	JFE SHOJI PRICE ADJ INV# 966, 969, 989, 998, 1003, 1009	124,918.80	
19-63	DM 2470	11/29/2019	SUNJIN C AND S CO., LTD.	$ 3,588.54 $ 2,679.69	185,563.40 136,824.97	DM GJ 0000002470	30/11/2019	PT KRAKATAU POSCO DESPATCH NOV '19		322,388.37
19-66	CM 2472	11/29/2019	SUNJIN C AND S CO., LTD.	$ (15,106.26)	(764,225.69)	CM GJ 0000002472	29/11/2019	PT KRAKATAU POSCO UNDERSIZE PENALTY NOV '19	764,225.69	
19-67	DM 2514	12/27/2019	SUNJIN C AND S CO., LTD.	$ 4,028.82	203,818.00	DM GJ 0000002514	27/12/2019	PT KRAKATAU POSCO DESPATCH MV BEIRA		203,818.00
19-68	DM 2515	12/27/2019	SUNJIN C AND S CO., LTD.	$ (10,959.20)	(556,069.81)	CM GJ 0000002515	27/12/2019	PT KRAKATAU POSCO UNDERSIZE PENALTY MV OCEAN PEACE	556,069.81	
19-71	CM 2490	12/27/2019	SUNJIN C AND S CO., LTD.	$ (3,465.00) $ (16,362.50)	(180,180.00) (855,267.87)	CM GJ 0000002490	27/12/2019	MV JOSCO NANJING/ MV TS JASMINE UNDERSIZED PENALTIES	1,035,447.87	
19-72	DM 2491	12/27/2019	SUNJIN C AND S CO., LTD.	$ 288.75 $ 350.00	14,931.26 17,871.00	DM GJ 0000002491	27/12/2019	MV GUILIA V.01/ MV SPRING BREEZE UNDERSIZED PENALTY		32,802.26
19-73	DM 2492	12/27/2019	SUNJIN C AND S CO., LTD.	$ 387.34	19,595.53	DM GJ 0000002492	27/12/2019	MV BEIRA V.01 UNDERSIZE PENALTY		19,595.53
Total amount									3,759,950.41	578,604.16
4th quarter credit memos due to moisture penalties (Annex 2-4Q-d)										**3,181,346.25**
Total credit memo for CY 2019										**7,451,263.09**

With the foregoing, petitioner has a total of ₱621,309,723.56 pertaining to valid zero-rated sales attributable to direct exports, or sales of goods to NRFCs as computed below:

Total valid zero-rated sales duly supported with documents	₱ 628,760,986.70
Less: Credit memos	7,451,263.09
Total valid zero-rated sales for CY 2019 arising from direct export sales	₱ 621,309,723.56

ii. Sales to PEZA-registered entities under Section 106(A)(2)(a)(5) of the NIRC of 1997, as amended (₱640,201,009.19).

Section 106(A)(2)(a)(5) of the NIRC of 1997, as amended[100], 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.[101]

...

Relative thereto, Section 4.106-5(a)(5) of RR No. 16-2005, as amended by RR No. 04-2007[102], which implements the foregoing provision, provides —

100 Before the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Law.

101 Italics in the original text and emphasis supplied.

102 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 pursuant to EO 226 and other special laws, even 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 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) 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); (5) 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.[103]

...

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

The special law applicable to this case is RA 7916[104], as amended by RA 8748[105], 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 ECOZONES 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.[106]
>
> ...

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. In the case of *Commissioner of Internal Revenue v. Toshiba Information Equipment (Phils.), Inc.*[107], the Supreme Court elucidated thusly —

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[104] 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.

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

[106] Emphasis supplied and italics in the original text.

[107] G.R. No. 150154, 09 August 2005; Citations omitted and emphasis supplied.

...

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.[108]
>
> ...

Based on the foregoing, in order for an export sale to qualify for VAT zero-rating under Section 106(A)(2)(a)(5) 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 entity. Hence, the *first* essential element was already fulfilled.

Relative to the *second* essential element, the case records show that petitioner had sold goods to the following companies:

1. Philippine Sinter Corporation;
2. Visayas Slaked Lime Corporation;
3. Taganito Hpal Nickel Corporation;
4. Coral Bay Nickel Corporation;
5. Unichamp Mineral Philippines, Inc.;
6. Pioneer Float Glass Manufacturing, Inc.;
7. PEBA Tandem and Manufacturing, Inc.; and,
8. Carmen Copper Corporation.

To prove that its clients are duly registered with the PEZA and the BOI, petitioner presented the following certifications (as summarized in the amended ICPA Report):

108 Now at 12% VAT rate.

Customers	Proof of Zero-Rating	Exhibit Reference[109]	Covered Period
Carmen Copper Corporation	Confirmation letter from BOI dated January 28, 2019; Certificate No. 2019-048	P-14	January 1 to December 31, 2019
Coral Bay Nickel Corporation	PEZA certification dated January 9, 2019; Certificate Nos. 2019-0440, 2019-0474	P-14-1, P-14-2	For the year 2019
Peba Tandem & Manufacturing, Inc.	PEZA certification dated July 12, 2019; Certificate No. 2019-2388	P-14-3	July 1 to December 31, 2019
Philippine Sinter Corporation	PEZA certification dated January 30, 2019; Certificate No. 2019-0710, 2019-0963	P-14-4, P-14-5	January 1 to June 30, 2019
	PEZA certification dated May 15, 2019; Certificate No. 2019-0710-0169, 2019-0963	P-14-6, P-14-7	July 1 to December 31, 2019
Pioneer Float Glass Manufacturing Inc.	PEZA certification dated January 21, 2019; Certificate No. 2019-1195	P-14-8	For the year 2019
Taganito Hpal Nickel Corporation	PEZA certification dated January 9, 2019; Certificate No. 2019-0427, 2019-0476	P-14-9, P-14-10	For the year 2019
Unichamp Mineral Philippines, Inc.	PEZA certification dated January 9, 2019; Certificate No. 2019-0214, 2019-0327	P-14-11, P-14-12	For the year 2019
Visayas Slaked Lime Corporation	PEZA certifications dated February 26, 2019; Certificate No. 2019-1295, 2019-1447	P-14-13, P-14-14	January 1 to June 30, 2019
	PEZA certification dated August 1, 2019; Certificate No. 2019-1295-1002, 2019-1447	P-14-15, P-14-16	July 1 to December 31, 2019

In addition, petitioner presented and offered as evidence (Exhibit "**P-40**") a photocopy of PEZA letter dated 22 June 2021 confirming the VAT zero-rating certification of petitioner's PEZA clients. Both Exhibits "**P-14**" series and "**P-40**"[110] were admitted pursuant to the Resolution of 22 November 2022.[111]

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[109] USB.
[110] Division Docket, p. 473.
[111] Supra at note 45.

However, since what is being proved with the said certifications are the contents thereof, *i.e. whether the said enterprises are duly registered with PEZA within the subject period of claim, thus, enjoys VAT-zero rating with local purchases of goods, properties and services needed in its registered activities and actually delivered and consumed inside the PEZA registered facilities*, the presentation of the original documents is necessary pursuant to the original document rule.

Relative thereto, Section 3, Rule 130 of the Revised Rules of Evidence[112] provides —

> ...
>
> SEC. 3. *Original Document Must be Produced; Exceptions.* — When the subject of inquiry is the contents of a document, writing, recording, photograph or other record, no evidence is admissible other than the original document itself ...[113]
>
> ...

Section 4 of the same rule defines "original of document" to be —

> ...
>
> SEC. 4. *Original of Document.* —
>
> (a) An "original" of a document is the document itself or any counterpart intended to have the same effect by a person executing or issuing it. An "original" of a photograph includes the negative or any print therefrom. If data is stored in a computer or similar device, any printout or other output readable by sight or other means, shown to reflect the data accurately, is an "original."
>
> (b) A "duplicate" is a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduce the the original.
>
> (c) A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original, or (2) in the circumstances, it is unjust or inequitable to admit the duplicate in lieu of the original.[114]
>
> ...

112 A.M. No. 19-08-15-SC.
113 Italics and underscoring in the original text.
114 Italics and underscoring in the original text.

Based on the foregoing, when the subject of inquiry is the contents of a document, writing, recording, photograph or other record, no evidence is admissible other than the original document itself.[115] Formerly called the best evidence rule, the original document rule is required to prevent any mistransmissions or inaccuracies that may be reflected by a mere copy or reproduction of the evidence sought to be entered. The rule ensures that the exact contents of the document are brought before the court.[116]

Here, although it appears that Exhibit "**P-14**" series and Exhibit "**P-40**" are merely faithful reproduction of a scanned copy and a scanned copy respectively, these were admitted in the Resolution of 22 November 2022. However, a perusal of the docket reveals that these were not even compared to the original documents, thus, We cannot ascertain if the contents of the duplicates are of the same impression as their originals. Evident is the fact that in the amended ICPA report and in ICPA Constantino's testimony, she asserted that the PEZA and BOI certifications are mere print-out or scanned copies, and her recommendation as to the amount of refund claim depends on whether petitioner will be able to produce the originals or at least the certified true copies thereof. Hence, the admissibility of the said exhibits cannot be equated with the weight of evidence as these are entirely different concepts. To admit evidence and not to believe it is not incompatible with each other. The weight accorded to it still depends on the evaluation of the court in accordance with the Rules.[117]

In *Fernando Mancol, Jr. v. Development Bank of the Philippines*[118], the Supreme Court differentiated admissibility with probative value in this wise:

> ...
>
> "The admissibility of evidence depends on its relevance and competence, while the weight of evidence pertains to evidence already admitted and its tendency to convince and persuade." The admissibility of a particular item of evidence has to do with whether it meets various tests by which its reliability is to be determined, so as to be considered with other evidence admitted in the case in arriving

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115 *Kuwait Airways Corporation v. The Tokio Marine and Fire Insurance Co., Ltd., et al.*, G.R. No. 213931, 17 November 2021.

116 *Republic of the Philippines v. Honorable Sandiganbayan, 5th Division, et al.*, G.R. No. 195837, 03 October 2023.

117 *Heirs of Arturo E. Bandoy, et al. v. Alexander E. Bandoy*, G.R. No. 255258, 19 October 2022.

118 G.R. No. 204289, 22 November 2017; Citations omitted.

at a decision as to the truth. The weight of evidence is not determined mathematically by the numerical superiority of the witnesses testifying to a given fact, but depends upon its practical effect in inducing belief on the part of the judge trying the case. "Admissibility refers to the question of whether certain pieces of evidence are to be considered at all, while probative value refers to the question of whether the admitted evidence proves an issue." "Thus, a particular item of evidence may be admissible, but its evidentiary weight depends on judicial evaluation within the guidelines provided by the rules of evidence."

...

Further, Courts are not precluded to amend its previous ruling pursuant to the inherent powers under Section 5(g), Rule 135 of the Rules of Court, which provides:

...

Sec. 5. *Inherent powers of court.* — Every court shall have power:

...

g) To amend and control its process and orders so as to make them conformable to law and justice;

...

Thus, to conform to the original document rule, although Exhibits "**P-14**" series and "**P-40**" are admitted, We are constrained not to give any probative value to the contents thereof. Thus, for failure to prove that the said sales qualify for VAT-zero rating, the sales of goods made to abovementioned entities are disallowed for failure of substantiation.

To recapitulate, out of the total zero-rated sales for CY 2019 amounting to ₱1,278,436,846.23, only the amount of ₱621,309,723.56 represents petitioner's valid zero-rated sales for the same period, to wit:

Total zero-rated sales for CY 2019		1,278,436,846.23
Less:		
Direct sales without remittance	3,426,769.73	
Direct sales with bill of lading not in customer's name which is not properly substantiated	2,931,187.50	
Direct sales with customer who is not the remitter	10,568,156.25	
Zero-Rated Sales made to PEZA and BOI registered entities not supported with original PEZA or BOI certifications	640,201,009.19	(657,127,122.67)
Total valid zero-rated sales for CY 2019		**621,309,723.56**

<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 concur:

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

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 ***3rd*** and ***4th conditions***, considering that its input taxes do not appear to be transitional input taxes since they operate to benefit only newly VAT-registered persons. Also, petitioner is deemed to have complied with the same after it was established that petitioner deducted the input VAT claim of ₱104,888,177.67 as a "VAT Refund/TCC Claimed" (line 23D) in its Amended VAT Return for the 2nd quarter of CY 2020[119] preventing thus the carry-over of the said amount in the succeeding taxable quarters.

119 Exhibit "P-10-26", USB.

As to the ***1st condition***, petitioner claims that for CY 2019, it had a total allowable input tax of ₱142,214,043.17 arising from its current: (1) domestic purchases of goods other than capital goods; (2) domestic purchases of capital goods not exceeding ₱1 million; (3) domestic purchases of services; (4) services rendered by nonresidents; (5) importations; and, (6) domestic purchases of capital goods. Out of the said amount, petitioner applies for VAT credits/refund ₱104,888,177.67, as shown below[120]:

	Amended 1st Quarterly VAT return[121]	**Amended 2nd Quarterly VAT return[122]**	**Amended 3rd Quarterly VAT return[123]**	**Amended 4th Quarterly VAT return[124]**	**Total Input VAT**
Input VAT on Domestic Purchases of Goods other than Capital Goods	₱15,195,148.37	₱13,607,260.26	₱13,812,065.48	₱12,570,735.71	₱55,185,209.82
Input VAT on Domestic Purchases of Capital Goods not exceeding ₱1Million	31,608.34	83,587.29	40,914.64	-	156,110.27
Input VAT on Domestic Purchases of Services	21,956,009.85	15,284,414.23	19,993,808.55	15,742,254.67	72,976,487.3
Input VAT on Services rendered by Nonresidents	-	3,160,076.72	-	1,414,505.67	4,574,582.39
Input VAT on Importations	1,164,367.00	482,688.00	1,934,052.00	4,990,009.00	8,571,116.00
Input VAT on Domestic Purchases of Capital Goods exceeding ₱1Million	287,892.86	-	-	462,644.53	750,537.39
Total Input VAT	**₱38,635,026.42**	**₱32,618,026.50**	**₱35,780,840.67**	**₱35,180,149.58**	**₱142,214,043.17**
Output VAT charged against the input VAT allocated to VATable sales	(6,112,533.09)	(5,711,416.44)	(7,667,834.16)	(7,870,458.39)	(27,362,242.08)
Output VAT charged against the input VAT allocated to zero-rated sales	(2,253,017.94)	(2,409,282.92)	(2,914,213.27)	(1,636,571.90)	(9,213,086.03)

120 See amended ICPA Report, pp. 30-31, Exhibit "P-39", USB.
121 Exhibit "P-10-4", USB.
122 Exhibit "P-10-9", id.
123 Exhibit "P-10-13", id.
124 Exhibit "P-10-18", id.

Excess Input VAT allocated to zero-rated sales	30,269,475.39	24,497,327.14	25,198,793.24	25,673,119.29	105,638,715.06
Excluded input VAT on Domestic Purchases of Capital Goods not exceeding ₱1Million	(287,892.86)	-	-	(462,644.53)	(750,537.39)
Input VAT claim per Petition for Review	**₱29,981,582.53**	**₱24,497,327.14**	**₱25,198,793.24**	**₱25,210,474.76**	**₱104,888,177.67**

However, respondent, in his or her VAT Refund Notice[125], disallowed ₱109,531,581.01 resulting in the complete denial of its claim. The detailed breakdown of the amount of claim that respondent disallowed is shown below:

	Local	Importation	Total
VAT Refund Claimed	**₱104,888,177.67**	**₱-**	**₱104,888,177.67**
Deductions from Claim			
Insufficient documentations (No billing statement, OR, SI nor proof of payment)	7,165,066.10	-	7,165,066.10
Out of Period	202,346.26	-	202,346.26
Unreadable document	16,402.50	-	16,402.50
Document with alteration but not countersigned	26,330,497.58	-	26,330,497.58
Overclaimed	8,325.00	-	8,325.00
Violation of invoicing requirements pursuant to Section 113 of the NIRC of 1997, as amended	742,542.14	-	742,542.14
Disallowed input tax on "Big Ticket" Purchases	12,959,163.80	-	12,959,163.80
Deferred input tax on CG from local purchases and importation	1,431,253.16	1,769,724.16	3,200,977.32
Disallowed VAT on importation due to overclaim and failure to submit SSDT	-	281,727.00	281,727.00
Disallowed input VAT on purchase of CG with no supporting documentation	6,405.00	-	6,405.00
Output VAT on other VATable Sales	273,884.22	-	273,884.22
Output VAT on unqualified exempt sales	156,000.00	-	156,000.00
Output VAT on proceeds from disposal of property and equipment	12,000.00	-	12,000.00
Adjustment on previously deducted output VAT on importation	2,051,451.16	(2,051,451.16)	-
IT attributable to zero-rated sales with insufficient documentations	58,151,244.09	-	58,151,244.09
Compromise penalty	25,000.00	-	25,000.00
Total Deductions	**109,531,581.01**	**-**	**109,531,581.01**
Excess Deductions Over Input Tax Claimed	**(₱4,643,403.34)**	**₱-**	**(₱4,643,403.34)**

For purposes of satisfying the aforesaid condition, it is of crucial importance that petitioner provides documents to support its declaration that the input VAT claimed during the subject period was

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125 Supra at note 23.

actually due or paid in accordance with Section 110(A) of the NIRC of 1997, as amended, which provides:

> ...
> **SEC. 110.** *Tax Credits.* —
>
> (A) *Creditable Input Tax.* —
>
> **(1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax:**
>
> a. Purchase or importation of goods:
>
> i. For sale; or
> ii. For conversion into or intended to form part of a finished product for sale including packaging materials; or
> iii. For use as supplies in the course of business; or
> iv. For use as materials supplied in the sale of service; or
> v. For use in trade or business for which deduction for depreciation or amortization is allowed under this Code.
>
> b. Purchase of services on which a value-added tax has actually been paid.
>
> (2) The input tax on domestic purchase or importation of goods or properties by a VAT-registered person shall be creditable:
>
> a. To the purchaser upon consummation of sale and on importation of goods or properties; and
> b. To the importer upon payment of the value-added tax prior to the release of the goods from the custody of the Bureau of Customs.
>
> *Provided*, That the input tax on goods purchased or imported in a calendar month for use in trade or business for which deduction for depreciation is allowed under this Code shall be spread evenly over the month of acquisition and the fifty-nine (59) succeeding months if the aggregate acquisition cost for such goods, excluding the VAT component thereof, exceeds One million pesos (P1,000,000): *Provided, however*, That if the estimated useful life of the capital good is less than five (5) years, as used for depreciation purposes, then the input VAT shall be spread over such a shorter period: *Provided, further*, That the amortization of the input VAT shall only be allowed until December 31, 2021 after which taxpayers with unutilized input VAT on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized. *Provided, finally*, That in the case of purchase of services, lease or use of properties, the input tax

shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or free.[126]

...

The above provisions are implemented by Sections 4.110-1 to 4.110-3 of RR No. 16-2005, as amended by RR No. 13-2018[127], which provide as follows:

...

SEC. 4.110-1. ***Credits For Input Tax.*** — *'Input tax'* means the VAT due on or paid by a VAT-registered person on importation of goods or local purchases of goods, properties, or services, including lease or use of properties, in the course of his trade or business. It shall also include the transitional input tax and the presumptive input tax determined in accordance with Sec. 111 of the Tax Code.

It includes input taxes which can be directly attributed to transactions subject to the VAT plus a ratable portion of any input tax which cannot be directly attributed to either the taxable or exempt activity.

Any input tax on the following transactions evidenced by a VAT invoice or official receipt issued by a VAT-registered person in accordance with Secs. 113 and 237 of the Tax Code shall be creditable against the output tax:

a. Purchase or importation of goods
   1. For sale; or
   2. For conversion into or intended to form part of a finished product for sale, including packaging materials; or
   3. For use as supplies in the course of business; or
   4. For use as raw materials supplied in the sale of services; or
   5. For use in trade or business for which deduction for depreciation or amortization is allowed under the Tax Code.
b. Purchase of real properties for which a VAT has actually been paid;
c. Purchase of services in which a VAT has actually been paid;
d. Transactions "deemed sale" under Sec. 106 (B) of the Tax Code;
e. Transitional input tax allowed under Sec. 4.111 (a) of these Regulations;
f. Presumptive input tax allowed under Sec. 4.111 (b) of these Regulations;

126 Emphasis supplied and italics in the original text.

127 Regulations Implementing the Value-Added Tax Provisions under the Republic Act (RA) No. 10963, or the "Tax Reform for Acceleration and Inclusion (TRAIN)," Further Amending Revenue Regulations (RR) No. 16-2005 (Consolidated Value-Added Tax Regulations of 2005), as Amended.

g. Transitional input tax credits allowed under the transitory and other provisions of these Regulations.

SEC. 4.110-2. ***Persons Who Can Avail of the Input Tax Credit.*** — The input tax credit on importation of goods or local purchases of goods, properties or services by a VAT-registered person shall be creditable:

a. To the importer upon payment of VAT prior to the release of goods from customs custody;
b. To the purchaser of the domestic goods or properties upon consummation of the sale; or
c. To the purchaser of services or the lessee or licensee upon payment of the compensation, rental, royalty or fee.

SEC. 4.110-3. ***Claims for Input Tax on Depreciable Goods.*** — Where a VAT-registered person purchases or imports capital goods, which are depreciable assets for income tax purposes, the aggregate acquisition cost of which (exclusive of VAT) in a calendar month exceeds One Million pesos (P1,000,000.00), regardless of the acquisition cost of each capital good, shall be claimed as credit against output tax in the following manner:

(a) If the estimated useful life of a capital good is five (5) years or more — The input tax shall be spread evenly over a period of sixty (60) months and the claim for input tax credit will commence in the calendar month when the capital good is acquired. The total input taxes on purchases or importations of this type of capital goods shall be divided by 60 and the quotient will be the amount to be claimed monthly.

(b) If the estimated useful life of a capital good is less than five (5) years — The input tax shall be spread evenly on a monthly basis by dividing the input tax by the actual number of months comprising the estimated useful life of the capital good. The claim for input tax credit shall commence in the calendar month that the capital goods were acquired.

Where the aggregate acquisition cost (exclusive of VAT) of the existing or finished depreciable capital goods purchased or imported during any calendar month does not exceed One million pesos (P1,000,000.00), the total input taxes will be allowable as credit against output tax in the month of acquisition.

...

(c) The amortization of the input VAT shall only be allowed until December 31, 2021 after which taxpayers with unutilized input VAT on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized: *Provided*, That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or fee.[128]

...

Meanwhile, Section 4.110-8 of RR No. 16-2005 provides for the substantiation requirements of input tax credits, as follows:

...

SEC. 4.110-8. ***Substantiation of Input Tax Credits.*** —

a. Input taxes for the importation of goods or the domestic purchase of goods, properties or services is made in the course of trade or business, whether such input taxes shall be credited against zero-rated sale, non-zero-rated sales, or subjected to the 5% Final Withholding VAT, **must be substantiated and supported by the following documents, and must be reported in the information returns required to be submitted to the Bureau**:

1. For the importation of goods — import entry or other equivalent document showing actual payment of VAT on the imported goods.
2. For the domestic purchase of goods and properties — invoice showing the information required under Secs. 113 and 237 of the Tax Code.
3. For the purchase of real property — public instrument i.e., deed of absolute sale, deed of conditional sale, contract/agreement to sell, etc., together with VAT invoice issued by the seller.
4. For the purchase of services — official receipt showing the information required under Secs. 113 and 237 of the Tax Code.

A cash register machine tape issued to a registered buyer shall constitute valid proof of substantiation of tax credit only if it shows the information required under Secs. 113 and 237 of the Tax Code.[129]

...

The documents also need to comply with the invoicing requirements[130] provided under 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 RR No. 16-2005, as amended.

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128 Emphasis supplied and italics in the original text.
129 Emphasis supplied and italics in the original text.
130 Supra at page 22.

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

Deductions	Amount of Input VAT
A. Insufficient documentations (No billing statement, OR, SI nor proof of payment)	₱7,165,066.10
B. Out of Period	202,346.26
C. Unreadable document	16,402.50
D. Document with alteration but not countersigned	26,330,497.58
E. Overclaimed	8,325.00
F. Violation of invoicing requirements pursuant to Section 113 of the NIRC of 1997, as amended	742,542.14
G. Disallowed input tax on "Big Ticket" Purchases	12,959,163.80
H. Deferred input tax on capital goods from local purchases and importation	3,200,977.32
I. Disallowed VAT on importation due to overclaim and failure to submit SSDT	281,727.00
J. Disallowed input VAT on purchase of capital goods with no supporting documentation	6,405.00

The Court shall now evaluate whether petitioner's pieces of evidence comply with the ***1st condition***.

A. INSUFFICIENT DOCUMENTATIONS (NO BILLING STATEMENT, OFFICIAL RECEIPT, SALES INVOICE NOR PROOF OF PAYMENT)

An examination of the amended ICPA Report and petitioner's voluminous supporting documents shows that the disallowance of input VAT amounting to ₱ 632,464.08[131] must be upheld since the supporting

131

Registered Name of Supplier	Supporting Document	Reference	Findings	Amount of input VAT
WILLIAMS COMMERCIAL COMPANY INCORPORATED	234486	Annex 7-1Q-ah	Supported only by scanned VAT REG TIN invoices	942.86
WILLIAMS COMMERCIAL COMPANY INCORPORATED	234980	Annex 7-1Q-ah	Supported only by scanned VAT REG TIN invoices	522.32

BPI/MS INSURANCE CORPORATION	Policy RN738348	Annex 7-1Q-ci	Not supported by a VAT OR/invoice. Supporting document is not valid for claiming input VAT and does not bear petitioner's TIN	200.60
GO8 CARGO MOVERS, INC.	763	Annex 7-1Q-ck	Not supported by a VAT OR/invoice. Supporting document is not valid for claiming input VAT and does not bear petitioner's TIN	1,926.00
SOS REAL ESTATE LESSOR	1336	Annex 7-1Q-co	Has alterations without countersign	1,480.37
SOS Real Estate Lessor	1399	Annex 7-1Q-cr	Has alterations without countersign	1,480.37
Smart Communications, Inc.	652232226	Annex 7-1Q-cs	No petitioner's TIN	535.71
Smart Communications, Inc.	652040000	Annex 7-1Q-cs		535.71
Smart Communications, Inc.	652312148	Annex 7-1Q-cs		535.71
Smart Communications, Inc.	652232452	Annex 7-1Q-cs		535.71
Smart Communications, Inc.	652323283	Annex 7-1Q-cs		535.71
Smart Communications, Inc.	652312342	Annex 7-1Q-cs		571.71
Smart Communications, Inc.	652322427	Annex 7-1Q-cs		535.71
Smart Communications, Inc.	652040112	Annex 7-1Q-cs		535.71
Smart Communications, Inc.	652283889	Annex 7-1Q-cs		535.71
Smart Communications, Inc.	652040822	Annex 7-1Q-cs		535.71
Smart Communications, Inc.	652042836	Annex 7-1Q-cs		179.45
Smart Communications, Inc.	652335300	Annex 7-1Q-cs		535.71
Smart Communications, Inc.	652338856	Annex 7-1Q-cs		267.81
Smart Communications, Inc.	652335561	Annex 7-1Q-cs		226.60
Smart Communications, Inc.	652336144	Annex 7-1Q-cs		262.99
Smart Communications, Inc.	652335766	Annex 7-1Q-cs		350.23
Smart Communications, Inc.	652336357	Annex 7-1Q-cs		111.54
Smart Communications, Inc.	652325819	Annex 7-1Q-cs		128.57
Smart Communications, Inc.	652329546	Annex 7-1Q-cs		85.71
Smart Communications, Inc.	652336143	Annex 7-1Q-cs		128.57

Smart Communications, Inc.	652336145	Annex 7-1Q-cs		128.57
Smart Communications, Inc.	652324741	Annex 7-1Q-cs		535.71
Smart Communications, Inc.	652335763	Annex 7-1Q-cs		535.71
Smart Communications, Inc.	652322694	Annex 7-1Q-cs		535.71
Smart Communications, Inc.	652321982	Annex 7-1Q-cs		160.71
SCANNER MAGNEDYNE INC.		Annex 7-1Q-ct	Domestic purchase of services supported by VAT REG TIN ORs with incorrect petitioner's TIN	12,696.43
GO8 CARGO MOVERS, INC.	766	Annex 7-1Q-db	Domestic purchase of services supported by VAT REG TIN billing statement with support not valid for claim of input tax	4,560.00
GO8 CARGO MOVERS, INC.	765	Annex 7-1Q-db		1,326.00
GO8 CARGO MOVERS, INC.	762	Annex 7-1Q-db		1,386.00
GO8 CARGO MOVERS, INC.	764	Annex 7-1Q-db		4,146.00
GO8 CARGO MOVERS, INC.	790	Annex 7-1Q-db		11,184.14
GO8 CARGO MOVERS, INC.	789	Annex 7-1Q-db		2,586.00
GO8 CARGO MOVERS, INC.	867-869	Annex 7-2Q-bv	Domestic purchase of services supported by VAT REG TIN billing statement only	1,542.00
SOS Real Estate Lessor	1439	Annex 7-2Q-cc	Domestic purchase of services supported by VAT REG TIN ORs with inserted petitioner's name without countersign	1,480.37
SOS Real Estate Lessor	1486	Annex 7-2Q-cc	Domestic purchase of services supported by VAT REG TIN ORs with inserted petitioner's name without countersign	1,480.37
CEBU CASTLE PEAK HOTEL CORPORATION		Annex 7-2Q-cf	Domestic purchase of services supported by VAT REG TIN statement of account with incomplete petitioner's name, without TIN, address, VAT breakdown, BIR permit to print and printing date indicated	728.57

Philippine Long Distance Telephone Company	109727121, 109739184	Annex 7-2Q-cg	Domestic purchase of services supported by VAT REG TIN ORs without petitioner's TIN and reason for payment indicated, with incorrect address and with underclaimed VAT	10,662.00
CITY TRAVEL & TOURS CORPORATION	8956	Annex 7-2Q-ch	Domestic purchase of services supported by VAT REG TIN billing statements with no petitioner's TIN and VAT breakdown indicated and with support not valid for claim of input tax	360.00
INSTITUTIONAL SYNERGY, INC.	8324	Annex 7-2Q-cj	Domestic purchase of services supported by VAT REG TIN billing statements with incorrect petitioner's TIN	1,200.00
LAKE ANN ENTERPRISES CORPORATION	8521	Annex 7-2Q-cn	Domestic purchase of goods other than capital goods supported by VAT REG TIN sales invoice included in the schedule of services with petitioner's TIN and address written on a computer printed invoice without countersign	169.71
SOS Real Estate Lessor		Annex 7-2Q-cn	Domestic purchase of services supported by VAT REG TIN ORs with altered petitioner's address without countersign	1,480.37
FAST AUTOWORLD PHILIPPINES CORPORATION	ROB22392	Annex 7-2Q-cq	Domestic purchase of services supported by VAT REG TIN ORs with altered petitioner's address without countersign and with VAT breakdown written on a different ink	769.86
EXPRESS INN CORPORATION	E12019-020	Annex 7-2Q-an	Domestic purchase of services supported by Statement of Account and not valid for claim of input tax, without petitioner's TIN, BIR Permit to print and printing date indicated	1,012.93

		Annex 7-3Q-an	Domestic purchase of goods other than capital goods supported by photocopied VAT REG TIN invoices with incomplete petitioner's address, with altered without countersign and written on different ink VAT breakdown, with overclaimed VAT	417.86
LA-CALIDAD COMPUTER SUPPLIES & SERVICES	FOR CLARIFICATION	Annex 7-3Q-an	Domestic purchase of goods other than capital goods supported by photocopied VAT REG TIN invoices with incomplete petitioner's address, with altered without countersign and written on different ink VAT breakdown, with overclaimed VAT	455.36
SOS Real Estate Lessor		Annex 7-3Q-ci	Domestic purchase of services supported by VAT REG TIN ORs with inserted petitioner's name without countersign	1,480.37
SOS Real Estate Lessor		Annex 7-3Q-ci	Domestic purchase of services supported by VAT REG TIN ORs with inserted petitioner's name without countersign	1,480.37
SEAHAWK TRANSPORT INC.	13677	Annex 7-3Q-cp	Domestic purchase of services supported by VAT REG TIN billing invoice without petitioner's TIN and address, BIR permit to print and printing date indicated, with support not valid for claim of input tax	738.00
LBC EXPRESS, INC.	4139	Annex 7-3Q-cv	Domestic purchase of services supported by photocopied VAT REG TIN billing statement	851.99
GO8 CARGO MOVERS, INC.	947, 734, 926, 703, 927, 704, 928, 705, 948, 735	Annex 7-3Q-cw	Domestic purchase of services supported by VAT REG TIN billing statement	8,370.00
Sycip Salazar Hernandez & Gatmaitan Law Offices	87095	Annex 7-3Q-cx	Domestic purchase of services supported by VAT REG TIN statement of account not valid to claim for input tax	300.00

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Malayan Insurance Co., Inc.	100705298-3	Annex 7-3Q-as	Domestic purchase of services supported by VAT REG TIN ORs without petitioner's TIN indicated and with incomplete address	58.56
Malayan Insurance Co., Inc.	100705298-3	Annex 7-3Q-as	Domestic purchase of services supported by VAT REG TIN ORs without petitioner's TIN indicated and with incomplete address	53.76
Malayan Insurance Co., Inc.	100705298-3	Annex 7-3Q-as	Domestic purchase of services supported by VAT REG TIN ORs without petitioner's TIN indicated and with incomplete address	53.76
Malayan Insurance Co., Inc.	100705298-3	Annex 7-3Q-as	Domestic purchase of services supported by VAT REG TIN ORs without petitioner's TIN indicated and with incomplete address	53.76
Malayan Insurance Co., Inc.	100705298-3	Annex 7-3Q-as	Domestic purchase of services supported by VAT REG TIN ORs without petitioner's TIN indicated and with incomplete address	115.20
Malayan Insurance Co., Inc.	100705298-3	Annex 7-3Q-as	Domestic purchase of services supported by VAT REG TIN ORs without petitioner's TIN indicated and with incomplete address	53.76
Malayan Insurance Co., Inc.	100705298-3	Annex 7-3Q-as	Domestic purchase of services supported by VAT REG TIN ORs without petitioner's TIN indicated and with incomplete address	115.20
Malayan Insurance Co., Inc.	100705298-3	Annex 7-3Q-as	Domestic purchase of services supported by VAT REG TIN ORs without petitioner's TIN indicated and with incomplete address	115.20

Malayan Insurance Co., Inc.	100705298-3	Annex 7-3Q-as	Domestic purchase of services supported by VAT REG TIN ORs without petitioner's TIN indicated and with incomplete address	115.20
Philippine Long Distance Telephone Company	110577576, 110589771	Annex 7-3Q-ai	Domestic purchase of services supported by statement of account only	10,899.39
CHESTER ENTERPRISES		Annex 7-4Q-ap	Domestic purchase of goods other than capital goods supported by scanned VAT REG TIN invoices	2,500.72
W AND L TRADING CORPORATION	14-11811	Annex 7-4Q-av	Domestic purchase of goods other than capital goods supported by TIN VAT invoices with altered date, petitioner's name and VAT breakdown without countersign, with VAT breakdown written on a different ink	4,121.36
Philippine Long Distance Telephone Company	112750929	Annex 7-4Q-cj	Domestic purchase of services supported by VAT REG TIN statement of account without petitioner's TIN and VAT breakdown, and with incorrect address indicated	10,662.00
Philippine Long Distance Telephone Company	112603993	Annex 7-4Q-ck	Domestic purchase of services supported by VAT REG TIN statement of account without petitioner's TIN and breakdown indicated	153.87
Philippine Long Distance Telephone Company	112192338, 112321559	Annex 7-4Q-cl	Domestic purchase of services supported by VAT REG TIN statement of account without petitioner's TIN, VAT breakdown and reason for payment indicated and support not valid to claim for input tax	10,998.87
NNR GLOBAL LOGISTICS(PHILS)INC	IS17264	Annex 7-4Q-cm	Domestic purchase of services supported by VAT REG TIN billing statement without petitioner's TIN and support not valid to claim for input tax	300.00

PLATON MARTINEZ FLORES SAN PEDRO & LEANO	127266	Annex 7-4Q-cn	Domestic purchase of services supported by VAT REG TIN PF with incorrect petitioner's TIN and support not valid to claim for input tax	360.00
PLATON MARTINEZ FLORES SAN PEDRO & LEANO	127227	Annex 7-4Q-cn	Domestic purchase of services supported by VAT REG TIN PF with incorrect petitioner's TIN and support not valid to claim for input tax	600.00
PRIMEX TRADE SALES, INC.	336231, 341837	Annex 7-4Q-co	Domestic purchase of services supported by VAT REG TIN credit invoice	2,460.00
LA-CALIDAD COMPUTER SUPPLIES & SERVICES	2169, '0085	Annex 7-4Q-cp	Domestic purchase of services supported by VAT REG TIN sales invoice with overclaimed VAT	1,414.29
"K" LINE LOGISTICS (PHILS.), INC.	1032	Annex 7-4Q-cq	Domestic purchase of services supported by photocopied VAT REG TIN billing invoice	840.00
"K" LINE LOGISTICS (PHILS.), INC.	1806	Annex 7-4Q-cr	Domestic purchase of services supported by photocopied VAT REG TIN billing invoice with support not valid to claim for input tax	840.00
Sycip Salazar Hernandez & Gatmaitan Law Offices	95544	Annex 7-4Q-cr	Domestic purchase of services supported by photocopied VAT REG TIN billing invoice with support not valid to claim for input tax	300.00
"K" LINE LOGISTICS (PHILS.), INC.	5115	Annex 7-4Q-cs	Domestic purchase of services photocopied supported by VAT REG TIN statement of reimbursable charges without VAT breakdown and reason for payment indicated	840.00
Skycable Corporation		Annex 7-4Q-ct	Domestic purchase of services photocopied supported by TIN statement of account without petitioner's TIN, BIR Permit to print and printing date indicated	375.00

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SOS Real Estate Lessor		Annex 7-4Q-dd	Domestic purchase of services supported by VAT REG TIN ORs with inserted petitioner's name with countersign	1,480.37
SOS Real Estate Lessor		Annex 7-4Q-de	Domestic purchase of services supported by VAT REG TIN ORs with inserted petitioner's name without countersign	1,480.37
WATERFRONT CEBU CITY CASINO HOTEL. INC.		Annex 7-4Q-df	Domestic purchase of services supported by VAT REG TIN ORs with inserted petitioner's name without countersign	1,856.25
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	273.61
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	535.71
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	504.38
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	234.70
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	535.72
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	535.71

Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	535.71
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	535.71
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	535.71
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	535.71
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	128.57
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	128.57
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	214.29
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	535.71

Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	535.71
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	535.71
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	535.71
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	85.71
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	535.71
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	261.38
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	312.76
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	314.91

Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	1.91
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	1.91
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	333.24
Smart Communications, Inc.		Annex 7-4Q-dg	Domestic purchase of services supported by photocopied VAT REG TIN ORs without petitioner's TIN and with overclaimed VAT	99.82
JTB ASIA PACIFIC PHIL. CORP.	2631-33, 2712, 2578	Annex 7-4Q-ar	Domestic purchase of services supported by VAT REG TIN official receipts with altered VAT breakdown without countersign and written on a different ink	554.62
ROSRICH DEVELOPMENT CORPORATION		Annex 7-4Q-ar	Domestic purchase of services supported by VAT REG TIN official receipts with altered VAT breakdown without countersign and written on a different ink	2,520.00
WATERFRONT CEBU CITY CASINO HOTEL. INC.		Annex 7-4Q-ar	Domestic purchase of services supported by VAT REG TIN official receipts with altered VAT breakdown without countersign and written on a different ink	1,325.89
ATJ Travel & Tours, Inc.	18340-19, 18341-19, 18330-19, 18331-19, 18332-19	Annex 7-4Q-dm	Domestic purchase of services supported by statement of account without petitioner's TIN, address, with support not valid to claim for input tax	480.00

ATJ Travel & Tours, Inc.	18362-19, 18363-19	Annex 7-4Q-dm	Domestic purchase of services supported by statement of account without petitioner's TIN, address, with support not valid to claim for input tax	456.00
Cignal TV, Inc.		Annex 7-1Q-dh	Domestic purchase of services without supporting document	215.88
Cignal TV, Inc.		Annex 7-1Q-dh	Domestic purchase of services without supporting document	119.46
Cignal TV, Inc.		Annex 7-1Q-dh	Domestic purchase of services without supporting document	215.88
Cignal TV, Inc.		Annex 7-1Q-dh	Domestic purchase of services without supporting document	119.46
ASIAN AEROSPACE CORPORATION		Annex 7-1Q-dh	Domestic purchase of services without supporting document	31,962.86
ASIAN AEROSPACE CORPORATION		Annex 7-1Q-dh	Domestic purchase of services without supporting document	31,962.86
SGV & Co.	PHL0100290575	Annex 7-1Q-dh	Domestic purchase of services without supporting document	1,558.56
BBMAX TECH INC.	c/o Sir Moching	Annex 7-1Q-dh	Domestic purchase of services without supporting document	3,240.00
BBMAX TECH INC.		Annex 7-1Q-dh	Domestic purchase of services without supporting document	3,240.00
Leciann Ventures	048263, 052265, 052278, 052493, 056077, 056356, 057966, 058170, 059866, 062621, 063107, 065966, 066056, 066455, 068104, 070762, 070966, 071721, 075110, 075396, 076540, 79580, 81716, 82487, 84974, 84971, 86802, 87984, 90576, 92322, 92583, 94436, 94921, 95175, 95957, 97117, 102224, 102634, 104855, 104643, 105103	Annex 7-2Q-ct	Domestic purchase of goods other than capital goods without supporting document	7,804.08

Cignal TV Inc.		Annex 7-2Q-cu	Domestic purchase of services without supporting document	119.46
Cignal TV Inc.		Annex 7-2Q-cu	Domestic purchase of services without supporting document	215.88
Cignal Tv, Inc.		Annex 7-2Q-cu	Domestic purchase of services without supporting document	215.88
Cignal Tv, Inc.		Annex 7-2Q-cu	Domestic purchase of services without supporting document	119.46
Toyota Talisay Cebu	31981	Annex 7-2Q-cu	Domestic purchase of services without supporting document	19,866.09
Cignal TV, Inc.		Annex 7-2Q-cu	Domestic purchase of services without supporting document	119.46
Cignal TV, Inc.		Annex 7-2Q-cu	Domestic purchase of services without supporting document	215.88
GO8 CARGO MOVERS, INC.	810-812	Annex 7-2Q-cu	Domestic purchase of services without supporting document	7,398.00
Smart Communications, Inc.	827404, 909859, 923472, 154531, 909858, 827403, 919906, 21276, 920330, 880933, 932866, 21786, 20681, 942092, 934256, 937051, 933884, 932923, 923465, 934082, 927343, 921428, 933477, 945126, 919351	Annex 7-2Q-cu	Domestic purchase of services without supporting document	9,435.80

Smart Communications, Inc.	690483721, 690413793, 690600605, 690575742, 690601505, 690566063, 690484078, 690282660, 690573562, 690282182, 690563663, 690572726, 690550082, 690416082, 690587634, 690601700, 690586699, 690587269, 690595092, 690595091, 690572156, 690579961, 690586110, 690574282	Annex 7-2Q-cu	Domestic purchase of services without supporting document	9,565.85
Touchart Trading Enterprises Inc.	2874	Annex 7-3Q-at	Domestic purchase of goods other than capital goods without supporting document	37,800.00
TOYOTA MANDAUE SOUTH, CEBU	22650, 22654, 22689, 22638, 22770	Annex 7-3Q-at	Domestic purchase of goods other than capital goods without supporting document	4,137.32
Cignal TV Inc.		Annex 7-3Q-at	Domestic purchase of services without supporting document	119.46
Cignal TV Inc.		Annex 7-3Q-di	Domestic purchase of services without supporting document	215.88
Cignal TV Inc.		Annex 7-3Q-di	Domestic purchase of services without supporting document	215.88
Cignal TV Inc.		Annex 7-3Q-di	Domestic purchase of services without supporting document	119.46
Toyota Talisay Cebu	36311	Annex 7-3Q-di	Domestic purchase of services without supporting document	1,654.26
DUN & BRADSTREET PHILIPPINES, INC.	c/o Ms. Chris	Annex 7-3Q-di	Domestic purchase of services without supporting document	720.00
Philippine-Japan Marine Surveyors & Sworn Measures Corporation	47915-18	Annex 7-3Q-di	Domestic purchase of services without supporting document	32,081.53

ROSRICH DEVELOPMENT CORPORATION		Annex 7-3Q-di	Domestic purchase of services without supporting document	2,520.00
Smart Communications, Inc.		Annex 7-3Q-di	Domestic purchase of services without supporting document	1,712.64
Smart Communications, Inc.	683009630, 683014682, 682899967, 682900428, 660609604, 660606895, 660250495, 660249108, 668195870, 668191042, 668321353, 668321969, 675643171, 675545001, 675651241, 675544194	Annex 7-3Q-di	Domestic purchase of services without supporting document	9,509.15
SGV & Co.		Annex 7-3Q-di	Domestic purchase of services without supporting document	2,914.28
Smart Communications, Inc.	39982, 838216, 114164, 39559, 126966, 836933, 138911, 942390, 114163, 153596, 126580, 139098, 87533, 156028, 141481, 139488, 138509, 155891, 138713, 139490, 125326, 125737, 124723, 133308	Annex 7-3Q-di	Domestic purchase of services without supporting document	9,529.99
ASIAN AEROSPACE CORPORATION		Annex 7-3Q-di	Domestic purchase of services without supporting document	27,000.00
ASIAN AEROSPACE CORPORATION		Annex 7-3Q-di	Domestic purchase of services without supporting document	27,000.00
CEBU COUNTRY CLUB, INC.		Annex 7-3Q-di	Domestic purchase of services without supporting document	24,480.00
Malayan Insurance Co., Inc.	100673253-0	Annex 7-3Q-di	Domestic purchase of services without supporting document	115.45
ROCOCO GLOBAL TECHNOLOGIES CORP.		Annex 7-3Q-di	Domestic purchase of services without supporting document	88,639.20

Smart Communications, Inc.	713826947, 713843265, 713812971, 713938881, 713942167, 713827632, 713809774, 713898704, 713910597, 713941396, 713871150, 713921752, 713921287, 713944954, 713924332, 713922721, 713923067, 713923066, 713941632, 713943471, 713907760, 713944957, 713921358, 713941185	Annex 7-3Q-di	Domestic purchase of services without supporting document	9,502.87
Smart Communications, Inc.	637424, 628188, 754622	Annex 7-3Q-di	Domestic purchase of services without supporting document	642.24
LA-CALIDAD COMPUTER SUPPLIES & SERVICES	2122, 0083	Annex 7-4Q-bh	Domestic purchase of goods other than capital goods without supporting document	5,625.00
FAMILY HEALTH AND BEAUTY CORP.		Annex 7-4Q-bh	Domestic purchase of goods other than capital goods without supporting document	24,910.71
Smart Communications, Inc.		Annex 7-4Q-dw	Domestic purchase of services without supporting document	192.86
CEBU CASTLE PEAK HOTEL CORPORATION		Annex 7-4Q-dw	Domestic purchase of services without supporting document	728.57
SEAHAWK TRANSPORT INC.	14119	Annex 7-4Q-dw	Domestic purchase of services without supporting document	1,058.04
SEAHAWK TRANSPORT INC.	14234	Annex 7-4Q-dw	Domestic purchase of services without supporting document	738.00
SEAHAWK TRANSPORT INC.	14152	Annex 7-4Q-dw	Domestic purchase of services without supporting document	850.80
SGV & Co.	PHL0100311603	Annex 7-4Q-dw	Domestic purchase of services without supporting document	1,583.76

Smart Communications, Inc.	721705260, 721689969, 721788968, 721703692, 721777492, 721800504, 721689040, 721686238, 72176692, 721786595, 721748754, 721799676, 721788407, 721802694, 721819916, 72179915, 721800132, 721800290, 721799344, 721817957, 721794514, 721819915, 721786142, 721787086	Annex 7-4Q-dw	Domestic purchase of services without supporting document	9,544.39
Smart Communications, Inc.	714437027, 714431631, 714565165, 714565771	Annex 7-4Q-dw	Domestic purchase of services without supporting document	642.24
PLATON MARTINEZ FLORES SAN PEDRO & LEANO	124931, 124970	Annex 7-4Q-dw	Domestic purchase of services without supporting document	960.00
Skycable Pacific CATV, Inc.		Annex 7-4Q-dw	Domestic purchase of services without supporting document	375.00
Smart Communications, Inc.	737552250, 737539611, 737583886, 737636935, 737648450, 737623511, 737537793, 737535710, 737595742, 737664466, 737634332, 737634272, 737636190, 737671880, 737660957, 737648109, 737648298, 737640374, 737670830, 737648299, 737649908, 737648658, 737648452, 737648659	Annex 7-4Q-dw	Domestic purchase of services without supporting document	9,429.46

documents proffered by petitioner do not satisfy the invoicing requirements.

B. OUT OF PERIOD

A thorough review of both the amended ICPA Report and the supporting documents provided by petitioner indicates that the input VAT disallowance of ₱85,891.22 is justified, as shown below:

Registered Name of Supplier	Sales Invoice No.	OR No.	Reference	Findings	Amount of Input VAT
Top-Rigid Industrial Safety Supply Inc.	125174		Annex 7-1Q-aj	Domestic purchase of goods other than capital goods supported by VAT REG TIN invoices dated not within the period of claim	₱2,280.96
Plan & Do Construction	Billing Statement	0001	Annex 7-1Q-cj		71,250.00
Vanguard [Assessments] and Behavioral Dynamics Int'l Corp.	303	0203	Annex 7-1Q-cn	Domestic purchase of services supported by VAT REG TIN ORs with altered date without countersign and without specific day indicated	420.00
Aldo Service Center, Inc.	31452	31120	Annex 7-1Q-dd	Domestic purchase of services supported by VAT REG TIN ORs without stating the nature of the services	932.14
Dalaguete Gas Station	106909		Annex 7-4Q-at	Domestic purchase of goods other than capital goods supported by VAT REG TIN invoices dated not within the period of claim	372.65
FAST AUTOWORLD PHILIPPINES CORPORATION	ROB24949	35840	Annex 7-4Q-cw	Domestic purchase of services supported by VAT REG TIN ORs dated not within the period of claim	818.74
TOYOTA MANDAUE SOUTH, CEBU	76946	1-66058	Annex 7-4Q-cw		1,322.07
SOS Real Estate Lessor			Annex 7-4Q-dw	Domestic purchase of services without supporting document	1,480.37
Difference due to overclaimed VAT					9,142.88
TOTAL					**632,464.08**

TOYOTA MANDAUE SOUTH, CEBU	76212	1-66059	Annex 7-4Q-cw		1,570.69
ABLE SERVICES, INC.	31949, 31948, 31648	39845	Annex 7-4Q-cw		1,930.79
PRIMARY SOFTWARE DEVELOPMENT CORPORATION		6849	Annex 7-4Q-cx	Domestic purchase of services supported by VAT REG TIN ORs dated not within the period of claim, with altered date, petitioner's name, and VAT breakdown without countersign, without reason for payment indicated	1,767.86
GERISONIC ELECTRONIC AND COMMUNICATION SYSTEM-MARMITO, GERALD R	10106, 10109	16036	Annex 7-4Q-cy	Domestic purchase of services supported by VAT REG TIN ORs dated not within the period of claim, with altered petitioner's address, VAT breakdown without countersign	257.14
UPS-Delbros International Express Ltd., Inc.	1-1297815	41786	Annex 7-4Q-cz	Domestic purchase of services supported by photocopied VAT REG TIN ORs dated not within the period of claim	80.80
BPI/MS INSURANCE CORPORATION	RN742120, RN741753	AD076024, AD076024	Annex 7-4Q-da	Domestic purchase of services supported by photocopied VAT REG TIN ORs dated not within the period of claim and with incorrect Petitioner's TIN	198.18
BPI/MS INSURANCE CORPORATION	RN742120, RN741753	AD076024, AD076024	Annex 7-4Q-da		197.06
PRIMARY SOFTWARE DEVELOPMENT CORPORATION		6848	Annex 7-4Q-db	Domestic purchase of services supported by VAT REG TIN ORs with altered date countersigned not by the cashier or the authorized representative	2,492.14
TOTAL					**₱85,891.22**

C. UNREADABLE DOCUMENT

As ICPA Constantino verified, the purchase of goods previously identified by respondent, as evidenced by an unreadable document, is properly supported and compliant with the invoicing requirements. Thus, the previous disallowance of ₱16,402.50 must be reversed.[132]

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132 See Exhibit "P-23-1313", USB.

D. DOCUMENTS WITH ALTERATION BUT NOT COUNTERSIGNED

Per respondent's VAT Refund Notice and its attachments, this pertains to alterations, erasures, or additions of amounts, addresses, or business names without the required countersignature. For this kind of disallowance, the time that the countersignature was made is of crucial importance. It is incumbent upon petitioner to show that it was already countersigned at the time of respondent's review and not after respondent rendered a decision. It bears noting that an appeal of an unsuccessful administrative claim, the taxpayer has to convince this Court that respondent had no reason to deny its claim.[133] It is thus, important that petitioner was able to show that such disallowance has no basis. Consequently, petitioner cannot rectify the lapse by filing 'cured' documents before this Court. After all, basic is the rule that the party producing a document which has been altered must account for any alteration.[134]

As such, respondent's disallowance of input VAT due to alterations made to the ORs or invoices without any countersignature, in the aggregate of ₱26,330,497.58, must be upheld.[135]

E. OVERCLAIMED INPUT VALUE-ADDED TAX (VAT)

Upon ICPA Constantino's examination, it was confirmed that the amount of ₱8,325.00 was appropriately disallowed by respondent. It was based on the discrepancy found between the supporting document (*i.e.*, OR No. 2803[136]) and the amount of input VAT claimed by petitioner in its return, which resulted in an overclaimed input VAT amount.

F. VIOLATION OF INVOICING REQUIREMENTS PURSUANT TO SECTION 113 OF THE NIRC OF 1997, AS AMENDED

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133 *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*, G.R. No. 207112, 08 December 2015.
134 Rules of Court, Rule 132, Section 31.
135 See Annex 9-d for the list of exhibits which BIR disallowed due to alterations without countersignature, USB.
136 Exhibit "P-24-1345", USB.

Upon reviewing the purchases flagged by respondent for invoicing requirements violations (*e.g.*, no name/TIN/address provided, incomplete addresses, incorrect TIN, unregistered sales invoices, invalid Authority to Print [**ATP**], incomplete dates, or no separate billing of VAT amounts), totaling ₱742,542.14 in the VAT Refund Notice, it was determined that only ₱133,477.86[137] of input VAT should be disallowed

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Per VAT Refund Notice Annex "A.2" (Exhibit P-4)					
Registered Name of Supplier	**Sales Invoice No.**	**OR No.**	**Reference**	**ICPA Findings**	**Findings**
TABEL ENTERPRISES- TABEL, JAIME J	79833		Annex 7-1Q-ao	Domestic purchase of goods other than capital goods supported by VAT REG TIN invoices with inserted Petitioner's name without countersign, with expired printing date for BIR Permit and with altered VAT breakdown without countersign	3,750.00
TABEL ENTERPRISES- TABEL, JAIME J	79841		Annex 7-1Q-ao		4,875.00
TABEL ENTERPRISES- TABEL, JAIME J	79843		Annex 7-1Q-ao		3,803.57
TABEL ENTERPRISES- TABEL, JAIME J	79844		Annex 7-1Q-ao		2,569.29
TABEL ENTERPRISES- TABEL, JAIME J	97852		Annex 7-1Q-ao		951.43
TABEL ENTERPRISES- TABEL, JAIME J	97855		Annex 7-1Q-ao		1,017.86
TABEL ENTERPRISES- TABEL, JAIME J	79684		Annex 7-1Q-ao		80.36
TABEL ENTERPRISES- TABEL, JAIME J	97856		Annex 7-1Q-ao		535.71
TABEL ENTERPRISES- TABEL, JAIME J	79845		Annex 7-1Q-ao		6,964.29
TABEL ENTERPRISES- TABEL, JAIME J	97872		Annex 7-1Q-ao		187.50
TABEL ENTERPRISES- TABEL, JAIME J	97887		Annex 7-1Q-ao		85.71
TABEL ENTERPRISES - TABEL, JAIME J	79695		Annex 7-1Q-ao		482.14
TABEL ENTERPRISES - TABEL, JAIME J	99018		Annex 7-1Q-ao		1,500.00
BOHOL QUALITY CORPORATION	2099994		Annex 7-1Q-aw	Domestic purchase of goods other than capital goods supported by TIN invoices with inserted Petitioner's TIN without	332.04
BOHOL QUALITY CORPORATION	2099952		Annex 7-1Q-aw		118.93

BOHOL QUALITY CORPORATION	2099949		Annex 7-1Q-aw	countersign and without BIR permit to print and printing date	220.71
BOHOL QUALITY CORPORATION	2099986		Annex 7-1Q-aw		602.89
BOHOL QUALITY CORPORATION	2099983		Annex 7-1Q-aw		187.50
BOHOL QUALITY CORPORATION	2099967		Annex 7-1Q-aw		405.64
BOHOL QUALITY CORPORATION	2099954		Annex 7-1Q-aw		1,834.18
BOHOL QUALITY CORPORATION	2099990		Annex 7-1Q-aw		138.75
BOHOL QUALITY CORPORATION	2099944		Annex 7-1Q-aw		490.71
BOHOL QUALITY CORPORATION	2104412		Annex 7-1Q-aw		187.50
BOHOL QUALITY CORPORATION	2104415		Annex 7-1Q-aw		308.57
BOHOL QUALITY CORPORATION	2110056		Annex 7-1Q-aw		246.86
BOHOL QUALITY CORPORATION	2119416		Annex 7-1Q-aw		2,094.64
BOHOL QUALITY CORPORATION	2119414		Annex 7-1Q-aw		557.57
BOHOL QUALITY CORPORATION	2119402		Annex 7-1Q-aw		990.20
BOHOL QUALITY CORPORATION	2119405		Annex 7-1Q-aw		616.71
BOHOL QUALITY CORPORATION	2119385		Annex 7-1Q-aw		1,183.82
BOHOL QUALITY CORPORATION	2110053		Annex 7-1Q-aw		6,278.57
BOHOL QUALITY CORPORATION	2115036		Annex 7-1Q-aw		1,234.29
BOHOL QUALITY CORPORATION	2110055		Annex 7-1Q-aw		1,143.97
BOHOL QUALITY CORPORATION	2115053		Annex 7-1Q-aw		500.89

BOHOL QUALITY CORPORATION	2124144		Annex 7-1Q-aw		1,007.14
BOHOL QUALITY CORPORATION	2124127		Annex 7-1Q-aw		480.21
BOHOL QUALITY CORPORATION	2124048		Annex 7-1Q-aw		1,185.00
BOHOL QUALITY CORPORATION	2115044		Annex 7-1Q-aw		153.11
BOHOL QUALITY CORPORATION	2129095		Annex 7-1Q-aw		456.96
BOHOL QUALITY CORPORATION	2129101		Annex 7-1Q-aw		365.36
BOHOL QUALITY CORPORATION	2129087		Annex 7-1Q-aw		319.92
BOHOL QUALITY CORPORATION	2129098		Annex 7-1Q-aw		823.93
BOHOL QUALITY CORPORATION	2129081		Annex 7-1Q-aw		706.61
BOHOL QUALITY CORPORATION	2129080		Annex 7-1Q-aw		42.32
BOHOL QUALITY CORPORATION	2135233		Annex 7-1Q-aw		5,461.61
BOHOL QUALITY CORPORATION	2147825		Annex 7-1Q-aw		2,308.71
BOHOL QUALITY CORPORATION	2147846		Annex 7-1Q-aw		462.09
BOHOL QUALITY CORPORATION	2147789		Annex 7-1Q-aw		617.79
BOHOL QUALITY CORPORATION	2148627		Annex 7-1Q-aw		114.86
BOHOL QUALITY CORPORATION	2148130		Annex 7-1Q-aw		62.14
BOHOL QUALITY CORPORATION	2147813		Annex 7-1Q-aw		874.26
BOHOL QUALITY CORPORATION	2147871		Annex 7-1Q-aw		621.43
BOHOL QUALITY CORPORATION	2147873		Annex 7-1Q-aw		2,892.86

BOHOL QUALITY CORPORATION	2147819		Annex 7-1Q-aw		405.00
BOHOL QUALITY CORPORATION	2147805		Annex 7-1Q-aw		259.82
BOHOL QUALITY CORPORATION	2148987		Annex 7-1Q-aw		222.43
BOHOL QUALITY CORPORATION-BQ BUILDERWARE	8992		Annex 7-1Q-ba		1,420.71
BOHOL QUALITY CORPORATION-BQ BUILDERWARE	8994		Annex 7-1Q-ba		1,060.71
BOHOL QUALITY CORPORATION-BQ BUILDERWARE	9279		Annex 7-1Q-ba		327.86
BOHOL QUALITY CORPORATION-BQ BUILDERWARE	9280		Annex 7-1Q-ba		825.00
BOHOL QUALITY CORPORATION-BQ BUILDERWARE	10190		Annex 7-1Q-ba	Domestic purchase of goods other than capital goods supported by VAT REGISTERED TIN tape receipts with altered/inserted Petitioner's name, TIN and address and written on a printed invoice without countersign and without VAT breakdown	942.86
BOHOL QUALITY CORPORATION-BQ BUILDERWARE	10189		Annex 7-1Q-ba		1,584.64
BOHOL QUALITY CORPORATION-BQ BUILDERWARE	10606		Annex 7-1Q-ba		546.43
BOHOL QUALITY CORPORATION-BQ BUILDERWARE	10607		Annex 7-1Q-ba		235.71
BOHOL QUALITY CORPORATION-BQ BUILDERWARE	11330		Annex 7-1Q-ba		353.57
BOHOL QUALITY CORPORATION-BQ BUILDERWARE	11329		Annex 7-1Q-ba		163.93
BOHOL QUALITY CORPORATION-BQ BUILDERWARE	11604		Annex 7-1Q-ba		825.00
BOHOL QUALITY CORPORATION-BQ BUILDERWARE	11603		Annex 7-1Q-ba		,710.37

Leciann Ventures	838599		Annex 7-1Q-ba		219.69
Leciann Ventures	852351		Annex 7-1Q-ba		156.18
Leciann Ventures	848976		Annex 7-1Q-ba		131.74
Leciann Ventures	852591		Annex 7-1Q-ba		89.24
Leciann Ventures	854325		Annex 7-1Q-ba		230.66
Leciann Ventures	856599		Annex 7-1Q-ba		267.22
Leciann Ventures	858506		Annex 7-1Q-ba		165.39
Leciann Ventures	860474		Annex 7-1Q-ba		229.48
Leciann Ventures	862768		Annex 7-1Q-ba		89.96
Leciann Ventures	866308		Annex 7-1Q-ba		229.94
Leciann Ventures	866444		Annex 7-1Q-ba		197.62
Leciann Ventures	873576		Annex 7-1Q-ba		248.61
Leciann Ventures	873957		Annex 7-1Q-ba		155.53
Leciann Ventures	876219		Annex 7-1Q-ba		195.29
Leciann Ventures	876327		Annex 7-1Q-ba		249.36
Leciann Ventures	876366		Annex 7-1Q-ba		145.49
Leciann Ventures	878509		Annex 7-1Q-ba		74.58
Leciann Ventures	882323		Annex 7-1Q-ba		206.11
Leciann Ventures	883565		Annex 7-1Q-ba		282.69

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Leciann Ventures	883751		Annex 7-1Q-ba		213.18
Leciann Ventures	884249		Annex 7-1Q-ba		173.62
Leciann Ventures	886375		Annex 7-1Q-ba		154.72
Leciann Ventures	890711		Annex 7-1Q-ba		160.71
Leciann Ventures	890876		Annex 7-1Q-ba		220.98
Leciann Ventures	891287		Annex 7-1Q-ba		217.68
Leciann Ventures	893004		Annex 7-1Q-ba		142.96
Leciann Ventures	894256		Annex 7-1Q-ba		216.50
Leciann Ventures	894919		Annex 7-1Q-ba		127.65
Leciann Ventures	895707		Annex 7-1Q-ba		205.94
Leciann Ventures	902585		Annex 7-1Q-ba		175.31
Leciann Ventures	903894		Annex 7-1Q-ba		164.76
Leciann Ventures	905279		Annex 7-1Q-ba		88.28
Leciann Ventures	907316		Annex 7-1Q-ba		240.85
Leciann Ventures	907408		Annex 7-1Q-ba		71.97
Leciann Ventures	870754		Annex 7-1Q-bb	Domestic purchase of goods other than capital goods supported by reprinted VAT REGISTERED TIN tape receipts without Petitioner's name, TIN and address	291.90
Leciann Ventures	909188		Annex 7-2Q-as	Domestic purchase of goods other than capital goods supported by VAT REG TIN tape receipts without Petitioner's name, TIN, and address, without	162.17
Leciann Ventures	910795		Annex 7-2Q-as		230.21
Leciann Ventures	911513		Annex 7-2Q-as		296.52

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Leciann Ventures	912786		Annex 7-2Q-as	BIR permit printing date indicated and with supporting VAT official receipt	195.22
Leciann Ventures	915048		Annex 7-2Q-as		167.53
Leciann Ventures	917655		Annex 7-2Q-as		177.19
Leciann Ventures	918690		Annex 7-2Q-as		251.55
Leciann Ventures	918903		Annex 7-2Q-as		191.71
Leciann Ventures	2348		Annex 7-2Q-as		151.24
Leciann Ventures	3776		Annex 7-2Q-as		247.75
Leciann Ventures	3934		Annex 7-2Q-as		225.46
Leciann Ventures	5885		Annex 7-2Q-as		185.98
Leciann Ventures	6820		Annex 7-2Q-as		163.88
Leciann Ventures	8418		Annex 7-2Q-as		126.92
Leciann Ventures	10845		Annex 7-2Q-as		199.64
Leciann Ventures	12213		Annex 7-2Q-as		218.14
Leciann Ventures	14613		Annex 7-2Q-as		205.44
Leciann Ventures	15366		Annex 7-2Q-as		177.91
Leciann Ventures	19058		Annex 7-2Q-as		230.85
Leciann Ventures	21953		Annex 7-2Q-as		176.51
Leciann Ventures	23861		Annex 7-2Q-as		113.81
Leciann Ventures	24113		Annex 7-2Q-as		208.39
Leciann Ventures	24364		Annex 7-2Q-as		152.81
Leciann Ventures	26707		Annex 7-2Q-as		177.93
Leciann Ventures	27784		Annex 7-2Q-as		202.48
Leciann Ventures	33562		Annex 7-2Q-as		360.23
Leciann Ventures	34568		Annex 7-2Q-as		207.86
Leciann Ventures	35121		Annex 7-2Q-as		213.96
Leciann Ventures	35220		Annex 7-2Q-as		151.48
Leciann Ventures	35726		Annex 7-2Q-as		163.45
Leciann Ventures	37164		Annex 7-2Q-as		266.83
Leciann Ventures	37943		Annex 7-2Q-as		104.82

Leciann Ventures	39602		Annex 7-2Q-as		199.77
Leciann Ventures	40119		Annex 7-2Q-as		207.33
Leciann Ventures	41758		Annex 7-2Q-as		130.95
Leciann Ventures	42785		Annex 7-2Q-as		247.69
Leciann Ventures	43729		Annex 7-2Q-as		134.70
Leciann Ventures	45149		Annex 7-2Q-as		178.10
Leciann Ventures	107094		Annex 7-2Q-as		199.03
Leciann Ventures	110563		Annex 7-2Q-as		191.60
Leciann Ventures	109653		Annex 7-2Q-as		94.86
Leciann Ventures	112413		Annex 7-2Q-as		266.03
Leciann Ventures	115063		Annex 7-2Q-as		275.62
Leciann Ventures	115564		Annex 7-2Q-as		211.36
Leciann Ventures	117440		Annex 7-2Q-as		147.96
Leciann Ventures	119283		Annex 7-2Q-as		165.86
Leciann Ventures	119023		Annex 7-2Q-as		265.53
Leciann Ventures	121452		Annex 7-2Q-as		183.21
Leciann Ventures	121513		Annex 7-2Q-as		163.46
Leciann Ventures	121613		Annex 7-2Q-as		156.45
Leciann Ventures	122689		Annex 7-2Q-as		218.64
Leciann Ventures	124857		Annex 7-2Q-as		170.41
Leciann Ventures	123828		Annex 7-2Q-as		199.59
Leciann Ventures	125856		Annex 7-2Q-as		142.04
Leciann Ventures	128770		Annex 7-2Q-as		231.94
Leciann Ventures	127990		Annex 7-2Q-as		274.24
Leciann Ventures	129185		Annex 7-2Q-as		203.94
Leciann Ventures	131578		Annex 7-2Q-as		176.13
Leciann Ventures	134419		Annex 7-2Q-as		316.77
Leciann Ventures	135306		Annex 7-2Q-as		140.61
Leciann Ventures	137828		Annex 7-2Q-as		201.27

Leciann Ventures	137130		Annex 7-2Q-as		203.61
Leciann Ventures	137834		Annex 7-2Q-as		103.01
Leciann Ventures	138929		Annex 7-2Q-as		182.93
Leciann Ventures	138338		Annex 7-2Q-as		322.81
Leciann Ventures	140712		Annex 7-2Q-as		105.15
Leciann Ventures	146418		Annex 7-2Q-as		199.95
Leciann Ventures	146616		Annex 7-2Q-as		213.63
Leciann Ventures	145054		Annex 7-2Q-as		133.64
Leciann Ventures	147400		Annex 7-2Q-as		251.05
Leciann Ventures	46513		Annex 7-2Q-as		97.93
Leciann Ventures	148594		Annex 7-2Q-as		101.00
Leciann Ventures	149356		Annex 7-2Q-as		237.89
Leciann Ventures	152291		Annex 7-2Q-as		166.16
Leciann Ventures	152299		Annex 7-2Q-as		163.36
Leciann Ventures	154742		Annex 7-2Q-as		215.53
Leciann Ventures	157841		Annex 7-2Q-as		183.53
Leciann Ventures	158403		Annex 7-2Q-as		180.67
Leciann Ventures	161801		Annex 7-2Q-as		209.55
Leciann Ventures	162380		Annex 7-2Q-as		160.24
Leciann Ventures	164228		Annex 7-2Q-as		99.79
Leciann Ventures	164966		Annex 7-2Q-as		166.50
Leciann Ventures	144050		Annex 7-2Q-at		192.98
Leciann Ventures	166197		Annex 7-3Q-ak		170.33
Leciann Ventures	169752		Annex 7-3Q-ak		120.06
Leciann Ventures	171548		Annex 7-3Q-ak		261.23
Leciann Ventures	173239		Annex 7-3Q-ak		189.53
Leciann Ventures	173643		Annex 7-3Q-ak		222.49
Leciann Ventures	173300		Annex 7-3Q-ak		82.87
Leciann Ventures	174269		Annex 7-3Q-ak		162.14
Leciann Ventures	177097		Annex 7-3Q-ak		116.52

Leciann Ventures	178104		Annex 7-3Q-ak		198.79
Leciann Ventures	179359		Annex 7-3Q-ak		137.88
Leciann Ventures	181460		Annex 7-3Q-ak		214.69
Leciann Ventures	182540		Annex 7-3Q-ak		190.50
Leciann Ventures	185223		Annex 7-3Q-ak		302.88
Leciann Ventures	185129		Annex 7-3Q-ak		188.18
Leciann Ventures	185693		Annex 7-3Q-ak		159.39
Leciann Ventures	185985		Annex 7-3Q-ak		181.56
Leciann Ventures	192629		Annex 7-3Q-ak		248.33
Leciann Ventures	194896		Annex 7-3Q-ak		194.57
Leciann Ventures	194911		Annex 7-3Q-ak		216.57
Leciann Ventures	195858		Annex 7-3Q-ak		187.69
Leciann Ventures	196685		Annex 7-3Q-ak		172.18
Leciann Ventures	203510		Annex 7-3Q-ak		150.27
Leciann Ventures	203866		Annex 7-3Q-ak		103.92
Leciann Ventures	204324		Annex 7-3Q-ak		247.65
Leciann Ventures	206233		Annex 7-3Q-ak		203.17
Leciann Ventures	208049		Annex 7-3Q-ak		197.27
Leciann Ventures	208621		Annex 7-3Q-ak		196.41
Leciann Ventures	208666		Annex 7-3Q-ak		159.71
Leciann Ventures	213655		Annex 7-3Q-ak		220.16
Leciann Ventures	218180		Annex 7-3Q-ak		290.49
Leciann Ventures	218724		Annex 7-3Q-ak		193.89
Leciann Ventures	218934		Annex 7-3Q-ak		167.58
Leciann Ventures	219940		Annex 7-3Q-ak		191.12
Leciann Ventures	220643		Annex 7-3Q-ak		199.69
Leciann Ventures	227589		Annex 7-3Q-ak		127.70
Leciann Ventures	227589		Annex 7-3Q-ak		127.70
Leciann Ventures	229807		Annex 7-3Q-ak		201.63

Leciann Ventures	228934		Annex 7-3Q-ak		182.50
Leciann Ventures	229431		Annex 7-3Q-ak		168.97
Leciann Ventures	251604		Annex 7-3Q-ak		151.39
Leciann Ventures	244266		Annex 7-3Q-ak		158.30
Leciann Ventures	237661		Annex 7-3Q-ak		132.15
Leciann Ventures	232012		Annex 7-3Q-ak		171.19
Leciann Ventures	254246		Annex 7-3Q-ak		230.24
Leciann Ventures	246064		Annex 7-3Q-ak		147.27
Leciann Ventures	240319		Annex 7-3Q-ak		221.02
Leciann Ventures	266343		Annex 7-3Q-ak		211.78
Leciann Ventures	263700		Annex 7-3Q-ak		128.88
Leciann Ventures	258794		Annex 7-3Q-ak		184.51
Leciann Ventures	227954		Annex 7-3Q-ak		226.60
Leciann Ventures	235493		Annex 7-3Q-ak		165.39
Leciann Ventures	245457		Annex 7-3Q-ak		189.82
Leciann Ventures	252373		Annex 7-3Q-ak		178.14
Leciann Ventures	261959		Annex 7-3Q-ak		182.43
Leciann Ventures	258149		Annex 7-3Q-ak		194.75
Leciann Ventures	249951		Annex 7-3Q-ak		206.42
Leciann Ventures	076963		Annex 7-3Q-ak		52.07
Leciann Ventures	239296		Annex 7-3Q-ak		129.22
Leciann Ventures	286764		Annex 7-3Q-ak		240.48
Leciann Ventures	279039		Annex 7-3Q-ak		132.81
Leciann Ventures	275334		Annex 7-3Q-ak		197.00
Leciann Ventures	266640		Annex 7-3Q-ak		133.26
Leciann Ventures	257355		Annex 7-3Q-ak		148.78
Leciann Ventures	265526		Annex 7-3Q-ak		198.73
Leciann Ventures	270393		Annex 7-3Q-ak		123.57
Leciann Ventures	277590		Annex 7-3Q-ak		187.29

Leciann Ventures	270980		Annex 7-3Q-ak		199.68
Leciann Ventures	280193		Annex 7-3Q-ak		183.74
Leciann Ventures	287163		Annex 7-3Q-ak		208.46
Leciann Ventures	274423		Annex 7-3Q-ak		221.81
Leciann Ventures	259719		Annex 7-3Q-ak		267.33
Leciann Ventures	247998		Annex 7-3Q-ak		228.35
Leciann Ventures	232186		Annex 7-3Q-ak		183.73
Leciann Ventures	284954		Annex 7-3Q-ak		211.77
Leciann Ventures	286607		Annex 7-3Q-ak		161.89
Leciann Ventures	275705		Annex 7-3Q-ak		199.37
Leciann Ventures	295317		Annex 7-3Q-ak		182.76
Leciann Ventures	293657		Annex 7-3Q-ak		77.88
Leciann Ventures	297041		Annex 7-3Q-ak		223.23
Leciann Ventures	297485		Annex 7-3Q-ak		122.15
Leciann Ventures	298170		Annex 7-3Q-ak		183.49
Leciann Ventures	299961		Annex 7-3Q-ak		160.53
Leciann Ventures	301666		Annex 7-3Q-ak		149.43
Leciann Ventures	301760		Annex 7-3Q-ak		205.43
Leciann Ventures	305316		Annex 7-3Q-ak		249.57
Leciann Ventures	306265		Annex 7-3Q-ak		207.79
Leciann Ventures	308599		Annex 7-3Q-ak		240.78
Leciann Ventures	311224		Annex 7-3Q-ak		196.49
Leciann Ventures	314955		Annex 7-3Q-ak		201.40
Leciann Ventures	314650		Annex 7-3Q-ak		172.51
Leciann Ventures	317074		Annex 7-3Q-ak		218.00
Leciann Ventures	317129		Annex 7-3Q-ak		175.76
Leciann Ventures	321813		Annex 7-3Q-ak		97.15
Leciann Ventures	323736		Annex 7-3Q-ak		180.75
Leciann Ventures	324294		Annex 7-3Q-ak		199.10
Leciann Ventures	325039		Annex 7-3Q-ak		189.44

Leciann Ventures	326510		Annex 7-3Q-ak		206.53
Leciann Ventures	334034		Annex 7-3Q-ak		163.13
Leciann Ventures	334127		Annex 7-3Q-ak		206.55
Leciann Ventures	337236		Annex 7-3Q-ak		201.99
Leciann Ventures	338902		Annex 7-3Q-ak		207.55
Leciann Ventures	342332		Annex 7-3Q-ak		181.32
Leciann Ventures	343016		Annex 7-3Q-ak		160.67
Leciann Ventures	347134		Annex 7-3Q-ak		180.93
Leciann Ventures	347306		Annex 7-3Q-ak		89.40
Leciann Ventures	347934		Annex 7-3Q-ak		117.10
Leciann Ventures	351625		Annex 7-3Q-ak		159.98
Leciann Ventures	353053		Annex 7-3Q-ak		212.81
Leciann Ventures	352603		Annex 7-3Q-ak		186.50
Leciann Ventures	354767		Annex 7-3Q-ak		184.48
Leciann Ventures	349138		Annex 7-3Q-ak		138.30
Leciann Ventures	355673		Annex 7-3Q-ak		246.63
Leciann Ventures	357715		Annex 7-3Q-ak		193.53
Leciann Ventures	358751		Annex 7-4Q-bf		266.70
Leciann Ventures	360769		Annex 7-4Q-bf		177.53
Leciann Ventures	361895		Annex 7-4Q-bf		216.54
Leciann Ventures	362836		Annex 7-4Q-bf		183.45
Leciann Ventures	363575		Annex 7-4Q-bf	Domestic purchase of goods other than capital goods supported by VAT REG TIN tape receipts without petitioner's name, TIN, and address	188.08
Leciann Ventures	363636		Annex 7-4Q-bf		209.64
Leciann Ventures	363706		Annex 7-4Q-bf		239.60
Leciann Ventures	366015		Annex 7-4Q-bf		153.03
Leciann Ventures	366877		Annex 7-4Q-bf		210.39
Leciann Ventures	369382		Annex 7-4Q-bf		215.88
Leciann Ventures	376809		Annex 7-4Q-bf		150.64
Leciann Ventures	376867		Annex 7-4Q-bf		221.76

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Leciann Ventures	377432		Annex 7-4Q-bf		266.52
Leciann Ventures	377544		Annex 7-4Q-bf		194.19
Leciann Ventures	380452		Annex 7-4Q-bf		187.02
Leciann Ventures	385257		Annex 7-4Q-bf		197.22
Leciann Ventures	386691		Annex 7-4Q-bf		196.97
Leciann Ventures	387254		Annex 7-4Q-bf		145.15
Leciann Ventures	387580		Annex 7-4Q-bf		187.79
Leciann Ventures	389918		Annex 7-4Q-bf		323.52
Leciann Ventures	393401		Annex 7-4Q-bf		178.98
Leciann Ventures	397833		Annex 7-4Q-bf		185.49
Leciann Ventures	397958		Annex 7-4Q-bf		232.49
Leciann Ventures	403531		Annex 7-4Q-bf		94.61
Leciann Ventures	404230		Annex 7-4Q-bf		206.16
Leciann Ventures	406109		Annex 7-4Q-bf		229.44
Leciann Ventures	408327		Annex 7-4Q-bf		223.95
Leciann Ventures	411058		Annex 7-4Q-bf		238.45
Leciann Ventures	411619		Annex 7-4Q-bf		223.29
Leciann Ventures	412928		Annex 7-4Q-bf		157.74
Leciann Ventures	414053		Annex 7-4Q-bf		202.36
Leciann Ventures	419693		Annex 7-4Q-bf		204.13
Leciann Ventures	422293		Annex 7-4Q-bf		161.52
Leciann Ventures	488120		Annex 7-4Q-bf		187.06
Leciann Ventures	490223		Annex 7-4Q-bf		126.28
Leciann Ventures	491740		Annex 7-4Q-bf		126.12
Leciann Ventures	493888		Annex 7-4Q-bf		220.44
Leciann Ventures	497296		Annex 7-4Q-bf		192.87
Leciann Ventures	498086		Annex 7-4Q-bf		191.05
Leciann Ventures	498705		Annex 7-4Q-bf		159.49
Leciann Ventures	502726		Annex 7-4Q-bf		214.09

Leciann Ventures	502965		Annex 7-4Q-bf		179.36
Leciann Ventures	504064		Annex 7-4Q-bf		164.78
Leciann Ventures	506118		Annex 7-4Q-bf		112.45
Leciann Ventures	507289		Annex 7-4Q-bf		274.86
Leciann Ventures	509039		Annex 7-4Q-bf		203.38
Leciann Ventures	511164		Annex 7-4Q-bf		184.36
Leciann Ventures	511681		Annex 7-4Q-bf		133.07
Leciann Ventures	512974		Annex 7-4Q-bf		201.61
Leciann Ventures	517780		Annex 7-4Q-bf		202.62
Leciann Ventures	518403		Annex 7-4Q-bf		154.38
Leciann Ventures	518590		Annex 7-4Q-bf		172.36
Leciann Ventures	521363		Annex 7-4Q-bf		179.83
Leciann Ventures	521841		Annex 7-4Q-bf		189.99
Leciann Ventures	526157		Annex 7-4Q-bf		189.09
Leciann Ventures	527928		Annex 7-4Q-bf		195.74
Leciann Ventures	528265		Annex 7-4Q-bf		319.86
Leciann Ventures	530590		Annex 7-4Q-bf		228.98
Leciann Ventures	536805		Annex 7-4Q-bf		184.22
Leciann Ventures	537086		Annex 7-4Q-bf		225.44
Leciann Ventures	539047		Annex 7-4Q-bf		208.85
Leciann Ventures	541371		Annex 7-4Q-bf		214.65
Leciann Ventures	542380		Annex 7-4Q-bf		130.45
Leciann Ventures	542934		Annex 7-4Q-bf		237.11
Leciann Ventures	544487		Annex 7-4Q-bf		288.40
Leciann Ventures	550219		Annex 7-4Q-bf		188.69
Leciann Ventures	550608		Annex 7-4Q-bf		181.50
ROSRICH DEVELOPMENT CORPORATION		41	Annex 7-4Q-dq	Domestic purchase of services supported by VAT REG TIN ORs with altered VAT breakdown without countersign	1,890.00

since only those purchases clearly demonstrated violations of the invoicing requirements.

G. DISALLOWED INPUT TAX ON "BIG TICKET" PURCHASES

An exhaustive examination of petitioner's supporting documents and the Amended ICPA Report shows that the input VAT disallowance of ₱10,770,911.43 must be upheld since petitioner failed to account the alterations noted by respondent for the following purchases:

Registered Name of Supplier	OR No.	Input Tax	Total Invoice Amount	BIR Findings	Annex Reference
GEO-TRANSPORT AND CONSTRUCTION INC	22054	1,780,679.44	16,619,674.77	Alteration not countersigned	Annex 7-2Q-cr
MARMEELEC CONSTRUCTION PHILS INC	2496	4,490.90	41,915.07	Alteration not countersigned	Annex 7-2Q-bw
MARMEELEC CONSTRUCTION PHILS INC	2499	6,304.63	58,843.21	Alteration not countersigned; Invalid proof of payment (photocopy certified by authorized representative of issuing bank)	Annex 7-3Q-l
MARMEELEC CONSTRUCTION PHILS INC	2500	245,915.02	2,295,206.85	Alteration not countersigned	Annex 7-3Q-l
Marmeelec Construction Phils, Inc.	3037	900.00	8,400.00	Alteration not countersigned; Invalid proof of payment (photocopy certified by authorized representative of issuing bank)	Annex 7-3Q-cl
Marmeelec Construction Philippines Inc.	2817	88.15	822.73	Alteration not countersigned; Invalid proof of payment (photocopy certified by authorized representative of issuing bank)	Annex 7-3Q-cq
Marmeelec Construction Philippines Inc.	2816	15,457.59	144,270.84	Alteration not countersigned; Invalid proof of payment (photocopy certified by authorized representative of issuing bank)	Annex 7-3Q-cq

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Difference due to overclaimed VAT					103.52

TOTAL **133,477.86**

GEO-TRANSPORT AND CONSTRUCTION INC	22081	3,324,632.71	31,029,905.29	Alteration not countersigned; Invalid proof of payment (photocopy certified by authorized representative of issuing bank)	Annex 7-3Q-db
GEO-TRANSPORT AND CONSTRUCTION INC	22085	2,949,357.25	27,527,334.33	Alteration not countersigned; Invalid proof of payment (photocopy certified by authorized representative of issuing bank)	Annex 7-3Q-db
GEO-TRANSPORT AND CONSTRUCTION INC	22901	2,443,085.74	22,802,133.59	Alteration not countersigned; Invalid proof of payment (photocopy certified by authorized representative of issuing bank)	Annex 7-4Q-dv
TOTAL		10,770,911.43			

As to the other noted findings of respondent, We find that petitioner has sufficiently provided the required invoices or ORs that are compliant with the invoicing requirements.

H. DEFERRED INPUT TAX ON CAPITAL GOODS FROM LOCAL PURCHASES AND IMPORTATION

Respondent disallowed input VAT of ₱3,200,977.32 on the ground that the same relates to purchase of capital goods exceeding ₱1 million thus, should have been amortized and not claimed outright.

ICPA Constantino traced the said alleged purchases of capital goods exceeding ₱1 million to the following accounts of petitioner's General Ledger:

Domestic purchases					
Annex Reference	**Total Amount of Purchases**	**Input Tax**	**Allowable Current Input tax**	**Disallowed Input tax by BIR**	**Traced to this Account**
Annex 7-1Q-dg	₱1,160,714.29	₱139,285.71	₱25,535.71	₱113,750.00	CONSTRUCTION IN PROGRESS
Annex 7-1Q-ai	65,178.57	7,821.43	1,433.93	6,387.50	FURN, FIXT & OFC EQUIPT
Annex 7-1Q-q	156,428.56	18,771.43	3,441.43	15,330.00	FURN, FIXT & OFC EQUIPT

Domestic purchases					
Annex Reference	**Total Amount of Purchases**	**Input Tax**	**Allowable Current Input tax**	**Disallowed Input tax by BIR**	**Traced to this Account**
Annex 7-3Q-b	77,133.93	9,256.07	1,234.14	8,021.93	FURN, FIXT & OFC EQUIPT
Annex 7-3Q-n	125,178.57	15,021.43	1,001.43	14,020.00	FURN, FIXT & OFC EQUIPT
Annex 7-3Q-am	111,606.25	13,392.75	1,562.49	11,830.26	FURN, FIXT & OFC EQUIPT
Annex 7-4Q-ba	137,589.29	16,510.71	825.54	13,483.75	FURN, FIXT & OFC EQUIPT
Annex 7-1Q-aq	6,250,000.00	750,000.00	150,000.00	600,000.00	MACHINERY & HEAVY EQUIPT
Annex 7-2Q-b	108,392.86	13,007.14	1,517.50	11,489.64	PPE-WAREHOUSE
Annex 7-2Q-d	3,437,437.84	412,492.55	49,907.27	362,585.28	PPE-WAREHOUSE
Annex 7-3Q-d	826,607.15	99,192.85	8,730.00	90,462.85	PPE-WAREHOUSE
Annex 7-4Q-c	370,535.71	44,464.29	2,223.21	4,287.79	PPE-WAREHOUSE
Annex 7-1Q-d	355,267.86	42,632.14	7,815.89	34,816.25	SMALL TOOLS & EQUIPT
Annex 7-1Q-q	73,625.90	8,835.11	1,767.02	7,068.09	SMALL TOOLS & EQUIPT
Annex 7-3Q-dj	825,589.29	99,070.71	8,255.89	90,814.82	BODEGA INVTY -SPARE PARTS
	2,399,107.14	287,892.86	52,780.36	46,905.00	TRANSPORTATION EQUIPMENT
SUBTOTAL	***₱16,480,393.21***	***₱1,977,647.18***	***₱318,031.81***	***₱1,431,253.15***	
Importations					
Annex 8-1Q-b	4,143,158.33	497,179.00	99,435.80	397,743.20	
Annex 8-3Q-b	2,028,766.67	243,452.00	20,287.67	223,164.33	PPE-Warehouse
Annex 8-4Q-c	9,903,591.67	1,188,431.00	39,614.37	1,148,816.63	PPE-Warehouse
SUBTOTAL	***₱16,075,516.67***	***₱1,929,062.00***	***₱159,337.84***	***₱1,769,724.16***	
TOTAL	32,555,909.88	3,906,709.18	477,369.65	3,200,977.31	

Section 110 of the NIRC of 1997, as amended, states:

...

SEC. 110. *Tax Credits.* –

A. Creditable Input Tax. –

...

***Provided*, that the input tax on goods purchased or imported in a calendar month for use in trade or business for which deduction for depreciation is allowed under this Code shall be spread evenly over the month of acquisition and the fifty-nine (59) succeeding months if the aggregate acquisition cost for such goods, excluding the VAT component thereof, exceeds One million pesos (P1,000,000)**: *Provided, however,* That if the estimated useful life of the capital good is less than five (5) years, as used for depreciation purposes, then the input VAT shall be spread over such a shorter period: *Provided, further,* That the amortization of the input VAT shall only be allowed until December 31, 2021 after which taxpayers with unutilized input VAT on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized: *Provided, finally,* That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or free.[138]

...

Section 4.110-3 of RR No. 16-2005, as amended by RR No. 13-2018, provides:

...

SEC. 4.110-3. Claims for Input Tax on Depreciable Goods. — Where a VAT-registered person purchases or imports capital goods, which are depreciable assets for income tax purposes, the aggregate acquisition cost of which (exclusive of VAT) in a calendar month exceeds One Million pesos (P1,000,000.00), regardless of the acquisition cost of each capital good, shall be claimed as credit against output tax in the following manner:

(a) If the estimated useful life of a capital good is five (5) years or more — The input tax shall be spread evenly over a period of sixty (60) months and the claim for input tax credit will commence in the calendar month when the capital good is acquired. The total input taxes on purchases or importations of this type of capital goods shall be divided by 60 and the quotient will be the amount to be claimed monthly.

(b) If the estimated useful life of a capital good is less than five (5) years — The input tax shall be spread evenly on a monthly basis by dividing the input tax by the actual number of months comprising the estimated useful life of the capital good. The claim for input tax credit shall commence in the calendar month that the capital goods were acquired.

Where the aggregate acquisition cost (exclusive of VAT) of the existing or finished depreciable capital goods purchased or imported during any calendar month does not exceed One million pesos (P1,000,000.00), the total input taxes will be allowable as credit against output tax in the month of acquisition.

Capital goods or properties refers to goods or properties with estimated useful life greater than one (1) year and which are treated as depreciable assets under Sec. 34(F) of the Tax Code, used directly or indirectly in the production or sale of taxable goods or services.

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

The aggregate acquisition cost of depreciable assets in any calendar month refers to the total price, excluding the VAT, agreed upon for one or more assets acquired and not on the payments actually made during the calendar month. Thus, an asset acquired on installment for an acquisition cost of more than P1,000,000.00, excluding the VAT, will be subject to the amortization of input tax despite the fact that the monthly payments/installments may not exceed P1,000,000.00.

Construction in progress (CIP) is the cost of construction work which is not yet completed. CIP is not depreciated until the asset is placed in service. Normally, upon completion, a CIP item is reclassified and the reclassified asset is capitalized and depreciated.

CIP is considered, for purposes of claiming input tax, as a purchase of service, the value of which shall be determined based on the progress billings. Until such time the construction has been completed, it will not qualify as capital goods as herein defined, in which case, input tax credit on such transaction can be recognized in the month the payment was made: *Provided*, that an official receipt of payment has been issued based on the progress billings.

In case of contract for the sale of service where only the labor will be supplied by the contractor and the materials will be purchased by the contractee from other suppliers, input tax credit on the labor contracted shall still be recognized on the month the payment was made based on a progress billings while input tax on the purchase of materials shall be recognized at the time the materials were purchased.

Once the input tax has already been claimed while the construction is still in progress, no additional input tax can be claimed upon completion of the asset when it has been reclassified as a depreciable capital asset and depreciated.

(c) The amortization of the input VAT shall only be allowed until December 31, 2021 after which taxpayers with unutilized input VAT on capital goods purchased or imported shall be allowed to apply the same as scheduled until fully utilized: *Provided*, That in the case of purchase of services, lease or use of properties, the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or fee.[139]

...

As can be gleaned from the foregoing, if purchase/s and/or importation/s of depreciable goods exceed ₱1 million in a month, the

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

related input VAT should be amortized over 60 months or its useful life, whichever is shorter.

Applying the same, respondent correctly disallowed the deferred input VAT on capital goods of ₱2,996,483.27, to wit:

Month of Purchase or Importation	Annex Reference	Total Amount of Purchases	Input Tax [A]	Allowable Current Input tax [B]	Disallowed Input tax [A-B]
January	Annex 7-1Q-q	73,625.90	8,835.11	1,767.02	7,068.09
January	Annex 7-1Q-aq	6,250,000.00	750,000.00	150,000.00	600,000.00
January	Annex 8-1Q-b	4,143,158.33	497,179.00	99,435.80	397,743.20
Subtotal		10,466,784.23			1,004,811.29
February	Annex 7-1Q-dg	1,160,714.29	139,285.71	25,535.71	113,750.00
February	Annex 7-1Q-ai	65,178.57	7,821.43	1,433.93	6,387.50
February	Annex 7-1Q-q	156,428.56	18,771.43	3,441.43	15,330.00
February	Annex 7-1Q-d	355,267.86	42,632.14	7,815.89	34,816.25
February		2,399,107.14	287,892.86	52,780.36	-[140]
Subtotal		*4,136,696.42*			*170,283.75*
May	Annex 7-3Q-b	77,133.93	9,256.07	9,256.07	-
May	Annex 7-2Q-d	891,571.43	106,988.57	106,988.57	-
Subtotal		*968,705.36*			-
June	Annex 7-2Q-d	53,303.57	6,396.43	746.25	5,650.18
June	Annex 7-2Q-d	293,900.00	35,268.00	4,114.60	31,153.40
June	Annex 7-2Q-d	353,571.42	42,428.57	4,950.00	37,478.57
June	Annex 7-2Q-d	143,127.14	17,175.26	2,003.78	15,171.48
June	Annex 7-2Q-d	508,750.00	61,050.00	7,122.50	53,927.50
June	Annex 7-2Q-d	508,750.00	61,050.00	7,122.50	53,927.50
June	Annex 7-2Q-d	508,750.00	61,050.00	7,122.50	53,927.50
June	Annex 7-2Q-d	20,535.71	2,464.29	287.50	2,176.79
June	Annex 7-2Q-d	20,535.71	2,464.29	287.50	2,176.79
June	Annex 7-2Q-d	134,642.86	16,157.14	1,885.00	14,272.14
June	Annex 7-2Q-b	108,392.86	13,007.14	1,517.50	11,489.64
June	Annex 7-3Q-am	111,606.25	13,392.75	1,562.49	11,830.26
Subtotal		*2,765,865.52*			*293,181.74*
July	Annex 7-3Q-d	22,142.86	2,657.14	2,657.14	-
July	Annex 7-3Q-d	209,821.43	25,178.57	25,178.57	-
Subtotal		*231,964.29*			-
August	Annex 7-3Q-d	594,642.86	71,357.14	5,946.43	65,410.71
August	Annex 7-3Q-dj	825,589.29	99,070.71	8,255.89	90,814.82
August	Annex 8-3Q-b	2,028,766.67	243,452.00	20,287.67	223,164.33
Subtotal		*3,448,998.82*			*379,389.86*
September	Annex 7-3Q-n	125,178.57	15,021.43	15,021.43	-
October	Annex 7-4Q-ba	137,589.29	16,510.71	16,510.71	-
October	Annex 7-4Q-c	370,535.71	44,464.29	44,464.29	-
Subtotal		508,125.00			-
November	Annex 8-4Q-c	9,903,591.67	1,188,431.00	39,614.37	1,148,816.63
TOTAL		**32,555,909.88**			**2,996,483.27**

[140] No input VAT may be disallowed since petitioner chose not to include in its claim for refund the amount of input VAT relating to *Purchases of Capital Goods Exceeding ₱1 Million*; supra at p. 43.

I. DISALLOWED VALUE-ADDED TAX (VAT) ON IMPORTATION DUE TO OVERCLAIM AND FAILURE TO SUBMIT STATEMENT OF SETTLEMENT OF DUTIES AND TAXES (SSDT)

Per ICPA Constantino's checking of the related documents of importations shows that the importation amounted to P281,390.00 was properly supported by SSDT[141] Hence, the disallowance must be reversed.

J. DISALLOWED INPUT VALUE-ADDED TAX (VAT) ON PURCHASE OF CAPITAL GOODS WITH NO SUPPORTING DOCUMENTATION

As ICPA Constantino noted, petitioner was not able to provide any document to support such purchase. Hence, respondent's disallowance of ₱6,405.00 must be upheld.

Similarly, the Court is constrained to disallow the following purchases which the ICPA noted:

Findings	Annex Reference	Amount of Input VAT
Domestic purchases of goods other than capital goods with input VAT amount of ₱100,000 and below whose supporting documents are not in compliance with invoicing requirements and/or with alterations	Annex 7-1Q-r to Annex 7-1Q-u, Annex 7-1Q-w to Annex 7-1Q-ag, Annex 7-2Q-q, Annex 7-2Q-s to Annex 7-2Q-ae, Annex 7-3Q-r to Annex 7-3Q-q, Annex 7-3Q-s to Annex 7-3Q-ag, Annex 7-4Q-t to Annex 7-4Q-x, Annex 7-4Q-z to Annex 7-4Q-ag, Annex 7-4Q-ai, Annex 7-4Q-ak to Annex 7-4Q-ao	955,318.24
Domestic purchase of goods other than capital goods supported by VAT REG TIN invoices with altered/inserted Petitioner's name and address without countersign and with altered VAT breakdown without countersign and written on a different ink	Annex 7-1Q-v Annex 7-2Q-r Annex 7-3Q-r Annex 7-4Q-y	360,374.90
Domestic purchase of goods other than capital goods without	Annex 7-1Q-bc	360.00

141 Exhibit "P-39", pp. 58-59 and 67, USB.

supporting document at the time of verification	Annex 7-2Q-ax	
Difference due to overclaimed VAT	Annex 7-1Q-af, Annex 7-1Q-ba, Annex 7-1Q-bb, Annex 7-2Q-t, Annex 7-2Q-at, Annex 7-2Q-au, Annex 7-3Q-an, Annex 7-3Q-ak, Annex 7-4Q-an, Annex 7-4Q-bf	5,258.44
Domestic purchase of services with input VAT amount of ₱100,000 and below whose supporting documents are not in compliance with invoicing requirements and/or with alterations	Annex 7-1Q-bd to Annex 7-1Q-bf, Annex 7-1Q-bh to Annex 7-1Q-bu, Annex 7-1Q-bw, Annex 7-1Q-by to Annex 7-1Q-ch, Annex 7-1Q-cq, Annex 7-2Q-ay to Annex 7-2Q-bm, Annex 7-2Q-bo to Annex 7-2Q-bu, Annex 7-3Q-au to Annex 7-3Q-ax, Annex 7-3Q-az to Annex 7-3Q-bo, Annex 7-3Q-bq to Annex 7-3Q-br, Annex 7-3Q-bu, Annex 7-3Q-bw to Annex 7-3Q-by, Annex 7-3Q-ca to Annex 7-3Q-ch, Annex 7-4Q-bi to Annex 7-4Q-bx, Annex 7-4Q-bz, Annex 7-4Q-ca, Annex 7-4Q-cc, Annex 7-4Q-cd, Annex 7-4Q-cf, Annex 7-4Q-cg, Annex 7-4Q-ci	1,259,184.07
Domestic purchase of services supported by VAT REG TIN ORs with altered/inserted petitioner's name, TIN, address, VAT breakdown *without countersign*, with VAT breakdown written on a different ink and with/without reason for payment indicated	Annex 7-1Q-bg Annex 7-3Q-ay	271,009.18
Domestic purchase of services supported by VAT REG TIN ORs with altered VAT breakdown *without countersign*, with overclaimed VAT and with/without reason for payment indicated	Annex 7-1Q-bv Annex 7-4Q-by	428,802.66
Domestic purchase of services supported by VAT REG TIN ORs without nature of payment	Annex 7-1Q-bx Annex 7-2Q-bn Annex 7-3Q-bt Annex 7-4Q-cb	465,645.40
Domestic purchase of services supported by VAT REG TIN ORs with altered VAT breakdown without countersign and written on a different ink and with/without nature of payment	Annex 7-3Q-bp	153,950.12
Domestic purchase of services supported by TIN VAT REG ORs with VAT breakdown written in a different ink and with/without reason for payment indicated	Annex 7-3Q-bv	186,335.30
Domestic purchase of services supported by *photocopied* VAT REG TIN ORs and with nature of payment indicated	Annex 7-3Q-bz Annex 7-4Q-ce	187,583.94
Domestic purchase of services supported by VAT REG TIN ORs with altered/inserted petitioner's name, TIN and VAT breakdown *without countersign*, with VAT breakdown written on a different ink and with/without reason for payment indicated	Annex 7-4Q-bm	115,066.39

Domestic purchase of services supported by VAT REG TIN billing statement with support not valid to claim for input tax and with nature of payment indicated	Annex 7-4Q-ch	130,690.52
Difference due to overclaimed VAT	Annex 7-1Q-br, Annex 7-1Q-bv, Annex 7-1Q-ce, Annex 7-1Q-cw, Annex 7-1Q-cz, Annex 7-1Q-de, Annex 7-2Q-ak, Annex 7-3Q-be, Annex 7-3Q-bq, Annex 7-3Q-ct, Annex 7-4Q-bt, Annex 7-4Q-by, Annex 7-4Q-bz, Annex 7-4Q-cp, Annex 7-4Q-dg, Annex 7-4Q-dj, Annex 7-4Q-dn	16,409.29
TOTAL		**₱4,535,988.45**

Further, in the VAT Refund Notice, respondent made additional deductions comprising of output VAT on other VATable sales of ₱273,884.22 and output VAT on proceeds from disposal of property of ₱12,000.00. However, as the ICPA noted, respondent did not provide any breakdown on the said findings, hence petitioner was not able to identify them and present any supporting documents to controvert them.[142] In *Winebrenner & Iñigo Insurance Brokers, Inc. v. Commissioner of Internal Revenue*[143], the Supreme Court ruled that once a taxpayer-claimant complies with the requirements for tax refund, the burden of proof shifts to the opposing party to disprove the claim by presenting contrary evidence:

> ...
>
> It must be emphasized that once the requirements laid down by the NIRC have been met, a claimant should be considered successful in discharging its burden of proving its right to refund. Thereafter, the burden of going forward with the evidence, as distinct from the general burden of proof, shifts to the opposing party, that is, the CIR. <u>It is then the turn of the CIR to disprove the claim by presenting contrary evidence</u> which could include the pertinent ITRs easily obtainable from its own files.
>
> ...
>
> ... Yet, nothing was produced during trial to destroy the *prima facie* right of the petitioner by counterchecking the claims with the

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142 See amended ICPA Report, pp. 67-68, Exhibit "P-39", USB.

143 G.R. No. 206526, 28 January 2015; Citations omitted, emphasis in the original text and underscoring supplied.

> quarterly ITRs the CIR has on its file. To the Court, it seems that the CIR languished on its duties to ascertain the veracity of the claims and just hoped that the burden would fall on the petitioner's head once the issue reaches the courts.
>
> This mindset ignores the rule that the CIR has the equally important responsibility of contradicting petitioner's claim by presenting proof readily on hand once the burden of evidence shifts to its side. Claims for refund are civil in nature and as such, petitioner, as claimant, though having a heavy burden of showing entitlement, need only prove preponderance of evidence in order to recover excess credit in cold cash. To review, "[P]reponderance of evidence is [defined as] the weight, credit, and value of the aggregate evidence **on either side** and is usually considered to be synonymous with the term 'greater weight of the evidence' or 'greater weight of the credible evidence.' It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.
>
> ...

Hence, absent evidence to support respondent's claim, We are constrained to disregard the disallowances.

As for the exempt sale of ₱1,300,000.00, *per* VAT Refund Notice, respondent made an output VAT deduction of ₱156,000.00, alleging that the exempt sale should be imposed with a 12% VAT. However, the said imposition is tantamount to an assessment which should have undergone under a formal assessment procedure under Section 228[144] of the NIRC of 1997, as amended. In addition, taxes cannot be the subject of compensation because the government and taxpayer are not mutually creditors and debtors of each other and a claim for taxes is not such a debt, demand, contract or judgment as is allowed to be set-off.[145] Thus, We shall reverse the said imposition.

Moreso over, We cannot allow the deduction of the compromise penalty of ₱25,000.00. In *Wonder Mechanical Engineering Corporation v. The Hon. Court of Tax Appeals, et al.*[146], the Supreme Court ruled that a compromise penalty cannot be imposed without an agreement or conformity of a taxpayer. In fact, the imposition of the same without

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144 SEC. 228. *Protesting of Assessment.*

145 *Caltex Philippines, Inc. v. The Honorable Commission on Audit, et al.*, G.R. No. 92585, 08 May 1992.

146 G.R. Nos. L-22805 & L-27858, 30 June 1975.

the conformity of the taxpayer is illegal and unauthorized.[147] It is well-settled that the Court has no jurisdiction to compel a taxpayer to pay the compromise penalty because by its very nature, it implies a mutual agreement between the parties in respect to the thing or subject matter which is so compromised, and the choice of paying or not paying it distinctly belongs to the taxpayer.[148] Absent a showing that herein petitioner consented to the imposition of compromise penalty, the amount of ₱25,000.00 should not have been deducted from petitioner's refund claim.

Thus, out of petitioner's "Declared Input VAT" (or "Total Available Input VAT" for CY 2019) of ₱141,463,505.78[149], only ₱95,963,061.89 pertains to "Substantiated or Valid Input VAT", after deducting the Court-validated disallowances by the ICPA totalling ₱45,500,443.89, as summarized below:

Total Available Input VAT		**₱141,463,505.78**
Deductions:		
A. Insufficient documentations (no billing statement, OR, SI nor proof of payment)	632,464.08	
B. Out of Period	85,891.22	
C. Unreadable document	-	
D. Document with alteration but not countersigned readable document	26,330,497.58	
E. Overclaimed	8,325.00	
F. Violation of invoicing requirements pursuant to Section 113 of the NIRC of 1997, as amended	133,477.86	
G. Disallowed input tax on "Big Ticket" Purchases	10,770,911.43	
H. Deferred input tax on capital goods from local purchases and importation	2,996,483.27	
I. Disallowed VAT on importation due to overclaim and failure to submit SSDT	-	
J. Disallowed input VAT on purchase of capital goods with no supporting documentation	6,405.00	
Additional disallowance by the ICPA	4,535,988.45	
Total Deductions		**45,500,443.89**
Total Substantiated or Valid Input VAT		**₱95,963,061.89**

[147] *Commissioner of Internal Revenue v. Lianga Bay Logging Co., Inc., et al.,* G.R. L-35266, 21 January 1991.

[148] *The Philippines International Fair, Inc. v. The Collector of Internal Revenue, et. al.,* G.R. Nos. L-12928 and L-12932, 31 March 1962.

[149] Petitioner excluded the input VAT on Domestic Purchases of Capital Goods not exceeding ₱1 million amounting to ₱750,537.39.

We shall now proceed with the determination of the ***2nd condition*** in light of the Supreme Court decision in *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue*[150] (**Chevron**), which provided pivotal guidelines for computing the refundable excess and unutilized input VAT attributable to zero-rated sales when the taxpayer-claimant is engaged in mixed transactions.

Fundamentally, the Supreme Court made a definitive declaration in *Chevron* that a VAT-registered taxpayer has two (2) options with respect to its input VAT attributable to zero-rated sales, it may: (1) charge the same against output VAT from VATable sales, and claim for refund or issuance of a TCC any unutilized or "excess" input VAT; or, (2) claim the same for refund or issuance of a TCC in its entirety, *viz*:

> ...
>
> **[T]he input tax attributable to zero-rated sales may, <u>at the option of the VAT-registered taxpayer</u>, 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. <u>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.</u>** These procedures find no basis in law and jurisprudence.
>
> ...
>
> *First*, Section 112 (A) of the [NIRC of 1997, as amended] merely requires that the input tax claimed for refund or the issuance of tax credit certificate "**has not been applied against [the] output tax[.]**" Section 4.112-1 (a) of RR No. 16-2005 states that "[t]**he input tax that may be subject of the claim shall exclude the portion of input tax that has been applied against the output tax.**" ...
>
> ...

150 G.R. No. 215159, 05 July 2022.

The law and rules are clear and need no interpretation. The taxpayer only needs to prove *non-application or non-charging of the input-VAT subject of the claim.* **There is nothing in the law and rules that mandate the taxpayer to deduct the input tax attributable to zero-rated sales from the output tax from regular twelve percent (12%) VAT-able sales first** and only the "excess" may be refunded or issued a tax credit certificate. To reiterate, these remedies accorded by law to the taxpayer are alternatives. **Requiring taxpayers to prove that they did not charge the input tax claimed for refund against the output tax is one thing; requiring them to prove that they have "excess" input tax *after* offsetting it from output tax is another.** The former is essential to the entitlement of the refund under Section 112 (A); the latter is not. The reason is that a taxpayer who enjoyed a lower (or zero) output tax payable because it deducted the input tax from zero-rated sales from the output tax cannot benefit twice by applying for the refund or tax credit of the same input tax used to reduce its output tax liability. Proof of non-charging the input tax subject to the refund or credit against the output tax is to avert double recovery.

...

...[B]efore the input tax from zero-rated sales may even form part of the total allowable or creditable input taxes to be charged against the output taxes and undergo the computation of "excess output or input tax" in Section 110 (B), it may already be removed from the formula once the taxpayer opted to claim the entire amount for refund.

These were echoed by Associate Justice Japar B. Dimaampao, opining that **"nowhere in Section 112 (A) does it require that the taxpayer must first offset its input tax with any output tax before its claim for refund may prosper.** Notably, the word "excess" does not even appear in this section. **Instead, what recurs is the refundability of input tax that has not been applied against output tax or that has simply remained unused**."

Moreover, **the crediting of input taxes, including input tax attributable to zero-rated sales, from the output tax should be discretionary to the taxpayer as it is the taxpayer who is more interested in reducing its output tax payable.** In fact, the legislature put a cap on the input tax that may be deducted from the output tax to generate cash flow for the government. Therefore, to require entities engaged in zero-rated transactions to charge their input tax from zero-rated sales against their output VAT from regular twelve percent (12%) VAT-able sales would defeat the very object of the tax measure, which is to generate more income for the government.

Second, Congress referred to "**any input tax**" in the *proviso* of Section 110 (B), which could mean one, some, or all input tax from zero-rated sales. **Had the legislature intended the charging of the input tax attributable to zero-rated sales against the output tax as a preliminary step to the refund or issuance of a tax credit certificate, it would have used the phrase "excess input tax" in the provision.**

To be sure, **the lawmakers had contemplated the input tax attributable to zero-rated sales as an amount that will be refunded or credited and not offset against the output tax.** ...

...

If the Congress intended the crediting of input tax against the output tax as a condition precedent to the refund or issuance of a tax credit certificate, they could have stressed this during the deliberations. They did not. **Instead, it was clarified that when the taxpayer is engaged in *both* regular and zero-rated transactions**, as in Chevron Holdings' case, **the ratable portion allocable to zero-rated sales is "immediately refundable" or creditable**.

Third, **to call the refundable input tax in Section 110 (B), in relation to Section 112 (A), "excess" input tax is a misnomer since what is being applied for a refund or tax credit is the unutilized or unused input VAT from zero-rated sales.** As a matter of fact, **there is no "excess" input tax attributable to zero-rated sales as there is no related output tax from which the input tax may be charged against.** For context, in zero-rated transactions, the tax rate is set at zero percent. Consequently, the seller charges zero output tax. However, the seller may have incurred input taxes from its purchases of goods and/or services related to its sales. The input taxes previously charged by suppliers **remain unutilized or unused until charged against the output tax from the non-zero-rated sale transactions** in the same quarter that the input taxes were incurred or applied for a refund or the issuance of tax credit certificate within two (2) years from the close of the taxable quarter when the related sales were made.

...

Fourth, that the taxpayer failed to prove that it had sufficient creditable input taxes to cover or "pay" its output tax liability in a given period, hence, there is no refundable "excess" input tax, which is an issue distinct, separate, and independent from a claim for refund or issuance of tax credit certificate of **unutilized** input VAT attributable to zero-rated sales. For one, **the taxpayer-claimant is not asking to refund the "excess" creditable input taxes from the output tax.** To be sure, the "excess" input tax may only be carried over to the succeeding periods and cannot be refunded. But, on the other

> hand, **the taxpayer is asking to refund the unutilized or unused input tax from zero-rated sales**.[151]
>
> ...

Clearly from the foregoing, a VAT-registered taxpayer has the discretion to decide whether to charge its input VAT attributable to zero-rated sales against output VAT. In this respect, the CTA cannot impose its own methods for calculating the refund, such as compelling the crediting of input VAT against output VAT as a condition precedent to the refund or issuance of a TCC. This is especially true when the taxpayer-claimant opts to claim the input VAT attributable to zero-rated sales for a refund or issuance of a TCC in its entirety.

Furthermore, regardless of which option the taxpayer-claimant chooses, the Supreme Court's ruling in *Chevron* clarifies that since the taxpayer-claimant is requesting a refund of unutilized or unused input VAT from zero-rated sales (as opposed to the "excess" creditable input VAT from the output VAT), this amount is inherently immediately refundable, given that there is no related output VAT to offset it against. Therefore, the CTA's proper preliminary step in determining the refundable excess and unutilized input VAT attributable to valid zero-rated sales should be computing the ratable portion of the taxpayer-claimant's input VAT allocable to zero-rated sales, assuming the input VAT cannot be directly attributed to zero-rated activities.

It is only when the taxpayer-claimant chooses the first option, *i.e.*, to charge the input VAT attributable to zero-rated sales against output VAT from VATable sales and claim for refund or issuance of a TCC any unutilized or "excess" input VAT that the CTA may require the offsetting of such ratable portion of the taxpayer-claimant's input VAT attributable to zero-rated sales against "Output VAT Still Due" as a condition precedent to the refund or issuance of a TCC.

In this case, petitioner credited its output VAT of ₱36,575,328.11 against its "Declared Input VAT" of ₱141,463,505.78 and applied for refund the remaining "Excess Input VAT" of ₱104,888,177.67. Clearly, petitioner has chosen the first option.

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151 Supra at note 150; Citations omitted, italics in the original text, emphasis in the original text and supplied, and underscoring supplied.

Additionally, besides clarifying the nature of a taxpayer-claimant's claim for a refund of input VAT attributable to zero-rated sales—that the option to choose either of the two (2) remedies belongs to the taxpayer-claimant and that the method for calculating the refundable amount depends on the chosen option—in *Chevron*, the Supreme Court also introduced a fresh perspective on the substantiation requirement for input VAT that can be credited against output VAT. It established that delving into input tax substantiation pertains to the assessment of potential deficiency output VAT, which is not within the Court's authority in a judicial claim for refund under Section 112(A) of the NIRC of 1997, as amended, *viz*:

> ...
>
> **[T]he <u>substantiation of input taxes</u> that can be credited against the output tax is an <u>issue relevant to the assessment for potential deficiency output VAT liability</u>. In turn, <u>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 [NIRC of 1997, as amended] 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</u>.**
>
> It is true, in several cases, the Court has ruled that it will not grant a refund if the taxpayer has pending tax liability to the government because "[t]o award the refund despite the existence of deficiency assessment is an absurdity and a polarity in conceptual effects" and that "to grant the refund without determination of the proper assessment and the tax due would inevitably result in a multiplicity of proceedings or suits." We explained in *Commissioner of Internal Revenue v. Court of Appeals*, to wit:
>
>> ... If the deficiency assessment should subsequently be upheld, the Government will be forced to institute anew a proceeding for the recovery of erroneously refunded taxes which recourse must be filed within the prescriptive period of ten years after [the] discovery of the falsity, fraud[,] or omission in the false or fraudulent return involved. This would necessarily require and entail additional efforts and expenses on the part of the Government, impose a burden on a drain of government funds, and impede or delay the collection of much-needed revenue for governmental operations.
>>
>> Thus, to avoid multiplicity of suits and unnecessary difficulties or expenses, it is both logically necessary and legally appropriate that the issue of the deficiency tax assessment against Citytrust be resolved jointly with its claim

> for [the] tax refund, to determine once and for all in a single proceeding the true and correct amount of tax due or refundable.
>
> **But in these cases, the taxpayer's liability for deficiency taxes is related to and intertwined with the resolution of the claim for refund. Such a situation is not present here. The records do not show that Chevron Holdings is delinquent for output VAT or that it is being assessed for deficiency output tax in the first, second, third, and fourth quarters of the taxable year 2006.**[152]
>
> ...

Without qualifying as to the option chosen by the taxpayer-claimant, the Supreme Court held that it is not for the CTA, nor even the High Court, to rule on the sufficiency or substantiation of input taxes in a refund claim under Section 112(A) of the NIRC of 1997, as amended. The authority to determine and assess deficiency taxes rests with the BIR; hence, courts cannot substitute their judgment for that of the BIR (in assessing tax deficiencies) in judicial proceedings.

The foregoing declaration aligns with the ruling in *SMI-ED Philippines Technology, Inc. v. Commissioner of Internal Revenue*[153] (**SMI-ED**), where the Supreme Court explained that, as a rule, **the CTA has no power to make an assessment, directly or indirectly, as its jurisdiction over matters such as tax collection, tax refund, and others related to the national internal revenue taxes is appellate in nature.** This implies that the BIR must have had a prior determination of the taxpayer-claimant's deficiency tax liability before the Court can adjudicate the same in a judicial proceeding for a refund claim. The relevant portions of the ruling in *SMI-ED* are quoted below:

> ...
>
> The term "assessment" refers to the determination of amounts due from a person obligated to make payments. In the context of national internal revenue collection, it refers the determination of the taxes due from a taxpayer under the National Internal Revenue Code of 1997.
>
> **The power and duty to assess national internal revenue taxes are lodged with the BIR. ...**
>
> ...

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152 Supra at note 150; Citations omitted, italics in the original text, emphasis and underscoring supplied.
153 G.R. No. 175410, 12 November 2014.

The Court of Tax Appeals has no power to make an assessment at the first instance. On matters such as tax collection, tax refund, and others related to the national internal revenue taxes, the Court of Tax Appeals' jurisdiction is appellate in nature.

...

Thus, the BIR first has to make an assessment of the taxpayer's liabilities. When the BIR makes the assessment, the taxpayer is allowed to dispute that assessment before the BIR. If the BIR issues a decision that is unfavorable to the taxpayer or if the BIR fails to act on a dispute brought by the taxpayer, the BIR's decision or inaction may be brought on appeal to the Court of Tax Appeals. The Court of Tax Appeals then acquires jurisdiction over the case.

When the BIR's unfavorable decision is brought on appeal to the Court of Tax Appeals, the Court of Tax Appeals reviews the correctness of the BIR's assessment and decision. **In reviewing the BIR's assessment and decision, the Court of Tax Appeals had to make its own determination of the taxpayer's tax liabilities. The Court of Tax Appeals may not make such determination before the BIR makes its assessment and before a dispute involving such assessment is brought to the Court of Tax Appeals on appeal.**

...

As earlier established, the Court of Tax Appeals has no assessment powers. In stating that petitioner's transactions are subject to capital gains tax, however, the Court of Tax Appeals was not making an assessment. It was merely determining the proper category of tax that petitioner should have paid, in view of its claim that it erroneously imposed upon itself and paid the 5% final tax imposed upon PEZA-registered enterprises.

The determination of the proper category of tax that petitioner should have paid is an incidental matter necessary for the resolution of the principal issue, which is whether petitioner was entitled to a refund.

The issue of petitioner's claim for tax refund is intertwined with the issue of the proper taxes that are due from petitioner. A claim for tax refund carries the assumption that the tax returns filed were correct. If the tax return filed was not proper, the correctness of the amount paid and, therefore, the claim for refund become questionable. In that case, the court must determine if a taxpayer claiming refund of erroneously paid taxes is more properly liable for taxes other than that paid.

...

> Any liability in excess of the refundable amount, however, may not be collected in a case involving solely the issue of the taxpayer's entitlement to refund. **The question of tax deficiency is distinct and unrelated to the question of petitioner's entitlement to refund.** Tax deficiencies should be subject to assessment procedures and the rules of prescription. <u>The court cannot be expected to perform the BIR's duties whenever it fails to do so either through neglect or oversight. Neither can court processes be used as a tool to circumvent laws protecting the rights of taxpayers.</u>[154]
>
> ...

Indeed, since the CTA is precluded from making a judicial assessment for deficiency tax, it cannot determine and rule in a judicial claim for a refund under Section 112(A) of the NIRC of 1997, as amended, that the taxpayer-claimant had insufficient or unsubstantiated input VAT to cover its output VAT liability. This pronouncement inevitably impacts the Court's formula for calculating: (1) the "Output VAT Still Due", which is the net amount of output VAT payable after deducting the ratable portion of input VAT allocable to VATable sales; and, (2) ultimately, the "Refundable Excess and Unutilized Input VAT Attributable to Zero-Rated Sales."

The impact can be summarized as follows: what should be the proper basis for allocating input VAT—is it the "Declared Input VAT" (or the "Total Available Input VAT" for the period of claim) or the "Substantiated or Valid Input VAT" (after deducting disallowances)?

i. The apportionment of input VAT for purposes of computing the "Output VAT Still Due" should be based on the "Declared Input VAT."

As regards the computation of "Output VAT Still Due", the 'no judicial assessment rule' necessarily prevents the Court from reducing the ratable portion of input VAT allocable to VATable sales for failure of substantiation. Thus, instead of the "Substantiated or Valid Input VAT", which is what the Court typically uses in apportioning input VAT based

154 Citations omitted, emphasis and underscoring supplied.

on sales volume, it should be the **"Declared Input VAT"** for the period of claim.

To reiterate, as held in *Chevron*, "**the substantiation of input taxes that can be credited against the output tax is an issue relevant to the assessment for potential deficiency output VAT liability.**" Given that the ratable portion of input VAT allocable to VATable sales is credited against output VAT to arrive at "Output VAT Still Due", the Court is bound to apportion the taxpayer-claimant's declaration of "Total Available Input VAT" in the relevant VAT Return for the period of claim. Reducing this amount to only the substantiated portion would be tantamount to an indirect judicial assessment for deficiency VAT.

Recognizing the fact that the Court's longstanding practice of using the "Substantiated or Valid Input VAT", which is typically lower than the "Declared Input VAT", in apportioning input VAT for purposes of calculating the portion allocable to VATable sales inevitably leads to an indirect assessment for deficiency VAT without prior determination from the BIR (through an assessment or any other tax collection effort), the Court must conscientiously change its approach. This is particularly relevant in refund cases where the ratable portion of input VAT allocable to VATable sales is insufficient to cover the output VAT on VATable sales for the period of claim or where there is an "Output VAT Still Due."

This impact is exacerbated when the amounts involved corresponding to VATable sales are significant and the disallowed input VAT, ascertained during judicial proceedings, is substantial. To avoid the risk of reducing the amount of creditable input VAT, which unwittingly sanctions a judicial assessment for deficiency VAT—an outcome the Supreme Court sought to correct through its pronouncement in *Chevron*—this Court is henceforth constrained to modify the formula for computing the "Output VAT Still Due."

This new formula or method of computing "Output VAT Still Due" ensures that the risk of judicially sanctioning an indirect deficiency VAT assessment is completely avoided, aligning the Court's practice with the *ratio decidendi* of the Supreme Court's ruling in *Chevron*.

We shall now compute the "Output VAT Still Due" in this case using the new formula (*i.e.*, the apportionment of "**Declared Input VAT**" among the different sales transactions based on sales volume).

In this case, petitioner sought the refund or issuance of a TCC of its "Excess Input VAT" for CY 2019 amounting to ₱104,888,177.67. This amount represents the net difference between the "Declared Input VAT" (or the "Total Available Input VAT" for CY 2019) of ₱141,463,505.78[155] and the "Output VAT" on VATable sales for the period of claim amounting to ₱36,575,328.11.

However, considering that (1) petitioner has mixed transactions (*i.e.*, VATable sales, zero-rated sales and exempt sales), (2) the "Declared Input VAT" cannot be directly and entirely attributed among these three (3) types of sales transactions, and (3) only the "Excess Input VAT" corresponding to zero-rated sales may be applied for refund or tax credit under Section 112(A)[156] of the NIRC of 1997, as amended, it is necessary to first proportionately allocate the "Declared Input VAT" among the different sales transactions based on sales volume. This allocation is required to determine the ratable portion of input VAT allocable to VATable sales, which, in turn, will be offset against the "Output VAT" to arrive at the "Output VAT Still Due", as shown below:

Table 1. Declared Input VAT Allocation

Type of Sales Transactions	Amount		Allocation Factor (c) = (a) / (b)	Allocated Declared Input VAT (e) = (c) x (d)	
Zero-Rated Sales	₱1,278,436,846.23		80.68%	₱114,136,062.95	

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155 Petitioner excluded the input VAT on Domestic Purchases of Capital Goods not exceeding ₱1 million amounting to ₱750,537.39.

156 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.** (Emphasis and underscoring supplied.)

Type of Sales Transactions	Amount		Allocation Factor (c) = (a) / (b)	Allocated Declared Input VAT (e) = (c) x (d)	
VAT-able Sales	304,794,401.01		19.24%	27,211,381.65	
Exempt Sales	1,300,000.00		0.08%	116,061.17	
Total Sales	**₱1,584,531,247.24**	(b)	**100.00%**	**₱141,463,505.78**	(d)

Table 2. Computation of Output VAT Still Due

Output VAT	₱36,575,328.11
Less: Declared Input VAT allocated to VAT-able Sales	27,211,381.65
Output VAT Still Due	**₱9,363,946.46**

From the foregoing computation, petitioner's "Output VAT Still Due" is ₱9,363,946.46. This amount will be offset against the ratable portion of input VAT allocable to zero-rated sales to determine the unutilized "Excess Input VAT" attributable to zero-rated sales.

ii. ***The apportionment of input VAT for purposes of computing the "Refundable Excess and Unutilized Input VAT Attributable to Zero-Rated Sales" should also be based on the "Declared Input VAT."***

Regarding the computation of the "Refundable Excess and Unutilized Input VAT Attributable to Zero-Rated Sales", the next logical step would be to determine how much of the ratable portion of input VAT allocable to zero-rated sales will be offset against the "Output VAT Still Due."

This aspect of the computation raises a similar question about the proper basis for allocating input VAT. Should it be the "Declared Input VAT" (or the "Total Available Input VAT" for the period of claim), consistent with the computation of the "Output VAT Still Due," or the "Substantiated or Valid Input VAT" (after deducting disallowances)?

The Court's primary consideration for its longstanding practice of using the "Substantiated or Valid Input VAT" is that the evaluation of the merits of a refund claim should be limited to the substantiated portion of input VAT attributable to zero-rated sales. Since the "Substantiated or Valid Input VAT," like the "Declared Input VAT", is an undivided amount, the apportionment of input VAT based on sales volume should begin with this amount.

On this note, the Court must, therefore, examine the rationale of both approaches to determine whether the allocation of input VAT should be based on the declared amount or the substantiated amount after adjustments.

There are two (2) contrasting interpretations of the 'no judicial assessment rule' enunciated in *Chevron* insofar as the ratable portion of input VAT allocable to zero-rated sales is concerned.

The ***first interpretation*** treats the 'no judicial assessment rule' as **applicable to both options** of the taxpayer-claimant. Regardless of whether the input VAT attributable to zero-rated sales is charged against the "Output VAT Still Due," the Court should not reduce this ratable portion for any disallowances, as this would also be tantamount to an indirect judicial assessment for deficiency VAT.

In other words, when determining the ratable portion of input VAT allocable to zero-rated sales that will be offset against the "Output VAT Still Due," as sanctioned under Section 112(A)[157] of the NIRC of 1997, as amended, the Court should not examine the substantiation of the "Declared Input VAT" (or the "Total Available Input VAT" for the period of claim). Instead, the apportionment of input VAT based on sales volume between that allocable to VATable sales and zero-rated sales (and/or any other type of sales, as applicable) should consistently be based on the "Declared Input VAT."

[157] 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**[.] (Emphasis and underscoring supplied)

The resulting amount of "Excess and Unutilized Input VAT attributable to Declared Zero-Rated Sales", in turn, may be reduced to equal the "Substantiated or Valid Input VAT" (after deducting disallowances), as only such portion corresponding to transactions "incurred or paid" may be refunded to the taxpayer-claimant pursuant to Section 112(A)[158] of the NIRC of 1997, as amended.

Correspondingly, the basis for computing the refundable amount in relation to what the taxpayer-claimant is able to establish as valid zero-rated sales would be the lower amount between the resulting "Excess and Unutilized Input VAT attributable to Declared Zero-Rated Sales" and the "Substantiated or Valid Input VAT." Notably, in the event that the lower amount is the "Substantiated or Valid Input VAT", the whole amount is deemed attributable to zero-rated sales, *i.e.*, it will no longer be re-apportioned based on sales volume.

The final step would be to compute for the "Refundable Excess and Unutilized Input VAT Attributable to Zero-Rated Sales", which is the amount corresponding only to valid zero-rated sales. The amount corresponding to the invalid zero-rated sales, although duly substantiated, is no longer refundable since under Section 112(A)[159] of the NIRC of 1997, as amended, the right to apply for refund or issuance of a TCC only covers valid zero-rated sales.

Following the ***first interpretation***, the "Output VAT Still Due" of ₱9,363,946.46[160] shall be offset against the ratable portion of input VAT allocable to zero-rated sales using the "Declared Input VAT" amounting to ₱114,136,062.95[161], resulting in the "Excess and Unutilized Input VAT attributable to Declared Zero-Rated Sales" of ₱104,772,116.50. Since the

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158 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[.] (Emphasis and underscoring supplied)

159 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[.] (Emphasis and underscoring supplied)

160 See Table 2, supra at p. 106.

161 See Table 1, id.

"Substantiated or Valid Input VAT" (after deducting disallowances) is only ₱95,963,061.89, the whole amount is deemed attributable to zero-rated sales. Lastly, given that petitioner was only able to establish valid zero-rated sales of ₱621,309,723.56 (or 48.60%) of the declared zero-rated sales of ₱1,278,436,846.23, the "Refundable Excess and Unutilized Input VAT Attributable to Zero-Rated Sales" would be **₱46,637,253.64**.

Below is table summary of the computation of "Refundable Excess and Unutilized Input VAT Attributable to Zero-Rated Sales" under the ***first interpretation***:

Table 3. Refundable Excess and Unutilized Input VAT Attributable to Zero-Rated Sales (first interpretation)

Declared Input VAT allocated to Declared Zero-Rated Sales	₱114,136,062.95
Less: Output VAT Still Due	9,363,946.46
Excess and Unutilized Input VAT attributable to Declared Zero-Rated Sales	**₱104,772,116.50**
Less: Unsubstantiated or Invalid Input VAT	8,809,054.61
Substantiated or Valid Input VAT deemed attributable to Zero-Rated Sales	**₱95,963,061.89**[162]
Divided by Declared Zero-Rated Sales for CY 2019	1,278,436,846.23
Multiplied by Valid Zero-Rated Sales for CY 2019	621,309,723.56
Refundable Excess and Unutilized Input VAT Attributable to Valid Zero-Rated Sales	**₱46,637,253.64**

On the other hand, the ***second interpretation*** considers the 'no judicial assessment rule' as **applicable only to the second option**, where the taxpayer claims the input VAT attributable to zero-rated sales for a refund or issuance of a TCC in its entirety. The rationale for this interpretation is that the factual milieu in *Chevron*, where therein taxpayer-claimant chose the second option, is not on all fours with refund cases where the taxpayer-claimant chose the first option.

Additionally, it can be argued that the CTA may examine the substantiation of the "Declared Input VAT" (or the "Total Available Input VAT" for the period of claim) in determining the ratable portion of input VAT allocable to zero-rated sales as an *exception* to the 'no judicial assessment rule,' since this function is inherent in the Court's authority to determine the merits of a refund claim anchored in Section 112(A) of the NIRC of 1997, as amended.

162 Supra at p. 95.

Since it is well settled that "a claim for tax refund or credit is similar to a tax exemption and should be strictly construed against the taxpayer. The burden of proof to show that he [or she] is ultimately entitled to the grant of such tax refund or credit rests on the taxpayer".[163] It thus stands to reason that the taxpayer-claimant must overcome the burden of substantiating the "Declared Input VAT" for the period of claim as a whole, rather than only the amount claimed for refund or the net input VAT (after deducting the output VAT from the "Declared Input VAT" for the period of claim).

Failure of substantiation merits the outright denial of the unsubstantiated portion of the "Declared Input VAT" for the period of claim such that only the substantiated portion thereof or the "Substantiated or Valid Input VAT" is apportioned based on sales volume in determining the ratable portion of input VAT allocable to the taxpayer-claimant's zero-rated sales.

Following the ***second interpretation***, the "Output VAT Still Due" of ₱9,363,946.46 shall be offset against the ratable portion of input VAT allocable to *valid* zero-rated sales (using the "Substantiated or Valid Input VAT" of ₱95,963,061.89). Then, as petitioner was only able to establish valid zero-rated sales of ₱621,309,723.56 (or 48.60%) of the declared zero-rated sales of ₱1,278,436,846.23, the resulting "Excess and Unutilized Input VAT attributable to Valid Zero-Rated Sales" is ₱37,628,026.31. Ultimately, after offsetting thereto the "Output VAT Still Due" of ₱9,363,946.46, the "Refundable Excess and Unutilized Input VAT Attributable to Valid Zero-Rated Sales" would be **₱28,264,079.85**.[164]

Below is table summary of the computation of "Refundable Excess and Unutilized Input VAT Attributable to Zero-Rated Sales" under the ***second interpretation***:

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163 *Coral Bay Nickel Corporation v. Commissioner of Internal Revenue*, G.R. No. 190506, 13 June 2016, citing *BPI Leasing Corporation v. The Honorable Court of Appeals, et al.*, G.R. No. 127624, 18 November 2003.

164 This amount is lower by ₱18,373,173.79 compared to the ₱46,637,253.64 refundable amount computed under the ***first interpretation***.

Table 1. Substantiated Input VAT Allocation

Type of Sales Transactions	Amount		Allocation Factor (c) = (a) / (b)	Allocated Substantiated Input VAT (e) = (c) x (d)	
Zero-Rated Sales	₱1,278,436,846.23		80.68%	₱77,425,241.32	
VATable Sales	304,794,401.01		19.24%	18,459,089.41	
Exempt Sales	1,300,000.00		0.08%	78,731.16	
Total Sales	**₱1,584,531,247.24**	**(b)**	**100.00%**	**₱95,963,061.89**	**(d)**

Table 2. Computation of Output VAT Still Due

Output VAT	₱36,575,328.11
Less: Declared Input VAT allocated to VAT-able Sales	27,211,381.65
Output VAT Still Due	**₱9,363,946.46**

Table 3. Refundable Excess and Unutilized Input VAT Attributable to Zero-Rated Sales (second interpretation)

Substantiated or Valid Input VAT allocated to Declared Zero-Rated Sales	₱77,425,241.32
Divided by Declared Zero-Rated Sales for CY 2019	1,278,436,846.23
Multiplied by Valid Zero-Rated Sales for CY 2019	621,309,723.56
Substantiated or Valid Input VAT allocated to Valid Zero-Rated Sales	**₱37,628,026.31**
Less: Output VAT Still Due	9,363,946.46
Refundable Excess and Unutilized Input VAT Attributable to Valid Zero-Rated Sales	**₱28,264,079.85**

In contrast to the Court's previous approach, where the "Output VAT Still Due" was first offset against the ratable portion of input VAT allocable to *declared* zero-rated sales before computing the refundable amount based on what petitioner was able to establish as valid zero-rated sales, resulting in "Refundable Excess and Unutilized Input VAT Attributable to Zero-Rated Sales" amounting to ₱28,823,684.28[165], the

165 The Court's previous computation of "Refundable Excess and Unutilized Input VAT Attributable to Zero-Rated Sales" is as follows:

Substantiated or Valid Input VAT allocated to Declared Zero-Rated Sales	₱77,425,241.32
Less: Output VAT Still Due*	18,116,238.70
Excess and Unutilized Input VAT attributable to Declared Zero-Rated Sales	**₱59,309,002.62**
Divided by Declared Zero-Rated Sales for CY 2019	1,278,436,846.23
Multiplied by Valid Zero-Rated Sales for CY 2019	621,309,723.56
Refundable Excess and Unutilized Input VAT Attributable to Valid Zero-Rated Sales	**₱28,823,684.28**

foregoing computation under the ***second interpretation*** is more consistent with the Supreme Court's method of computing "Refundable Excess and Unutilized Input VAT Attributable to Zero-Rated Sales" in *Chevron*, citing Section 4.110-4[166] of Revenue Regulations (**RR**) No. 16-2005[167], as amended by RR No. 4-2007[168]:

This amount is higher by ₱559,604.43 compared to the ₱28,264,079.85 refundable amount computed under the ***second interpretation***.

*The Court's previous computation of "Output VAT Still Due" is as follows:

Output VAT	₱36,575,328.11
Less: Substantiated or Valid Input VAT allocated to VATable Sales**	18,459,089.41
Output VAT Still Due	**₱₱18,116,238.70**

166 SEC. 4.110-4. *Apportionment of Input Tax on Mixed Transactions.* — . . .
. . .
Illustration: ERA Corporation has the following sales during the month:

Sale to private entities subject to 12%	₱	100,000.00
Sale to private entities subject to 0%		100,000.00
Sale of exempt goods		100,000.00
Sale to gov't. subjected to 5% final VAT Withholding		100,000.00
Total Sales for the month	₱	400,000.00

The following input taxes were passed on by its VAT suppliers:

Input tax on taxable goods 12%	₱	5,000.00
Input tax on zero-rated sales		3,000.00
Input tax on sale of exempt goods		2,000.00
Input tax on sale to government		4,000.00
Input tax on depreciable capital good **not attributable** to any specific activity (monthly amortization for 60 months)		**20,000.00**

. . .
B. *The input tax attributable to zero-rated sales for the month shall be computed as follows*:

Input tax directly attributable to zero-rated sale — ₱ 3,000.00

Ratable portion of the input tax not directly attributable to any activity:

$\frac{\text{Taxable sales (0\%)}}{\text{Total Sales}}$ x **Amount of input tax not directly attributable to any activity**

$\frac{\text{P100,000.00}}{\text{400,000.00}}$ x P20,000.00 — ₱ 5,000.00

Total input tax attributable to zero-rated sales for the month ₱ 8,000.00

167 Consolidated Value-Added Tax Regulations of 2005.
168 Amending Certain Provisions of Revenue Regulations No. 16-2005, As Amended, Otherwise Known as the Consolidated Value-Added Tax Regulations of 2005.

...

Computation of refundable input tax attributable to zero-rated sales when the taxpayer-claimant is engaged in mixed transactions.

The manner of apportionment of the input tax is provided in Section 4.110-4 of RR No. 16-2005, as amended by RR No. 4-2007[.]

...

Thus, **the refundable input VAT is computed by getting the percentage of valid zero-rated sales over total reported sales (taxable, zero-rated, and exempt)** multiplied by the properly substantiated input taxes not directly attributable to any of the transactions.

...

Accordingly, Chevron Holdings is entitled to the refund of unutilized input tax allocable to its zero-rated sales for January 1 to December 31, 2006, in the total amount of ₱1,140,381.22, computed as follows:

	First Quarter	**Second Quarter**	**Third Quarter**	**Fourth Quarter**
Valid zero-rated sales	5,762,011.70	4,669,743.23	66,091,331.71	79,131,661.58
Divided by: Total reported sales	313,164,583.06	272,400,438.61	299,500,840.65	501,152,183.16
Multiplied by: Valid input tax not directly attributable to any activity	1,276,656.14	1,650,503.65	1,860,385.53	4,294,269.68
Input tax attributable to zero-rated sales	**23,489.59**	**28,294.48**	**410,534.26**	**678,062.88**
TOTAL				**₱1,140,381.22**

Claims for the tax refund, like tax exemptions, are construed *strictissimi juris* against the taxpayer. However, when the claim for refund has a clear legal basis and is sufficiently supported by evidence, as in the present case, then the Court shall not hesitate to grant the refund.[169]

...

169 Supra at note 150; Citations omitted, italics in the original text, and emphasis in the original text and supplied.

As expressly stated in *Chevron*, "refundable input VAT is computed by getting the percentage of **valid** zero-rated sales over total reported sales (taxable, zero-rated, and exempt) multiplied by the properly substantiated input taxes not directly attributable to any of the transactions." This means that only the valid portion of the "Substantiated or Valid Input VAT allocated to Declared Zero-Rated Sales" may be applied for refund or issuance of a TCC and creditable against the "Output VAT Still Due."

It must be stressed that the taxpayer-claimant should no longer benefit from the invalid portion in terms of applying or crediting it against "Output VAT Still Due," as it should only be claimed as expense or recorded as part of an asset account subject to depreciation, whichever is applicable, as provided under Q-13 and A-13 of Revenue Memorandum Circular (**RMC**) No. 42-03[170], to wit:

> ...
>
> Q-13: Should penalty be imposed on TCC application for failure of claimant to comply with certain invoicing requirements, (e.g., sales invoices must bear the TIN of the seller)?
>
> A-13: Failure by the supplier to comply with the invoicing requirements on the documents supporting the sale of goods and services will result to the **disallowance of the claim for input tax** by the purchaser-claimant.
>
> **If the claim for refund/TCC is based on the existence of zero-rated sales by the taxpayer but it fails to comply with the invoicing requirements in the issuance of sales invoices (*e.g.* failure to indicate the TIN), its claim for tax credit/refund of VAT on its purchases shall be denied considering that the invoice it is issuing to its customers does not depict its being a VAT-registered taxpayer whose sales are classified as zero-rated sales. Nonetheless, this treatment is without prejudice to the right of the taxpayer to charge the input taxes to the appropriate expense account or asset account subject to depreciation, whichever is applicable.** Moreover, the case shall be referred by the processing office to the concerned BIR office for verification of other tax liabilities of the taxpayer.[171]
>
> ...

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170 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.

171 Emphasis and underscoring supplied.

It goes without saying that deducting the "Output VAT Still Due" from the "Substantiated or Valid Input VAT allocated to **Declared Zero-Rated Sales**", rather than only from the "Substantiated or Valid Input VAT allocated to ***Valid* Zero-Rated Sales**" would result in a double tax benefit to the taxpayer-claimant insofar as "Substantiated or Valid Input VAT allocated to ***Invalid* Zero-Rated Sales**" is concerned, as a portion thereof may be charged against the "Output VAT Still Due" and only the remainder is claimed as expense (when the whole amount corresponding to invalid zero-rated sales should just be claimed as expense), as illustrated below:

Allocated to	**Substantiated Input VAT Allocated to Zero-Rated Sales**	**Amount Offset Against Output VAT Still Due**	**Refundable Amount/ Amount Claimed as Expense**	**Tax Benefit**
	(a)	(b)	(c) = (a) – (b)	
Valid Zero-Rated Sales (48.60%)	₱37,628,026.31	₱4,550,800.46	₱33,077,225.85	1. Credited against the "Output VAT Still Due"; and, 2. Applied for refund or tax credit
Invalid Zero-Rated Sales (51.40%)	39,797,215.01	**4,813,146.00**	34,984,069.01	1. **Credited against the "Output VAT Still Due"**; and, 2. Claimed as Expense
Declared Zero-Rated Sales	**₱77,425,241.32**	**₱9,363,946.46**	**₱68,061,294.86**	

Whereas, under the ***second interpretation***, there is no such double tax benefit with respect to the "Substantiated or Valid Input VAT allocated to ***Invalid* Zero-Rated Sales**" since no amount thereof is offset against "Output VAT Still Due" or only the "Substantiated or Valid Input VAT allocated to ***Valid* Zero-Rated Sales**" is charged against the "Output VAT Still Due," as follows:

Allocated to	**Substantiated Input VAT Allocated to Zero-Rated Sales**	**Amount Offset Against Output VAT Still Due**	**Refundable Amount/ Amount Claimed as Expense**	**Tax Benefit**
	(a)	(b)	(c) = (a) – (b)	
Valid Zero-Rated Sales (48.60%)	₱37,628,026.31	₱9,363,946.46	**₱28,264,079.85**	1. Credited against the "Output VAT Still Due"; and, 2. Applied for refund or tax credit
Invalid Zero-Rated Sales (51.40%)	39,797,215.01	-	39,797,215.01	1. Claimed as Expense

Allocated to	Substantiated Input VAT Allocated to Zero-Rated Sales	Amount Offset Against Output VAT Still Due	Refundable Amount/ Amount Claimed as Expense	Tax Benefit
	(a)	(b)	(c) = (a) – (b)	
Declared Zero-Rated Sales	₱77,425,241.32	₱9,363,946.46	₱68,061,294.86	

Notably, the computation of "Refundable Excess and Unutilized Input VAT Attributable to Zero-Rated Sales" under the ***second interpretation*** aims to rectify the above-illustrated double tax benefit by *only* granting a refund *if and only if* there is an excess of "Substantiated or Valid Input VAT allocated to ***Valid* Zero-Rated Sales**" after applying the "Output VAT Still Due."

Having discussed the merits and logic behind the ***first*** and ***second interpretations*** of the 'no judicial assessment rule' enunciated in *Chevron*, as it pertains to the ratable portion of input VAT allocable to zero-rated sales, We shall now determine which interpretation shall be applied.

This Court finds it more prudent to apply the ***first interpretation***: the 'no judicial assessment rule' is **applicable to both options** of the taxpayer-claimant regarding input VAT attributable to zero-rated sales.

It bears noting that in declaring that it is not for the CTA to rule on the sufficiency or substantiation of input taxes in a refund claim under Section 112(A) of the NIRC, as amended, the Supreme Court did not expressly state that this rule applies only to the second option. In other words, the Supreme Court plainly ruled that the Court is precluded from inquiring into the nature and substance of a taxpayer's input VAT from various sources for the purpose of determining the ratable portion allocable to zero-rated sales and chargeable against the "Output VAT Still Due." This ruling was made without specifying any distinctions or exceptions (such as not applying the rule with respect to the first option as suggested by the *second interpretation*).

The principle of *stare decisis et non quieta movere* (to adhere to precedents and not to unsettle things which are established), as ordained in Article 8[172] of the Civil Code, enjoins adherence by this Court to doctrinal rules established by the Supreme Court in its final decisions[173], such as the recent pronouncement in *Chevron* regarding the proper formula for computing the "Refundable Excess and Unutilized Input VAT Attributable to Zero-Rated Sales." This principle is based on the notion that once a question of law has been examined and decided, it should be considered settled and closed to further argument.[174] The High Court's interpretation of a statute becomes part of the law as of the date it was originally passed because such interpretation simply establishes the contemporaneous legislative intent that the interpreted law carries into effect.[175]

Settled is the rule that where the law does not distinguish, courts should not distinguish.[176] *Ubi lex non distinguit, nec nos distinguere debemos.*

Accordingly, since the Supreme Court's 'no judicial assessment rule' enunciated in *Chevron* already forms part of the law on the matter (*i.e.*, Section 112[A] of the NIRC, as amended, which governs claims for refund or tax credit of excess and unutilized input VAT attributable to zero-rated or effectively zero-rated sales) as of its effective date, and, as aforesaid, this pronouncement does not distinguish between a taxpayer-claimant's two (2) options with respect to input VAT attributable to zero-rated sales, this Court should not make such a distinction and is thus constrained to apply the ***first interpretation***.

Having thus established that there is a refundable excess input VAT attributable to valid zero-rated sales in the amount of **₱46,637,253.64**[177], following the pronouncements in *Chevron* (*i.e.*, the 'no judicial assessment rule' regarding both the computation of "Output VAT Still Due" and the "Refundable Excess and Unutilized Input VAT Attributable to Zero-Rated Sales" under the ***first interpretation***), and since this amount is well within the input VAT claim of ₱104,888,177.67

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172 ART. 8. Judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system of the Philippines.

173 See *Benjamin G. Ting v. Carmen M. Velez-Ting*, G.R. No. 166562, 31 March 2009.

174 Id.

175 *Philippine Long Distance Telephone Company v. Abigail R. Razon Alvarez, et al.*, G.R. No. 179408, 05 March 2014.

176 *Pension and Gratuity Management Center (PGMC), et al. v. AAA*, G.R. No. 201292, 01 August 2018.

177 Supra at p. 109.

that remained unutilized until the same was deducted as part of the "VAT Refund/TCC Claimed" in respondent's Amended Quarterly VAT Return for the 2nd Quarter of CY 2020[178], respondent has sufficiently proven its entitlement to a refund or issuance of a TCC in the said amount.

It is well established that claims for tax refund, like tax exemptions, are construed *strictissimi juris* against the taxpayer. However, when the claim for refund has a clear legal basis and is sufficiently supported by evidence, as in the present case, then the Court shall not hesitate to grant the refund.[179]

WHEREFORE, premises considered, the instant Petition for Review filed on 17 May 2021 by petitioner Philippine Mining Service Corporation is hereby **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in the amount of **FORTY-SIX MILLION, SIX HUNDRED THIRTY-SEVEN THOUSAND, TWO HUNDRED FIFTY-THREE PESOS and 64/100 (₱46,637,253.64)**, representing its unutilized excess input Value-Added Tax for the four (4) taxable quarters of CY 2019 which is attributable to its zero-rated sales for the same period.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice

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178 Supra at note 119.

179 See *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue*, supra at note 150; citing *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, 25 November 2009; *Commissioner of Internal Revenue v. Philippine Air Lines, Inc.*, G.R. No. 180043, 14 July 2009.

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