REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

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MANULIFE DATA SERVICES, INC., Petitioner, - versus - **COMMISSIONER OF INTERNAL REVENUE,** Respondent.	**CTA EB NO. 2921** (CTA Case No. 9881)

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COMMISSIONER OF INTERNAL REVENUE, Petitioner, - versus - **MANULIFE DATA SERVICES, INC.,** Respondent.	**CTA EB NO. 2922** (CTA Case No. 9881) *Present*: **RINGPIS-LIBAN**, *Acting P.J.*, **MANAHAN,** **BACORRO-VILLENA,** **MODESTO-SAN PEDRO,** **REYES-FAJARDO,** **CUI-DAVID,** **FERRER-FLORES**, *and* **ANGELES**, *JJ.* Promulgated: OCT 29 2025 2:15 p.m.

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DECISION

BACORRO-VILLENA, J.:

At bar are two (2) consolidated Petitions for Review[1] filed by Manulife Data Services, Inc. (**MDSI**) and the Commissioner of Internal Revenue (**CIR**), assailing the Decision dated 23 November 2023[2] (**assailed Decision**) and the subsequent Resolution dated 02 May 2024[3] (**assailed Resolution**) of the Special Third Division in CTA Case No. 9881, entitled *Manulife Data Services, Inc. v. Commissioner of Internal Revenue.*

The assailed Decision granted MDSI a partial refund of ₱9,818,762.53 from its original claim for the refund or issuance of a tax credit certificate (**TCC**) for excess and unutilized input value added tax (**VAT**) paid for the four (4) quarters of the calendar year (**CY**) 2016, which aggregated ₱96,275,284.20. The assailed Resolution denied, for lack of merit, both MDSI's "Motion (Re: Partial Reconsideration of [assailed Decision])"[4] and the CIR's "Motion for Partial Reconsideration (Re: [assailed Decision])"[5] (collectively, "**MPRs**").

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[1] Filed by the Commissioner of Internal Revenue (CIR) on 24 May 2024, *rollo* (CTA EB No. 2922), pp. 1-77, with annexes, and by Manulife Data Services, Inc. on 06 June 2024, *rollo* (CTA EB No. 2921), pp. 7-143, with annexes.

Rule 8 - Procedure in Civil Cases, Section 3(b), Revised Rules of the Court of Tax Appeals.
Section 3. *Who may appeal; period to file petition.* —
...
(b) Any party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

[2] Division Docket, Volume V, pp. 2601-2645; Penned by Associate Justice Ma. Belen M. Ringpis-Liban with Associate Justice Corazon G. Ferrer-Flores, concurring. Associate Justice Maria Rowena Modesto-San Pedro was on leave.

[3] Id., pp. 2687-2695. Penned by Associate Justice Ma. Belen M. Ringpis-Liban with Associate Justice Maria Rowena Modesto-San Pedro, concurring. Associate Justice Corazon G. Ferrer-Flores was on leave.

[4] Id., pp. 2660-2667.

[5] Id., pp. 2646-2658.

PARTIES TO THE CASE

MDSI is a foreign corporation duly registered with and authorized by the Securities and Exchange Commission (**SEC**) to operate as a Regional Operating Headquarters (**ROHQ**) in the Philippines, as evidenced by its SEC Certificate of Registration (**COR**) No. FS200603505.[6] It is engaged in the business of providing qualifying services to its affiliates and related parties in the Asia-Pacific region and in other foreign markets.[7] It is likewise registered with the Large Taxpayers Service (**LTS**) under Bureau of Internal Revenue (**BIR**) Revenue District Office (**RDO**) No. 126, as shown in its BIR COR No. 8RC0000525020.[8]

The CIR, on the other hand, is vested with the power to decide tax cases, including claims for refunds and/or tax credits, pursuant to Section 4[9] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, with office address at the 5th Floor, BIR National Office Building, Agham Road (now, Senator Miriam P. Defensor-Santiago Avenue), Diliman, Quezon City.[10]

FACTS OF THE CASE

During CY 2016, MDSI generated both VAT zero-rated sales and VATable sales as shown in its schedules of zero-rated sales[11] and VATable sales[12] and its quarterly VAT returns[13], detailed as follows:

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6 Paragraph 2(a), I. Stipulation of Facts, Joint Stipulation of Facts and Issue (**JSFI**), id., Volume IV, p. 1635.

7 Id.

8 Par. 2(b), id.

9 **SEC. 4.** *Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.* — The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.

The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.

10 Pars. 1(a) and 1(b), Stipulation of Facts, JSFI, Division Docket, Volume IV, p. 1634.

11 Exhibits "P-22" to "P-25", Marked Exhibits Envelope 1.

12 Exhibits "P-18" to "P-21", id.

13 Exhibits "P-5" to "P-8", id.

Period (CY 2016)	VATable Sales	Zero-rated Sales	Total Sales
First (1st)	₱14,928,221.69	₱848,398,915.01	₱863,327,136.70
Second (2nd)	35,843,258.51	844,829,808.89	880,673,067.40
Third (3rd)	26,696,583.12	856,327,832.38	883,024,415.50
Fourth (4th)	30,089,315.56	1,000,301,036.05	1,030,390,351.61
Total	**₱107,557,378.88**	**₱3,549,857,592.33**	**₱3,657,414,971.21**

On 28 March 2018, MDSI filed an "Application for Tax Credits/Refunds (BIR Form No. 1914)"[14] (**administrative claim**) with the BIR Regular LT-Audit Division III (**BIR-RLTAD-3**). In the said administrative claim, MDSI requested the refund of the total amount of ₱96,275,284.20, which allegedly represent the excess or unutilized input VAT attributable to zero-rated sales for CY 2016.

Thereafter, on 27 June 2018, MDSI received the Letter dated 30 May 2018[15] (**Denial Letter**), signed by Teresita M. Dizon, Assistant Commissioner of the LTS (**ACIR Dizon**), denying its administrative claim on the sole ground that it failed to comply with "the submission of Certificate of Incorporation from the foreign country as certified by an authorized official of the Non[-]Resident Foreign Corporation (**NRFC**) pursuant to Revenue Memorandum Circular [(**RMC**)] No. 17-2018."[16]

PROCEEDINGS BEFORE THE THIRD DIVISION

On 24 July 2018 and within thirty (30) days from receipt of the Denial Letter, MDSI filed its prior Petition for Review[17] before the Court in Division to appeal the denial of its administrative claim. The same was raffled to the Third Division[18] and docketed as CTA Case No. 9881.

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14 Exhibit "P-12", Marked Exhibits Envelope 1.

15 Exhibit "R-4", BIR Records, p. 501; Par. 1(d), I. Stipulation of Facts, JSFI, Division Docket, Volume IV, p. 1635.

16 Amending Revenue Memorandum Circular (RMC) No. 89-2017 and Certain Provisions of RMC No. 54-2014 Regarding the Processing of Claims for Issuance of Tax Refund/Tax Credit Certificate (TCC) in Relation to Amendments Made in the National Internal Revenue Code of 1997, as Amended by Republic Act No. 10963, Known as the Tax Reform for Acceleration and Inclusion (TRAIN).

17 Division Docket, Volume I, pp. 10-189, with annexes.

18 The Third Division was then composed of Associate Justice Esperanza R. Fabon-Victorino (Ret.), as Chairperson, and Associate Justice Ma. Belen M. Ringpis-Liban, as Member.

On 24 January 2019, the Third Division issued Summons[19] ordering the CIR to file an Answer within fifteen (15) days from service. The CIR received the said Summons on 28 January 2019.[20]

After the Third Division granted an extension of time[21], the CIR filed an Answer[22] on 26 February 2019. There, the CIR raised the following special and affirmative defenses: (1) the Court must dismiss the case due to MDSI's failure to substantiate its administrative claim for refund; (2) MDSI is not entitled to a refund in the amount of ₱96,275,284.20; (3) administrative agencies, in the exercise of their rule-making power, may formulate rules and regulations to implement the policies declared by Congress; (4) taxes paid and collected by the BIR are presumed to have been made in accordance with law, rules and regulations, and MDSI bears the burden of proving otherwise; and (5) claims for refund, being in the nature of tax exemptions, must be strictly construed against the claimant and are, therefore, viewed with disfavor.

On 04 March 2019, the Third Division set the case for Pre-Trial Conference on 13 June 2019.[23] In compliance with the Court's directive, the CIR filed a Pre-Trial Brief[24] on 05 April 2019, while MDSI submitted its Pre-Trial Brief[25] on 04 June 2019.

Meanwhile, on 08 March 2019, the CIR transmitted to the Third Division the entire BIR Records.[26] The Third Division noted the filing of the same in a Minute Resolution dated 11 March 2019.[27]

At the scheduled Pre-Trial Conference on 13 June 2019, the Third Division granted the parties a twenty (20)-day period to file their Joint Stipulation of Facts and Issues (**JSFI**).[28] On 08 July 2019, or on the same date that the Third Division granted an extension of time[29], the parties

19 Division Docket, Volume I, p. 237.
20 Id.
21 See Resolution dated 19 February 2019, id., p. 244.
22 Id., pp. 245-257.
23 See Notice of Pre-Trial Conference dated 04 March 2019, id., pp. 259-260.
24 Id., pp. 291-294.
25 Id., pp. 297-331.
26 See Compliance dated 07 March 2019, id., pp. 261-263.
27 Id., p. 265.
28 See Minutes of the Hearing and Order, both dated 13 June 2019, id., Volume IV, pp. 1576 and 1580-1582, respectively.
29 See Order dated 08 July 2019, id., pp. 1646-1647.

filed their JSFI.[30] The Third Division approved and adopted in its Resolution dated 25 July 2019[31] and, subsequently, in its Pre-Trial Order[32] of 22 August 2019. The pre-trial was then declared terminated.

Earlier, on 24 June 2019, MDSI filed a "Motion to Commission Independent [Certified Public Accountant (**ICPA**)]"[33] (**First Motion to Commission**), requesting the appointment of Annalyn B. Artuz (**Artuz**) as the ICPA for this case. During the 17 September 2019 hearing[34], the Third Division denied the motion, noting that Artuz's firm had already been commissioned five (5) times. The Court then directed MDSI to submit the Judicial Affidavit of a new proposed ICPA and set the commissioning anew for 03 October 2019.[35]

After the Third Division twice granted an extension of time[36], MDSI filed a "Motion to Commission [ICPA]"[37] (**Second Motion to Commission**), praying for the appointment of Glenn lan D. Villanueva (**Villanueva**) as the ICPA. In its Order dated 07 November 2019[38], the Third Division commissioned Villanueva and directed him to submit his report by 23 December 2019.

On 23 December 2019, ICPA Villanueva filed *via* registered mail a partial Report[39], after the Court granted him an extension of time.[40] In a Minute Resolution dated 07 January 2020[41], the Third Division noted said partial ICPA Report, including one (1) box of supporting annexes and the related exhibits and two (2) compact disks (**CDs**).

Subsequently, despite its filing on 27 January 2020 beyond the earlier deadline of 22 January 2020, the Third Division admitted ICPA

30 Id., pp. 1634-1644.
31 Id., p. 1656.
32 Id., pp. 1673-1689.
33 Id., pp. 1583-1612, with annexes.
34 See Minutes of the Hearing and Order, both dated 17 September 2019, id., pp. 1694 and 1695-1696, respectively.
35 Id.
36 See Resolution dated 01 October 2019 and Order dated 07 November 2019, id., pp. 1703-1704 and 1738-1739, respectively.
37 Id., pp. 1707-1730, with annex.
38 See Order dated 07 November 2019, supra at note 36.
39 Exhibit "P-101", id., pp. 1752-1798, with transmittal letter (which the Court received on 06 January 2020).
40 See Resolution dated 26 December 2019, id., p. 1751.
41 Id., p. 1800.

Villanueva's final Report[42] (**First Final ICPA Report**), along with one (1) CD as part of the case records.[43]

During the trial, MDSI presented its testimonial and documentary evidence. It offered the testimonies of the following witnesses: (1) Iñigo P. Garcia (**Garcia**), MDSI's Finance Director; (2) Clarissa L. Magarao (**Magarao**), MDSI's Accounting Specialist; and (3) ICPA Villanueva.

During the hearing on 03 October 2019[44], Garcia identified his Judicial Affidavit dated 06 June 2019[45], where he testified to the following: (1) MDSI's corporate existence and status as a duly registered and licensed ROHQ; (2) MDSI rendered services to its NRFC clients; (3) these NRFC clients are not doing business in the Philippines; (4) MDSI rendered services to these NRFC clients in accordance with their respective service agreements; and (5) MDSI received payment for these services in foreign currency inwardly remitted to the Philippines.

The CIR did not conduct any cross-examination.[46]

Magarao next testified during the 07 November 2019 hearing[47], identifying her Judicial Affidavit dated 03 June 2019[48], where she stated the following: (1) MDSI's corporate existence and status as a duly registered and licensed ROHQ; (2) MDSI filed its Quarterly VAT Returns, Annual Income Tax Return (**ITR**) and Audited Financial Statements (**AFS**) for the period of claim; (3) MDSI generated zero-rated sales, which were paid in foreign currency inwardly remitted in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (**BSP**); (4) MDSI incurred and paid input VAT on domestic purchases of goods and services; (5) MDSI generated output VAT from VATable sales and offset it against its available input VAT for the period of claim; (6) MDSI has excess and unutilized input VAT arising from domestic purchases directly attributable to zero-rated sales for the

42 Exhibit "P-101-1", id., Volume IV, pp. 1819-2020, with transmittal letter.
43 See Resolution dated 07 February 2020; id., Volume V, pp. 2072-2073.
44 See Minutes of the Hearing and Order, both dated 03 October 2019, id., Volume IV, pp. 1705 and 1706, respectively.
45 Exhibit "P-99", id., Volume I, pp. 339-383.
46 TSN dated 03 October 2019, p. 5.
47 See Minutes of the Hearing and Order, both dated 07 November 2019, Division Docket, Volume IV, pp. 1736 and 1738-1739, respectively.
48 Exhibit "P-100", id., Volume III, pp. 1336-1356.

relevant periods; and (7) MDSI seasonably filed its claim for refund of excess and unutilized input VAT.

The CIR did not conduct any cross-examination.[49]

On 12 February 2020[50], MDSI presented ICPA Villanueva who identified his Judicial Affidavit dated 28 January 2020.[51] He testified essentially that: (1) MDSI substantiated its refund claim for unutilized input VAT for CY 2016 through receipts, invoices, notes and other documents presented to him; (2) MDSI properly recorded and reported its VAT zero-rated sales and the input VAT it incurred for the same period; (3) MDSI's claim of input VAT is directly attributable to its zero-rated sales; (4) MDSI complied with the invoicing requirements; and (5) MDSI correctly amortized the input VAT it paid on purchases of capital goods exceeding ₱1 million.

On cross-examination, ICPA Villanueva was asked to clarify his answer to Question No. 18 of his Judicial Affidavit, where he said that "[t]he proper amount to be refunded will depend on the court's appreciation of the sales made to [The Manufacturers Life Insurance Company (**MLIC**)]". He explained that MLIC is one of MDSI's clients based in Canada but with a branch in the Philippines. He noted that MDSI did not secure a Negative Certification from the SEC for this client-affiliate. Given the possibility that MLIC conducts business in the Philippines, he opined that the services rendered to it could be disallowed. However, based on his further verification, MLIC has ceased operations and is undergoing liquidation. He also observed that, based on the service contracts, MDSI rendered services directly to MLIC Canada and not through its Philippine branch. For this reason, ICPA Villanueva raised the matter as an issue for the Court to resolve.[52]

ICPA Villanueva added that if the Court disallows the sales to MLIC, the refundable amount would only be ₱2.5 million out of the total ₱96 million refund claim. Conversely, if the Court allows the sales to MLIC, the refundable amount would increase to ₱6.7 million.[53]

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49 TSN dated 07 November 2019, pp. 11-12.

50 See Minutes of the Hearing and Order, both dated 12 February 2020, Division Docket, Volume V, pp. 2074 and 2075-2076, respectively.

51 Exhibit "P-102", id., pp. 2063-2070.

52 TSN dated 12 February 2020, pp. 8-9.

53 Id.

MDSI did not conduct any redirect examination.[54]

In response to the Court's clarificatory questions, ICPA Villanueva stated that, upon examining the AFS of MLIC's branch in the Philippines, he confirmed that it had already ceased operations. He based this conclusion on the absence of declared revenue and the presence of only minimal expenses. According to ICPA Villanueva, this financial position started as early as the year 2013.[55]

When asked whether the refundable amount of ₱6.7 million already accounted for the disallowed input VAT of ₱89 million, ICPA Villanueva answered in the affirmative and explained that only ₱19.7 million worth of input VAT was valid and properly substantiated, and that the total output VAT of ₱12.9 million was based on the VAT returns. He further clarified that the remaining input VAT of ₱6.8 million would have been refundable had 100% of the sales qualified as zero-rated. However, based on his verification, only 37.05% of total sales qualified as zero-rated. Accordingly, if the Court excludes the sales to MLIC, the refundable amount would just be ₱2.5 million.[56]

After completing the presentation of evidence, on 18 February 2020, MDSI filed its "Formal Offer of Evidence"[57] (**FOE**), consisting of Exhibits "P-1" to "P-154", inclusive of sub-markings. On 21 February 2020, the CIR filed a Comment[58] thereto.

In the Resolution dated 19 June 2020[59] (**FOE Resolution**), the Third Division acted upon MDSI's FOE, admitting some of its offered exhibits and denying several exhibits for: (1) failure to submit the duly marked exhibits; (2) failure to present originals for comparison; (3) not being found in the case records; and (4) being unreadable or blank.

On 29 June 2020, MDSI filed a "Motion to Reopen with Motion to Recall"[60] (**Motion to Reopen**), requesting the Third Division to: (1) reopen the case for the reception of corrected official receipts (**ORs**)

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[54] Id., pp. 9-10.
[55] Id., pp. 10-13.
[56] Id., pp. 13-15.
[57] Division Docket, Volume V, pp. 2077-2111.
[58] Id., pp. 2114-2116.
[59] Id., pp. 2122-2125.
[60] Id., pp. 2126-2130.

or invoices and certifications issued by domestic suppliers; (2) allow ICPA Villanueva to submit a supplemental report on these corrected ORs or invoices; and (3) recall ICPA Villanueva to testify on his supplemental report. On the same day, MDSI filed a "Motion to Reset Hearing"[61], seeking the cancellation and resetting of the hearing originally scheduled for 02 July 2020, which was set for the CIR's initial presentation of evidence).

On 07 July 2020, MDSI filed a "Motion for Reconsideration (Re: [FOE Resolution])"[62] (**MR**). The CIR failed to file a comment despite due notice.[63]

In the Resolution dated 21 January 2021[64], the Third Division granted MDSI's Motion to Reopen, set the case for hearing on 07 April 2021 to recall ICPA Villanueva, and held in abeyance the resolution of MDSI's MR on the FOE Resolution. Later, in a Resolution dated 08 July 2021[65], the Third Division reset the hearing to 19 October 2021 *via* videoconference and continued to hold in abeyance the resolution of MDSI's MR on the FOE Resolution.

Ahead of the scheduled hearing, on 10 May 2021, ICPA Villanueva filed *via* registered mail another final Report[66] (**Second Final ICPA Report**), along with one (1) USB. The Third Division noted the same in a Minute Resolution dated 27 May 2021.[67]

During the 19 October 2021 videoconference hearing[68], MDSI presented ICPA Villanueva who identified his Supplemental Judicial Affidavit dated 12 October 2021.[69] In essence, ICPA Villanueva testified that: (1) he submitted a Second Final ICPA Report to account for information that came to light after his initial reports, particularly a set of corrected ORs submitted by MDSI's suppliers; (2) he marked and

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61 Id., pp. 2132-2134.
62 Id., pp. 2137-2142.
63 See Records Verification Report dated 18 December 2020, id., p. 2149.
64 Id., pp. 2153-2155.
65 Id., p. 2362.
66 Exhibit "P-101-2", id., pp. 2159-2359, with transmittal letter; Received by the Court on 24 May 2021.
67 Id., p. 2360.
68 See Minutes of the Hearing and Order, both dated 19 October 2021, id., pp. 2414 and 2415-2416, respectively.
69 Exhibit "P-155", id., pp. 2417-2422.

identified these corrected ORs as Exhibits "P-141-91" to "P-141-120"; (3) MDSI made zero-rated sales amounting to either ₱1,315,095,895.58 or ₱3,505,409,726.52, depending on whether its sales to MLIC qualify for VAT zero-rating; (4) MDSI is entitled to a VAT refund of either ₱8,057,958.00 or ₱21,477,013.57, again depending on whether its sales to MLIC qualify for VAT zero-rating; and (5) MDSI did not utilize the excess input VAT until it was deducted as "VAT Refund/TCC Claimed" in its Quarterly VAT Return for the 1st Quarter of CY 2018.

On cross-examination, ICPA Villanueva admitted that some of the documents he reviewed were not issued within the period covered by the refund claim, some were missing during his fieldwork, and others were later corrected by suppliers due to inconsistencies with BIR regulations. However, he clarified that he disallowed any documents not dated within the period of claim. When asked when the corrections were made, he responded that he could not say with certainty but believed they were likely made either before the review or release of his report and most probably after MDSI filed its administrative claim with BIR.[70]

MDSI did not conduct any redirect examination.[71]

On 08 November 2021, MDSI filed *via* registered mail a "Supplemental Formal Offer of Exhibits"[72] (**Supplemental FOE**), consisting of Exhibits "P-101-2" to "P-155", inclusive of sub-markings. The CIR failed to file a comment thereto despite due notice.[73]

In the Resolution dated 11 March 2022[74], the Third Division partially granted MDSI's MR[75] on the FOE Resolution[76], thereby reconsidering admitting most of the previous denied exhibits, but still denying the following exhibits: (1) Exhibits "P-3", "P-4", "P-4-a" and "P-9"[77], for failure to submit the duly marked exhibits; and (2) Exhibits

70 TSN dated 19 October 2021, pp. 9-10.
71 Id., p. 10.
72 Division Docket, Volume V, pp. 2488-2491.
73 See Records Verification Report dated 03 February 2022, id., p. 2495.
74 Id., pp. 2499-2506.
75 Supra at note 62.
76 Supra at note 59.
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Exhibit No.	Description
"P-3"	BIR Certificate of Registration with OCN 8RC0000525020 issued by BIR-RDO 126 (Regular Large Taxpayers Division III).

"P-34" to "P-34-c", "P-40" to "P-40-d", "P-41" to "P-41-d", "P-44" to "P-44-d", "P-45" to "P-45-b", "P-46", "P-46-a", "P-48", "P-48-a", "P-58-a", "P-60-a", "P-67-a", "P-68" to "P-68-e", "P-69-a", "P-69-b", "P-71-a", "P-71-b", "P-77-a", "P-84", "P-84-a" and "P-84-b"[78], for failure to present originals for comparison. In the same Resolution, the Third Division acted upon MDSI's Supplemental FOE, admitting all of the exhibits therein offered, and set the presentation of the CIR's evidence on 09 June 2022.[79]

"P-4"	BIR Form 0605 showing payment of Registration Fee for Calendar Year 2016 filed *via* eFPS on 06 January 2016.
"P-4-a"	BIR Form 0605 showing payment of Registration Fee for Calendar Year 2018 filed *via* eFPS on 03 January 2018.
"P-9"	Annual Income Tax Return (**ITR**) for CY 2016 filed *via* eFPS on 10 April 2017.

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Exhibit No.	**Description**
"P-34" to "P-34-c"	Service Level Agreement with John Hancock Financial Network dated 09 November 2015.
"P-40" to "P-40-d"	Services Agreement with Manulife Asset Management (Hong Kong) Limited dated 18 July 2011.
"P-41" to "P-41-d"	Service Level Agreement with Manulife Asset Management (Hong Kong) Limited dated 19 May 2012.
"P-44" to "P-44-d"	Master Administrative Services Agreement dated 03 September 2010 with Manulife Asset Management (Malaysia) Sdn. Bhd.
"P-45" to "P-45-b"	Service Level Agreement with Manulife Asset Management (Malaysia) Sdn. Bhd.
"P-46"	SEC Certification of Non-Registration of Company issued to Manulife Asset Management (Malaysia) Sdn. Bhd.
"P-46-a"	Certificate of Incorporation of Manulife Asset Management (Malaysia) Sdn. Bhd.
"P-48"	SEC Certification of Non-Registration of Company issued to Manulife Asset Management (Singapore) Pte Ltd.
"P-48-a"	Certificate Confirming Incorporation of Company issued to Manulife Asset Management (Singapore) Pte Ltd.
"P-58-a"	Business License of Manulife Information & Technologies Services (Chengdu).
"P-60-a"	Certificate of Incorporation of Manulife Insurance Berhad.
"P-67-a"	Business License of Manulife Sinochem Life Insurance Co. Ltd.
"P-68" to "P-68-e"	Outsourcing Agreement with Pt. Asuransi Jiwa Manulife Indonesia dated 13 May 2015.
"P-69-a"	Certificate of Incorporation of Pt. Asuransi Jiwa Manulife Indonesia.
"P-69-b"	Certificate of Change of Name of Pt. Asuransi Jiwa Manulife Indonesia.
"P-71-a"	Certificate of Incorporation of Pt. Manulife Asset Management Indonesia.
"P-71-b"	Certificate of Change of Name of Pt. Manulife Asset Management Indonesia.
"P-77-a"	Certificate of Incorporation of Manulife Technology & Services Sdn. Bhd.
"P-84"	Certificate of Formation issued to Sovereign Asset Management LLC.
"P-84-a"	Certificate of Change of Name from "Sovereign Asset Management LLC" to "MFC Global Investment Management (U.S.) LLC".
"P-84-b"	Certificate of Change of Name from "MFC Global Investment Management (U.S.) LLC" to "Manulife Asset Management US LLC".

79 Supra at note 74.

During the 09 June 2022 hearing[80], the CIR presented his or her sole witness, Revenue Officer Marc Denison C. Andrey (**RO Andrey**), who identified his Judicial Affidavit dated 05 April 2019.[81] In his affidavit, RO Andrey testified that: (1) at the time he executed his Judicial Affidavit, he held the position of RO II assigned to RDO No. 03-San Fernando City, La Union, effective 11 January 2019 and prior to this, he was assigned to the BIR-RLTAD-3; (2) his duties included examining the books of accounts, vouchers, and other accounting records of taxpayers in connection with refund claim processing; (3) he was authorized to conduct the examination through the Letter of Authority (**LOA**) No. LOA-126-2018-00000006 (SN:eLA201500089794) dated 11 April 2018[82]; (4) the BIR served the LOA, together with the "Revised Checklist of Mandatory Requirements for Claims of VAT Refund"[83] (**Revised Checklist**), to MDSI and Atty. Janelle A. Dumanat received these documents on 11 April 2018; (5) the BIR disapproved MDSI's refund claim due to its failure to submit a certificate of incorporation issued by the foreign country and certified by an authorized official of the NRFC, as required under RMC No. 17-2018[84]; (6) he prepared a Memorandum Report dated 18 June 2018[85], outlining the results of his investigation or examination; and (7) the BIR subsequently issued a Denial Letter[86] to MDSI, formally informing it of the disapproval of its refund claim.

On cross-examination, RO Andrey confirmed that MDSI's failure to submit the Certificate of Incorporation from the relevant foreign country—required under RMC No. 17-2018, which amended RMC No. 54-2014[87]—served as the sole basis for the denial of its refund claim, as indicated in the Denial Letter. He also acknowledged that the Revised Checklist under RMC No. 17-2018[88] differed from, or effectively amended, the Checklist of Mandatory Requirements for Claims of VAT Credit/Refund" (**Previous Checklist**) referenced in RMC No. 54-2014. When asked whether he was aware that the requirement under item 3.4 of the Revised Checklist was new, or absent from the Previous Checklist, he responded that this may have been the case and explained

80 See Minutes of the Hearing and Order, both dated 09 June 2022, Division Docket, Volume V, pp. 2507 and 2508-2509, respectively.
81 Exhibit "R-5", id., Volume I, pp. 270-290, with attached exhibits.
82 Exhibit "R-1", BIR Records, p. 345.
83 Exhibit "R-2", id., p. 346.
84 Supra at note 16.
85 Exhibit "R-3", BIR Records, pp. 497-498.
86 Exhibit "R-4", supra at note 15.
87 Clarifying Issues Relative to the Application for Value Added Tax (VAT) Refund/Credit under Section 112 of the Tax Code, As Amended.
88 Supra at note 16.

that he simply complied with RMC No. 17-2018, which was already in effect (*i.e.*, on 27 February 2018, the issue date) when MDSI filed its refund application.[89]

The CIR did not conduct any redirect examination.[90]

On 13 June 2022, the CIR filed his or her FOE[91], consisting of Exhibits "R-1" to "R-4". MDSI filed a "Manifestation (Re: [FOE])"[92] thereto on 07 July 2022. Subsequently, in a Resolution dated 14 September 2022[93], the Third Division resolved to admit all of the CIR's offered exhibits.

In compliance with the Court's directive, on 28 September 2022, the CIR filed his or her Memorandum[94], while MDSI filed its Memorandum[95] on 07 November 2022. In consideration thereof, the Third Division submitted the case for decision through its Resolution dated 24 November 2022.[96]

In the now assailed Decision of 23 November 2023[97], the Special Third Division partially granted MDSI's original Petition for Review. The dispositive portion thereof reads:

> ...
>
> **WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, [the CIR] is **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of [MDSI] the amount of **₱9,818,762.53**, representing the latter's excess and unutilized input VAT attributable to its zero-rated sales for the 1st to 4th quarters of calendar year 2016.
>
> **SO ORDERED.**
>
> ...

89 TSN dated 09 June 2022, pp. 5-10.
90 Id., pp. 10-11.
91 Division Docket, Volume V, pp. 2510-2513.
92 Id., pp. 2517-2518.
93 Id., pp. 2523-2524.
94 Id., pp. 2525-2537.
95 Id., pp. 2546-2554.
96 Id., p. 2558.
97 Supra at note 2.

In granting MDSI's Petition for Review, the Special Third Division primarily held that: (1) the BIR should not have disallowed MDSI's refund claim on the ground that it failed to submit a Certificate of Incorporation issued by a foreign country and certified by an authorized official of the NRFC, as required under RMC No. 17-2018[98], as the submission of consularized charter documents of its clients—without certification by the authorized officials of the respective NRFCs—should have been considered substantial compliance; and (2) out of the total claim for refund of ₱96,275,284.20, MDSI has sufficiently proven its entitlement to a refund or issuance of a TCC amounting to ₱9,818,762.53, representing excess and unutilized input VAT attributable to zero-rated sales for four (4) quarters of CY 2016.

On 18 December 2023, MDSI filed a "Motion (Re: Partial Reconsideration of [assailed Decision])"[99], with the CIR's Opposition[100] filed on 30 January 2024. Whereas, the CIR filed a "Motion for Partial Reconsideration (Re: [assailed Decision])[101] on 19 December 2023, with MDSI's Comment[102] filed on 25 January 2024. In the similarly assailed Resolution of 02 May 2024[103], the Special Third Division denied the parties' respective MPRs for lack of merit.

<u>PROCEEDINGS BEFORE THE COURT *EN BANC*</u>

Mutually dissatisfied, the CIR and MDSI filed their respective Petitions for Review[104] before the Court *En Banc*. In a Minute Resolution dated 07 June 2024[105], the Court *En Banc* consolidated CTA EB No. 2922, filed by the CIR on 24 May 2024, with CTA EB No. 2921, filed by MDSI on 06 June 2024, pursuant to Section 1[106], Rule 31[107] of the Rules of Court (**ROC**), as amended.

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98 Supra at note 16.
99 Supra at note 4.
100 Division Docket, Volume V, pp. 2679-2683.
101 Supra at note 5.
102 Division Docket, Volume V, pp. 2672-2675.
103 Supra at note 3.
104 Supra at note 1.
105 *Rollo* (CTA EB No. 2921), p. 146.
106 Section 1. *Consolidation*. – When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.
107 CONSOLIDATION OR SEVERANCE.

On 15 July 2024, the CIR filed a Comment[108] on MDSI's Petition for Review. In turn, MDSI filed its Comment[109] on the CIR's Petition for Review on 19 July 2024.

In a Minute Resolution dated 21 August 2024[110], the Court *En Banc* submitted these consolidated cases for decision.

<u>ISSUES</u>

Based on the parties' arguments in these consolidated petitions, the issues for the Court *En Banc*'s resolution are —

I.
WHETHER THE SPECIAL THIRD DIVISION ERRED IN PARTIALLY GRANTING MANULIFE DATA SERVICES, INC.'S (MDSI'S) CLAIM FOR REFUND OR ISSUANCE OF A TAX CREDIT CERTIFICATE (TCC) REPRESENTING ALLEGED EXCESS AND UNUTILIZED INPUT VALUE-ADDED TAX (VAT) FOR THE 1^{ST} TO 4^{TH} QUARTERS OF THE CALENDAR YEAR (CY) 2016 IN THE REDUCED AMOUNT OF ₱9,818,762.53.

II.
WHETHER THE MANUFACTURERS LIFE INSURANCE COMPANY (MLIC) IS AN ENTITY ORGANIZED AND EXISTING UNDER A FOREIGN LAW.

<u>ARGUMENTS</u>

Relative to the CIR's Petition for Review in <u>CTA EB No. 2922</u>, the CIR asks the Court *En Banc* to reverse and set aside the assailed Decision[111] promulgated on 23 November 2023, then render a new one denying the entire claim for refund.

The CIR reiterates that MDSI failed to substantiate its administrative claim for refund due to its incomplete submission of the requirements under RMC No. 17-2018.[112] The CIR maintains that, after

108 *Rollo* (CTA EB No. 2921), pp. 148-152.
109 Id., pp. 161-167.
110 Id., p. 171.
111 Supra at note 2.
112 Supra at note 16.

failing to submit them during the administrative proceedings, MDSI cannot be allowed to present new documents before the CTA Division. Moreover, the CTA Division may only resolve the narrower issue of whether the denial of the claim was proper based on the evidence submitted at the administrative level.

In justifying the legal basis for denying MDSI's refund claim, as stated in the Denial Letter[113], the CIR further asserts that the BIR's interpretation of tax laws deserves great weight due to its recognized expertise in matters within its exclusive administrative domain.

Lastly, the CIR emphasizes that a taxpayer-claimant bears the burden of presenting clear and convincing evidence to support a refund claim, considering that a tax refund, being in the nature of a tax exemption, must be construed *strictissimi juris* against the taxpayer.

In its Comment, MDSI reiterates that RMC No. 17-2018, which amended RMC No. 54-2014, remained unpublished. Despite this, the CIR immediately applied RMC No. 17-2018 to newly filed tax refund claims, including that of MDSI. Therefore, any denial based on noncompliance with an unpublished issuance, one that was made binding on the public despite being directed only to the CIR's internal personnel, violates due process and should carry no legal effect.

MDSI also notes that the CTA Division correctly considered evidence not submitted at the administrative level, since CTA, as a court of record, has the authority to conduct a trial *de novo*.

Additionally, MDSI stresses that the CIR failed to specify any factual or legal issues or errors in connection with the Special Third Division's grant of a partial refund. A general assignment of error should not suffice, as Section 6(b), Rule 43 of the ROC, as amended, requires an appeal to "contain a concise statement of the facts and issues involved and the grounds relied upon for the review." Likewise, under Section 8, Rule 51 of the ROC, as amended, a judgment on appeal cannot consider any error "unless stated in the assignment of errors, or closely related to or dependent on an assigned error and properly argued in the brief."

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113 Exhibit "R-4", supra at note 15.

MDSI thus insists that, considering the Special Third Division's thorough evaluation of the evidence and detailed application of the law, the CIR's petition lacks merit and must be denied.

Meanwhile, in its own Petition for Review in CTA EB No. 2921, MDSI raises a single issue - *whether MLIC is an entity organized and existing under a foreign law*. In this regard, MDSI asserts that, as noted in the assailed Decision, it successfully presented an SEC Certificate of Non-Registration of Company in respect of MLIC—admitted into evidence as Exhibit "P-75"—thereby satisfying the first component of MLIC's NRFC status: that it was established under the laws of a foreign country, or simply, that it is not a domestic corporation.

However, with respect to the second component—that MLIC is doing business outside the Philippines—the Special Third Division did not consider MLIC's Letters Patent dated 19 March 1987, admitted into evidence as Exhibit "P-74-a", as sufficient compliance with the requirement to submit a Certificate or Articles of Foreign Incorporation/Association indicating the state, province, or country where MLIC was organized.

MDSI laments that the Special Third Division disregarded MLIC's Letters Patent despite the following: (1) the Philippines' Ottawa Consulate authenticated the document; (2) the opening page of the Letters Patent declares that MLIC is incorporated under a foreign law, *i.e.*, the Canadian and British Insurance Companies Act; (3) the "Whereas" clauses outline MLIC's corporate history, including its initial incorporation by special Act of the Canadian Parliament; (4) the Letters Patent identify MLIC's head office as located in Toronto, Ontario; and (5) MDSI submitted additional evidence under the "P-74" series that corroborates Exhibit "P-74-a," specifically—Exhibit "P-74-b", a consul-authenticated Canadian Letters Patent of Amalgamation certifying the merger of MLIC with another entity; Exhibit "P-74-c", a consul-authenticated Certificate of Confirmation issued by Canada's Office of the Superintendent of Financial Institutions, confirming that MLIC is subject to Canada's Insurance Companies Act; and Exhibit "P-74-d", a consul-authenticated Certificate of Good Standing issued by Prince Edward Island, a Canadian province, in favor of MLIC.

Contrary to the Special Third Division's ruling, MDSI asserts that the Letters Patent satisfies the criteria established in *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*[114] (**Deutsche Knowledge Services**) for proving that MLIC is registered to operate in a foreign jurisdiction. The relevant discussion in *Deutsche Knowledge Services*, which cites examples of competent evidence, does not exclude functionally equivalent documents styled differently. In essence, MDSI argues that the Letters Patent should be considered functionally equivalent to a certificate or articles of incorporation.

Accordingly, MDSI contends that its sales of services to MLIC, amounting to ₱2,190,313,830.94, should qualify for VAT zero-rating under Section 108(B)(2)[115] of the NIRC of 1997, as amended. With the inclusion of these sales, the total amount of valid zero-rated sales increases from ₱1,281,730,733.08 to ₱3,472,044,564.02. Consequently, the refundable amount of excess and unutilized input VAT should be adjusted to ₱26,597,771.44.

On the other hand, in his or her Comment, the CIR—without directly addressing MDSI's arguments—merely avers that MDSI bears the burden of establishing the factual basis of its refund claim. After all, tax refunds, like tax exemptions, must be construed strictly against the taxpayer.

RULING OF THE COURT *EN BANC*

Before going into the merits of the case, We shall first resolve whether the Court *En Banc* has jurisdiction over the present consolidated petitions.

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114 G.R. No. 234445, 15 July 2020.

115 **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:

...

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

THE COURT *EN BANC* HAS JURISDICTION OVER THE PRESENT CONSOLIDATED PETITIONS.

The Special Third Division issued the assailed Resolution[116] denying both parties' respective MPRs[117] on 02 May 2024. MDSI received the assailed Resolution on 07 May 2024[118], while the CIR received it on 09 May 2024.[119]

Under Section 2(a)(1)[120], Rule 4 in relation to Section 3(b)[121], Rule 8 of the RRCTA, both parties had 15 days within which to file their respective appeals before this Court. Accordingly, MDSI had until 22 May 2024, counted from 07 May 2024, while the CIR had until 24 May 2024, counted from 09 May 2024.

On 21 May 2024, MDSI filed a "Motion for Extension of Time (Re: To File Petition for Review)"[122], requesting for an additional period of 15 days from 22 May 2024, or until 06 June 2024, within which to file its Petition for Review. The Court *En Banc* granted the same in its Minute Resolution dated 22 May 2024.[123] Accordingly, the CIR and MDSI timely filed their respective petitions[124] on 24 May 2024 and 06 June 2024, respectively.

Since both parties filed their petitions on time, the Court *En Banc* has jurisdiction over these consolidated cases. We now proceed to address their merits.

After thoroughly reviewing the records and evaluating the parties' arguments *vis-à-vis* the pertinent laws, rules, and jurisprudence, the

116 Supra at note 3.
117 Supra at notes 4 and 5.
118 See Notice of Resolution dated 03 May 2024, Division Docket, Volume V, p. 2686.
119 Id., p. 2686.
120 **SEC 2**. *Cases Within the Jurisdiction of the Court En Banc*. — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:
(1) Cases arising from administrative agencies — **Bureau of Internal Revenue**, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture[.] (Emphasis supplied.)
121 Supra at note 1.
122 *Rollo* (CTA EB No. 2921), pp. 1-3.
123 Id., p. 6.
124 Supra at note 1.

Court *En Banc* finds MDSI's petition meritorious and the CIR's petition lacking in merit.

THE COURT OF TAX APPEALS (CTA) IS AUTHORIZED TO CONDUCT TRIAL *DE NOVO*.

Foremost, the Court *En Banc* finds no merit in the CIR's assertion that the Court in Division may only review the same documents that MDSI submitted at the administrative level. This argument contradicts the very nature of the Court of Tax Appeals (**CTA**) as a "court of record," pursuant to Section 8[125] of Republic Act (**RA**) No. 1125[126], as amended by RA 9282.[127]

As a "court of record," the CTA has the authority to conduct a trial *de novo*, where the judicial determination of a taxpayer's entitlement to a claim for refund is not confined to the documents submitted (or omitted) at the administrative level. Parties who come to court are required to prove every aspect of their case if they want the Court to take such evidence into consideration.[128]

Notably, in *Philippine Airlines, Inc. v. Commissioner of Internal Revenue*[129], the Supreme Court held that the CTA, being a court of record, may consider evidence not presented in the administrative claim before the BIR when exercising its appellate jurisdiction. This aligns with the subsequent ruling in *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines,*

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125 Sec. 8. *Court of record; seal; proceedings*. — **The Court of Tax Appeals shall be a court of record** and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence. (Emphasis supplied)

126 AN ACT CREATING THE COURT OF TAX APPEALS.

127 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 OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

128 See *Philippine Airlines, Inc. (PAL) v. Commissioner of Internal Revenue*, G.R. Nos. 206079-80 and 206309, 17 January 2018; *Commissioner of Internal Revenue v. Philippine National Bank*, G.R. No. 180290, 29 September 2014; *Commissioner of Internal Revenue v. Manila Mining Corporation*, G.R. No. 153204, 31 August 2005.

129 Supra.

Inc.)[130] (**Univation**), which the Supreme Court cited in the relatively more recent cases of *Commissioner of Internal Revenue v. Philippine Bank of Communications*[131] and *Commissioner of Internal Revenue v. CE Casecnan Water and Energy Co., Inc.*[132], stating that cases filed in the CTA are litigated *de novo*; thus, it may consider all evidence submitted before it, even those not submitted to the BIR, *viz*:

> ...
>
> The law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence. The paramount consideration remains the ascertainment of truth. Thus, the CTA is not limited by the evidence presented in the administrative claim in the Bureau of Internal Revenue. **The claimant may present new and additional evidence to the CTA to support its case for tax refund.**
>
> Cases filed in the CTA are litigated *de novo* as such, respondent "should prove every minute aspect of its case by presenting, formally offering and submitting ... to the Court of Tax Appeals all evidence ... required for the successful prosecution of its administrative claim." **Consequently, the CTA may give credence to all evidence presented by respondent, including those that may not have been submitted to the CIR as the case is being essentially decided in the first instance.**
>
> ...

Accordingly, MDSI's failure to submit documents in support of its administrative claim is not fatal to its present judicial claim. As it is, this case is litigated *de novo* and decided based on the evidence that both parties have presented and formally offered during trial.

It is likewise worth mentioning that the ruling in *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*[133] (**Total Gas**), which was mentioned in the CIR's petition, is not on all fours with the present case.

Firstly, Total Gas was decided under RMC No. 49-2003[134], which permitted therein respondent to request additional documents from

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130 G.R. No. 231581, 10 April 2019; Italics in the original text and emphasis supplied.
131 G.R. No. 211348, 23 February 2022.
132 G.R. No. 212727, 01 February 2023.
133 G.R. No. 207112, 08 December 2015.
134 Amending Answer to Question Number 17 of Revenue Memorandum Circular No. 42-2003 and Providing Additional Guidelines on Issues 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

taxpayers to substantiate their claims. In contrast, the present case falls under RMC No. 54-2014[135], as amended by RMC No. 17-2018[136], which mandates that a complete set of supporting documents must accompany the refund application at the administrative level.

Secondly, the *ratio decidendi* in *Total Gas* squarely resolves the issue of when to reckon the running of the 120 (now 90)-day period, whereas the present case concerns the submission of additional documents before the CTA.

Thirdly, while *Total Gas* underscores the taxpayer's duty to establish compliance with "all the documentary and evidentiary requirements for an administrative claim" such compliance may be discerned from the Revised Checklist[137], which is a prescribed requirement under RMC No. 54-2014, as amended by RMC No. 17-2018. The said Revised Checklist confirms that MDSI submitted documents before the BIR, although the Denial Letter[138] later deemed the submission incomplete. Notably, the Third Division admitted[139] the Revised Checklist (*i.e.*, Annex A.1 of RMC No. 17-2018) into evidence when it was formally offered[140] to prove that MDSI had been properly informed of the required documents for the audit of its refund claim.

In the assailed Decision[141], the Special Third Division ruled that MDSI's submission of consularized charter documents from its NRFC clients—despite the absence of certifications from the authorized officials of those NRFCs—constituted substantial compliance, *viz*:

> ...
>
> Indeed, the requirement for the submission of certificate of incorporation from the foreign country certified by an authorized official of the NRFC is found in Annex A.1 *(Revised Checklist of Mandatory Requirements for Claims for VAT Refund, Pursuant to Section 112 (A) of the Tax Code, as Amended by R.A. No. 10963)* of RMC No. 17-2018, to wit:

Inter-Agency Tax Credit and Duty Drawback Center, Department of Finance (OSS-DOF) by Direct Exporters.

135 Supra at note 87.
136 Supra at note 16.
137 Exhibit "R-2", supra at note 83.
138 Exhibit "R-4", supra at note 15.
139 See Resolution dated 14 September 2022, supra at note 93.
140 See CIR's FOE, supra at note 91.
141 Supra at note 2.

3. SALE OF GOODS OR SERVICES

...

> 3.4 For sale of services to non-resident foreign corporation (NRFC) covered under Sec. 108 (B) (2), proofs that the NRFC-buyer of the services is not doing business in the Philippines (***e.g.***, **Original copy of** the certification from the SEC that the NRFC is not a registered corporation in the Philippines and **a certificate of incorporation from the foreign country** <u>**as certified by an authorized official of the NRFC**</u>)

However, a reading of item 3.4 of Annex A.1 *(Revised Checklist of Mandatory Requirements for Claims for VAT Refund, Pursuant to Section 112 (A) of the Tax Code, as Amended by R.A. No. 10963)* shows that it does not aim to restrict or confine the supporting documents only to those specifically mentioned as the abbreviation *"e.g."* was, in fact, intentionally placed at the beginning of the provision:

> ***e.g.***, Original copy of the certification from the SEC that the NRFC is not a registered corporation in the Philippines and a certificate of incorporation from the foreign country as certified by an authorized official of the NRFC

Hence, [the CIR]'s interpretation is inaccurate.

The abbreviation *"e.g."* stands for the Latin words *"exempli gratia,"* which simply means "for the sake of an example." It is thus apparent that the amendment to item 3.4 of Annex A.1 did not contemplate any restriction on the documentary requirements that may be submitted by the taxpayer to prove that its NRFC clients are not doing business in the Philippines. Thus, We find [MDSI]'s contention meritorious that the submission of *consularized charter documents* of its clients, *sans* certification of the authorized officials of the respective NRFCs, should have been considered *substantial compliance*.[142]

...

Thus, contrary to the CIR's contention and hereby sustaining the Special Third Division's disquisition above, MDSI's submission of **supporting documents** was correctly deemed **complete**.

Lastly, the ruling in *Total Gas* on the exclusion of additional evidence submitted before the Court is premised on the existence of a

[142] Citation omitted, emphasis, italics and underscoring in the original text.

prior request for additional documents at the administrative level. In contrast, in this case, the CIR made no such request. Instead, the CIR merely disapproved MDSI's refund claim solely on the ground that the Certificate of Incorporation from the foreign country of MDSI's NRFC clients lacked accompanying certification from an authorized official of the respective NRFCs, as stated in the Denial Letter.[143]

All things considered, MDSI's failure to show that the documents submitted before the Third Division are the same or identical to those submitted at the administrative level is **not fatal** to its claim in the judicial level.

Having found substantial compliance with the Revised Checklist prescribed under RMC No. 17-2018[144], and having ruled against the outright denial of MDSI's refund claim based solely on noncompliance with item 3.4 of the Revised Checklist, the Court *En Banc* finds no relevant need to rule on the validity of the said administrative issuance, as it does not constitute the *lis mota*[145] of the case.

MANULIFE DATA SERVICES, INC.'S (MDSI'S) COMPLIANCE WITH THE REQUISITES FOR ENTITLEMENT TO A VALUE-ADDED TAX (VAT) REFUND UNDER SECTION 112(A) OF THE NATIONAL INTERNAL REVENUE CODE (NIRC) OF 1997, AS AMENDED

Claims for refund of input taxes find basis in Section 110(B), in relation to Section 112(A) and (C) of the NIRC of 1997, as amended by RA 10963[146], otherwise known as the Tax Reform for Acceleration and Inclusion (**TRAIN**) and subsequent laws. The said provisions read as follows:

143 Exhibit "R-4", supra at note 15.

144 Supra at note 16.

145 *Lis mota* is a Latin term meaning the cause or motivation of a legal action or lawsuit. The literal translation is "litigation moved." (See *Venus Commercial Co., Inc. v. The Department of Health and The Food and Drug Administration*, G.R. No. 240764, 18 November 2021).

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

...

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 of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.

...

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

In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax

> Appeals: *Provided, however,* That failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code.
>
> ...

In *Deutsche Knowledge Services*[147], the Supreme Court outlined the requisites for a taxpayer's entitlement to a 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 *En Banc* shall evaluate MDSI's compliance with the aforementioned requisites. For an orderly discussion, We shall begin with the third (3^{rd}) requisite, followed by the first (1^{st}) and second (2^{nd}) requisites, and conclude with the fourth (4^{th}) requisite.

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

Pursuant to the above-cited Section 112(A) and (C)[148] of the NIRC of 1997, as amended, the administrative claim for refund of excess input tax must be filed within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

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147 Supra at note 114; Citations omitted.
148 Supra at pp. 26-27.

As to the judicial claim, a 30-day period to file an appeal is counted from the taxpayer's receipt of an adverse decision rendered within the ninety (90)-day period for the BIR to decide the claim, or within 30 days after the lapse of such (90)-day period, whichever comes earlier.[149]

We echo the Special Third Division's findings which aptly concluded[150] that both of MDSI's administrative and judicial claims were timely filed, *viz*:

> ...
>
> The present claim covers 1st to 4th quarters of calendar year 2016. Counting two (2) years from the respective close of the quarters, the following table indicates the last day for filing administrative claim, *to wit*:

Period Covered	Close of the Taxable Quarter	Last Day to File Administrative Claim
January to March 2016 (1st Quarter)	March 31, 2016	March 31, 2018
April to June 2016 (2nd Quarter)	June 30, 2016	June 30, 2018
July to September (3rd Quarter)	September 30, 2016	September 30, 2018
October to December (4th Quarter)	December 31, 2016	December 31, 2018

> **By filing the *Application for Tax Credits/Refunds* in the amount of ₱96,275,284.20 covering all the taxable quarters provided above on March 28, 2018, the administrative claim was filed within the reglementary periods.**
>
> The *second* requisite necessitates that the judicial claim must have been filed within thirty (30) days from receipt of [the CIR]'s decision or after the expiration of the 90-day period under the afore-quoted Section 112(C) of the NIRC, as amended.
>
> Such being the case, from the filing of [MDSI]'s administrative claim on March 28, 2018, [the CIR] had ninety (90) days or until June 27, 2018, to act on the said claim.
>
> Notably, [the CIR] is deemed to have acted on [MDSI]'s administrative claim within the said ninety (90)-day period from March 28, 2018, when [MDSI] received [the CIR]'s Letter of Denial dated May 30, 2018, signed by Assistant Commissioner Teresita M. Dizon, on June 27, 2018. **Counting thirty (30) days from [MDSI]'s receipt of the said letter, it had until July 27, 2018 within which to appeal its claim for refund before this Court. Since the**

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149 Id.

150 Supra at note 2; Citations omitted, italics in the original text and emphasis supplied.

> **present judicial claim was timely filed on July 24, 2018, this Court is clothed with jurisdiction to take cognizance of the present case.**
>
> Hence, [MDSI] has complied with the *first* and *second* requisites.
>
> ...

FIRST (1ST) REQUISITE:
MANULIFE DATA SERVICES, INC. (MDSI) MUST BE VALUE-ADDED TAX (VAT)-REGISTERED.

Section 110(B)[151], in relation to Section 112(A) and (C)[152] of the NIRC of 1997, as amended, clearly states that **only a VAT-registered person** has the option to apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to zero-rated or effectively zero-rated.

The reason for such a requirement can be gleaned from the very nature of Philippine VAT. It is a broad-based consumption tax imposed at every stage of the production and distribution chain—from manufacturers and producers to distributors.[153] Ultimately, the tax burden is passed on to the final consumer.[154]

Consumption occurs when the taxpayer does not resell the goods, properties, or services, either because they are the final consumer or because the transaction is exempt from VAT, such as the sale of agricultural food products in their original state.[155] Consequently, input VAT shifted by the sellers to the buyers are credited against the buyers' output VAT when they, in turn, sell taxable goods or services, following the *tax credit method*.[156]

151 Supra at p. 26.
152 Supra at pp. 26-27.
153 See *Commissioner of Internal Revenue v. Seagate Technology (Philippines)*, G.R. No. 153866, 11 February 2005.
154 Id.
155 See Victorino C. Mamalateo, Value Added Tax 6 (2007).
156 See *Commissioner of Internal Revenue v. Seagate Technology (Philippines)*, supra at note 153.

Since VAT applies only to the value added at each stage, input VAT can only be credited against output VAT if the taxpayer is within the Philippine VAT system. A non-VAT-registered entity cannot claim input VAT because it does not generate any output VAT liability (save for VAT-registrable entities). Having no creditable input VAT, no refund may also be demanded.

In this case, We sustain the Special Third Division's finding that MDSI is a VAT-registered entity based on the parties' stipulation[157], *viz*:

> ...
>
> **The parties stipulated that [MDSI] is registered with the Large Taxpayers Services under BIR Revenue District Office No. 126, as shown by its Certificate of Registration No. 8RC0000525020.** With this admission, [the CIR] is deemed to have admitted the existence and authenticity of such certificate of registration with the BIR albeit only the provisionally marked exhibit was presented by [MDSI]. In *Bayas and Matuday vs. The Sandiganbayan*, the Supreme Court held that stipulations are valid and binding. **Once the stipulations are reduced into writing and signed by the parties and their counsels, they become binding on the parties who made them. They become judicial admissions of the fact or facts stipulated.**
>
> Thus, while We were constrained to deny [MDSI]'s BIR Certificate of Registration due to its failure to submit the duly marked certified true copy, the contents of the provisionally marked exhibit thereof, attached to the records of this case, were considered by this Court in view of the above-stated stipulation of the parties. Undisputedly then, [MDSI] fulfilled the *third* requisite.
>
> ...

<u>SECOND (2ND) REQUISITE:</u>
MANULIFE DATA SERVICES, INC. (MDSI) MUST BE ENGAGED IN SALES WHICH ARE ZERO-RATED OR EFFECTIVELY ZERO-RATED.

The 2^{nd} *requisite* requires that the taxpayer is engaged in zero-rated or effectively zero-rated sales and, for zero-rated sales under

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157 See assailed Decision, supra at note 2; Citations omitted, italics in the original text and emphasis supplied.

Sections 106(A)(2)(a)(1) and (3)[158], and 108(B)(1) and (2)[159] of the NIRC of 1997, as amended[160], the acceptable foreign currency exchange proceeds must have been duly accounted for in accordance with BSP rules and regulations.

As reflected in MDSI's Quarterly VAT Returns (BIR Form No. 2550-Q) for the 1st to 4th quarters of CY 2016[161], MDSI declared total sales or receipts amounting to ₱3,657,414,971.21. This amount included zero-rated sales totaling ₱3,549,857,592.33, broken down as follows:

Period (CY 2016)	VATable Sales	Zero-rated Sales	Total Sales
1st Quarter	₱14,928,221.69	₱848,398,915.01	₱863,327,136.70
2nd Quarter	35,843,258.51	844,829,808.89	880,673,067.40
3rd Quarter	26,696,583.12	856,327,832.38	883,024,415.50
4th Quarter	30,089,315.56	1,000,301,036.05	1,030,390,351.61

158 **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, 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)[.]

159 **Sec. 108.** *Value-Added Tax on Sale of Services and Use or Lease of Properties.* –
...
(B) *Transactions Subject to Zero Percent (0%) Rate.* – The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
(1) **Processing, manufacturing or repacking goods** for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
(2) **Services other than those mentioned in the preceding paragraph**, rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)[.] (Emphasis supplied)

160 As amended by TRAIN.

161 Exhibits "P-5" to "P-8", supra at note 13.

Period (CY 2016)	VATable Sales	Zero-rated Sales	Total Sales
Total	**₱107,557,378.88**	**₱3,549,857,592.33**	**₱3,657,414,971.21**

However, out of MDSI's declared zero-rated sales or receipts totaling ₱3,549,857,592.33 — derived from services rendered to twenty-three (23) of its alleged NRFC clients — the Special Third Division ruled that only ₱1,285,176,757.55 qualified as sales of services to clients considered NRFCs doing business outside the Philippines and duly substantiated by VAT zero-rated ORs. The Special Third Division identified the following clients and the corresponding amount of qualified sales:

Name of Client	Summary of VAT Zero-Rated ORs issued to NRFC[162]	Amount
John Hancock Life Insurance Company (USA)	Annex A-2	₱1,183,516,727.98
Manulife Financial Asia Limited	Annex A-3	55,507,714.39
Manulife (International) Ltd.	Annex A-5	42,718,437.80
Manulife Singapore Pte. Ltd.	Annex A-6	2,487,136.82
Manulife Insurance Berhad (Malaysia)	Annex A-9	632,805.39
Manulife Asset Management (Vietnam) Company Limited	Annex A-10	313,935.17
	Total	**₱1,285,176,757.55**

The Special Third Division further reduced the aforesaid total substantiated zero-rated sales to NRFCs by ₱3,446,024.47 (equivalent to $69,257.04), as no inward remittances could be traced in the bank statements as coming from the purported NRFC clients, namely, Manulife (International) Ltd. and Manulife Singapore Pte. Ltd. This reduction resulting in a net valid zero-rated sales amount of only ₱1,281,730,733.08, as shown below:

Substantiated Zero-Rated Sales			₱1,285,176,757.55
Less: Sales not traced to inward remittance			3,446,024.47
Name of Client	Gross Amount (in US$)	Amount (in PH₱)	
Manulife (International) Ltd.	₱58,082.04	₱2,890,626.97	
Manulife Singapore Pte. Ltd.	11,175.00	555,397.50	
Subtotal	₱69,257.04	₱3,446,024.47	
Valid Zero-Rated Sales			**₱1,281,730,733.08**

[162] See Second Final ICPA Report dated 10 May 2021, Exhibit "P-101-2", supra at note 66, pp. 2205-2206, 2208-2209 and 2212-2213.

The Special Third Division thus found that, as regards the above-computed valid zero-rated sales of ₱1,281,730,733.08, the following *essential elements* for the sales of "other services" to be considered VAT zero-rated under Section 108(B)(2)[163] of the NIRC of 1997, as amended, were satisfied:

1. The recipient of the services is a foreign corporation, and the said corporation is doing business outside the Philippines, or is a nonresident person not engaged in business who is outside the Philippines when the services were performed;[164]

2. The services fall under any of the categories under Section 108(B)(2)[165], or simply, the services rendered should be other than "processing, manufacturing or repacking goods";[166]

3. The services must be performed in the Philippines by a VAT-registered person;[167] and

4. The payment for such services should be in acceptable foreign currency accounted for in accordance with BSP rules.[168]

At this juncture, it bears noting that, in these consolidated petitions, the CIR did not raise any specific factual or legal issue regarding the Special Third Division's determination of valid zero-rated sales. Likewise, MDSI did not dispute this finding, except insofar as it appealed the disallowance of sales of services to MLIC amounting ₱2,190,313,830.94.

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163 Supra at note 115.

164 *Sitel Philippines Corporation (Formerly Clientlogic Phils., Inc.) v. Commissioner of Internal Revenue*, G.R. No. 201326, 08 February 2017; *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, 22 January 2007; *Accenture, Inc. v. Commissioner of Internal Revenue*, G.R. No. 190102, 11 July 2012.

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

166 *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra at note 164.

167 *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra at note 164; *Commissioner of Internal Revenue v. American Express International, Inc. (Philippine Branch)*, supra at note 165.

168 Id.

MDSI's appeal focused solely on seeking reconsideration of the disallowance, asserting that its submission of MLIC's Letters Patent of Amalgamation and Order to Commence and Carry on Business, both dated 30 December 2004[169], Letters Patent dated 19 March 1987[170], Letters Patent of Amalgamation dated 30 December 2004[171], Certificate of Confirmation dated 27 April 2010[172], and Certificate of Good Standing dated 16 April 2010[173] [collectively, "**Letters Patent**"] should suffice to establish the *second component* of MLIC's NRFC status for VAT refund purposes (*i.e.*, that it is doing business outside the Philippines).

Accordingly, the Court *En Banc* shall proceed to consider the merits of MDSI's remaining claim, specifically whether MLIC is registered to operate in a foreign jurisdiction based on the submitted Letters Patent.

MANULIFE DATA SERVICES, INC. (MDSI) HAS SUFFICIENTLY SHOWN THAT ITS CLIENT, THE MANUFACTURERS LIFE INSURANCE COMPANY (MLIC), IS A NONRESIDENT FOREIGN CORPORATION (NRFC) DOING BUSINESS OUTSIDE THE PHILIPPINES.

MDSI argues that its sales of services to MLIC of ₱2,190,313,830.94 qualifies for VAT zero-rating under Section 108(B)(2)[174] of the NIRC of 1997, as amended. According to MDSI, MLIC's Letters Patent[175] should be treated as functionally equivalent to a certificate or articles of incorporation. MDSI asserts that these documents sufficiently establish the second component of MLIC's NRFC status, *i.e.*, that it is doing business outside the Philippines.

The CIR, on the other hand, did not raise any counter-argument to refute MDSI's position.

169 Exhibit "P-74", Marked Exhibits Envelope 2.
170 Exhibit "P-74-a", id.
171 Exhibit "P-74-b", id.
172 Exhibit "P-74-c", id.
173 Exhibit "P-74-d", id.
174 Supra at note 115.
175 Exhibits "P-74" to "P-74-d", supra at notes 169 to 173.

We rule in favor of MDSI.

In *Deutsche Knowledge Services*[176], the Supreme Court discussed the two (2) components that a taxpayer-claimant must establish to prove a client's status as an NRFC, to wit:

> ...
> *Proof of NRFC Status*
>
> **For purposes of zero-rating under Section 108(B)(2) of the Tax Code, the claimant must establish the two components of a client's NRFC status, *viz.*: (1) that their client was established under the laws of a country not the Philippines or, simply, is not a domestic corporation; and (2) that it is not engaged in trade or business in the Philippines. To be sure, there must, be sufficient proof of *both* of these components: showing not only that the clients are foreign corporations, but also are not doing business in the Philippines.**
>
> Such proof must be especially required from ROHQs such as DKS. That the law expressly authorizes ROHQs to render services to local and foreign affiliates alike only stresses the **ROHQ's burden to distinguish among their <u>clients' nationalities and actual places of business operations</u> and establish that they are seeking refund or credit of input VAT only to the extent of their sales of services to foreign clients doing business outside the Philippines**.
>
> To recall, the CTA found that the SEC Certification of Non-Registration of Company and Authenticated Articles of Association and/or Certificates of Registration/Good Standing/Incorporation sufficiently established the NRFC status of 11 of DKS's affiliates clients.
>
> The Court upholds these findings.
>
> The Court accords the CTA's factual findings with utmost respect, if not finality, because the Court recognizes that it has necessarily developed an expertise on tax matters. Significantly, both the CTA Division and CTA *En Banc* gave credence to the aforementioned documents as sufficient proof of NRFC status. The Court shall not disturb its findings without any showing of grave abuse of discretion considering that the members of the tax court are in the best position to analyze the documents presented by the parties.

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[176] Supra at note 114; Citations omitted, italics in the original text, emphasis and underscoring supplied.

> In any case, after a judicious review of the records, the Court still do not find any reason to deviate from the court *a quo*'s findings. To the Court's mind, **the SEC Certifications of Non-Registration show that their affiliates are foreign corporations.** On the other hand, **the articles of association/certificates of incorporation stating that these affiliates are registered to operate in their respective home countries, outside the Philippines are *prima facie* evidence that their clients are not engaged in trade or business in the Philippines.**
>
> Proof of the above-mentioned second component sets the present case apart from *Accenture, Inc. v. Commissioner of Internal Revenue* and *Sitel Philippines Corp. v. Commissioner of Internal Revenue*. In these cases, the claimants similarly presented **SEC Certifications and client service agreements.** However, the Court consistently ruled **that documents of this nature only establish the *first* component (*i.e.*, that the affiliate is foreign). The absence of any other competent evidence (*e.g.*, articles of association/certificates of incorporation) proving the *second* component (*i.e.*, that the affiliate is not doing business here in the Philippines) shall be fatal to a claim for credit or refund of excess input VAT attributable to zero-rated sales.**
>
> ...

Clearly from the foregoing, there must be sufficient proof of both components: (1) that MDSI's clients are **foreign corporations** which can be proven by the SEC Certifications of Non-Registration; and (2) that they are **not doing business in the Philippines** (the *prima facie* proof of which is the articles of association/certificates of incorporation stating that these affiliates are registered to operate in their respective home countries, outside the Philippines).

In the instant case, to prove that MLIC, one of the entities to whom it rendered services, is an NRFC doing business outside the Philippines, MDSI submitted MLIC's SEC Certification of Non-Registration[177] and Letters Patent.[178] The SEC Certification of Non-Registration confirms that MLIC is a foreign corporation, thereby establishing the first component of NRFC status. The Letters Patent, on the other hand, aim to prove that MLIC is not doing business in the Philippines, which satisfies the second component.

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177 Exhibit "P-75", Marked Exhibits Envelope 2.
178 Exhibits "P-74" to "P-74-d", supra at notes 169 to 173.

However, the Special Third Division found the Letters Patent insufficient to establish the second component. In the assailed Decision[179], it ruled that MDSI failed to submit in evidence MLIC's certificate or articles of incorporation or registration. In the assailed Resolution[180], it further held that MLIC's Letters Patent do not qualify as competent evidence equivalent to those enumerated in *Deutsche Knowledge Services*.

The Court *En Banc* holds otherwise.

A closer reading of the above-quoted ruling in *Deutsche Knowledge Services* reveals that the Supreme Court does not declare that only articles of association or certificates of incorporation can be accepted as "competent evidence" for the second component (*i.e.*, that the client is not doing business in the Philippines). However, the High Court clearly elevates these documents as the accepted and sufficient standard of proof.

Significantly, the Supreme Court uses the abbreviation "*e.g.*" (from the Latin *exempli gratia*, meaning "for example") in the phrase "*e.g.*, articles of association/certificates of incorporation." This suggests that while these documents are certainly competent evidence, other forms of evidence may theoretically be acceptable, provided they prove the same fact with comparable weight and credibility. Moreover, the *Deutsche Knowledge Services* ruling explicitly states that such documents—*i.e.*, those **showing that the affiliates are registered to operate in their respective home countries, outside the Philippines**—constitute "*prima facie* evidence" that the clients are not engaged in trade or business in the Philippines. In other words, these documents are presumed sufficient on their face unless effectively rebutted.

In essence, while the use of "*e.g.*" leaves room for alternative forms of evidence, the Supreme Court strongly affirms that articles of association and certificates of incorporation are the preferred and most reliable forms of competent evidence to establish that a foreign client is not doing business in the Philippines for VAT zero-rating purposes. Any

[179] Supra at note 2.
[180] Supra at note 3.

alternative evidence must demonstrate an equivalent degree of credibility and clarity to meet the standard of "competent" proof.

That said, the crucial issue in this case is whether MLIC's Letters Patent[181] may be considered competent evidence—specifically, whether they may serve as a "functional equivalent" of articles of association or certificates of incorporation—sufficient to prove that a foreign company is registered and doing business in its home jurisdiction. The most appropriate way to determine this is by examining the relevant provisions of the documents collectively referred to as Letters Patent.

To support its claim, MDSI cites specific provisions in the Letters Patent issued by the appropriate regulatory authority in Canada in favor of MLIC. A careful examination of the relevant provisions of the following documents demonstrate that the Letters Patent indeed confer legal personality and authorize MLIC to operate as a corporation and engage in the business of insurance in Canada:

1. **Letters Patent of Amalgamation and Order to Commence and Carry on Business, both dated 30 December 2004 (Exhibit "P-74")**

The Letters Patent of Amalgamation provides that: (1) MLIC and another company amalgamate and continue as one corporation under the name MLIC; (2) the head office of the amalgamated company shall be located in Toronto, Ontario, Canada; and (3) the Letters Patent of Amalgamation takes effect on 30 December 2004.

The Order to Commence and Carry on Business, on the other hand, states that effective 30 December 2004, MLIC is authorized to commence and carry on business in the following classes of insurance: (1) life insurance; and (2) accident and sickness insurance.

2. **Letters Patent dated 19 March 1987 (Exhibit "P-74-a")**

The opening page of this document states that MLIC is "**a company incorporated by Letters Patent**" under a foreign law, the "**Canadian and British Insurance Companies Act.**"

[181] Exhibits "P-74" to "P-74-d", supra at notes 169 to 173.

The following page contains several "Whereas" clauses setting forth MLIC's corporate history, including its incorporation by special Act of the Canadian Parliament under a different name, *viz*:

> ...
>
> AND WHEREAS **The Manufacturers and Temperance and General Life Assurance Company (herein referred to as the "Company") was incorporated as a body corporate by special Act of the Parliament of Canada**, being Chapter 105 of the Statutes of Canada, I Edward VII, 1901, assented to on the 23rd day of May, 1901, as a company with share capital with head office in the City of Toronto;
>
> AND WHEREAS by Order of the Governor General of Canada in council dated December 30, 1901, **the name of the Company was changed to The Manufacturers Life Insurance Company**;
>
> AND WHEREAS **by special Act of the Parliament of Canada**, being Chapter 53 of the Statutes of Canada, 12 Elizabeth II, 1963, assented to on the 5th day of December, 1963, **the Company was authorized in the conduct of its business to use the name La Compagnie D' Assurance-Vie Manufacturers**[.][182]
>
> ...

After the "Whereas" clauses, the Letters Patent provides that MLIC is continued as a company incorporated by letters patent pursuant to the Canadian and British Insurance Companies Act under the corporate name MLIC and states business purpose of pursuing life insurance and accidental and sickness insurance, *viz*:

> ...
>
> 1. **The Company is continued as a company incorporated by letters patent pursuant to the Canadian and British Insurance Companies Act under the corporate name, in English, of The Manufacturers Life Insurance Company**, and under the corporate name, in French, of La Compagnie d' Assurance-Vie Manufacturers.
>
> 2. **The Company as continued is empowered to carry on the business of insurance**, and make contracts of:
>
>   Life Insurance, and
>   Accident and Sickness Insurance.[183]
>
> ...

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182 Emphasis supplied.
183 Emphasis supplied.

In the succeeding page, the Letters Patent further provides that MLIC's head office shall be in Toronto, Ontario, Canada, *viz*:

> ...
>
> 6. **The head office of the Company shall be in the Municipality of Metropolitan Toronto in the Province of Ontario.**
>
> 7. The Canadian and British Insurance Companies Act shall apply to the Company and Part II of the Canadian and British Insurance Companies Act shall apply to the Company in the same manner as if the Company were incorporated by a special Act of the Parliament of Canada after the 4th day of May 1910.
>
> 8. These Letters Patent replace the special Act of the Parliament of Canada, being Chapter 105 of the Statutes of Canada, 1 Edward VII, as amended by Chapter 53 of the Statutes of Canada, 12 Elizabeth II, 1963.[184]
>
> ...

3. Letters Patent of Amalgamation dated 30 December 2004 (Exhibit "P-74-b")

This document certifies the amalgamation of MLIC and another company and declares that the head office of the amalgamated company shall also be situated in Toronto, Ontario, Canada.

4. Certificate of Confirmation dated 27 April 2010 (Exhibit "P-74-c")

This document certifies that MLIC "is a life company subject to the provisions of the *Insurance Companies Act*."

5. Certificate of Good Standing dated 16 April 2010 (Exhibit "P-74-d")

This document certifies that MLIC "is licensed in the Province of Edward Island under the provisions of the Insurance Act (R.S.P.E.I. 1988, Cap. I-4) and is in good standing insofar as payment of the license fee for the period December 18, 2009 to 31 December 2010 is concerned."

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184 Emphasis supplied.

Clearly, based on the foregoing provisions, the documents collectively referred to as "Letters Patent"[185] met the *Deutsche Knowledge Services* standard for "competent evidence" of the second component of NRFC status (*i.e.*, that the client is not doing business in the Philippines)—based on the following observations: (1) they are issued by a sovereign authority; (2) they confer legal existence and business authority; (3) they establish that MLIC is lawfully operating in Canada; and (4) they fulfill the same evidentiary function as articles of association or certificates of incorporation recognized in the Philippines.

Accordingly, the subject Letters Patent should be accepted as competent evidence to establish that MLIC is doing business in Canada, thereby satisfying the second component of NRFC status.

In light of the foregoing, the computation of valid zero-rated sales should be adjusted to include the previously disallowed sales to MLIC amounting to ₱2,190,313,830.94, as follows:

Valid Zero-Rated Sales, as determined by the Special Third Division			₱1,281,730,733.08
Add: Sale of services to MLIC[186]			2,190,313,830.94
Name of Client	Gross Amount (in US$)	Amount (in PHP)	
MLIC	$45,940,348.59	₱2,190,313,830.94	
Valid Zero-Rated Sales, as adjusted			**₱3,472,044,564.02**

<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 4th *requisite*, the following conditions must concur:

[185] Exhibits "P-74" to "P-74-d", supra at notes 169 to 173.

[186] See Summary of VAT Zero-Rated ORs issued to MLIC, Annex A-1, Second Final ICPA Report dated 10 May 2021, Exhibit "P-101-2", supra at note 66, p. 2204.

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.

As determined by the Special Third Division, MDSI complied with the ***3rd condition*** as its input taxes do not appear to be transitional input taxes since they operate to benefit only newly VAT-registered persons. Also, MDSI is deemed to have complied with the ***4th condition*** after it was established that it deducted the input VAT claim of ₱96,275,284.20 as a "VAT Refund/TCC Claimed" (line 23D) in its Quarterly VAT Return for the 1st Quarter of CY 2018[187] preventing thus the carry-over of the said amount unto the succeeding taxable quarters. Accordingly, the subject claim no longer formed part of the excess input VAT of ₱110,139,217.20[188] as of the end of the 1st Quarter of CY 2018, to be carried over to the succeeding quarters.[189]

As to the ***1st condition***, the Special Third Division ruled that out of the total declared input VAT of ₱109,137,383.76, only the amount of **₱40,100,747.52** represents MDSI's valid input VAT due or paid for CY 2016, as computed below:

Input VAT *per* Quarterly VAT Returns		₱109,137,383.76
Less: Disallowances		
Per ICPA findings	₱49,985,791.85	

187 Line 23D, Exhibit "P-148", USB.
188 Line 29, id.
189 Exhibits "P-149" to "P-154", id.

Per Court's further verification	19,050,844.39	69,036,636.24
Total Substantiated or Valid Input VAT		**₱40,100,747.52**

As regards the 2^{nd} ***condition***, the Special Third Division ascertained that since MDSI had both zero-rated and VATable sales for CY 2016 and the corresponding input VAT cannot be directly and entirely attributed to any of these sales, the input VAT shall be proportionately allocated on the basis of sales volume.

In the assailed Decision[190], the Special Third Division computed the refundable amount of excess and unutilized input VAT attributable to valid zero-rated sales of **₱9,818,762.53** in the following manner:

Substantiated or Valid Input VAT Allocation to VAT-able Sales

Total VAT-able Sales *per* Quarterly VAT Returns for CY 2016	₱107,557,378.88
Divided by Total Sales *per* Quarterly VAT Returns for CY 2016	3,657,414,971.21
Multiplied by Substantiated or Valid Input VAT	40,100,747.52
Substantiated or Valid Input VAT allocated to VAT-able Sales	**₱1,179,284.09**

Substantiated or Valid Input VAT Allocation to *Declared* Zero-Rated Sales

Total Zero-Rated Sales *per* Quarterly VAT Returns for CY 2016	₱3,549,857,592.33
Divided by Total Sales *per* Quarterly VAT Returns for CY 2016	3,657,414,971.21
Multiplied by Substantiated or Valid Input VAT	40,100,747.52
Substantiated or Valid Input VAT allocated to *Declared* Zero-Rated Sales	**₱38,921,463.43**

Computation of Output VAT Still Due

Output VAT due *per* Quarterly VAT Returns for CY 2016	₱12,906,885.46
Less: Substantiated or Valid Input VAT allocated to VAT-able Sales	1,179,284.09
Output VAT Still Due	**₱11,727,601.37**

Refundable Excess and Unutilized Input VAT Attributable to *Valid* Zero-Rated Sales

Substantiated or Valid Input VAT allocated to *Declared* Zero-Rated Sales	₱38,921,463.43
Less: Output VAT Still Due	11,727,601.37
Excess and Unutilized Substantiated or Valid Input VAT allocated to *Declared* Zero-Rated Sales	**₱27,193,862.06**
Divided by Declared Zero-Rated Sales	3,549,857,592.33
Multiplied by Valid Zero-Rated Sales	1,281,730,733.08
Excess and Unutilized Substantiated or Valid Input VAT attributable to *Valid* Zero-Rated Sales	**₱9,818,762.53**

190 Supra at note 2.

As no issue was raised regarding Special Third Division's computation of the excess and unutilized input VAT attributable to valid zero-rated sales, the Court *En Banc* shall adjust only the refundable amount to reflect the increase in valid zero-rated sales as determined herein.

Considering that MDSI's adjusted substantiated or valid zero-rated sales is only ₱3,472,044,564.02 (or 97.81% of its total declared zero-rated sales of ₱3,549,857,592.33), the "Refundable Excess and Unutilized Input VAT Attributable to Zero-Rated Sales" would be ₱39,221,737.44, computed as follows:

Excess and Unutilized Substantiated or Valid Input VAT allocated to *Declared* Zero-Rated Sales	**₱27,193,862.06**
Divided by Declared Zero-Rated Sales	3,549,857,592.33
Multiplied by Valid Zero-Rated Sales	3,472,044,564.02
Refundable Excess and Unutilized Substantiated or Valid Input VAT attributable to *Valid* Zero-Rated Sales	**₱26,597,771.44**

Having thus established that there is a refundable excess and unutilized input VAT attributable to valid zero-rated sales in the increased amount of **₱26,597,771.44**, and since this amount is well within the input VAT claim of ₱96,275,284.20 that remained unutilized until the same was deducted as part of the "VAT Refund/TCC Claimed" in MDSI's Quarterly VAT Return for the 1st Quarter of CY 2018[191], MDSI has sufficiently proven its entitlement to a refund or issuance of a TCC in the said increased 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.[192]

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191 Exhibit "P-148", supra at note 187.

192 *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue*, G.R. No. 215159, 05 July 2022, citing *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, 25 November 2009; *Commissioner of Internal Revenue v. Philippine Airlines, Inc.*, G.R. No. 180043, 14 July 2009.

WHEREFORE, premises considered, the Petition for Review filed by Manulife Data Services, Inc., docketed as CTA EB No. 2921, is hereby **GRANTED**. On the other hand, the Petition for Review filed by the Commissioner of Internal Revenue, docketed as CTA EB No. 2922, is hereby **DENIED** for lack of merit. The Special Third Division's Decision dated 23 November 2023 and Resolution dated 02 May 2024 in CTA Case No. 9881 entitled *Manulife Data Services, Inc. v. Commissioner of Internal Revenue*, are hereby **AFFIRMED with MODIFICATION** only insofar as the refundable amount. Accordingly, the Commissioner of Internal Revenue is **DIRECTED** to refund Manulife Data Services, Inc. the amount of **₱26,597,771.44**, representing the latter's excess and unutilized input VAT attributable to its zero-rated sales for the four (4) quarters of the calendar year 2016.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

With Concurring and Dissenting Opinion
HENRY S. ANGELES
Associate Justice

CERTIFICATION

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

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

MANULIFE DATA SERVICES, INC., Petitioner,	**CTA EB NO. 2921** (CTA Case No. 9881)
- versus -	
COMMISSIONER OF INTERNAL REVENUE, Respondent.	

x - x

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2922** (CTA Case No. 9881)
- versus -	Present: **RINGPIS-LIBAN,** *Acting P.J.,* **MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
MANULIFE DATA SERVICES, INC., Respondent.	Promulgated: OCT 29 2025 2:15 p.m.

x - x

CONCURRING AND DISSENTING OPINION

ANGELES, *J.*:

With due respect, I am constrained to withhold my concurrence from the pronouncement of the *ponencia*[1] that Manulife Data Services Inc.'s failure to submit supporting documents at the administrative

[1] Decision, pp. 21-25.

level is not fatal to its present judicial claim. The case is litigated *de novo*, and the determination thereof must rest upon the evidence formally presented and offered by the parties during trial, consistent with the nature of the Court of Tax Appeals (CTA) as a "court of record," pursuant to Section 8[2] of Republic Act (R.A.) No. 1125,[3] as amended by R.A. No. 9282.[4]

I am of the considered view that litigation *de novo* does not imply that a case is tried anew in disregard of prior proceedings. Rather, it **mandates** that the taxpayer-claimant must formally present, offer, and submit the evidence it presented at the administrative level to the CTA for the latter to consider, verify, and accord probative value thereto. This procedural requirement aligns not only with the CTA's nature as a court of record, but also with its strictly appellate jurisdiction over refund claims.[5]

The Supreme Court, in *Pilipinas Total Gas v. Commissioner of Internal Revenue (Pilipinas Total Gas)*,[6] clarified that, in instances of **inaction**, the CTA may receive evidence not previously submitted at the administrative level, thereby assuming the role of a court of first instance. Conversely, where the Commissioner of Internal Revenue (CIR) has issued a **definitive ruling**, the CTA's review is properly confined to the record upon which the administrative decision was based, subject to the formal offer of the **same documents** before the Court. To allow otherwise would subvert the administrative process, render CIR determinations nugatory, and encourage the filing of incomplete refund claims merely to meet statutory deadlines, with the expectation that taxpayer-claimants may simply supplement such documents at the judicial level—documents that were either already in their possession or could reasonably have been produced during the administrative proceedings. Such a practice would effectively circumvent the reglementary periods, and undermine the finality and integrity of administrative review.

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[2] Republic Act No. 1125, Section 8 provides:

> Section 8. *Court of record; seal; proceedings.* - The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence.

[3] An Act Creating the Court of Tax Appeals.

[4] 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 of Republic Act No. 1125, As Amended, otherwise known as the Law Creating the Court of Tax Appeals, and for other purposes.

[5] *Atlas Consolidated Mining and Development Corp. v. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007 [Per J. Corona, First Division].

[6] G.R. No. 207112, December 08, 2015 [Per J. Mendoza, *En Banc*].

With due deference, the foregoing doctrine articulated in *Pilipinas Total Gas* cannot be dismissed as mere *obiter dictum*. In *Villanueva. Jr. v. Court of Appeals*,[7] the Supreme Court explained that an *obiter dictum* is an opinion not essential to the resolution of the case, and, therefore, not binding. The Supreme Court, however, clarified that when an issue is expressly raised, fully argued, and directly relied upon, even if not the principal issue, it forms part of the binding *ratio decidendi*.

In *Pilipinas Total Gas,* while the principal issue concerned the reckoning of the one hundred twenty (120)-day period based on the completeness of submitted documents, the petitioner likewise raised substantial arguments on the legal implications of compliance with documentary requirements at both the administrative and judicial stages.[8] Clearly, the issue of documentary compliance at the administrative level was not merely incidental; it was integral to the resolution of the case, as it directly determined the reckoning point of the one hundred twenty (120)-day period. At its core, the petitioner therein argued that its refund claim should not be defeated by an alleged non-compliance with Revenue Memorandum Order No. 53-98, asserting that the initial determination of whether the submitted documents were complete rests with the taxpayer-claimant. Once the claim is elevated to the CTA, it is then within the Court's prerogative to evaluate whether the documents presented are sufficient to substantiate the refund claim.

Accordingly, in drawing a clear distinction between administrative *(1)* **inaction** and *(2)* **denial**, the Supreme Court directly confronted the substantive issue raised by the petitioner. It is, in my respectful view, a pronouncement that forms part of the binding

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7 G.R. No. 142947, March 19, 2002 [Per J. De Leon, Jr., Second Division].

8 "For Total Gas, the CTA *En Banc* violated the doctrine of stare decisis because the tax tribunal had, on numerous occasions, held that the submission of incomplete supporting documents should not make the judicial appeal premature and dismissible for lack of jurisdiction. In these decisions, the CTA *En Banc* had previously held that non-compliance with RMO No. 53-98 should not be fatal since the requirements listed therein refer to requirements for refund or tax credit in the administrative level for purposes of establishing the authenticity of a taxpayer's claim; and that in the judicial level, it is the Rules of Court that govern and, thus, whether or not the evidence submitted by the party to the court is sufficient lies within the sound discretion of the court. Total Gas emphasizes that RMO No. 53-98 does not state that non-submission of supporting documents will nullify the judicial claim. It posits that once a judicial claim is filed, what should be examined are the evidence formally offered in the judicial proceedings.

Even assuming that the supporting documents submitted to the BIR were incomplete, Total Gas argues that there was no legal basis to hold that the CIR could not decide or act on the claim for refund without the complete supporting documents. It argues that under RMC No. 29-09, the BIR is tasked with the duty to notify the taxpayer of the incompleteness of its supporting documents and, if the taxpayer fails to complete the supporting documents despite such notice, the same shall be denied. The same regulation provides that for purposes of computing the 120-day period, it should be considered tolled when the taxpayer is notified. Total Gas, however, insists that it was never notified and, therefore, was justified in seeking judicial relief." (citations omitted) *ratio decidendi,* and is, therefore, authoritative upon lower courts and tribunals in determining the admissibility of evidence in refund or tax credit claims before the CTA.

It is worth noting further that the jurisprudence[9] relied upon by the *ponencia,* which holds that the CTA may consider evidence not previously submitted at the administrative level when exercising its appellate jurisdiction, **uniformly** arises in circumstances where the Bureau of Internal Revenue (BIR) has **not acted** on the refund claim. Consequently, these authorities are not applicable to the present case, where the BIR has rendered a definitive denial of the petitioner's refund claim.

Thus, in the instant case, where the BIR denied the administrative refund claim solely on the ground of the petitioner's failure to submit the Certificate of Incorporation from the foreign country, as certified by an authorized official of the nonresident foreign corporation (NRFC), the CTA's review should be strictly confined to the evidence that was presented, marked, formally offered, and submitted during trial, and which also formed the evidentiary basis of the CIR's adverse ruling.

Notably, the petitioner has consistently maintained in all its pleadings that it complied with all the requirements for a refund claim at both the administrative and judicial levels. The petitioner even addressed the respondent's finding in the Denial Letter, explaining that it had submitted copies of the consularized charter documents of its clients[10]—submissions that the respondent did not specifically refute. While the CIR has generally asserted, in his *Answer*, *Motion for Reconsideration*, and *Petition for Review* before the CTA *En Banc*, that under the doctrine in *Pilipinas Total Gas*, the petitioner is precluded from submitting new documents not previously presented at the administrative stage, the CIR has failed to identify which particular documents submitted before the CTA were allegedly not presented to the BIR.

In the absence of any countervailing evidence from the respondent refuting the petitioner's assertion that it satisfied all the requirements for a successful administrative and judicial claim, the

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[9] *Philippine Airlines, Inc. v. Commissioner of Internal Revenue*, G.R. Nos. 206079-80 & 206309, January 17, 2018 [Per J. Leonen, Third Division]; *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc.*, G.R. No. 231581, April 10, 2019 [Per J.C. Reyes, Jr., Second Division]; *Commissioner of Internal Revenue v. Philippine Bank of Communications*, G.R. No. 211348, February 23, 2022 [Per J. Hernando, Second Division]; *Commissioner of Internal Revenue v. CE Casecnan Water and Energy Co., Inc.*, G.R. No. 212727, February 01, 2023 [Per J. Hernando, First Division].

[10] Division Docket – Vol. I, Petition for Review, pp. 9-10, pars. 21-22.

petitioner's allegations, together with its supporting documents, must prevail.

I, therefore, concur with the *ponencia* that the Revised Checklist under Revenue Memorandum Circular No. 17-2018 does not restrict the supporting documents that a taxpayer may submit solely to those expressly enumerated therein, and that the petitioner may present other functionally equivalent documents to establish that its NRFC clients are not doing business in the Philippines.

I likewise share the view expressed in the *ponencia* that the Letters Patent constitute functionally equivalent documents, proving that The Manufacturers Life Insurance Company is not engaged in business in the Philippines. Hence, they should be taken into account in the computation of valid value-added tax (VAT) zero-rated sales.

Nevertheless, while the respondent has not specifically controverted the petitioner's compliance with the documentary requirements for entitlement to a refund claim at both the administrative and judicial levels, I cannot simply ignore the trial proceedings, which reveal otherwise. Significantly, the independent Certified Public Accountant (ICPA) himself candidly admitted that **certain documents were only corrected or made available <u>after</u> the filing of the petitioner's administrative claim**, which he considered in preparing his *second* ICPA report. The relevant portions of the transcript of stenographic notes dated October 19, 2021, are as follows:

Atty. De Jesus:	The other parts to the reconsideration relates to certain documents which were subsequently delivered to the petitioner. This relate to official receipts which have not been issued or available at the time that the ICPA had originally testified. These original receipts are covered under I believe in the Exhibit series "141," not all of those Exhibits "141" have been presented previously. I believe there is a set which the ICPA has indicated and identified in his final ICPA Report which would be the fresh exhibits Your Honor.
Justice San Pedro:	Alright, so after conducting your, after your Formal Offer of Evidence, that's the only time that you discovered these pieces of evidence?
Atty. De Jesus:	Yes Your Honor because **these are official receipts or documentations which have been issued by the suppliers only after**

	we had rested our case originally Your Honor.
	x x x
Atty. Matanog:	Mr. Witness just a clarification, it was mentioned earlier that the official receipts presented now were not available then when you conducted your initial examination of books of accounts and other accounting records of petitioners. Just a clarification Mr. Witness, were these official receipts issued during the taxable period covered or was it issued only this year Mr. Witness?
Mr. Witness:	Just to clarify on some of these documents. So some of the documents were not issued during the period of the claim but some of the documents were not found during the review when I conducted the field work and some of the documents actually were corrected by the supplier because there were some information that was not consistent with the BIR Regulations. We actually found many CPA ruling not allowing such practice as long as this are properly done so we have also encountered some of those documents. But these documents are properly issued in the period of the claim wherever these documents are not dated within the period of the claim, we disallow those documents.
Atty. Matanog:	And you mentioned about the corrections on some of the documents, the corrections were made when Mr. Witness?
Mr. Witness:	I could not say in certain for sure but it could be within the dates prior to the review or the release of my report.
Atty. Matanog:	But would you be able to say if the corrections were made prior or after filing of the administrative claim before the BIR?
Mr. Witness:	**I would say after the, most of it would be after the administrative claim.** (Emphasis supplied)

It bears emphasis that disregarding the modifications reflected in the documents, or those made available only after the filing of the petitioner's administrative claim, would not only run afoul of the settled principles governing the appellate jurisdiction of the CTA, but would also effectively render inutile any decision rendered by the CIR. Such a view would reduce the administrative adjudication process to a mere formality, stripping it of its legal consequence. This, clearly, is an outcome that our laws and procedural rules plainly do not intend to sanction.

All told, I humbly submit that the computation of the refundable amount should be strictly confined to the documents submitted to and evaluated in connection with the *first* ICPA report presented before the CTA Division. This determination must be made without regard to any corrections or additional documents introduced only during trial, in faithful observance of the evidentiary limitations governing refund claims as acted upon by the CIR.

HENRY S. ANGELES
Associate Justice