REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Third Division

AIG SHARED SERVICES CORPORATION (PHILIPPINES) [Formerly: Chartis Technology and Operations Management Corporation (Philippines)],
Petitioner,

CTA Case No. 9438

-versus-

Members:
UY, *Chairperson,*
RINGPIS-LIBAN, *and*
MODESTO-SAN PEDRO, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
FEB 19 2020

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DECISION

RINGPIS-LIBAN, *J*.:

The instant *Petition for Review* filed by petitioner AIG Shared Services Corporation prays that the Court grant its application for value-added tax (VAT) refund/tax credit, and order respondent Commissioner of Internal Revenue to refund and/or issue a tax credit certificate in favor of Petitioner in the amount of ₱43,912,521.20, allegedly representing excess and unutilized input VAT paid for the four (4) quarters of calendar year (CY) 2014.[1]

THE PARTIES

Petitioner AIG Shared Services Corporation is a foreign corporation organized and existing under the laws of New York, U.S.A., which was duly licensed since September 13, 1977 under SEC No. 152 to operate a regional headquarters in the Philippines.[2] Its former corporate names were American

[1] *Docket-Vol. 1*, p. 402, Pre-Trial Order dated June 27, 2017.
[2] *Docket-Vol. 2*, p. 796, Exhibit "P-1".

International Underwriters Corporation-Regional Operating Headquarters, AIU Technology and Operations Management Corporation, and Chartis Technology and Operations Management Corporation (Philippines).[3] Petitioner is registered with the Bureau of Internal Revenue (BIR) taxpayer under TIN 001-218-732-000.[4]

Respondent is the Commissioner of the BIR who holds office at the 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.[5] Respondent is vested with the power to decide tax cases, including claims for refunds and/or tax credits pursuant to Section 4 of the 1997 National Internal Revenue Code, as amended.[6]

THE FACTS

On March 30, 2016, Petitioner filed its administrative claim for refund of its excess and unutilized input VAT in the amount of ₱43,912,521.20 for the 1st to 4th quarters of CY 2014.[7]

Petitioner filed the instant Petition for Review on August 24, 2016.[8]

On November 22, 2016, Respondent filed his Answer[9], interposing the following special and affirmative defenses:

> **"SPECIAL AND AFFIRMATIVE DEFENSES**
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> 4. On the basis of the foregoing allegations and in further support of the Specific Denials herein set forth, respondent respectfully alleges as his defense that:
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> **Petitioner is not entitled to its claim for refund considering its failure to satisfy the statutory and administrative requirements provided for by the tax code.**
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> 1. Section 112(c) of the 1997 National Internal Revenue Code, as amended, provides as follows, *to wit*:

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[3] *Id.*, pp. 796 to 797, Exhibits "P-1" and "P-2".
[4] *Id.*, pp. 799 to 800, Exhibits "P-4" and "P-5".
[5] *Id.* at Note 1, p. 374, Joint Stipulation of Facts and Issue (JSFI), Stipulation of Facts, par. 1.1.
[6] *Id.*, par. 1.2.
[7] *Id.* at Note 2, pp. 853 to 866, Exhibits "P-8" and "P-8-a".
[8] *Id.* at Note 1, pp. 10 to 21.
[9] *Id.*, pp. 159 to 164.

> **'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; x x x
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> x x x
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> **(D) Period Within Which Refund or Tax Credit of Input Taxes Shall be Made.** – In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes **within one hundred (120) days from the date of submission of complete documents in support of the application** filed in accordance with Subsections (A) and (B) hereof.
>
> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, **the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim** or after the expiration of the one hundred twenty day-period, **appeal the decision or the unacted claim with the Court of Tax Appeals**.' (Emphasis supplied)

Pursuant to the afore-quoted provision of law, (1) the application for tax refund must be filed within two years after the close of the taxable quarter when the sales were made; (2) the CIR is given only a period of 120-day period from the date of submission of complete documents in support of the application within which to decide whether to grant the claim; (3) if the CIR failed to decide with the said 120-day period, the taxpayer may elevate the inaction to the Court of Tax Appeals. (4) The decision or inaction may be appealed within thirty (30) days with the CTA.

2. It logically follows that a taxpayer must first submit the complete supporting documents before the 120-day period should commence. Stated otherwise, the administrative claim for refund must be supported by complete documents filed in accordance with Subsections (A) and (B) of Section 112 of the Tax Code.

3. The requirements to submit complete documents in support of an application for refund was further clarified by RMC 54-2014. Accordingly, the application for VAT refund must be accompanied by complete supporting documents as specifically enumerated in Annex 'A' of the RMC. In addition, the taxpayer should attach a sworn statement/affidavit (i) attesting to the completeness of the submitted documents; (ii) stating that the attached supporting documents are the only documents which the taxpayer will present to support the claim; and additionally, (iii) in the case of corporations or other juridical persons, there should be a sworn statement that the officer signing the affidavit (which should at the very least be the Chief Finance Officer) has been authorized by the company's Board of Directors.

4. In a memorandum dated September 30, 2016, the revenue officer assigned to the application for tax refund by [P]etitioner observed that the supporting documents submitted were still lacking. Particularly, he noticed that certified true copies of sales invoices or official receipts were not presented by [P]etitioner. Further, no substantiation in support of the application was made. Thus, he recommended that the application for VAT Credit/refund cannot be given due course. A copy of the memorandum is attached herewith as Annex '1' while the original is part of the BIR Records of this case, which will be forwarded to the Honorable Court.

5. It cannot be overemphasized that failure to submit complete documents to support the application for refund, **as required by the Tax Code**, is fatal to a taxpayer's claim. Without the submission of documents to support the application, [R]espondent respectfully submits that the application for tax credit/refund is invalid and a mere scrap of paper.

6. However, assuming the documents it submitted together with its administrative claim for refund dated March 30, 2016 are admitted by [P]etitioner as its submission of complete documents, [R]espondent respectfully submits that only these documents, if ever they will be offered as evidence, can be considered by the Honorable Court in determining the propriety of [P]etitioner's claim, pursuant to the well-settled principle that *matters not preliminary raised in the administrative level cannot be raised for the first time upon appeal.*

Petitioner has the burden to prove its entitlement to refund.

7. In addition to the foregoing requirements, [R]espondent respectfully submits that in order to be entitled to a refund or issuance of a Tax Credit Certificate (TCC) of input VAT due or paid attributable to zero-rated or effectively zero-rated sales, [P]etitioner must prove compliance with the following requisites:

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

8. In a claim for tax refund or tax credit, the applicant must prove not only entitlement to the grant of the claim under substantive law. It must also show satisfaction of all the documentary and evidentiary requirements for an administrative claim for a refund or tax credit. Hence, the mere fact that [P]etitioner's application for zero-rating has been approved by the CIR does not, by itself, justify the grant of a refund or tax credit. The taxpayer claiming the refund must further comply with the invoicing and accounting requirements mandated by the NIRC, as well as by revenue regulations implementing them.

Claims for refund are construed strictly against the taxpayer and in favor of the Government.

9. It is said that taxes are essential to government's very existence hence, the dictum that 'taxes are the lifeblood of the government.' And because taxes are the lifeblood of the nation, the court has always applied the doctrine of strict interpretation in construing tax exemptions. A claim for exemption from tax payments must be clearly shown and be based on language in the law too plain to be mistaken. Else wise stated, taxation is the rule, exemption therefrom is the exception.

10. For this reason, the right of taxation cannot easily be surrendered, statutes granting tax exemptions are considered as a derogation of the sovereign authority. Since tax refunds are

regarded as tax exemptions, therefore, these are to be construed *strictissimi juris* against the person or entity claiming the exemption.

11. Lastly, the power of taxation is an inherent attribute of sovereignty; the government chiefly relies on taxation to obtain the means to carry on its operations. Taxes are essential to its very existence; hence, the dictum that 'taxes are the lifeblood of the government.' For this reason, the right of taxation cannot easily be surrendered; statutes granting tax exemptions are considered as a derogation of the sovereign authority and are strictly construed against the person or entity claiming the exemption. Claims for tax refunds, when based on statutes granting tax exemption or tax refund, partake of the nature of an exemption; thus, the rule of strict interpretation against the taxpayer-claimant similarly applies."

Respondent transmitted the BIR Records of this case on November 23, 2016.[10]

The Court initially set this case for pre-trial conference on March 7, 2017.[11] However, due to the filing of Respondent's Motion to Defer Pre-Trial Conference on March 2, 2017,[12] the pre-trial conference was reset to, and held on, May 30, 2017.[13]

Respondent's Pre-Trial Brief was filed on February 13, 2017,[14] while Petitioner's Pre-Trial Brief was submitted on March 3, 2017.[15]

The parties submitted their Joint Stipulation of Facts and Issues on June 9, 2017.[16] In the Pre-Trial Order on June 27, 2017,[17] the Court deemed the termination of the Pre-Trial.

Thereafter, trial proceeded.

During trial, Petitioner presented testimonial and documentary evidence. As part of its testimonial evidence, Petitioner offered the testimonies of the

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[10] *Id.*, pp. 168 to 169, Compliance.
[11] *Id.*, pp. 171 to 172, Notice of Pre-Trial Conference dated November 24, 2016.
[12] *Id.*, pp. 306 to 309.
[13] *Id.*, pp. 369, 370, and 372 to 373; Resolution dated March 6, 2017, Minutes of the hearing held on, and Order dated, May 30, 2017, respectively.
[14] *Id.*, pp. 174 to 176.
[15] *Id.*, pp. 311 to 366.
[16] *Id.*, pp. 374 to 400.
[17] *Id.*, pp. 402 to 432.

following individuals: (1) Ms. Glaiza A. Baroro,[18] Petitioner's Accountant III; (2) Atty. Geronimo Randy Recinto,[19] General Counsel for Petitioner; and (3) Mr. Edward L. Roguel,[20] the Court-commissioned ICPA.[21]

On October 9, 2017, Mr. Roguel submitted the ICPA Report.[22]

Petitioner filed its Formal Offer of Evidence on February 5, 2018.[23] Respondent submitted his Comment (Re: Petitioner's Formal Offer of Evidence) on February 12, 2018.[24]

In the Resolution dated April 17, 2018,[25] Petitioner's exhibits were admitted, *except* Exhibits "P-117", "P-118", "P-119", "P-120", "P-120-d", "P-123", "P-126", "P-131", "P-133", "P-134", "P-138", "P-139", "P-140", "P-142-c", "P-145", "P-147", "P-148", "P-149-a", "P-150", "P-151", "P-152", "P-153", "P-156", "P-158", "P-159", "P-164", "P-165-a", "P-172", "P-174", "P-175-a", "P-176", "P-186", "P-190", and "P-1997", for failure to present the original for comparison; and Exhibits "P-615" and "P-1701", for not being found in the CD/USB submitted to this Court.

On May 7, 2018, Petitioner filed its Motion for Reconsideration [(a) For Reconsideration of the Resolution dated 17 April 2018; and (b) To Recall Witness],[26] praying, *inter alia*, to file an Amended Formal Offer of Evidence. Respondent did not file any objection/opposition thereon.[27]

In the Resolution dated July 2, 2018,[28] the Court reconsidered its Resolution dated April 17, 2018. At the hearing held on July 17, 2018,[29] the Court granted Petitioner ten (10) days, or until July 27, 2018, to file its Supplemental Formal Offer of Evidence. Thus, on July 25, 2018, Petitioner

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[18] *Id.*, pp. 183 to 245, Exhibit "P-192"; *id.* at Note 2, pp. 505, and 507 to 508, Minutes of the hearing held on, and Order dated, August 29, 2017; *id.* at Note 1, pp. 492 to 497, Exhibit "P-192-b"; *id.* at Note 2, pp. 732 to 732-b, Minutes of the hearing held on, and Order dated, January 16, 2018.

[19] *Id.* at Note 1, pp. 246 to 305, Exhibit "P-193"; *id.* at Note 2, pp. 536 to 539, Exhibit "P-193-b"; pp. 732 to 732-b, Minutes of the hearing held on, and Order dated, January 16, 2018; *Docket – Vol. 6*, pp. 2782 to 2789, Exhibit "P-193-d"; pp. 2790 and 2791, Minutes of the hearing held on, and Order dated, July 17, 2018.

[20] *Id.* at Note 2, pp. 721 to 731, Exhibit "P-195"; pp. 732 to 732-b, Minutes of the hearing held on, and Order dated, January 16, 2018.

[21] *Id.*, p. 506, Oath of Commission dated August 29, 2017; pp. 505, and 507 to 508, Minutes of the hearing held on, and Order dated, August 29, 2017.

[22] *Id.*, pp. 554 to 702, Exhibit "P-194".

[23] *Id.*, pp. 733 to 794.

[24] *Docket-Vol. 6*, pp. 2753 to 2754.

[25] *Id.*, pp. 2757 to 2759.

[26] *Id.*, pp. 2763 to 2769.

[27] *Id.*, p. 2774, Records Verification Report dated June 5, 2018 issued by the Judicial Records Division of this Court.

[28] *Id.*, pp. 2776 to 2777, Resolution dated July 2, 2018.

[29] *Id.*, pp. 2790 and 2791, Minutes of the hearing held on, and Order dated, July 17, 2018.

filed its Supplemental Formal Offer of Evidence.[30] Respondent submitted his Comment/Opposition (Re: Supplemental Formal Offer of Evidence) on August 2, 2018.[31]

In the Resolution dated October 17, 2018,[32] the Court only admitted Exhibits "P-193-d" and "P-193-e". Consequently, Petitioner filed a Motion for Reconsideration (Re: Resolution dated 17 October 2018),[33] to which Respondent failed to comment thereon.[34]

Thus, in the Resolution dated January 3, 2019,[35] the Court granted the said Motion for Reconsideration (Re: Resolution dated 17 October 2018), and admitted Petitioner's Exhibits "P-117", "P-119", "P-120", "P-123", "P-126", "P-133", "P-134", "P-138", "P-140", "P-145", "P-147", "P-148", "P-150", "P-151", "P-152", "P-153", "P-156", "P-158", "P-159", "P-164", "P-165-a", "P-172", "P-176", "P-186", and "P-190".

In the meantime, during the hearing held on October 18, 2018,[36] Respondent's counsel manifested that she did not receive a report from the Revenue Examiner who conducted the audit and hence, she would not present any evidence.

On January 31, 2019, Respondent filed his Memorandum,[37] while Petitioner's Memorandum was filed on February 8, 2019.[38]

The instant case was deemed submitted for decision on February 19, 2019.[39]

THE ISSUE

The parties stipulated the following sole issue for this Court's resolution,[40] to wit:

> "Whether or not [P]etitioner is entitled to a refund or the issuance of a tax credit certificate for its unutilized/excess input

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30 *Id.*, pp. 2792 to 2804.
31 *Id.*, pp. 2806 to 2814.
32 *Id.*, pp. 2818 to 2823.
33 *Id.*, pp. 2827 to 2932.
34 *Id.*, p. 2935, Records Verification Report dated November 14, 2018 issued by the Judicial Records Division of this Court.
35 *Id.*, pp. 2937 to 2940.
36 *Id.*, pp. 2824 to 2826, Minutes of the hearing held on, and Order dated, October 18, 2018.
37 *Id.*, pp. 2941 to 2949.
38 *Id.*, pp. 2952 to 2970.
39 *Id.*, p. 2973, Resolution dated February 19, 2019.
40 *Id.* at Note 1, p. 375, JSFI.

VAT payments for the 1st to 4th Quarters of CY 2014, amounting to a total of FORTY-THREE MILLION NINE HUNDRED TWELVE THOUSAND FIVE HUNDRED TWENTY-ONE PESOS AND TWENTY CENTAVOS (Php43,912,521.20)."

THE ARGUMENTS OF THE PARTIES

Petitioner argues that the administrative and judicial claims were seasonably filed; that it is VAT-registered; that it is engaged in VAT zero-rated sales; that it paid input VAT during the 1st to 4th quarters of CY 2014 from its domestic purchases of goods and services; that Petitioner's input VAT for CY 2014 has not been applied against output taxes; and Petitioner's input VAT is directly attributable to its zero-rated sales for CY 2014.

On the other hand, Respondent argues that the law requires that only "creditable input taxes" which are "directly attributable" may be refunded. Respondent further avers that Petitioner failed to prove that all of its clients are non-resident foreign corporations doing business outside the Philippines.

THE RULING OF THE COURT

We partially grant the instant Petition for Review.

Section 112(A) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act (RA) No. 9337,[41] provides:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* –
>
> (A) *Zero-rated or Effectively Zero-rated Sales.* – Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where

[41] AN ACT AMENDING SECTIONS 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

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

xxx xxx xxx

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

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

Based on the foregoing provision, jurisprudence has laid down certain requisites which the taxpayer-applicant must comply with to successfully obtain a credit/refund of input VAT. Said requisites are classified into certain categories, to wit:

<u>As to the timeliness of the filing of the administrative and judicial claims:</u>

1. the claim is filed with the BIR within two (2) years after the close of the taxable quarter when the sales were made;[42]
2. that in case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act on the said claim within a period of one hundred twenty (120) days, the judicial claim has been filed with this Court, within thirty (30) days from receipt of the decision or after the expiration of the

[42] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 155732, April 27, 2007; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009; and *AT&T Communications Services Philippines, Inc.*, G.R. No. 182364, August 3, 2010.

said 120-day period;[43]

<u>With reference to the taxpayer's registration with the BIR</u>:

3. the taxpayer is a VAT-registered person;[44]

<u>In relation to the taxpayer's output VAT</u>:

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[45]
5. for zero-rated sales under Sections 106(A)(2)(1) and (2); 106(B); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations;[46]

<u>As regards the taxpayer's input VAT being refunded</u>:

6. the input taxes are not transitional input taxes;[47]
7. the input taxes are due or paid;[48]
8. the input taxes have not been applied against output taxes during and in the succeeding quarters;[49] and
9. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, 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 volume.[50]

Petitioner's Administrative and Judicial Claims were Timely Filed.

The *first* requisite pertains to the filing of the refund claim for tax credit or refund of input VAT before the BIR, which is within two (2) years from the close of the quarter when the sales were made.

The instant claim covers the four (4) quarters of CY 2014. Counting two (2) years from the respective close of the said quarters, the following table

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[43] *Steag State Power, Inc. (Formerly State Power Development Corporation) vs. Commissioner of Internal Revenue*, G.R. No. 205282, January 14, 2019; *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.

[44] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc.*, supra.

[45] *Id.*

[46] *Id.*

[47] *Id.*

[48] *Id.*

[49] *Id.* at Note 44.

[50] *Id.*

indicates the pertinent last days for the filing of an administrative claim for the said four (4) quarters, to wit:

CY 2014	Period	Close of the Taxable Quarter	Last Day to File Administrative Claim
1st Quarter	January 1, 2014 to March 31, 2014	March 31, 2014	March 31, 2016
2nd Quarter	April 1, 2014 to June 30, 2014	June 30, 2014	June 30, 2016
3rd Quarter	July 1, 2014 to September 30, 2014	September 30, 2014	September 30, 2016
4th Quarter	October 1, 2014 to December 31, 2014	December 31, 2014	December 31, 2016

Considering that Petitioner's administrative claim *[Application for Tax Credits/Refunds* (BIR Form No.1914)], covering the said four (4) quarters, was filed with the BIR on March 30, 2016,[51] the same was timely made.

The *second* requisite is to the effect that the judicial claim must have been filed within thirty (30) days from receipt of Respondent's decision or after the expiration of the 120-day period under the afore-quoted Section 112(C). Considering that there is no indication that Respondent issued a decision relative to Petitioner's administrative claim, the determination of the 120+30-day periods, as applied to this case, is shown as follows:

Date of Filing of Administrative Claim	End of 120 days for the CIR to decide the claim	End of 30 days from expiration of the 120 days
March 30, 2016	July 28, 2016	August 27, 2016

Since the instant *Petition for Review* was filed on August 24, 2016, Petitioner's judicial claim was likewise seasonably filed.

Such being the case, Petitioner fulfilled the above-stated *first* and *second* requisites.

Petitioner is a VAT-registered Person

Petitioner likewise complied with the *third* requisite considering that it is a VAT registered taxpayer.[52]

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[51] *Id.* at Note 2, pp. 853 to 866, see Exhibits "P-8" and "P-8-a".
[52] *Id.*, pp. 799 to 800, Exhibits "P-4" and "P-5".

Petitioner's Zero-rated or Effectively Zero-rated Sales/ Receipts for CY 2014 Only Amounts to ₱10,852,469.06

In its Quarterly VAT Returns for the four quarters of CY 2014, Petitioner declared an amount of ₱2,131,262,124.17 total sales/receipts which included zero-rated sales/receipts of ₱2,086,692,750.89, broken down as follows:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
	(Exhibit "P-9")	*(Exhibit "P-10")*	*(Exhibit "P-11")*	*(Exhibit "P-12")*	
Vatable Sales/Receipts	₱ 14,045,332.87	₱ 9,578,528.61	₱ 10,839,724.33	₱ 10,105,787.47	₱ 44,569,373.28
Zero-Rated Sales/Receipts	**442,612,125.26**	**501,953,349.75**	**366,270,294.38**	**775,856,981.50**	**2,086,692,750.89**
Total Sales/Receipts	₱ 456,657,458.13	₱ 511,531,878.36	₱ 377,110,018.71	₱ 785,962,768.97	₱ 2,131,262,124.17

Petitioner submits that as a Regional Operating Headquarters (ROHQ), it renders qualifying services, including business planning and coordination, corporate finance advisory, training and personal management, technical support, and data processing and communication, to its affiliates in the Asia-Pacific region and other foreign markets.[53]

In CY 2014, Petitioner allegedly rendered such services to a total of seventy-five (75) clients. Seventy-four (74) of those clients are non-resident foreign clients doing business outside the Philippines and one (1) client is a domestic corporation registered with the Philippine Economic Zone Authority (PEZA).[54]

Petitioner posits that since the services it rendered to its non-resident foreign clients doing business outside the Philippines were paid for in US Dollars (USD) inwardly remitted to the Philippines through the Petitioner's account with the East West Banking Corporation (East West Bank) and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP), the same are classified as VAT zero-rated sales[55]. Likewise, Petitioner maintains that the services it rendered to AIG Shared Services – Business Processing, Inc., a PEZA-registered entity, are considered export sales and are effectively VAT zero-rated.[56]

<u>Sale of services to an entity registered with the PEZA</u>

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[53] *Id.* at Note 1, pp. 184 to 185, Exhibit "P-192".

[54] *Id.*, pp. 214 to 215, Exhibit "P-192".

[55] *Id.*, pp. 189 to 190, Exhibit "P-192".

[56] *Id.*, p. 215, Exhibit "P-192".

Indeed, sales of services to entities registered with PEZA are subject to zero percent (0%) VAT, the pertinent provision of Section 108(B)(3) of the NIRC of 1997, as amended, states:

> "SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* —
>
> xxx xxx xxx
>
> (B) *Transactions Subject to Zero Percent (0%) Rate.* — The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
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> xxx xxx xxx
>
> (3) **Services rendered to persons or entities whose exemption under special laws** or international agreements to which the Philippines is a signatory **effectively subjects the supply of such services to zero percent (0%) rate;**" (*Emphasis supplied*)

The special law specific to this case is Republic Act (RA) No. 7916, as amended by RA No. 8748, otherwise known as "The Special Economic Zone Act of 1995", which provides that an ecozone is considered a separate customs territory, and the business establishments operating within the ecozone are entitled to certain fiscal incentives. Sections 8 and 23 of RA No. 7916, as amended by RA No. 8748, provide:

> "SECTION 8. *ECOZONE to be Operated and Managed as Separate Customs Territory.* – The ECOZONE shall be managed and operated by the PEZA as separate customs territory.
>
> The PEZA is hereby vested with the authority to issue certificates of origin for products manufactured or processed in each ECOZONE in accordance with the prevailing rules of origin, and the pertinent regulations of the Department of Trade and Industry and/or the Department of Finance."
>
> "SECTION 24. *Exemption form National and Local Taxes.* – Except for real property taxes on land owned by developers, no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE. xxx" (*Emphasis supplied*)

Since the ecozone is viewed as a foreign territory by legal fiction, sales of goods and *services* made by a VAT-registered person in the Philippine customs territory to an entity registered and operating within the ecozone are considered exports to a foreign country subject to zero percent (0%) VAT. This was elucidated by the Supreme Court in the case of *Commissioner of Internal Revenue vs. Toshiba Information Equipment (Phils.), Inc.,*[57] to wit:

> "This Court agrees, however, **that PEZA-registered enterprises, which would necessarily be located within ECOZONES, are VAT-exempt entities**, not because of Section 24 of Rep. Act No. 7916, as amended, which imposes the five percent (5%) preferential tax rate on gross income of PEZA-registered enterprises, in lieu of all taxes; but, rather, **because of Section 8 of the same statute which establishes the fiction that ECOZONES are foreign territory**.
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> xxx An ECOZONE or a Special Economic Zone has been described as —
>
> xxx [S]elected areas with highly developed or which have the potential to be developed into agro-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers whose metes and bounds are fixed or delimited by Presidential Proclamations. An ECOZONE may contain any or all of the following: industrial estates (IEs), export processing zones (EPZs), free trade zones and tourist/recreational centers.
>
> The national territory of the Philippines outside of the proclaimed borders of the ECOZONE shall be referred to as the Customs Territory.
>
> Section 8 of Rep. Act No. 7916, as amended, mandates that the PEZA shall manage and operate the ECOZONES as a separate customs territory; thus, creating the fiction that the ECOZONE is a foreign territory. As a result, sales made by a supplier in the Customs Territory to a purchaser in the ECOZONE shall be treated as an exportation from the Customs Territory. Conversely, sales made by a supplier from the ECOZONE to a purchaser in the Customs Territory shall be considered as an importation into the Customs Territory.
>
> Given the preceding discussion, what would be the VAT implication of sales made by a supplier from the Customs Territory to an ECOZONE enterprise?

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

> **The Philippine VAT system adheres to the Cross Border Doctrine, according to which, no VAT shall be imposed to form part of the cost of goods destined for consumption outside of the territorial border of the taxing authority. Hence, actual export of** goods and **services from the Philippines to a foreign country must be free of VAT**; while, those destined for use or consumption within the Philippines shall be imposed with ten percent (10%) VAT[58]. (*Emphasis supplied*)

In the present claim, Petitioner presented the Certification dated January 16, 2014 issued by PEZA which is valid for the year 2014,[59] stating that AIG Shared Services – Business Processing, Inc. is a PEZA-registered Ecozone (IT) Export Enterprise with Registration Certificate No. 03-03-IT dated January 29, 2003 as amended on December 4, 2013 and that it was a qualified enterprise for the purpose of VAT zero-rating of its transactions with local suppliers of goods, properties, and services in accordance with Sections 4.106-6 and 4.108-6 of Revenue Regulations (RR) No. 16-2005, the Consolidated Value-Added Tax Regulations of 2005.

Thus, Petitioner's sales of services to AIG Shared Services – Business Processing, Inc. for the four quarters of CY 2014 qualify for VAT zero-rating, pursuant to Section 108(B)(3) of the NIRC of 1997, as amended. However, the same must still be substantiated by VAT zero-rated official receipts (ORs) issued in accordance with Sections 113(A)(1) and (2), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended, as implemented by Sections 4.113-1(A)(1) and (2), (B)(1) and (2)(c) of RR No. 16-2005, which are all quoted hereunder:

> "Sec. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.-*
>
> (A) *Invoicing Requirements.* - A VAT-registered person shall issue:
>
> (1) A VAT invoice for every sale, barter or exchange of goods or properties; and
> (2) A <u>VAT official receipt</u> for every lease of goods or properties, and <u>for every sale, barter or exchange of services</u>.
>
> (B) *Information Contained in the VAT Invoice or VAT Official Receipt.* - The following information shall be indicated in the VAT invoice or VAT official receipt:

[58] Now at 12% VAT rate.
[59] Exhibit "P-199".

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

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

xxx xxx xxx

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

xxx xxx xxx

(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and xxx" *(Underscoring ours)*

"SEC. 4.113-1. *Invoicing Requirements.* –

(A) A Vat-registered person shall issue: -xxx

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

(2) A VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.

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

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

(B) ***Information contained in VAT invoice or VAT official receipt.*** – The following information shall be indicated in VAT invoice or VAT official receipt:

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

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; ***Provided,*** **That**: xxx

(c) If the sale is subject to zero percent (0%) VAT, the term **'zero-rated sale'** shall be written or printed prominently on the invoice or receipt; xxx" *(Underlining supplied)*

In addition to the above requirements, the ORs must be duly registered with the BIR as prescribed under Section 237, in relation to Section 238, both of the NIRC of 1997, as amended, to wit:

"SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* — All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: xxx"

"SEC. 238. *Printing of Receipts or Sales or Commercial Invoices.* — All persons who are engaged in business shall secure from the Bureau of Internal Revenue an authority to print receipts or sales or commercial invoices before a printer can print the same.

No authority to print receipts or sales or commercial invoices shall be granted unless the receipts or invoices to be printed are serially numbered and shall show, among other things, the name, business style, Taxpayer Identification Number (TIN) and business address of the person or entity to use the same, and such other information that may be required by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner."

After a careful perusal of Petitioner's VAT zero-rated OR,[60] it reveals that the same complies with the invoicing requirements pursuant to the

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[60] Exhibit P-278, O.R. No. BPOOR-0001916, Dated February 6, 2014.

foregoing provisions. Thus, petitioner generated zero-rated receipts for CY 2014 from services rendered to AIG Shared Services - Business Processing, Inc. in the amount of ₱7,401,860.71[61] ($166,655.35).

<u>Sale of services to non-resident foreign entities</u>

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

> "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 person 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);"

Based on the foregoing provision, certain essential elements must be present for a sale or supply of services to be subject to the VAT rate of zero percent (0%), under Section 108(B)(2) of the NIRC of 1997, as amended, to wit:

1. The recipient of the services is a foreign corporation, and the aforesaid corporation is doing business outside the Philippines, or is a non-resident person not engaged in business who is outside the Philippines when the services were performed;[62]

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[61] *Id.* at Note 2, p. 891, see Exhibit "P-21".

[62] *Sitel Philippines Corporation (Formerly Clientlogic Phils., Inc.) vs. Commissioner of Internal Revenue,* G.R. No. 201326, February 8, 2017; *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.,* G.R. No. 153205, January 22, 2007; *Accenture, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 190102, July 11, 2002.

2. The payment for such services should be in acceptable foreign currency accounted for in accordance with BSP rules;[63]

3. The services fall under any of the categories under Section 108(B)(2),[64] or simply, the services rendered should be other than "*processing, manufacturing or repacking goods*";[65] and

4. The services must be performed in the Philippines[66] by a VAT-registered person.

In compliance with the *first essential element* of proving that its client-affiliates are non-resident foreign corporations doing business outside the Philippines, petitioner presented the related Certifications of Non-Registration of Company issued by the Philippine Securities Exchange Commission (SEC), printed screenshots of foreign government websites and consularized foreign registration which were summarized by the Court-commissioned Independent CPA (ICPA) as follows:[67]

	Name of Company	**Customer's Name per Official Receipt**	**Consularized Foreign Registration**	**Government website Screenshots**	**SEC Certificate of Non-registration**
1.	AIG APAC HOLDINGS PTE. LTD.	AIG APAC HOLDINGS PTE. LTD.		P-117-a	P-42
2.	AIG AUSTRALIA LIMITED	AIG AUSTRALIA LIMITED; INTERCOMPANY CLEARING HOUSE NY-AUS 0106	P-118-a	P-118-b	P-43
3.	AIG BUSINESS PARTNERS KABUSHIKI KAISHA	AIG BUSINESS PARTNERS KABUSHIKI KAISHA			P-44
4.	AIG CLAIMS, INC.	AIG DENMARK/DANISH BRANCH	P-120-a	P-120-b	P-45, P-45-a
5.	AIG DENMARK/DANISH BRANCH	AIG DENMARK/DANISH BRANCH	P-121-a, P-121-b,P-121-c	P-121-d	P-46
6.	AIG EMPLOYEE SERVICES INC.	AIG EMPLOYEE SERVICES INC.		P-122-a	P-47
7.	AIG EUROPE LIMITED / CHARTIS EUROPE S.A.	AIG Europe Limited HQ	P-123-a,P-123-b, P-123-c		P-48, P-48-a
8.	AIG EUROPE LIMITED - DIREKTION FÜR	CHARTIS EUROPE SA-DIREKTION FUR DEUTSCHLAND		P-124-d	P-49

[63] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra; *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, G.R. No. 152609, June 29, 2005.

[64] *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, supra.

[65] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, supra.

[66] *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, supra; *Commissioner of Internal Revenue vs. American Express International, Inc. (Philippine Branch)*, supra.

[67] *Id.* at Note 2, pp. 570 to 571, Exhibit "P-194", Annex B.

	DEUTSCHLAND				
9.	AIG EUROPE LIMITED - GREECE	AIG EUROPE LIMITED - GREECE			P-50
10.	AIG EUROPE SERVICES LIMITED	AIG EUROPE SERVICES LIMITED		P-126-a	P-51
11.	AIG GLOBAL CLAIMS SERVICES, INC.	CHARTIS GLOBAL SERVICES COMPANY		P-127-b	P-52
12.	AIG GLOBAL RECOVERY SERVICES INC	AIG GLOBAL RECOVERY SERVICES INC/ AIG GLOBAL RECOVERY SERVICES			P-53
13.	AIG GLOBAL REINSURANCE OPERATIONS	AIG GLOBAL REINSURANCE OPERATIONS			P-54
14.	AIG GLOBAL SERVICES INC	AIG GLOBAL SERVICES INC		P-130-a	P-55; P-55-a
15.	AIG GLOBAL SERVICES MALAYSIA	AIG GLOBAL SERVICES MALAYSIA	P-131-b, P-131-c		P-56
16.	AIG INSURANCE COMPANY CHINA LIMITED	AIG INSURANCE COMPANY CHINA LIMITED	P-132-a		P-57; P-57-a
17.	AIG INSURANCE COMPANY OF CANADA	AIG INSURANCE COMPANY OF CANADA; CHARTIS INSURANCE COMPANY OF CANADA		P-133-a	P-58
18.	AIG JAPAN HOLDINGS KK	AIG JAPAN HOLDINGS KK		P-134-a	P-59
19.	AIG KOREA INC.	AIG KOREA INC.	P-135-a, P-135-b	P-135-c	P-60; P-60-a
20.	AIG MALAYSIA INSURANCE BERHAD	AIG MALAYSIA INSURANCE BERHAD		P-136-a	P-61; P-61-a
21.	AIG METROPOLITANA CIA DE SEGUROS Y REASEGUROS S.A.	AIG METROPOLITAN CIA DE SEGUROS Y REASEGUROS SA	P-197		P-62
22.	AIG PAPUA NEW GUINEA	AIG PAPUA NEW GUINEA			P-63
23.	AIG PROPERTY CASUALTY GLOBAL SERVICES INC	AIG PROPERTY CASUALTY GLOBAL SERVICES INC		P-180-b	P-64
24.	AIG SERVICES LATIN AMERICA S.L.	AIG SERVICES LATIN AMERICA SL SUCURSAL COLOMBIA/ AIG SERVICES LATIN AMERICA S.L.			P-65
25.	AIG SHARED SERVICES (M) SDN BHD	AIG GLOBAL SERVICES MALAYSIA	P-142-a, P-142-b	P-142-c	P-67; P-67-a
26.	AIG SHARED SERVICES CORP - IRELAND BRANCH	AIG SHARED SERVICES CORP.- IRELAND BRANCH		P-143-a	P-68
27.	AIG SOUTH AFRICA LTD	AIG SOUTH AFRICA LTD		P-144-a	P-69
28.	AIG TAIWAN INSURANCE CO., LTD.	AIG TAIWAN INSURANCE CO., LTD.	P-145-a		P-70
29.	AIG VIETNAM INSURANCE COMPANY LIMITED	AIG VIETNAM INSURANCE COMPANY LIMITED	P-146-a, P-146-b, P-146-c, P-146-d	P-146-e	P-71; P-71-a

30.	AIU INSURANCE COMPANY - JAPAN	AIU INSURANCE COMPANY - JAPAN		P-147-a	P-72
31.	AMERICAN GENERAL LIFE INSURANCE COMPANY	AMERICAN GENERAL LIFE INSURANCE COMPANY		P-148-a	P-73
32.	AMERICAN HOME ASSURANCE COMPANY, UAE	AMERICAN HOME ASSURANCE COMPANY, UAE		P-149-a	P-74
33.	AMERICAN HOME ASSURANCE JAPAN (AHA JAPAN)	AMERICAN HOME ASSURANCE JAPAN (AHA JAPAN)	P-150-a		P-75
34.	AIG INSURANCE NEW ZEALAND LIMITED	AIG INSURANCE NEW ZEALAND LIMITED	P-151-a, P-151-b	P-151-c	P-76
35.	AMERICAN INTERNATIONAL GROUP KK	AMERICAN INTERNATIONAL GROUP KK			P-77
36.	BRANCH OF AIG SIGORTA IN GEORGIA RO#979 / CHARTIS EUROPE S.A., GEORGIA BRANCH	BRANCH OF AIG SIGORTA IN GEORGIA RO#979			P-78; P-78-a
37.	CHARTIS AZERBAIJAN INSURANCE CO.	CHARTIS AZERBAIJAN INSURANCE CO.		P-154-a	P-79; P-79-a
38.	CHARTIS CHILE COMPANIA SEGUROS GENERALES S.A.	CHARTIS CHILE COMPANIA SEGUROS GENERALES S.A	P-198		P-80; P-80-a
39.	AIG CYPRUS LIMITED	AIG CYPRUS LIMITED	P-156-a, P-156-b	P-156-c	P-81
40.	CHARTIS EUROPE S.A. - FINLAND	CHARTIS EUROPE S.A. - FINLAND	P-157-a, P-157-b, P-157-c	P-157-d	P-82; P-82-a
41.	CHARTIS EUROPE SA - BELGIUM	CHARTIS EUROPE SA - BELGIUM	P-158-a, P-158-b, P-158-c, P-158-d	P-158-e	P-83
42.	CHARTIS EUROPE SA - FRANCE	CHARTIS EUROPE SA - FRANCE	P-159-a	P-159-b	P-84; P-84-a
43.	CHARTIS EUROPE SA - ITALY	CHARTIS EUROPE SA - ITALY	P-160-a, P-160-b	P-160-c	P-85; P-85-a
44.	CHARTIS EUROPE SA - NETHERLANDS	CHARTIS EUROPE SA - NETHERLANDS	P-161-a, P-161-b	P-161-c	P-86
45.	CHARTIS EUROPE SA - PORTUGAL BRANCH	AIG EUROPE LIMITED SUCURSAL EM PORTUGAL			P-87; P-87-a
46.	CHARTIS EUROPE SA - SPAIN	CHARTIS EUROPE SA - SPAIN	P-163-a		P-88; P-88-a
47.	CHARTIS EUROPE SA - SWITZERLAND BRANCH	CHARTIS EUROPE SA - SWITZERLAND BRANCH			P-89
48.	CHARTIS EUROPE SA- CZECH REPUBLIC	CHARTIS EUROPE SA- CZECH REPUBLIC	P-165-b	P-165-d	P-90
49	CHARTIS EUROPE SA- IRELAND	AIG EUROPE LIMITED IRELAND			P-91; P-91-a
50.	CHARTIS EUROPE SA- POLAND	CHARTIS EUROPE SA- POLAND	P-167-a, P-167-b	P-167-c	
51.	CHARTIS EUROPE SA-SWEDEN	CHARTIS EUROPE SA SWEDEN	P-168-a, P-168-b, P-168-c		P-93
52.	CHARTIS INSURANCE HONG KONG LTD.	CHARTIS INSURANCE HONG KONG LTD.	P-169-a, P-169-b	P-169-c	P-94
53.	CHARTIS INSURANCE LTD.,	CHARTIS INSURANCE LTD.,			P-95

		SRI LANKA		SRI LANKA			
54	.	CHARTIS KAZAKHSTAN INSURANCE COMPANY		CHARTIS KAZAKHSTAN INSURANCE COMPANY			P-96
55	.	CHARTIS KENYA INSURANCE COMPANY LIMITED		CHARTIS KENYA INSURANCE COMPANY LIMITED		P-172-a	P-97
56	.	CHARTIS MEMSA INSURANCE CO. LTD. OMAN BRANCH		CHARTIS MEMSA INSURANCE CO LTD OMAN BRANCH			P-98
57	.	CHARTIS MEMSA INSURANCE CO. LTD. QATAR BRANCH		CHARTIS MEMSA INSURANCE CO. LTD. QATAR BRANCH			P-99
58	.	CHARTIS NEW HAMPSHIRE INSURANCE CO, PAKISTAN BRANC		CHARTIS NEW HAMPSHIRE INSURANCE CO, PAKISTAN BRANC		P-175-a	P-100
59	.	CHARTIS NEW HAMPSHIRE INSURANCE COMPANY, BAHRAIN		CHARTIS NEW HAMPSHIRE INSURANCE COMPANY, BAHRAIN		P-176-a	P-101
60	.	CHARTIS NORTH AMERICA		CHARTIS NORTH AMERICA		P-177-a	P-102
61	.	CHARTIS SIGORTA A.S.		CHARTIS SIGORTA AS			P-103
62	.	CHARTIS SINGAPORE INSURANCE PTE LTD		CHARTIS SINGAPORE INSURANCE PTE LTD	P-179-a, P-179-b, P-179-c, P-179-d	P-179-e	P-104; P-104-a; P-105-b
63	.	CHARTIS US ; CHARTIS US DOMESTIC A&H ; CHARTIS US SRV DEPTS		CHARTIS US ; CHARTIS US DOMESTIC A&H ; CHARTIS US SRV DEPTS	P-180-a		P-105
64	.	CHARTIS UZBEKISTAN		CHARTIS UZBEKISTAN		P-181-a	P-106
65	.	CJSC AIG		CJSC AIG			P-107; P-107-a
66	.	GUAM INSURANCE ADJUSTERS INC.		GUAM INSURANCE ADJUSTERS INC.		P-183-a	P-108
67	.	AIG TRAVEL ASSIST, INC.		INTERCOMPANY CLEARING HOUSE NY- TRAV 0270		P-184-a	P-109
68		CHARTIS INSURANCE INDONESIA		CHARTIS INSURANCE INDONESIA	P-185-a, P-185-b, P-185-c, P-185-d	P-185-e	P-110
69	.	LEXINGTON		LEXINGTON; LEXINGTON INSURANCE COMPANY	P-186-a	P-186-b	P-111; P-111-a
70	.	NATIONAL UNION FIRE INSURANCE COMPANY		NATIONAL UNION FIRE INSURANCE COMPANY	P-187-a	P-187-b	
71	.	NEW HAMPSHIRE INSURANCE THAILAND		ICH (fao NEW HAMSPSHIRE INSURANCE THAILAND)	P-188-a	P-188-b	P-113
72	.	PRIVATE CLIENT GROUP		PRIVATE CLIENT GROUP	P-189-a		P-114
73	.	UNITED GUARANTY CORPORATION		UNITED GUARANTY CORPORATION		P-190-a	P-115

74	.	AMERICAN INTERNATIONAL GROUP		AIG CORP HRNY; AIG CORPORATE O&S OPERATIONS DEVELOPMENT; AIG INC.,EMPLOYEE RELATIONS DEPT.; CHARTIS ENTERPRISE DATA MANAGEMENT; GLOBAL FINANCE O&S	P-191-a	P-191-b	P-116

To be considered as non-resident foreign corporation doing business outside the Philippines, the entity must be supported at the very least by **both** SEC Certificate of non-registration of corporation/partnership **and** Certificates/Articles of foreign incorporation/association/registration or any other proof of foreign incorporation/association/registration.

These two (2) documents are necessary. The SEC's negative certification establishes that the recipient of the service has no registered business in the Philippines (*i.e.*, not engaged in trade or business within the Philippines). On the other hand, the Certificates/Articles of foreign incorporation/association/registration prove two things: (1) that the recipient of the service is indeed foreign, and (2) it is engaged in business in the country of incorporation/association/registration (*i.e.*, a showing of a continuity of commercial dealings and intention to establish a continuous business).

In this regard, the Court cannot give credence or probative value to the printed screenshots of foreign government websites database which can also be easily manipulated, considering that none from the said foreign governments attested to the authenticity of the said websites and as to the registration of the purported petitioner's foreign clients found therein.

Hence, out of the Petitioner's seventy-four (74) clients, the following entities cannot be considered as non-resident foreign corporations doing business outside the Philippines, based on the following stated reasons, to wit:

a. Without proof of foreign registration and supported only by SEC Certification of Non-Registration of Company:

	Name of Company	**Customer's Name per Official Receipt**	**SEC Certificate of Non-Registration of Company (Exhibit No.)**
1	AIG APAC HOLDINGS PTE. LTD.	AIG APAC HOLDINGS PTE. LTD.	P-42
2	AIG EMPLOYEE SERVICES INC.	AIG EMPLOYEE SERVICES INC.	P-47
3	AIG EUROPE LIMITED - DIREKTION FÜR DEUTSCHLAND	CHARTIS EUROPE SA-DIREKTION FUR DEUTSCHLAND	P-49

4	AIG EUROPE LIMITED - GREECE	AIG EUROPE LIMITED - GREECE	P-50
5	AIG EUROPE SERVICES LIMITED	AIG EUROPE SERVICES LIMITED	P-51
6	AIG GLOBAL CLAIMS SERVICES, INC.	CHARTIS GLOBAL SERVICES COMPANY	P-52
7	AIG GLOBAL RECOVERY SERVICES INC	AIG GLOBAL RECOVERY SERVICES INC/ AIG GLOBAL RECOVERY SERVICES	P-53
8	AIG GLOBAL REINSURANCE OPERATIONS	AIG GLOBAL REINSURANCE OPERATIONS	P-54
9	AIG GLOBAL SERVICES INC	AIG GLOBAL SERVICES INC	P-55; P-55-a
10	AIG INSURANCE COMPANY OF CANADA	AIG INSURANCE COMPANY OF CANADA; CHARTIS INSURANCE COMPANY OF CANADA	P-58
11	AIG JAPAN HOLDINGS KK	AIG JAPAN HOLDINGS KK	P-59
12	AIG MALAYSIA INSURANCE BERHAD	AIG MALAYSIA INSURANCE BERHAD	P-61; P-61-a
13	AIG PAPUA NEW GUINEA	AIG PAPUA NEW GUINEA	P-63
14	AIG PROPERTY CASUALTY GLOBAL SERVICES INC	AIG PROPERTY CASUALTY GLOBAL SERVICES INC	P-64
15	AIG SERVICES LATIN AMERICA S.L.	AIG SERVICES LATIN AMERICA SL SUCURSAL COLOMBIA/ AIG SERVICES LATIN AMERICA S.L.	P-65
16	AIG SHARED SERVICES CORP - IRELAND BRANCH	AIG SHARED SERVICES CORP.- IRELAND BRANCH	P-68
17	AIG SOUTH AFRICA LTD	AIG SOUTH AFRICA LTD	P-69
18	AIU INSURANCE COMPANY - JAPAN	AIU INSURANCE COMPANY - JAPAN	P-72
19	AMERICAN GENERAL LIFE INSURANCE COMPANY	AMERICAN GENERAL LIFE INSURANCE COMPANY	P-73
20	AMERICAN HOME ASSURANCE COMPANY, UAE	AMERICAN HOME ASSURANCE COMPANY, UAE	P-74
21	AMERICAN INTERNATIONAL GROUP KK	AMERICAN INTERNATIONAL GROUP KK	P-77
22	BRANCH OF AIG SIGORTA IN GEORGIA RO#979 / CHARTIS EUROPE S.A., GEORGIA BRANCH	BRANCH OF AIG SIGORTA IN GEORGIA RO#979	P-78; P-78-a
23	CHARTIS AZERBAIJAN INSURANCE CO.	CHARTIS AZERBAIJAN INSURANCE CO.	P-79; P-79-a
24	CHARTIS EUROPE SA - PORTUGAL BRANCH	AIG EUROPE LIMITED SUCURSAL EM PORTUGAL	P-87; P-87-a
25	CHARTIS EUROPE SA - SWITZERLAND BRANCH	CHARTIS EUROPE SA - SWITZERLAND BRANCH	P-89
26	CHARTIS EUROPE SA- IRELAND	AIG EUROPE LIMITED IRELAND	P-91; P-91-a
27	CHARTIS INSURANCE LTD., SRI LANKA	CHARTIS INSURANCE LTD., SRI LANKA	P-95
28	CHARTIS KAZAKHSTAN INSURANCE COMPANY	CHARTIS KAZAKHSTAN INSURANCE COMPANY	P-96
29	CHARTIS KENYA INSURANCE COMPANY LIMITED	CHARTIS KENYA INSURANCE COMPANY LIMITED	P-97
30	CHARTIS MEMSA INSURANCE CO. LTD. OMAN BRANCH	CHARTIS MEMSA INSURANCE CO LTD OMAN BRANCH	P-98
31	CHARTIS MEMSA INSURANCE CO. LTD. QATAR BRANCH	CHARTIS MEMSA INSURANCE CO. LTD. QATAR BRANCH	P-99
32	CHARTIS NEW HAMPSHIRE INSURANCE CO, PAKISTAN	CHARTIS NEW HAMPSHIRE INSURANCE CO, PAKISTAN	P-100

	BRANC	BRANC	
33	CHARTIS NEW HAMPSHIRE INSURANCE COMPANY, BAHRAIN	CHARTIS NEW HAMPSHIRE INSURANCE COMPANY, BAHRAIN	P-101
34	CHARTIS NORTH AMERICA	CHARTIS NORTH AMERICA	P-102
35	CHARTIS SIGORTA A.S.	CHARTIS SIGORTA AS	P-103
36	CHARTIS UZBEKISTAN	CHARTIS UZBEKISTAN	P-106
37	CJSC AIG	CJSC AIG	P-107; P-107-a
38	GUAM INSURANCE ADJUSTERS INC.	GUAM INSURANCE ADJUSTERS INC.	P-108
39	AIG TRAVEL ASSIST, INC.	INTERCOMPANY CLEARING HOUSE NY- TRAV 0270	P-109
40	UNITED GUARANTY CORPORATION	UNITED GUARANTY CORPORATION	P-115

b. Without SEC Certification of Non-Registration of Company and supported only by Consularized Foreign Registration:

	Name of Company	Customer's Name per Official Receipt	Consularized Foreign Registration (Exhibit No.)
41	CHARTIS EUROPE SA- POLAND	CHARTIS EUROPE SA- POLAND	P-167-a, P-167-b
42	NATIONAL UNION FIRE INSURANCE COMPANY	NATIONAL UNION FIRE INSURANCE COMPANY	P-187-a

c. Supported only by SEC Certification of Non-Registration of Company and the name indicated therein is different from petitioner's client name

	Name of Company	Customer's Name per Official Receipt	Name of Company per SEC Certificate of Non-Registration of Company	Exhibit No.
43	AIG BUSINESS PARTNERS KABUSHIKI KAISHA	AIG BUSINESS PARTNERS KABUSHIKI KAISHA	AIG BUSINESS PARTNERS KABUSHI KAISHA	P-44
44	AIG INSURANCE NEW ZEALAND LIMITED	AIG INSURANCE NEW ZEALAND LIMITED	AMERICAN HOME NEW ZEALAND (RQ 030)	P-76
45	AIG CYPRUS LIMITED	AIG CYPRUS LIMITED	CHARTIS CYPRUS	P-81

d. Supported by SEC Certification of Non-registration of Company and Consularized Foreign Registration but the name indicated in the latter document is different from petitioner's client name

	Name of Company	Customer's Name per Official Receipt	SEC Certificate of Non-Registration of Company (Exh. No.)	Consularized Foreign Registration	
				Exhibit No.	Name of the Company indicated in the document
46	AIG DENMARK/DANISH BRANCH	AIG DENMARK/DANISH BRANCH	P-46	P-121-a, P-121-b, P-121-c	AIG EUROPE DANSK FILIAL AF AG EUROPE LIMITED UNITED KINGDOM
47	AIG CLAIMS, INC.	AIG DENMARK/DANISH BRANCH	P-45, P-45-a	P-120-a	AMERICAN INTERNATIONAL ADJUSTMENT COMPANY, INC.
48	PRIVATE CLIENT GROUP	PRIVATE CLIENT GROUP	P-114	P-189-a	CHARTIS CAPEX, INC.
49	CHARTIS US ; CHARTIS US DOMESTIC A&H ; CHARTIS US SRV DEPTS	CHARTIS US ; CHARTIS US DOMESTIC A&H ; CHARTIS US SRV DEPTS	P-105	P-180-a	NHIG HOLDING CORP.
50	CHARTIS EUROPE SA-SWEDEN	CHARTIS EUROPE SA SWEDEN	P-93	P-168-a, P-168-b, P-168-c	AIG Europe Limited UK filial i Sverige (formerly Chartis Europe Limited UK filial i Sverige)
51	CHARTIS EUROPE SA - BELGIUM	CHARTIS EUROPE SA - BELGIUM	P-83	P-158-a, P-158-b, P-158-c, P-158-d	AIG Europe Limited (Belgium branch) [formerly Chartis Europe Limited]
52	CHARTIS EUROPE S.A. - FINLAND	CHARTIS EUROPE S.A. - FINLAND	P-82; P-82-a	-157-a, P-157-b, P-157-c	AIG Europe Limited sivuliike (formerly Chartis Europe Limited sivuliike)

e. **Supported by SEC Certification of Non-Registration of Company and documents which cannot be considered as valid proof of foreign incorporation/registration**

	Name of Company	Customer's Name per Official Receipt	Purported Proof of Foreign Incorporation/Registration	SEC Certificate of Non-registration of Company
53	CHARTIS EUROPE SA - FRANCE	CHARTIS EUROPE SA – FRANCE	P-159-a	P-84; P-84-a
54	AMERICAN HOME ASSURANCE JAPAN (AHA JAPAN	AMERICAN HOME ASSURANCE JAPAN (AHA JAPAN)	P-150-a to P-150-e	P-75

f. **Supported by SEC Certification of Non-Registration of Company and Consularized Foreign Registration but without English translation**

	Name of Company	Customer's Name per Official Receipt	Consularized Foreign Registration	SEC Certificate of Non-Registration of Company
55	AIG GLOBAL SERVICES MALAYSIA	AIG GLOBAL SERVICES MALAYSIA	P-131-b, P-131-c	P-56
56	AIG SHARED SERVICES (M) SDN BHD	AIG GLOBAL SERVICES MALAYSIA	P-142-a, P-142-b	P-67; P-67-a
57	CHARTIS CHILE COMPANIA SEGUROS GENERALES S.A.	CHARTIS CHILE COMPANIA SEGUROS GENERALES S.A	P-198	P-80; P-80-a

Thus, only the following clients of Petitioner are considered as non-resident foreign corporation doing business outside the Philippines, to wit:

	Name of Company	Customer's Name per Official Receipt	Consularized Foreign Registration (Exhibit:)	SEC Certificate of Non-Registration of Company (Exhibit:)
58	AIG AUSTRALIA LIMITED	AIG AUSTRALIA LIMITED; INTERCOMPANY CLEARING HOUSE NY-AUS 0106	P-118-a	P-43
59	AIG EUROPE LIMITED / CHARTIS EUROPE S.A.	AIG EUROPE LIMITED HQ	P-123-a, P-123-b, P-123-c	P-48, P-48-a
60	AIG INSURANCE COMPANY CHINA LIMITED	AIG INSURANCE COMPANY CHINA LIMITED	P-132-a	P-57; P-57-a
61	AIG KOREA INC.	AIG KOREA INC.	P-135-b	P-60
	AIG METROPOLITANA CIA DE SEGUROS Y REASEGUROS S.A.	AIG METROPOLITAN CIA DE SEGUROS Y REASEGUROS SA	P-197	P-62
62	AIG TAIWAN INSURANCE CO., LTD.	AIG TAIWAN INSURANCE CO., LTD.	P-145-a	P-70
63	AIG VIETNAM INSURANCE COMPANY LIMITED	AIG VIETNAM INSURANCE COMPANY LIMITED	P-146-a, P-146-b, P-146-c, P-146-d	P-71; P-71-a
64	CHARTIS EUROPE SA - ITALY	CHARTIS EUROPE SA - ITALY	P-160-a, P-160-b	P-85; P-85-a
65	CHARTIS EUROPE SA - NETHERLANDS	CHARTIS EUROPE SA - NETHERLANDS	P-161-a, P-161-b	P-86
66	CHARTIS EUROPE SA - SPAIN	CHARTIS EUROPE SA - SPAIN	P-163-a	P-88; P-88-a
67	CHARTIS EUROPE SA-CZECH REPUBLIC	CHARTIS EUROPE SA-CZECH REPUBLIC	P-165-b	P-90
68	CHARTIS INSURANCE HONG KONG LTD.	CHARTIS INSURANCE HONG KONG LTD.	P-169-a, P-169-b	P-94
69	CHARTIS SINGAPORE INSURANCE PTE LTD	CHARTIS SINGAPORE INSURANCE PTE LTD	P-179-a, P-179-b, P-179-c, P-179-d	P-104; P-104-a; P-104-b
70	CHARTIS US ; CHARTIS US DOMESTIC A&H ; CHARTIS US SRV DEPTS	CHARTIS US ; CHARTIS US DOMESTIC A&H ; CHARTIS US SRV DEPTS	P-180-a	P-105
71	CHARTIS INSURANCE INDONESIA	CHARTIS INSURANCE INDONESIA	P-185-a, P-185-b, P-185-c, P-185-d	P-110
72	LEXINGTON	LEXINGTON; LEXINGTON INSURANCE COMPANY	P-186-a	P-111; P-111-a

73	NEW HAMPSHIRE INSURANCE THAILAND	ICH (fao NEW HAMSPSHIRE INSURANCE THAILAND)	P-188-a	P-113
74	AMERICAN INTERNATIONAL GROUP	AIG CORP HRNY; AIG CORPORATE O&S OPERATIONS DEVELOPMENT; AIG INC.,EMPLOYEE RELATIONS DEPT.; CHARTIS ENTERPRISE DATA MANAGEMENT; GLOBAL FINANCE O&S	P-191-a	P-116

Anent the *second essential element* and in relation to the *fifth requisite* for the granting of input VAT refund, Petitioner presented the Certifications[68] of bank inward remittances issued by East West Banking Corp for the period January 1 to December 31, 2014 purportedly showing the remittances of its foreign clients/affiliates. Considering that said Certifications establish the fact of payment *"in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP",*[69] Petitioner is considered to have complied with the above-stated *second* essential element, as well as, to the *fifth requisite* for the grant of the claim for refund.

In any event, equally important to consider is that the said foreign currency remittances referred to under Section 108(B)(2) must be duly supported by VAT zero-rated ORs in accordance with Section 113(A)(2), (B)(1), (2)(c) and (3) in relation to Section 237 and 238 of the NIRC of 1997, as amended, and implemented by Section 4.113-1(A)(2), B(1) and (2)(c) of RR No. 16-05 which provide that a VAT taxpayer, like herein Petitioner, shall for every lease of goods or properties, and for every sale, barter or exchange of services, issue a VAT official receipt which must contain the information stated in the said provisions, as quoted earlier.

In the instant case, aside from the Certifications of bank inward remittances, Petitioner also presented its Schedule of Zero-Rated Sales[70] and the related ORs[71] purportedly supporting its total declared zero-rated sales/receipts for the CY 2014 of ₱2,086,692,750.89.

A scrutiny of the aforesaid documents shows that Petitioner's sales of services to its client-affiliates considered as non-resident foreign corporations doing business outside the Philippines, which are duly supported by VAT zero-rated ORs and certifications of bank inward remittances, amounted to ₱273,388,511.77 (US$6,175,261.30) for CY 2014, detailed as follows:

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[68] Exhibits "P-1164 to P-1168".

[69] Refer to *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007.

[70] *Id.* at Note 2, pp. 890 to 911, Exhibits "P-21", "P-22", "P-23", and "P-24".

[71] Exhibits "P-212 to P-1163".

COMPANY NAME	O.R. NO.	DATE	AMOUNT IN PHP	AMOUNT IN USD	EXHIBIT	INWARD REMITTANCE REFERRENCE NO.	EXHIBIT
FIRST QUARTER OF CY 2014							
AIG AUSTRALIA LIMITED	2027	28-Feb-14	3,752,352.32	84,485.80	P-627	C203067RBK022514	P-1165
AIG EUROPE LIMITED / CHARTIS EUROPE S.A.	BPO-1868	24-Jan-14	2,258,369.51	51,802.63	P-230	F60115094229000	P-1164
	BPO-1929	28-Feb-14	243,348.75	5,479.10	P-291	F60129094372000	P-1164
AIG METROPOLITANA CIA DE SEGUROS Y REASEGUROS S.A.	1958	17-Jan-14	23,850.45	585.00	P-560	F60107433775000	P-1165
AIG VIETNAM INSURANCE COMPANY LIMITED	2014	21-Feb-14	1,438,577.86	32,396.55	P-614	0552000049JM	P-1165
	2064	28-Mar-14	1,503,930.93	33,681.05	P-663	S06408503EEE01/ 5077700085FC	P-1165
CHARTIS EUROPE SA - ITALY	BPO-1878	27-Jan-14	498,031.63	11,375.00	P-240	9194100021FC	P-1164
	BPO-1879	27-Jan-14	65,740.17	1,501.50	P-241	9194100021FC	P-1164
	BPO-1910	03-Feb-14	505,209.25	11,375.00	P-272	3266200028FC	P-1164
	BPO-1911	03-Feb-14	66,687.62	1,501.50	P-273	3266200028FC	P-1164
CHARTIS EUROPE SA - NETHERLANDS	BPO-1864	23-Jan-14	410,331.74	9,389.16	P-226	3609300296FC / G1440220110101	P-1164
CHARTIS EUROPE SA - SPAIN	BPO-1928	28-Feb-14	824,669.40	18,856.58	P-290	F60220299968000	P-1164
CHARTIS EUROPE SA- CZECH REPUBLIC	BPO-1860	14-Jan-14	17,985.45	404.95	P-222	0317100013FC	P-1164
CHARTIS INSURANCE HONG KONG LTD.	BPO-1882	27-Jan-14	173,214.60	3,900.00	P-244	F60122538308000 A	P-1164
	2007	21-Feb-14	4,864,468.08	109,551.00	P-607	C733224RBK020414	P-1165
	2007	21-Feb-14	13,868.54	322.00			
CHARTIS SINGAPORE INSURANCE PTE LTD	1977	24-Jan-14	21,184,781.65	482,995.65	P-579	2014012100089134	P-1165
	2038	14-Mar-14	5,189,000.58	116,883.43	P-638	3094549312/1/1565 3400049FC	P-1165
	1951	02-Jan-14	7,960,931.19	184,756.01	P-553	IR-2013-8863600357FC	P-1165
LEXINGTON INSURANCE COMPANY	BPO-1858	10-Jan-14	2,549,181.81	58,959.88	P-220	5687800008 FC / 5689200008FC	P-1164
	BPO-1914	07-Feb-14	901,426.54	20,296.00	P-276	6847300030FC	P-1164
NEW HAMPSHIRE INSURANCE THAILAND (ICH)	2061	27-Mar-14	5,660,407.00	127,484.64	P-660	C463544RBK032614	P-1165
	2000	03-Feb-14	2,481,412.84	55,870.06	P-600	F60421182700000	P-1164
			62,587,777.91	**1,423,852.49**			
SECOND QUARTER OF CY 2014							
AIG INSURANCE COMPANY CHINA LIMITED	2194	19-Jun-14	645,259.52	14,399.90	P-790	S064161057F001/157 8100161FC	P-1165
AIG TAIWAN INSURANCE CO., LTD.	2111	05-May-14	262,304.92	5,995.50	P-710	2014041700075920	P-1165
	2109	05-May-14	185,327.42	4,095.00	P-708		
	2110	05-May-14	220,851.45	4,936.00	P-709		
	2161	30-May-14	215,175.00	4,750.00	P-759		
	2162	30-May-14	45,798.30	1,011.00	P-760		
	2186	09-Jun-14	11,556.07	262.00	P-782		
	2192	09-Jun-14	218,169.34	4,920.00	P-788	2014052300080654	P-1165
	2106	05-May-14	164,168.38	3,731.00	P-705		
	2233	30-Jun-14	254,508.48	5,832.00	P-829	2014052300080625	P-1165
	2234	30-Jun-14	58,346.69	1,337.00	P-830		
	2107	05-May-14	126,157.50	2,835.00	P-706	2014062000059091	P-1165

	2108	05-May-14	101,352.75	2,282.00	P-707		
AIG VIETNAM INSURANCE COMPANY LIMITED	2102	25-Apr-14	1,633,955.70	36,046.00	P-701	S0641061817501/ 586 8200106FC	P-1165
	2163	30-May-14	1,375,920.64	30,373.34	P-761	S064147059AB01/04 88400147FC	P-1165
	2235	30-Jun-14	1,136,591.29	25,631.60	P-831	S0641771261A01/387 3600177FC	P-1165
CHARTIS INSURANCE HONG KONG LTD.	2232	30-Jun-14	21,805,802.36	487,561.45	P-828	061959900|062514 / F60625107144000	P-1165
CHARTIS SINGAPORE INSURANCE PTE LTD	2185	09-Jun-14	14,135,149.41	314,331.35	P-781	3094655120/1	P-1165
	2227	30-Jun-14	5,882,817.24	132,666.92	P-823	20140623000038110	P-1165
	2091	22-Apr-14	5,816,717.06	128,532.22	P-690	3544099779/1	P-1165
			54,295,929.52	**1,211,529.28**			
THIRD QUARTER OF CY 2014							
AIG AUSTRALIA LIMITED	2276	31-Jul-14	3,744,215.94	84,436.90	P-871	F60728053166000	P-1165
	2342	03-Sep-14	5,567,925.30	126,753.01	P-936	F60822493045000	P-1165
	2236	10-Jul-14	5,131,606.65	113,280.50	P-832	F60702066243000	P-1165
AIG EUROPE LIMITED / CHARTIS EUROPE S.A.	2237	10-Jul-14	380,219.21	8,512.00	P-833	S064178064B801/077 7100181FC	P-1165
	BPO-2072	28-Jul-14	1,798,513.77	40,950.00	P-434	8970000063	P-1166
	2293	11-Aug-14	73,990.56	1,708.00	P-888	1951800220FC/S064 219056AE01	P-1165
	2323	27-Aug-14	107,541.28	2,464.00	P-917	S06423404F9301	P-1165
	2373	29-Sep-14	44,442.06	1,004.00	P-966	S0642680742101	P-1165
AIG INSURANCE COMPANY CHINA LIMITED	2244	15-Jul-14	1,011,322.20	23,133.00	P-840	F60617003531000	P-1165
	2261	23-Jul-14	56,150.38	1,258.00	P-857		
	2262	23-Jul-14	599,462.03	13,425.20	P-858	F60630344437000	P-1165
	2263	23-Jul-14	109,449.12	2,508.00	P-859		
	2264	23-Jul-14	405,140.67	9,283.70	P-860	F60709163686000	P-1165
	2326	29-Aug-14	546,141.05	12,425.00	P-920	F60826481969000	P-1165
	2343	03-Sep-14	226,704.56	5,211.00	P-937	F60826037548000	P-1165
	2351	11-Sep-14	624,444.35	14,201.60	P-945	F60908251870000	P-1165
	2352	11-Sep-14	765,418.27	17,593.80	P-946	F60908252304000	P-1165
	2357	15-Sep-14	1,002,177.56	22,928.00	P-950	F6091403756000	P-1165
AIG TAIWAN INSURANCE CO., LTD.	2329	29-Aug-14	420,814.88	9,570.50	P-923	201408260002556	P-1165
AIG VIETNAM INSURANCE COMPANY LIMITED	2325	27-Aug-14	2,917,436.89	66,730.63	P-919	1688400233FC/S064 2330450001	P-1165
	2370	29-Sep-14	1,291,364.79	29,390.20	P-963	S0642670D36D01	P-1165
	2269	23-Jul-14	1,163,608.23	26,663.80	P-865	S06420312A8401	P-1165
CHARTIS INSURANCE HONG KONG LTD.	2259	19-Jul-14	4,452,090.03	101,253.12	P-855	C248111OCP071614	P-1165
	2334	30-Aug-14	3,423,459.43	78,464.15	P-928	237323019	P-1165
	2367	25-Sep-14	3,182,423.72	72,573.76	P-960	26538825	P-1165
CHARTIS SINGAPORE INSURANCE PTE LTD	2271	23-Jul-14	3,852,278.17	88,268.62	P-867	20140716000787743	P-1165
	2330	29-Aug-14	6,052,671.13	137,784.52	P-924	2014082000038500	P-1165
NEW HAMPSHIRE INSURANCE THAILAND (ICH)	2335	01-Sep-14	19,537,626.55	447,277.16	P-929	8554200240FC	P-1165
			68,488,638.78	**1,559,052.17**			
FOURTH QUARTER OF CY 2014							
AIG AUSTRALIA LIMITED	2573	24-Dec-14	20,818,194.78	469,098.33	P-1163	F6121405507000	P-1165
	2467	17-Nov-14	17,136,161.44	392,853.09	P-1060	F61030290287000	P-1165
AIG EUROPE	2461	31-Oct-14	93,751.20	2,088.00	P-1054	S06430008E5A01	P-1165

LIMITED / CHARTIS EUROPE S.A.	2503	24-Nov-14	108,590.37	2,422.00	P-1095	S064325059 F301	P-1165
AIG INSURANCE COMPANY CHINA LIMITED	2457	29-Oct-14	273,825.13	6,241.74	P-1050	F61027057710000	P-1165
	2566	24-Dec-14	428,919.42	9,590.00	P-1156	F61218034329000	P-1165
AIG KOREA INC.	2449	24-Dec-14	45,667,836.52	1,019,598.94	P-1042	PDDTS00000106014 1110001410290076	P-1165
AIG TAIWAN INSURANCE CO., LTD.	2538	13-Dec-14	807,982.23	17,985.91	P-1128	2014121000071636	P-1165
	2387	07-Oct-14	696,166.45	15,957.97	P-980	2014092900094150	P-1165
	2470	07-Nov-14	371,059.43	8,449.12	P-1063	2014103000071993	P-1165
	2495	22-Nov-14	445,251.83	10,071.80	P-1087	2014112000076517	P-1165
AIG VIETNAM INSURANCE COMPANY LIMITED	2440	29-Oct-14	1,168,426.76	26,470.46	P-1033	7924000289JS	P-1165
			88,016,165.56	**1,980,827.36**			
TOTAL			**273,388,511.77**	**6,175,261.30**			

As for the *third essential element*, records show that Petitioner is an ROHQ licensed to engage in general administration and planning; business planning and coordination; sourcing/procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistic services; research and development services and product development; technical support and maintenance; data processing and communication; and business development[72].

Pursuant to the service agreements[73] entered into between Petitioner and its non-resident foreign client-affiliates doing business outside the Philippines, the services provided by Petitioner for the subject period of claim, included among others, information technology (IT) services, administrative and other certain services to assist the AIG group of companies. These services clearly fall within the scope of *"services other than processing, manufacturing or repacking of goods"*, hence, complying with the *third essential element.*

Lastly, as to the *fourth essential element,* out of the aforementioned service agreements, only the following have a provision as to where the services are to be performed by the Petitioner, to wit:

COMPANY NAME	SERVICE AGREEMENT	SERVICE PROJECT LOCATION	Exhibit
LEXINGTON/LEXINGTON INSURANCE COMPANY	Statement of Work	Chartis Technology and Operations Management Corporation (Philippines) Ground, 6th, 7th and 8th Floors, The Paragon Corporate Center Madrigal Business Park Alabang, Muntinlupa City, Philippines	P-186, Docket, Vol. 6, p. 2615

[72] *Id.* at Note 2, pp. 796 to 798, Exhibits "P-1" to "P-3".

[73] Exhibits "P-123", "P-132", "P-135", "P-137", "P-145", "P-146", "P-160", "P-161", "P-163", "P-165", "P-169", "P-179", "P-185", "P-186", "P-188", and "P-152".

No other document was presented by Petitioner to prove that the services it rendered to its other non-resident foreign client-affiliates doing business outside the Philippines were performed in the Philippines.

In fine, only Petitioner's sales of services to "Lexington/Lexington Insurance Company" in the amount of ₱3,450,608.35 (US$79,255.88) qualifies for VAT zero-rating under Section 108(B)(2), in relation to Section 113(A)(2), (B)(1), (2)(c) and (3), both of the NIRC of 1997, as amended.

Accordingly, out of the ₱2,086,692,750.89 zero-rated sales/receipts declared in Petitioner's 2014 Quarterly VAT Returns, only the amount of ₱10,852,469.06 qualifies for VAT zero-rating, in compliance with the *fourth and fifth requisites*:

COMPANY NAME	O.R. NO.	DATE	AMOUNT IN PHP	AMOUNT IN USD	EXHIBIT	INWARD REMITTANCE REFERENCE NO.	EXHIBIT
Zero-rated Sales under Section 108(B)(2) of the NIRC of 1997, as amended							
LEXINGTON INSURANCE COMPANY	BPO-1858	10-Jan-14	2,549,181.81	58,959.88	P-220	5687800008 FC / 5689200008FC	P-1164
	BPO-1914	07-Feb-14	901,426.54	20,296.00	P-276	6847300030FC	P-1164
		Subtotal	**3,450,608.35**	**79,255.88**			
Zero-rated Sales under Section 108(B)(3) of the NIRC of 1997, as amended							
AIG Shared Services - Business Processing, Inc.	BPO-1916	06-Feb-14	7,401,860.71	166,655.35	P-278	8970000063	P-1166
		TOTAL	**10,852,469.06**	**245,911.23**			

Having found that Petitioner had VAT zero-rated sales/receipts *only* in the total amount of ₱10,852,469.06 for the subject period of claim, there is only a partial compliance with *fourth* and *fifth* requisites for the grant of refund or tax credit of input VAT in the instant case.

The Court shall then proceed to determine whether Petitioner complied with the remaining requisites pertaining to the input VAT being claimed for refund or issuance of a tax credit certificate

Claimed Input VAT Not Transitional Input Taxes

The claimed input taxes do *not* appear to be transitional input taxes, as understood under Section 111(A) of the NIRC of 1997, as amended, to wit:

"SEC. 111. *Transitional/Presumptive Input Tax Credits.* –

(A) *Transitional Input Tax Credits.* – A person who becomes liable to value-added tax or any person who elects to be a VAT-registered person shall, subject to the filing of an inventory according to the rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, be allowed input tax on his beginning inventory of goods, materials and supplies equivalent to two percent (2%) of the value of such inventory or the actual value-added tax paid on such goods, materials and supplies, whichever is higher, which shall be creditable against the output tax."

Transitional input tax credit operates to benefit newly VAT-registered persons, whether or not they previously paid taxes in the acquisitions of their beginning inventory of goods, materials and supplies. During the period of transition from non-VAT to VAT status, the transitional input tax credit serves to alleviate the impact of the VAT on the taxpayer.[74]

Since there is no showing that the claimed input VAT are transitional input VAT, Petitioner has complied with the *sixth* requisite for the grant of an input VAT refund.

Input VAT Being Claimed were Due or Paid

In its Quarterly VAT Returns for CY 2014, Petitioner reflected available input VAT in the total amount of ₱50,253,294.16, arising from its amortization of input VAT on purchases of capital goods exceeding ₱1 million, domestic purchases of goods other than capital goods and domestic purchases of services. Since Petitioner had likewise incurred an output tax due for the same period amounting to ₱5,348,324.79, Petitioner's excess input tax amounted only to ₱44,904,969.37, computed as follows:

	1st Quarter *(Exhibit "P-9")*[75]	2nd Quarter *(Exhibit "P-10")*[76]	3rd Quarter *(Exhibit "P-11")*[77]	4th Quarter *(Exhibit "P-12")*[78]	CY 2014
Input Tax Deferred on Capital Goods exceeding ₱1 Million from Previous Quarter	₱ 3,213,881.34	₱ 3,062,741.41[79]	₱ 2,752,398.26	3,528,541.31	3,213,881.34

[74] *Fort Bonifacio Development Corporation vs. Commissioner of Internal Revenue*, G.R. Nos. 158885 and 170680, April 2, 2008.

[75] *Id.* at Note 2, pp. 870-871.

[76] *Id.*, pp. 872-873.

[77] *Id.*, pp. 874-875.

[78] *Id.*, pp. 876-877.

[79] The input VAT carried over was lower by ₱19,148.93.

Add: Input Tax on Capital Goods exceeding ₱1 Million Purchased this Quarter	179,825.06	136,315.43	1,150,397.17	1,820,604.46	3,287,142.12
Less: Input Tax on Purchases of Capital Goods exceeding ₱1 Million deferred for the succeeding period	3,081,890.34	2,752,398.26	3,528,541.31	4,851,647.18	4,851,647.18
Amortization of Input Tax on Capital Goods exceeding ₱1 Million	₱ 311,816.06	₱ 446,658.58	374,254.12	497,498.59	1,649,376.28
Add: Current Input Tax on:					
Domestic Purchases of Goods Other than Capital Goods	1,655,621.41	332,205.86	422,514.93	583,310.82	2,993,653.02
Domestic Purchase of Services	12,320,419.12	11,218,322.86	8,418,766.01	13,652,756.87	45,610,264.86
Total Available Input Tax	**₱14,287,856.59**	**₱11,997,187.30**	**9,215,535.06**	**14,733,566.28**	**50,253,294.16**
Less: Output Tax Due	1,685,439.94	1,149,423.43	1,300,766.92	1,212,694.50	5,348,324.79
Excess Input Tax	**₱12,602,416.65**	**₱10,847,763.87**	**7,914,768.14**	**13,520,871.78**	**44,904,969.37**

Out of the excess input VAT of ₱44,904,969.37 for CY 2014, Petitioner is claiming refund only in the amount of ₱43,912,521.20 alleging that the same is attributable to its zero-rated sales of services for the same period.

In support of its claim for refund/issuance of tax credit certificate, Petitioner submitted its Summary List of Purchase Transaction Relief[80] and the related suppliers' official receipts and invoices, and other documents[81], which were all examined by the ICPA.

The results of the ICPA's verification of Petitioner's reported input VAT of ₱50,253,294.16 are summarized as follows:[82]

Findings	Input VAT	Reference to ICPA Report - *Exhibit P-194*	Exhibit
Total Input VAT with No Noted Exceptions	₱ 44,215,699.38	Annex H	P-1169 to P-1869 (except for Exhibits under Annex O)
With Noted Exceptions:			
1. Purchase of service supported by VAT OR which did not show the VAT amount separately	15,544.39	Annex I	P-1870 to P-1874
2. Invoices/official receipts which are out of period	1,133,647.80	Annex J	P-1875 to P-1915
3. Invalid supporting documents	3,478,882.99	Annex K	P-1916 to P-1996
4. No original copies of the supporting documents examined	3,188.57	Annex L	P-1997
5. Incorrect TIN	139,615.72	Annex M	P-1998 to P-1999
6. No TIN indicated	50,425.20	Annex N	P-2000 to P-2001
7. Purchase of services duly supported by VAT official receipts but with alteration on the TIN of the Company	374,624.42	Annex O	P-1201 to P-1204; P-1295 to P-1208; P-1360 to P-1362; P-1410 to P-1419; P-1466 to P-1471; P-

[80] Exhibits "P-2002 to P-2013".
[81] Exhibits "P-1169 to P-2001".
[82] *Id.* at Note 2, pp. 566 to 567, Exhibit "P-194".

			1513 to P1514; P-1568 to P-1583; P-1647 to P-1652; P-1698 to P-1755; P-1812; and P-1837
8. No supporting documents	841,665.65	Annex P	
Subtotal	6,037,594.74		
Total Input VAT per Returns as accounted for by the ICPA	**₱50,253,294.12**[83]		

As correctly found by the ICPA, the claimed input tax due or paid of ₱6,037,594.74 should be disallowed for not being properly substantiated by VAT invoices (for domestic purchases of goods) and official receipts (for domestic purchases of services) as prescribed under Sections 110(A) and 113(A) and (B), 237 and 238 of the NIRC of 1997, as amended, in relation to Sections 4.110-2, 4.110-8 and 4.113-1 of RR No. 16-05, as amended.

Furthermore, Petitioner's claimed input tax paid in the amount of ₱960,387.95 related to its domestic purchases of services, should likewise be disallowed because the supporting official receipts do not show the VAT component separately from the purchase amount, which is in violation of the earlier quoted Section 113(B)(2)(a) of the NIRC of 1997, as amended, as implemented by Section 4.113-1(B)(2)(a) of RR No. 16-05, as amended. Below is the breakdown of the additional input VAT disallowance of ₱960,387.95:

Supplier's Name	Document Type and Number	Document Date	Input VAT	Exhibit No.
RUBICON PRINT AND GRAPHICS INC.	OR 7814	10-Jan-14	₱ 1,178.64	P-1172
MARSMAN DRYSDALE TRAVEL, INC.	OR 354246	10-Jan-14	4,267.99	P-1225
MARSMAN DRYSDALE TRAVEL, INC.	OR 354245	10-Jan-14	467.70	P-1226
NEXUS TECHNOLOGIES INC.	OR 49421	12-Feb-14	341,966.94	P-1231
FUJI XEROX PHILIPPINES, INC.	OR 199411	14-Feb-14	903.44	P-1260
FUJI XEROX PHILIPPINES, INC.	OR 199410	07-Feb-14	2,471.66	P-1261
MARSMAN DRYSDALE TRAVEL, INC.	OR 356191	07-Feb-14	4,730.94	P-1262
MARSMAN DRYSDALE TRAVEL, INC.	OR 356190	07-Feb-14	540.00	P-1263
MARSMAN DRYSDALE TRAVEL, INC.	OR 356192	07-Feb-14	2,169.01	P-1264
MARSMAN DRYSDALE TRAVEL, INC.	OR 356620	21-Feb-14	108.00	P-1265
MARSMAN DRYSDALE TRAVEL, INC.	OR 356622	21-Feb-14	8,685.61	P-1266
MARSMAN DRYSDALE TRAVEL, INC.	OR 356622	21-Feb-14	160.43	P-1266
MARSMAN DRYSDALE TRAVEL, INC.	OR 356621	21-Feb-14	4,860.00	P-1267
RG MEDITRON INC	OR 05042	13-Mar-14	34,821.43	P-1301
INNOVE COMMUNICATIONS INC.	OR 411475	10-Mar-14	15,388.82	P-1309
INNOVE COMMUNICATIONS INC.	OR 412166	14-Mar-14	15,221.49	P-1310
COLLABERA SOLUTIONS PRIVATE LIMITED	OR 0581	08-Apr-14	13,046.40	P-1354
FUJI XEROX PHILIPPINES, INC.	OR 204987	25-Apr-14	1,836.86	P-1355
FUJI XEROX PHILIPPINES, INC.	OR 204988	25-Apr-14	2,196.45	P-1356
COLLABERA SOLUTIONS PRIVATE LIMITED	OR 0624	30-May-14	5,097.60	P-1403
PRIME TECHNOLOGY SPECIALISTS INC	OR 8104	16-May-14	10,418.81	P-1404

[83] With minor difference of ₱.04 as compared to the reported amount of ₱50,253,294.16.

JOE RILEY & ASSOCIATES INC.	OR 0034	11-Jun-14	123,195.46	P-1445
WVC DEVELOPMENT CORPORATION	OR 9586	23-Jun-14	141,428.57	P-1458
FUJI XEROX PHILIPPINES, INC.	OR 211978	27-Jun-14	3,514.88	P-1459
FUJI XEROX PHILIPPINES, INC.	OR 209127	06-Jun-14	1,836.86	P-1460
FUJI XEROX PHILIPPINES, INC.	OR 211979	27-Jun-14	2,506.17	P-1461
FUJI XEROX PHILIPPINES, INC.	OR 211979	25-Jun-14	326.31	P-1461
MARSMAN DRYSDALE TRAVEL, INC.	OR 362959	24-Jun-14	1,404.00	P-1462
MARSMAN DRYSDALE TRAVEL, INC.	OR 362187	09-Jun-14	8,403.19	P-1463
COLLABERA SOLUTIONS PRIVATE LIMITED	OR 0691	31-Jul-14	33,052.80	P-1487
JOE RILEY & ASSOCIATES INC.	OR 0042	04-Jul-14	37,404.10	P-1507
MARSMAN DRYSDALE TRAVEL, INC.	OR 363643	14-Jul-14	972.00	P-1508
FUJI XEROX PHILIPPINES, INC.	OR 214036	08-Aug-14	801.23	P-1565
P3OPLE4U, INC.	OR 0738	26-Sep-14	58,602.85	P-1643
FUJI XEROX PHILIPPINES, INC.	OR 221752	10-Oct-14	1,836.86	P-1692
FUJI XEROX PHILIPPINES, INC.	OR 221753	10-Oct-14	845.60	P-1693
P3OPLE4U, INC.	OR 0751	31-Oct-14	56,059.78	P-1694
FUJI XEROX PHILIPPINES, INC.	OR 227921	23-Dec-14	4,352.04	P-1804
FUJI XEROX PHILIPPINES, INC.	OR 227920	23-Dec-14	4,014.23	P-1805
GOLDEN ARIES AIRE SYSTEM INCORPORATED	OR 1541	19-Dec-14	3,582.00	P-1806
MARSMAN DRYSDALE TRAVEL, INC.	OR 372308	05-Dec-14	2,224.80	P-1807
MARSMAN DRYSDALE TRAVEL, INC.	OR 372308	05-Dec-14	(222.00)	P-1807
MARSMAN DRYSDALE TRAVEL, INC.	OR 372310	05-Dec-14	3,708.00	P-1808
TOTAL			**₱960,387.95**	

Thus, based on the foregoing, Petitioner complied with the *seventh* requisite, *i.e.*, the input VAT was due or paid, but only to the extent of ₱43,255,311.47, computed as follows:

Total Input VAT per Quarterly VAT Returns for CY 2014	₱ 50,253,294.16
Less: Disallowances	
Per ICPA Report	₱ 6,037,594.74
Per this Court's further verification	960,387.95
Total Disallowances	₱ 13,338,755.65
Valid Input VAT Due or Paid	**₱43,255,311.47**

Input VAT Not Applied Against Any Output Tax During and in the Succeeding Quarters is Only ₱37,906,986.68

Deducting the output tax liability for 2014 of Petitioner from these available input VAT yields an excess input VAT due or paid amounting to ₱37,906,986.68, as shown below:

Valid Input VAT Due or Paid	₱ 43,255,311.47
Less: Output VAT Due for 2014	5,348,324.79

Excess Valid Input VAT Due or Paid	**₱37,906,986.68**

Although the said amount of ₱37,906,986.68 formed of the input VAT claim of ₱43,912,521.20 carried-over by Petitioner in its succeeding Quarterly VAT Returns,[84] the same remained unutilized until it was deducted as *"VAT Refund/TCC Claimed"* in its Quarterly VAT Return for the first quarter of CY 2016.[85] Therefore, the subject claim no longer formed part of the excess input VAT of ₱55,476,003.61[86] as of the end of the first quarter of CY 2016. Hence, Petitioner is, in effect, deemed to have fulfilled the *eighth* requisite for the refund/tax credit of input VAT.

Determined Excess Input Taxes Due or Paid Must Still be Allocated to the Valid Zero-rated or Effectively Zero-rated Sales/Receipts to Ascertain the Refundable Amount

To reiterate, the *ninth* requisite is to the effect that the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, 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 volume.

As stated earlier, for the CY 2014, Petitioner's reported total sales/receipts consisted of both zero-rated sales/receipts and VATables sales/receipts. However, considering that Petitioner's input VAT cannot be directly identified with specific sales, We shall allocate the excess valid input VAT of ₱37,906,986.68 proportionately on the basis of the volume of its sales, as follows:

Valid Zero-Rated Sales/Receipts Per this Court's Verification	₱ 10,852,469.06
Divided by the Total Sales/Receipts per 2014 Quarterly VAT Returns	÷ 2,131,262,124.17
Multiplied by Valid Excess Input VAT Due or Paid	× 37,906,986.68
Excess Valid Input VAT Due or Paid Allocated to Zero-Rated Sales/Receipts	**₱ 193,023.84**

Such being the case, Petitioner has refundable excess input VAT in the amount of ₱193,023.84 which can be attributed to its valid zero-rated sales/receipts amounting to ₱10,852,469.06.

[84] Exhibits "P-2015 to P-2018" (1st to 4th Quarters of CY 2015), and Exhibit P-2019 (1st Quarter of CY 2016).

[85] Exhibit "P-2019", Line 23D.

[86] Exhibit "P-2019", Line 29.

WHEREFORE, in light of the foregoing discussions, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, Respondent is **ORDERED** to refund or to issue a tax credit certificate in favor of Petitioner in the amount of **₱193,023.84**, representing the latter's unutilized excess input VAT attributable to its zero-rated sales/receipts for the four (4) quarters of CY 2014.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

MARIA ROWENA MODESTO- SAN PEDRO
Associate Justice

ATTESTATION

I attest that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ERLINDA P. UY
Associate Justice
Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice