REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

MD NABUNTURAN AGRI-VENTURES, INC., *Petitioner,*	**CTA Case No. 10626**
- versus -	Members: **RINGPIS-LIBAN*,** *P.J.,* **REYES-FAJARDO,** and **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JAN 23 2026 4:00 p.m.

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DECISION

REYES-FAJARDO, *J*.:

The *[Amended] Petition for Review,* filed on October 22, 2021,[1] by MD Nabunturan Agri-Ventures, Inc. seeks a refund in the amount of ₱3,395,898.97, representing its alleged unutilized input value-added tax (VAT) for taxable year (TY) 2019.[2]

PARTIES

Petitioner MD Nabunturan Agri-Ventures, Inc. is a corporation duly organized and existing under the laws of the Republic of the Philippines.[3] It is registered with the Bureau of Internal Revenue (BIR), Revenue District No. 112, under Taxpayer Identification

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*Designated as Special Member.

1 The *Petition for Review* was initially filed *via* electronic mail on October 6, 2021 at 4:35 p.m., and the hardcopy was subsequently filed on October 22, 2021, Docket - Vol. I, pp. 6 and 11, respectively.

2 Summary of the Case, Pre-Trial Order dated March 24, 2023, Docket - Vol. VI, p. 3056.

3 Exhibit "P-2," Docket - Vol. VI, pp. 3280 to 3287; Exhibits "P-11," "P-12," and "P-13," BIR Records (Exhibit "R-6"), pp. 131 to 163.

Number (TIN) 005-211-977-000, with address at Cabidianan, Nabunturan Comval Province.[4] Petitioner was established with the primary purpose, among others, of engaging in the planting and cultivation of cavendish bananas and other farm products.[5] It is also registered with the Bureau of Customs (BOC), as evidenced by BOC Certificate of Registration (CCN: EX0000667633) dated April 30, 2018.[6] Furthermore, it is a Board of Investments-registered entity, as shown by Certificate of Registration No. 2019-264 dated December 2, 2019.[7]

Respondent Commissioner of Internal Revenue is the public officer duly authorized to decide cases involving claims for tax refunds pursuant to Section 112(C) of the 1997 National Internal Revenue Code (NIRC), as amended.[8]

FACTS

Petitioner filed its Amended *Quarterly VAT Returns* (BIR Form No. 2550-Q) for the 1st to 4th quarters of TY 2019 on the following dates:

Period (Taxable Year 2019)	Date of Filing	Reference No.
1st Quarter (January 1 to March 31)[9]	August 20, 2020	102000037465300
2nd Quarter (April 1 to June 30)[10]	August 20, 2020	102000037470407
3rd Quarter (July 1 to September 30)[11]	August 20, 2020	102000037471648
4th Quarter (October 1 to December 31)[12]	August 20, 2020	102000037472472

On May 11, 2021, petitioner filed an *Application for Tax Credits/Refunds* (BIR Form No. 1914)[13] with the BIR VAT Credit Audit Division (BIR-VCAD), claiming unutilized input VAT amounting to ₱3,787,685.29, for the period from January 1, 2019 to December 31,

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4 Exhibit "P-5," Docket – Vol. VI, p. 3293.
5 Exhibit "P-2," Docket – Vol. VI, at p. 3281; Exhibit "P-12", BIR Records (Exhibit "R-6"), at p. 161.
6 Exhibit "P-3", Docket – Vol. VI, p. 3288.
7 Exhibit "P-4", Docket – Vol. VI, p. 3289.
8 Par. 2, Joint Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. VI, pp. 3028 to 3029.
9 Exhibit "P-16," BIR Records (Exhibit "R-6"), pp. 125 to 126.
10 Exhibit "P-16-a," BIR Records (Exhibit "R-6"), pp. 123 to 124.
11 Exhibit "P-16-b," BIR Records (Exhibit "R-6"), pp. 121 to 122.
12 Exhibit "P-16-c," BIR Records (Exhibit "R-6"), pp. 119 to 120.
13 Exhibit "P-15," BIR Records (Exhibit "R-6"), p. 128.

2019, together with attached *Revised Checklist of Mandatory Requirements on Claims for VAT Credit/Refund*.[14]

On May 11, 2021, the Chief of BIR-VCAD, Amelita A. Escober, issued *Tax Verification Notice* No. TVN201800143087 to petitioner,[15] authorizing Revenue Officers Fei Ann Marie S. Nazar and Kevin L. Fernandez to verify the supporting documents and/or pertinent records related to petitioner's claim for VAT refund covering the subject period.

On August 4, 2021, Assistant Commissioner of the Assessment Service, Maria Luisa I. Belen, issued a *VAT Refund Notice* to petitioner, denying the claim in its entirety for lack of factual and legal basis.[16]

On October 7, 2021,[17] petitioner filed its *Petition for Review via* electronic mail, while the hardcopy was submitted on October 22, 2021.[18] The case was initially raffled to the Court's Third Division.

In the Resolution dated November 24, 2021,[19] the Court ordered petitioner to comply with Section 6 (a) and (b), Rule 7 of A.M. No. 19-10-20-SC.

On April 18, 2022, petitioner filed its *Compliance Manifestation*,[20] attaching the *Amended Petition for Review*,[21] which the Court duly noted in its Resolution dated May 5, 2022.[22] The Court then directed petitioner to take appropriate action in response to the observations made therein.

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14 Exhibit "R-2," BIR Records (Exhibit "R-6"), p. 127.
15 Exhibit "R-1," BIR Records (Exhibit "R-6"), p. 130.
16 Par. 3, Joint Stipulation of Facts, JSFI, Docket - Vol. VI, p. 3029; Exhibits "P-1" and "R-5," BIR Records (Exhibit "R-6"), pp. 263 to 264.
17 The *Petition for Review* was filed through electronic mail on October 6, 2021 at 4:35 p.m., Docket - Vol. I, p. 6, or filed after the 4:30 p.m. cut-off time, hence, considered as filed the next working day pursuant to par. 2, CTA *En Banc* Resolution No. 4-2021 dated February 24, 2021.
18 Docket - Vol. I, pp. 11 to 44.
19 Docket - Vol. III, pp. 1421 to 1422.
20 Docket - Vol. III, pp. 1423 to 1425.
21 Docket - Vol. III, pp. 1427 to 1463.
22 Docket - Vol. VI, pp. 2890 to 2891.

On May 26, 2022, petitioner filed its *Compliance Manifestation [To Resolution Dated 05 May 2022]*,[23] which the Court noted in its Resolution dated June 20, 2022.[24] In the same resolution, the Court ordered petitioner to submit an *Amended Secretary's Certificate* reflecting the correct name of petitioner, as well as a USB containing scanned copies of the voluminous documents attached to the *Amended Petition for Review*, in PDF format.

In a Resolution dated June 30, 2022,[25] CTA Case No. 10626 was transferred from the Third Division to the Second Division of the Court.

On July 11, 2022, petitioner filed its *Compliance Manifestation [To Resolution Dated 20 June 2022]*,[26] with an attached *Amended Secretary's Certificate*,[27] which the Court noted in its Resolution dated August 16, 2022.[28]

On October 10, 2022, respondent filed his *Answer (to Petitioner's Petition for Review dated 06 October 2021)*.[29]

On October 17, 2022, respondent transmitted the *BIR Records* of this case, consisting of 264 pages in one (1) folder.[30]

On January 10, 2023, respondent filed his Pre-Trial Brief,[31] while petitioner submitted its Pre-Trial Brief on February 3, 2023.[32] On February 8, 2023, the Pre-Trial Conference was held.[33]

On March 10, 2023, the parties filed their *Joint Stipulation of Facts and Issues*,[34] which the Court approved in its Resolution dated

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23 Docket – Vol. VI, pp. 2892 to 2895.
24 Docket – Vol. VI, pp. 2914 to 2916.
25 Docket – Vol. VI, p. 2917.
26 Docket – Vol. VI, pp. 2918 to 2921.
27 Docket – Vol. VI, pp. 2923 to 2925.
28 Docket – Vol. VI, pp. 2929 to 2930.
29 Docket – Vol. VI, pp. 2950 to 2960.
30 *Compliance* (undated), Docket – Vol. VI, pp. 2981 to 2983.
31 Docket – Vol. VI, pp. 2986 to 2989.
32 Docket – Vol. VI, pp. 2992 to 3016.
33 Notice of Pre-Trial Conference dated October 11, 2022, Docket – Vol. VI, pp. 2972 to 2973; Minutes of the hearing held on, and Order dated, February 8, 2023, Docket – Vol. VI, pp. 3018, and 3020 to 3021, respectively.
34 Docket – Vol. VI, pp. 3028 to 3034.

March 15, 2023.[35] Based on this, the Court issued a Pre-Trial Order dated March 24, 2023.[36]

During the trial, petitioner presented the following witnesses: (1) Ms. Sharon D. Sido,[37] petitioner's Accounting Manager; (2) Mr. Joseph P. Basquina,[38] petitioner's Senior Accounting Staff; (3) Mr. Marlon D. Dumail,[39] petitioner's Information and Communication Technology (ICT) Department Manager; and (4) Mr. Peter Raymond T. Santos,[40] the Court-commissioned Independent Certified Public Accountant (ICPA Santos).[41]

In a Resolution dated May 29, 2023, CTA Case No. 10626 was transferred from the Second Division to the Third Division of the Court.[42]

On June 29, 2023, the *Report* of ICPA Santos was submitted to the Court.[43]

On August 2, 2023, petitioner filed its *Formal Offer of Evidence*,[44] to which respondent filed his *Comment Re: Petitioner's Formal Offer of Evidence* on August 23, 2023.[45]

By Resolution dated October 13, 2023,[46] the Court admitted all of petitioner's offered exhibits.

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35 Docket - Vol. VI, p. 3037.
36 Docket - Vol. VI, pp. 3056 to 3061.
37 Exhibit "P-48," Docket - Vol. III, pp. 1464 to 1478; Minutes of the hearing held on, and Order dated, April 13, 2023, Docket - Vol. VI, pp. 3087 to 3089.
38 Exhibit "P-49," Docket - Vol. VI, pp. 2901 to 2912; Minutes of the hearing held on, and Order dated, May 4, 2023, Docket - Vol. VI, pp. 3090 to 3091.
39 Exhibit "P-50," Docket - Vol. V, pp. 2861 to 2869; Minutes of the hearing held on, and Order dated, July 6, 2023, Docket - Vol. VI, pp. 3251, and 3165 to 3616, respectively.
40 Exhibit "P-52," Docket - Vol. VI, pp. 3168 to 3182; Minutes of the hearing held on, and Order dated, July 6, 2023, Docket - Vol. VI, pp. 3250 and 3252 to 3253, respectively.
41 *Oath of Commission* dated April 12, 2023, Docket - Vol. VI, p. 3084; Minutes of the hearing held on, and Order dated, April 12, 2023, Docket - Vol. VI, pp. 3083, and 3085 to 3086, respectively.
42 Docket- Vol. VI, p. 3064
43 Exhibit "P-51," Docket - Vol. VI, pp. 3102 to 3164.
44 Docket - Vol. VI, pp. 3254 to 3278.
45 Docket - Vol. VI, pp. 3328 to 3330.
46 Docket - Vol. VI, pp. 3335 to 3336.

For his part, respondent presented his sole witness, Revenue Officer (RO) Jennefer Coronel.[47]

On February 23, 2024, respondent filed his *Formal Offer of Evidence*,[48] to which petitioner filed its *Comment (to Respondent's Formal Offer of Evidence)* on March 7, 2024.[49] Through a Resolution dated July 4, 2024,[50] the Court admitted all of respondent's offered exhibits.

In the Resolution dated September 13, 2024, the case was submitted for decision,[51] taking into account Petitioner's *Memorandum* filed on August 12, 2024[52] and respondent's *Memorandum* filed on August 21, 2024.[53]

ISSUE

Whether petitioner is entitled to a refund in the amount of Three Million Three Hundred Ninety-Five Thousand Eight Hundred Ninety-Eight and 97/100 Pesos (₱3,395,898.97), representing its unutilized input VAT attributable to its zero-rated sales for TY 2019.[54]

ARGUMENTS

Petitioner seeks a VAT refund for TY 2019 in the amount of ₱3,395,898.97, asserting full compliance with all the requisites for a refund and submission of the necessary supporting documents. Petitioner also maintains that the invoices it issued for its zero-rated transactions were valid, pursuant to a duly issued Permit to Use Computerized Accounting System (PTUCAS), in accordance with Sections 237 and 238 of the NIRC, as amended. It further argues that the modification of the header in its system-generated sales invoice (SI) from *"Charge Sales Invoice"* to *"Commercial Invoice"* does not

47 Exhibit "R-7," Docket - Vol. VI, pp. 2965 to 2971; Minutes of the hearing held on, and Order dated, February 15, 2024, Docket - Vol. VI, pp. 3337, and 3340 to 3341, respectively.
48 Docket - Vol. VI, pp. 3342 to 3345.
49 Docket - Vol. VI, pp. 3348 to 3352.
50 Docket - Vol. VII, pp. 3356 to 3357.
51 Minute Resolution dated September 13, 2024, Docket - Vol. VII, p. 3419.
52 Docket - Vol. VII, pp. 3358 to 3394.
53 Docket - Vol. VII, pp. 3397 to 3417.
54 See Issue to be Resolved, JSFI, Docket - Vol. VI, p. 3029.

constitute a system enhancement that would result in a change in the system's release and/or version number.

Respondent counters that the denial of petitioner's refund claim is warranted. It argues that petitioner failed to comply with the requirements under Section 238 of the NIRC, as amended. Moreover, it insists that the commercial invoices used were not covered by the BIR approved PTUCAS. Finally, respondent maintains that the petition should be dismissed for failure to substantiate the administrative claim for refund.

RULING

The *Amended Petition for Review* lacks merit.

The Court has jurisdiction over CTA Case No. 10626.

Section 7(a)(1) and (2) of RA No. 1125,[55] as amended by RA No. 9282, in relation to Section 3(a)(2), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA),[56] vests the Court in Division with jurisdiction over respondent's decisions or inaction involving claims for refund of national internal revenue taxes, among others:

> Sec. 7. Jurisdiction. - The CTA shall exercise:
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> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> 1. **Decisions of the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue**

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55 An Act Creating the Court of Tax Appeals

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

> **taxes,** fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
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> 2. **Inaction by the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes,** fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, **where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;**[57]
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> ...

Before the Court in Division may exercise jurisdiction over cases involving the refund or credit of unutilized input VAT, strict compliance with Section 112(A) and (C) of the NIRC, as amended by Republic Act (RA) No. 10963,[58] otherwise known as the Tax Reform for Acceleration and Inclusion Law (TRAIN), is required. These provisions outline the requirements for claiming such refund:

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

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57 Boldfacing supplied.

58 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.

> 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.
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> ...
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> (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.

Section 112(A) of the NIRC, as amended, requires a taxpayer to file an administrative claim for input VAT refund within two (2) years from the close of the taxable quarter in which the zero-rated or effectively zero-rated sales were made.

Section 112(C) of the same Code grants respondent a period of ninety (90) days from date of submission of the official receipts or invoices and other supporting documents, to act on the taxpayer's administrative claim for input VAT refund. At present, these documents are submitted upon the filing the taxpayer's administrative claim for an input VAT refund.[59] Thereafter, the taxpayer, may appeal to the Court, within thirty (30) days either: a) from receipt of respondent's adverse decision within the ninety (90)-day period; or b) after the lapse of the ninety (90)-day period, whichever comes first.

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59 See *Zuellig-Pharma Asia Pacific Ltd. Phils. ROHQ v. Commissioner of Internal Revenue (CIR),* G.R. No. 244154, July 15, 2020. Beginning June 11, 2014, or upon effectivity of Revenue Memorandum Circular (RMC) No. 54-2014, the documents are deemed complete upon filing of the taxpayer's administrative claim for input VAT refund.

Applying the two (2)-year prescriptive period, petitioner timely filed its administrative claim for input VAT refund covering the 1st to 4th quarters of TY 2019 on May 11, 2021, as shown below:

Period Covered (2019)	Close of the Taxable Quarter	Last Day to File Administrative Claim	Date of filing of administrative claim for refund
1st Quarter	March 31, 2019	March 31, 2021 (extended to June 14, 2021)	May 11, 2021[60]
2nd Quarter	June 30, 2019	June 30, 2021	
3rd Quarter	September 30, 2019	September 30, 2021	
4th Quarter	December 31, 2019	December 31, 2021	

To clarify, the *original* deadline for filing the administrative claim for the 1st quarter of TY 2019 was March 31, 2021. However, due to the Coronavirus Disease 2019 (COVID-19) pandemic, statutory deadlines for the filing and submission of documents were extended pursuant to Section 4(tt) of RA No. 11494.[61] Specifically, the deadline for the filing of VAT refund claims for the calendar quarter ending March 31, 2021 was extended until April 12, 2021, [62] and

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60 Exhibits "P-15" and "R-2," BIR Records (Exhibit "R-6"), pp. 127 to 128.

61 AN ACT PROVIDING FOR COVID-19 RESPONSE AND RECOVERY INTERVENTIONS AND PROVIDING MECHANISMS TO ACCELERATE THE RECOVERY AND BOLSTER THE RESILIENCY OF THE PHILIPPINE ECONOMY, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES, otherwise known as *"Bayanihan to Recover As One Act"*.

...

(tt) Moving of statutory deadlines and timelines for the filing and submission of any document, the payment of taxes, fees, and other charges required by law, and the grant of any benefit, in order to ease the burden on individuals under CQ; ...

To implement the same, Revenue Regulations (RR) No. 27-2020 SUBJECT: Regulations Suspending the Filing and Ninety (90)-Day Processing of Value-Added Tax (VAT) Refund Claims Anchored Under Section 112 of the Tax Code of 1997, as Amended, in Relation to Section 4(tt) of Republic Act (R.A.) No. 11494, Otherwise Known as the "Bayanihan to Recover as One Act" dated October 6, 2020 was issued, where Section 5 thereof provides, in part, that "[i]f the deadline for the filing of the VAT refund claim falls within the ECQ or MECQ period, filing of the claim shall be extended for thirty (30) days after the lifting of the ECQ or MECQ. This applies to the affected areas of the processing offices or to the registered business address of the taxpayer-claimant where the restrictions are strictly enforced."

62 SUBJECT: EXTENSION OF THE DEADLINE FOR THE FILING OF APPLICATIONS AND SUSPENSION OF THE NINETY (90)-DAY PROCESSING OF VALUE-ADDED TAX (VAT) REFUND CLAIMS PURSUANT TO SECTION 112 OF THE TAX CODE OF 1997, AS AMENDED BY THE R.A. NO. 10963 (TRAIN LAW) WITH THE VAT CREDIT AUDIT DIVISION (VCAD). Revenue Memorandum Circular (RMC) No. 39-2021 dated March 18, 2021 provides that "xxx following the temporary closure of VCAD until March 28, 2021, in compliance with the existing health protocols for the mitigation of the COVID-19 pandemic, the filing of VAT Refund, where the two (2)-year period within which to file the claim falls on March 31, 2021, shall be extended until April 12, 2021."

subsequently, the deadline was further extended thirty (30) days from the lifting of the Enhanced Community Quarantine (ECQ).[63]

Meanwhile, the National Capital Region (NCR) was placed under Modified Enhanced Community Quarantine (MECQ) from April 12 to May 14, 2021, per Inter-Agency Task Force for the Management of Emerging Infectious Diseases (IATF) Resolutions Nos. 109-A and 113-A. It then transitioned to General Community Quarantine (GCQ) from May 15 to May 31, 2021, under Resolution No. 115-A. Counting thirty (30) days from May 15, 2021, petitioner had until June 14, 2021 to file its administrative claim. Thus, the filing of petitioner's administrative claim for input VAT refund for the 1st quarter of TY 2019 on May 11, 2021, was *within* the *extended* deadline.[64]

In fine, petitioner's administrative claim for refund of unutilized input VAT attributable to zero-rated sales covering the four (4) quarters of TY 2019, was timely filed on May 11, 2021.

As for petitioner's *judicial* claim for refund, the BIR has ninety (90) days from May 11, 2021, or until August 9, 2021, to inform the claimant of its decision thereon. There being no adverse decision received[65] by petitioner from the BIR as of August 9, 2021, its claim for input VAT refund was deemed denied by law. Counting another thirty (30) days from August 9, 2021, petitioner *initially* had until September 8, 2021 to appeal before the Court in Division.

However, on September 8, 2021, courts in the NCR remained physically closed due to the Supreme Court directives issued in response to the COVID-19 surge. These directives suspended the filing of pleadings and motions during the affected period, tolling the

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63 SUBJECT: Extension of the Deadline for the Filing of Position Papers, Replies, Protests, Documents and Other Similar Letters and Correspondences in Relation to Ongoing BIR Audit Investigations, and Filing of VAT Refund with VAT Credit Audit Division (VCAD). RMC No. 45-2021 was issued on April 5, 2021, which provides that the extended deadline for filing of VAT refund applications with the VCAD which falls due on April 12, 2021 per RMC No. 39-2021 is thirty (30) days from the lifting of the ECQ.

64 Exhibits "P-15" and "R-2," BIR Records (Exhibit "R-6"), pp. 127 to 128.

65 Petitioner received the BIR's adverse decision on its input VAT refund claim (VAT Refund Notice dated August 4, 2021) on September 6, 2021. See Par. 3, Joint Stipulation of Facts, JSFI, Docket - Vol. VI, p. 3029; Exhibits "P-1" and "R-5," BIR Records (Exhibit "R-6"), pp. 263 to 264. *Cf:* Annex A, *Petition for Review*, Docket - Vol. I, pp. 45 to 46.

reglementary period and preserving petitioner's right to judicial recourse:

Administrative Circular (AC) No.	*Date Issued*	*Subject/Content*
AC No. 119-2021	September 7, 2021	RE: Court Operations Beginning 8 September 2021 In view of the continued surge of confirmed COVID-19 cases in different variants, and considering that the proposed granular or localized lockdown will be pilot-tested in the National Capital Region (NCR) which is on Alert Level 4 (except the City of Marilla), upon instructions of Chief Justice Alexander G. Gesmundo, **ALL COURTS in the NCR, except the Supreme Court, shall remain PHYSICALLY CLOSED to court users until 30 September 2021**, notwithstanding the NCR will be under General Community Quarantine (GCQ) beginning 8 September 2021. ... **The time for filing and service of pleadings and motions during this period is SUSPENDED and shall resume after seven (7) calendar days counted from the first day of the physical reopening of the relevant court**, unless otherwise expressly ordered by the relevant court which shall consider the physical closure of the courts and the granular lockdowns.
AC No. 75-2021	Oct. 1, 2021	RE: Court Operations Beginning 4 October 2021 ... all appellate collegiate courts within the NCR, except the Supreme Court, shall, beginning 4 October 2021 until further notice, remain **PHYSICALLY CLOSED** to court users **EXCEPT** for urgent matters where in-court hearings may be deemed necessary, at the sound discretion of the Presiding Justice or the Chairpersons of the different divisions ... The time for filing and service of pleadings and motions during this period shall **REMAIN SUSPENDED** until further notice.
AC No. 83-2021	Oct. 18, 2021	RE: Court Operations Beginning October 20, 2021 until October 29, 2021

		Considering that the National Capital Region (NCR) has been placed under Alert Level 3 of the IATF's COVID-19 Alert Levels System, **all appellate collegiate courts within the NCR**, beginning October 20, 2021 until October 29, 2021, ... The suspension of the time for filing and service of pleadings and motions, regardless of the alert level or community quarantine, is **LIFTED. Pursuant to Administrative Circular No. 72-2021, the period for filing and service shall resume seven (7) calendar days from October 20, 2021. ...**[66]

Based on these circulars, all appellate collegiate courts in the NCR were physically closed from September 7, 2021, and reopened only on October 20, 2021. Accordingly, the filing of pleadings and motions resumed seven (7) calendar days from October 20, 2021 or on October 27, 2021.

As such, petitioner's timely filing of the *Petition for Review*, *via* electronic mail on October 7, 2021,[67] and in hard copy on October 22, 2021,[68] vested the Court in Division with jurisdiction over CTA Case No. 10626.

Merits of CTA Case No. 10626.

In *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue (Chevron)*,[69] the Supreme Court ruled that the following are the requisites for the successful prosecution of unused input VAT refund imputable to zero-rated sales under Section 112 of the NIRC, as amended: (1) the claim must be filed within two (2) years after the close of the taxable quarter when such sales were made; (2) the taxpayer is VAT-registered; (3) the taxpayer is engaged in zero-rated or effectively zero-rated sales; and (4) the creditable input tax due or paid must be attributable to such sales,

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66 Boldfacing supplied.

67 The *Petition for Review* was actually filed through electronic mail on October 6, 2021 at 4:35 p.m., Docket - Vol. I, p. 6, or which was after the 4:30 p.m. cut-off time. Hence, considered filed on the next working day pursuant to paragraph 2 of the CTA *En Banc* Resolution No. 4-2021 dated February 24, 2021.

68 Docket - Vol. I, pp. 11 to 44.

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

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

Following *Chevron,* there is no denying that petitioner is a VAT-Registered person.[70] Petitioner also timely filed its administrative and judicial claims for input VAT refund for TY 2019.[71] However, petitioner **failed** to establish that it is engaged in zero-rated or effectively zero-rated sales. There being no valid zero-rated sales from which input taxes may be attributed, the denial of petitioner's input VAT refund claim is in order.

The Court explains.

In petitioner's Amended Quarterly VAT Returns (BIR Form No. 2550-Q) for the TY 2019,[72] it reported total sales amounting to ₱238,287,317.73; of which, the amount of ₱236,238,398.39 were claimed as zero-rated sales pertaining to its sale and actual exportation of goods from the Philippines to a foreign country under Section 106(A)(2)(a)(1) of the NIRC, as amended, thus:

Taxable year 2019	**1st Quarter**	**2nd Quarter**	**3rd Quarter**	**4th Quarter**	**TOTAL**
Vatable sales	₱ 762,888.92	₱ 323,936.42	₱ 793,985.58	₱ 168,108.42	₱ 2,048,919.34
Zero-rated sales	50,360,758.06	64,384,084.72	56,725,872.29	64,767,683.32	236,238,398.39
Exempt sales	0.00	0.00	0.00	0.00	0.00
Total Sales	**₱ 51,123,646.98**	**₱64,708,021.14**	**₱57,519,857.87**	**₱64,935,791.74**	**₱238,287,317.73**

In support of the amount of ₱236,238,398.39 as zero-rated sales, petitioner presented its ***Commercial Invoices***[73] generated through its Computerized Accounting System (CAS).

Commercial invoices **cannot** validly substantiate petitioner's zero-rated sales. Law and jurisprudence both require sales (not commercial) invoices to validate a claimant's zero-rated sales.

70 Exhibit "P-5," Docket – Vol. VI, p. 3293.
71 See discussion on pages 7-13 of this decision.
72 Exhibits "P-16" to "P-16-c," BIR Records (Exhibit "R-6"), pp. 119 to 126.
73 Exhibits "P-29-13-1" to "P-29-14-53," USB (Exhibit "P-51-b").

In *Commissioner of Internal Revenue v. Filminera Resources Corporation (Filminera),*[74] the Supreme Court held that " ... to be entitled for the refund or tax credit [of unused input VAT], the taxpayer must not only prove the existence of zero-rated sales, but must also prove that the **zero-rated sales were issued valid invoice** or official receipts **pursuant to Sections** 113 (A) and (B), and **237 of the 1997 NIRC**, in relation to Section 4.113-1(B) of RR No. 16-2005. In Revenue Memorandum Circular No. 42-2003, the BIR clarified that **if the claim for refund or tax credit is based on the existence of zero-rated sales by the taxpayer but it fails to comply with the invoicing requirements in the issuance of sales invoices**, e.g. the term 'zero-rated sale' shall be written or printed prominently on the invoice or receipt, the claim for refund or tax credit shall be denied."

Filminera is plain in that zero-rated sales should be supported by a valid sales invoice. A commercial invoice is *not* a handy equivalent of a sales invoice. Particularly, RR No. 18-2012[75] discussed the difference, usage, and function between, *inter alia,* sales invoices and commercial invoices, in this wise:

> 2. **PRINCIPAL RECEIPTS/INVOICES** - for purposes of this regulations, **it is a written account evidencing the sale of goods** and/or services issued to customers in an ordinary course of business which necessary includes the following:
>
>   2.1 <u>**VAT SALES INVOICE**</u> - **for purposes of Value Added Tax (VAT) pursuant to Section 106 of the NIRC**, as amended, **it is a written account evidencing the sale of goods and/or properties issued to customers in an ordinary course of business, whether cash sales or on account (credit) which shall be the basis of the output tax liability of the seller** and the input tax claim of the buyer. **Cash Sales Invoices and Charge Sales Invoices fall under this definition.**
>
> ...
>
> 3. **SUPPLEMENTARY RECEIPTS/INVOICES** — for purposes of these Regulations, these are also known as <u>**COMMERCIAL INVOICES**</u>. It is a written account evidencing that a transaction has been made between the seller and the buyer of goods

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74 G.R. No. 236325, September 16, 2020. Boldfacing ours.

75 SUBJECT: Regulations in the Processing of Authority to Print (ATP) Official Receipts, Sales Invoices, and Other Commercial Invoices using the On-line ATP System and Providing for the Additional Requirements in the Printing Thereof.

> and/or services, forming part of the books of accounts of a business taxpayer **for recording, monitoring and control purposes.**
>
> **It is a document evidencing delivery, agreement to sell or transfer of goods and services** which includes but are not limited to delivery receipts, order slips, debit and/or credit memo, purchase order, job order, provisional/temporary receipt, acknowledgement receipt, collection receipt, cash receipt, bill of lading, billing statement, statement of account, and any other documents, by whatever name it is known or called, whether prepared manually (handwritten information) or pre-printed/pre-numbered loose-leaf (information typed using excel program or typewriter) or computerized as long as it is used in the ordinary course of business being issued to customers or otherwise.
>
> **Supplementary receipts/invoices, for purposes of Value-Added Tax, are not valid proof to support the claim of Input Taxes by buyers of goods and/or services.**[76]

RMC No. 2-2014[77] reiterated the provisions of RR No. 18-2012 and RMO No. 12-2013, and again drew the distinction between principal and supplementary invoices:

> Revenue Regulations No. 18-2012, Revenue Memorandum Order (RMO) No. 12-2013 **in relation to Sections 106**, 108, 113 and other pertinent provisions **of the National Internal Revenue Code (NIRC), as amended, mandate that:**
>
> 1. **Sales Invoice (Cash or Charge)** shall be issued as *Principal* evidence in the *sale of goods and/or properties;*
> 2. **Official Receipt** shall be issued as *Principal* evidence in the *sale of services and/or lease of properties;* and
> 3. **Commercial Receipts/Invoices** such as delivery receipts, order slips, purchase orders, provisional receipts, acknowledgment receipts, collection receipts, credit/debit memo, job orders and other similar documents that form part of the accounting records of the taxpayer and/or issued to their customers evidencing delivery, agreement to sell or transfer of goods and services, shall be *Supplementary* evidence only.

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[76] Boldfacing supplied.

[77] SUBJECT: Clarification on the Issuance of Official Receipt as Required by Government Auditors as Evidence of Receipt of Payment for Disbursements Where the Payee/Recipient is a Dealer, Supplier or Any Business Establishment Required by the Bureau of Internal Revenue to Issue Such.

. . .

> In view thereof, this Circular is hereby issued to reiterate that the provisions set forth in **RR No. 18-2012** and RMO No. 12-2013, in the issuance of Principal and/or Supplementary Receipts/Invoices in the ordinary course of business and the consequent examination of evidence of receipt of payment, shall be **strictly observed**.[78]

Indeed, *principal* invoices (such as a sales invoice) are defined as written accounts evidencing the sale of goods issued to customers in the ordinary course of business. Specifically, a VAT sales invoice, whether for cash or charge transactions, serves as the basis for determining the output tax liability (whether 12% or 0%) of the seller and input tax claim of the buyer. On the other hand, *supplementary* invoices (also known as commercial invoices) merely evidence the delivery, agreement to sell or transfer of goods and services, and serve only recording, monitoring and control purposes, and may *not* be used the basis for determining the output tax liability of the seller and input tax of the buyer.

Petitioner's claim of zero-rated sales for TY 2019 in the total sum of ₱236,238,398.39 is anchored on *commercial* invoices, and *not* sales invoices as required by Section 237 of the NIRC, as amended, as implemented by RR No. 18-2012, and as construed by jurisprudence. For lack of proper proof, petitioner failed to wholly prove that said amount was its zero-rated sales for said year.

Even assuming that said commercial invoices may be treated as sales invoices, they still fail to comply with the approved serial number range. Particularly, the *Commercial Invoices*[79] issued by petitioner bear serial numbers ranging from Nos. **310000001** to **310000256**, whereas the approved serial number range for **Charge Invoices under petitioner's PTUCAS**,[80] was from serial numbers **0000001** to **9999999**.

78 Boldfacing supplied.
79 Exhibits "P-29-13-1" to "P-29-14-53," USB (Exhibit "P-51-b").
80 Exhibit "P-9," Docket - Vol. VI, p. 3306.

Simply put, petitioner had no valid zero-rated sales for the four (4) quarters of TY 2019 from which petitioner's input VAT may be imputed against. For this reason, the complete rejection of petitioner's refund claim in CTA Case No. 10626 is in order.[81]

Jurisprudence holds that the claimant must show satisfaction of all the documentary and evidentiary requirements before an administrative claim for refund or tax credit will be granted. Perforce, the taxpayer claiming the refund must comply with the invoicing and accounting requirements mandated by the Tax Code, as well as the revenue regulations implementing them.[82] Petitioner failed in this regard.

WHEREFORE, the *Amended Petition for Review* filed by Md Nabunturan Agri-Ventures, Inc. is **DENIED**, for lack of merit.

SO ORDERED.

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

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

With Dissenting Opinion
HENRY S. ANGELES
Associate Justice

81 *Maibarara Geothermal, Inc. v. Commissioner of Internal Revenue*, G.R. No. 250479, July 18, 2022.

82 *Commissioner of Internal Revenue v. Philex Mining Corporation*, G.R. No. 230016, November 23, 2020, citing *Bonifacio Water Corporation (Formerly Bonifacio Vivendi Water Corporation) v. The Commissioner of Internal Revenue*, G.R. No. 175142, July 22, 2013.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

<u>SPECIAL THIRD DIVISION</u>

MD NABUNTURAN AGRI-VENTURES, INC., *Petitioner,*	**CTA Case No. 10626**
	Members:
- versus -	**RINGPIS-LIBAN,** *P.J.,* **REYES-FAJARDO,** *Chairperson,* and **ANGELES,** *<u>JJ</u>.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JAN 2 3 2026 4:00 p.m.

x - x

DISSENTING OPINION

ANGELES, <u>J.</u>:

With due respect, I am constrained to withhold my concurrence from the pronouncement of the *ponencia*, denying the instant *Petition for Review* for lack of merit, solely on the ground that petitioner failed to substantiate its zero-rated sales with valid and compliant value-added tax (VAT) sales invoices. The ruling is anchored on the finding that the documents presented were denominated as "**Commercial Invoices**," rather than "**Sales Invoices**."

I respectfully set forth the reasons for my dissent.

First, the *ponencia* relied on various issuances of the Bureau of Internal Revenue (BIR) distinguishing between "VAT Sales Invoices" and "Commercial Invoices." As therein explained, "**VAT Sales Invoices**" are classified as **principal** receipts/invoices, serving as the primary evidence of the sale of goods and/or properties, whereas "**Commercial Invoices**" are treated as **supplementary** receipts/invoices. The latter include delivery receipts, order slips, purchase order, provisional receipts, acknowledgment receipts, collection receipts, credit/debit memos, job orders, and other similar documents that form part of the taxpayer's accounting records and/or are issued to customers as evidence of delivery, agreement to sell, or transfer of goods or services.

Upon careful perusal, however, petitioner's Commercial Invoices reveal that they were issued to customers in the ordinary course of business precisely to evidence the sale of goods—the very purpose for which VAT Sales Invoices are required under the cited BIR issuances. In substance, therefore, these invoices fulfill the same evidentiary function contemplated by law and regulation, notwithstanding their mere denomination as "Commercial Invoices."

Verily, the information required to be reflected in VAT Sales Invoices, as prescribed under the then-applicable Revenue Memorandum Circular (RMC) No. 62-2005,[1] and even under the more recent RMC No. 77-2024,[2] is likewise present in the Commercial Invoices issued by the petitioner. A sample Commercial Invoice, as reproduced below, readily confirms such compliance.

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[1] Revised Guidelines in the Registration & Invoicing Requirements Including Clarification on Common Issues Affecting VAT Taxpayers, Revenue Memorandum Circular No. 62-05, October 18, 2005.

[2] Clarification on the Invoicing Requirements Provided under Revenue Regulations (RR) No. 7-2024, as Amended by RR No. 11-2024, Revenue Memorandum Circular No. 077-2024, July 11, 2024.

MD NABUNTURAN AGRI-VENTURES, INC.
Cabidianan, Nabunturan, ComVal Province, Philippines,
VAT Reg. TIN: 005-211-977
Tel No.: Fax No.

Commercial Invoice
No: 310000019

Original Copy

Posting Date: 01/05/2019 Page 1 of 1

Customer:	MD Isalon Organic Banana Agri-Ventures, Inc.	Shipped To:	NA
Address:	Bongabong, Pantukan, Comval Province, Philippines, 8809	Vessel:	
TIN:	005-210-935	Voyage No.:	AWB/BL No.:
Business Style:	Growing of Banana, Cavendish	Terms:	Net 30 Days
Attention to:		Currency:	PHP
Notify/Consignee:	Bongabong, Pantukan, Comval Province, Philippines, 8809	Forex Rate:	1.00

Quantity	Unit	Articles	Unit Price	Amount
25	KG	MYCOSHIELD (OXYTETRACYCLINE)	1,703.93	PHP 42,598.27
25		* * *Nothing Follows* * *		

stock transfer from mdnavi to md isalon mdr# 030466/rml # 188146 Jan.05,2019 Based On Deliveries 280000001.

VATable Sales :	PHP 42,598.27
VAT Exempt Sales :	PHP 0.00
Zero Rated Sales :	PHP 0.00
VAT Amount :	PHP 5,111.79
TOTAL AMOUNT DUE :	PHP 47,710.06

Amount in Words: Forty-Seven Thousand Seven Hundred Ten Pesos and 06/100 only

Prepared By:	Checked By:	Approved By:	Buyer's Signature:
Jecil O. Cantero			

Fasttrack Solutions Inc.
Unit 10D, 10F, The Valero Tower, 122 Valero St., Salcedo Village, Makati City
VAT Reg. TIN: 238-773-536-000

THIS COMMERCIAL SALES INVOICE IS VALID FOR CLAIM OF INPUT TAX.
THIS COMMERCIAL SALES INVOICE SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF PERMIT TO USE.

PTU No.: 1810_0112_PTU_CAS_000352
Date Issued: 10/10/2018
Valid Until: 12/31/2023
Series: 310000001 to 319999999

Print Date/Time: 6/25/2020 9:20:43AM

Second, contrary to the finding of the *ponencia*, the serial numbers appearing on petitioner's Commercial Invoices (Nos. 310000001 to 310000256) fall squarely within the approved serial number range for Charge Invoices under petitioner's Permit to Use for Computerized Accounting System (PTUCAS). The prefix "31" appearing before the serial numbers is allowed under the pertinent BIR regulations, and does not affect the validity or authenticity of the said invoices.

In light of the foregoing considerations, I am of the considered view that a re-examination of petitioner's evidence is warranted to determine its entitlement to the refund claim subject of the present case.

HENRY S. ANGELES
Associate Justice