22-000572-0049

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 11039

STEFANINI PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St., Legazpi Village
Makati City

ATTY. FELIX PAUL R. VELASCO III
ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. BRYAN ANTHONY C. DIEGO
Bureau of Intenral Revenue
Litigation Division, Room 703, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

MENDOZA CALNEA MANGUNDAYAO AND ASSOCIATES
U-2310 Prestige Tower Condominium
F. Ortigas Jr. Road, Ortigas Center
Pasig City

GREETINGS:

You are hereby notified by these presents that on **June 27, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **June 30, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
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FIRST DIVISION

STEFANINI PHILIPPINES INC., *Petitioner*,

- versus -

COMMISSIONER OF INTERNAL REVENUE, *Respondent*.

CTA CASE NO. 11039

Members:

DEL ROSARIO, *P.J., Chairperson*,
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:
JUN 27 2025 4:15 pm

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DECISION

CUI-DAVID, J.:

Before the Court is the *Petition for Review* [1] filed by petitioner Stefanini Philippines (Petitioner), Inc. on November 25, 2022. Petitioner seeks a judgment directing respondent Commissioner of Internal Revenue (CIR or Respondent) to refund or issue a Tax Credit Certificate (TCC) in the amount of ₱747,759.70, allegedly representing the denied or disallowed portion of its administrative claim for refund of unutilized input Value-Added Tax (VAT) attributable to its zero-rated sales for the second (2nd) quarter of calendar year (CY) 2020.

THE PARTIES

Petitioner is a corporation duly organized and existing under and by virtue of Philippine laws with registered office address at 3, 5 & 6/F iMET BPO Metrobank Ave., Metropolitan Park, Roxas Blvd., Pasay City 1300.[2] It is engaged in the business of providing business process outsource solutions and allied contact or call center services, both as principal and

[1] Docket – Vol. I, pp. 6–27.
[2] *Id.* at 327, *Joint Stipulation of Facts and Issues* (JSFI), incorporated in the parties' *Compliance* dated September 15, 2023, Stipulation of Facts, par. 1.

agent, in the Philippines.[3] Petitioner is also registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer, under Taxpayer Identification Number (TIN) 006-960-314-00000.[4]

Respondent is the duly appointed CIR empowered to perform the duties of his office, including among others, the duty to act upon and approve claims for refund or tax credit as provided by law, with office address at the 5th Floor, BIR National Office Building, BIR Road, Diliman, Quezon City.[5]

THE FACTS AND THE PROCEEDINGS

Petitioner avers that during the 2nd quarter of CY 2020, it rendered business process outsourcing solutions and contact or call center services in the Philippines to its non-resident affiliate entities, which are engaged in business conducted outside the Philippines. It added that the payments for these services were made in acceptable foreign currency and duly accounted for in accordance with the rules and regulations of the *Bangko Sentral and Pilipinas* (BSP).[6]

During the same period, petitioner allegedly incurred and/or paid input VAT on domestic purchases of goods and services attributable to the above-described zero-rated sale of services to its non-resident affiliates.[7]

On September 28, 2020, petitioner filed its amended Quarterly VAT Return for the 2nd quarter of CY 2020 with the BIR, reporting accumulated excess input tax attributable to zero-rated sales in the amount of ₱55,268,556.74.[8] Subsequently, on June 27, 2022, petitioner filed an amended Quarterly VAT Return for the first (1st) quarter of CY 2022, wherein it deducted the amount of ₱1,127,925.16 from its accumulated and unutilized input VAT.[9] This amount represents the input VAT being claimed for refund or issuance of a TCC for the 2nd quarter of CY 2020.[10]

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3 *Id.* at 327, JSFI, incorporated in the parties' *Compliance* dated September 15, 2023, Stipulation of Facts, par. 1.1.

4 Docket – Vol. II, pp. 623–624, Exhibits "P-4", "P-4-A", "P-5" and "P-5-A".

5 Docket – Vol. I, p. 327, JSFI, incorporated in the parties' Compliance dated September 15, 2023, Stipulation of Facts, par. 2.

6 *Id.* at 7–8, Petition for Review, par. 3.

7 *Id.* at 8, Petition for Review, par. 4.

8 *Id.* at 8, Petition for Review, par. 5; Docket – Vol. II, pp. 737-738, Exhibit "P-43".

9 Docket – Vol. II, pp. 743-744, Exhibit "P-47".

10 *Id.* at 8, Petition for Review, par. 6.

Petitioner claims that the excess input VAT of ₱1,127,925.16 attributable to its zero-rated sales for the 2nd quarter of CY 2020, has remained unutilized and/or unapplied against its output tax liability.

Hence, on June 30, 2022, petitioner filed with the BIR an *Application for Tax Credits/Refunds* (BIR Form No. 1914),[11] seeking a refund or tax credit of input tax in the amount of ₱1,127,925.16, representing its excess and unutilized input VAT for the 2nd quarter of CY 2020.

However, on October 26, 2022, petitioner received a *VAT Refund Notice*[12] dated September 5, 2022, signed by Maria Luisa I. Belen, *Assistant Commissioner (ACIR) – Assessment Service*, the contents of which read:

> This has reference to your claim for value-added tax (VAT) refund covering the period from April 01, 2020 to June 30, 2020 in the amount of Php1,127,925.16 pursuant to Section 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended.
>
> Please be informed that upon processing of the aforementioned claim under Tax Verification Notice No. TVN201800190900 dated June 30, 2022, the amount of input tax allowable on local purchases is **Php380,165.46** net of disallowances. Details are shown on the attached sheet marked as Annex "A" and summarized as follows:

VAT Refund Claimed	Php1,127,925.16
Deductions from claim	(747,759.70)
Net Allowable VAT Refund	Php380,165.46

> The approved report on the said claim shall be subject to post-audit by the Commission on Audit as mandated under Section 112(D) of the NIRC of 1997, as amended, and/or further audit/investigation under the directive of higher authorities. Should there be findings requiring adjustment/deduction on the amount granted, the deficiency tax or excess tax refund/credit shall be collected and/or deducted from future tax refund claim/s, if there is any.[13]
>
> ...

[11] Docket – Vol. II, p. 749, Exhibit "P-50".
[12] Docket – Vol. I, p. 49, Exhibit "P-53".
[13] Emphasis in the original text.

Dissatisfied, petitioner elevated its claim to the Court *via* the instant *Petition for Review* filed on November 25, 2022.

On March 6, 2023, within the extended period[14] granted by the Court, respondent filed his *Answer (Re: Petition for Review dated 24 November 2022)*,[15] interposing the following special and affirmative defenses: (1) the instant claim should be denied for petitioner's failure to substantiate its claim for refund at the administrative level; (2) it is incumbent upon petitioner to prove that it is entitled to the refund sought because a claim for refund is not ipso facto granted upon filing of the claim; (3) tax refunds are subject to administrative investigation; and (4) tax refunds are strictly construed against the taxpayer and in favor of the government.

On April 25, 2023, respondent transmitted the *BIR Records* of the case, consisting of 222 pages in one (1) folder.[16]

The *Pre-Trial Conference* was held on August 29, 2023.[17]

On September 15, 2023, the parties filed their *Compliance*, incorporating therein their *Joint Stipulation of Facts and Issues*.[18] The Court approved this in a Resolution dated September 26, 2023,[19] thereby deeming the termination of the *Pre-Trial*. A *Pre-Trial Order*[20] was then issued on October 10, 2023.

Trial ensued during which petitioner presented two (2) witnesses, namely: (1) **Ms. Jeanina B. Pepito**,[21] petitioner's Finance Manager; and (2) **Ms. Madonna Mia S. Dayego**,[22] the Court-commissioned Independent Certified Public Accountant (ICPA).[23]

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[14] Resolution dated February 10, 2023, Docket – Vol. I, p. 226.
[15] Docket – Vol. I, pp. 227–239.
[16] *Compliance* dated April 24, 2023, Docket – Vol. I, pp. 267–269.
[17] Notice of Pre-Trial Conference dated March 10, 2023, Docket – Vol. I, pp. 246–247; Minutes of the hearing held on, and the Order dated August 29, 2023, Docket – Vol. I, pp. 294–299.
[18] Docket – Vol. I, pp. 327–343.
[19] Docket – Vol. I, p. 347.
[20] Docket – Vol. I, pp. 354–372.
[21] Exhibit "P-55", Docket – Vol I, pp. 52–75; Minutes of the hearing held on, and Order dated, October 25, 2023, Docket – Vol. II, pp. 568–571, and Docket – Vol. I, pp. 389–391, respectively.
[22] Exhibit "P-74", Docket – Vol. II, pp. 546–564; Minutes of the hearing held on, and Order dated, January 16, 2024, Docket – Vol. II, pp. 565–567, and pp. 572–573, respectively.
[23] *Oath of Commission* dated October 25, 2023, Docket – Vol. I, p. 387; Minutes of the hearing held on, and Order dated, October 25, 2023, Docket – Vol. II, pp. 568–571, and Docket – Vol. I, pp. 389–391, respectively.

On January 26, 2024, petitioner filed its *Formal Offer of Evidence*,[24] to which respondent filed his *Comment (Re: Formal Offer of Evidence dated 26 January 2024)* on January 30, 2024.[25]

In a Resolution promulgated on March 12, 2024,[26] the Court admitted all of petitioner's offered exhibits.

Respondent, for his part, offered the testimony of Revenue Officer **Jelly Anne T. Mateo**.[27]

On March 18, 2024, respondent filed his *Formal Offer of Evidence*,[28] which the Court admitted in a Resolution[29] dated May 13, 2024. In the same Resolution, the Court granted both parties a period of thirty (30) days from notice to file their respective memoranda.

Considering the filing of petitioner's *Memorandum*[30] on June 13, 2024, and respondent's *Manifestation*[31] on May 23, 2024, stating that he was adopting the arguments raised in his *Answer* as his *Memorandum*, the instant case was deemed submitted for decision on July 2, 2024.[32]

Hence, this Decision.

THE ISSUE

As stipulated by the parties, the sole issue[33] for the Court's resolution is:

> "Whether or not Petitioner is entitled to its claim for refund or issuance of tax credit certificate in the total amount of P747,759.70 representing the disallowed portion by Respondent of Petitioner's administrative claim or unutilized input taxes on

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[24] Docket – Vol. II, pp. 580–609.
[25] Docket – Vol. II, pp. 837–839.
[26] Docket – Vol. II, pp. 846–847.
[27] Exhibit "R-5", Docket – Vol. I, pp. 254–260; Minutes of the hearing held on and Order dated March 13, 2024, Docket – Vol. II, pp. 848–851.
[28] Docket – Vol. II, pp. 856–859.
[29] Docket – Vol. II, pp. 872–876.
[30] Docket – Vol. II, pp. 885–919.
[31] Docket – Vol. II, pp. 877–879.
[32] Notice of Resolution dated July 2, 2024, Docket – Vol. II, p. 920.
[33] Stipulation of Issue[s], JSFI, incorporated in the parties' *Compliance* dated September 15, 2023, Docket – Vol. I, p. 328.

zero-rated sales covering the period of 01 April 2020 to 30 June 2020."

Petitioner's Arguments

Petitioner claims that it is entitled to a refund or the issuance of TCC amounting to ₱747,759.70, representing the portion denied or disallowed by respondent in its administrative claim for refund of input VAT attributable to zero-rated sales for the 2nd quarter of CY 2020. According to petitioner, it has fully complied with all the requisites necessary to support a claim for refund or tax credit of unutilized input VAT attributable to zero-rated sales.

Further, petitioner claims that contrary to respondent's assertion, the Court is not barred from considering, evaluating and appreciating evidence submitted before it, as cases filed before the Court are litigated *de novo*.

Respondent's Counter-Arguments

Respondent submits that the instant claim should be denied due to petitioner's failure to substantiate its claim for refund at the administrative level. Citing the case of *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*, [34] respondent asserts that since a decision has already been rendered partially denying petitioner's administrative claim for refund for failure to substantiate, petitioner is precluded from submitting additional documents before the Court that were not presented during the administrative proceedings. As such, the Court is limited to determining whether the denial was proper based on the evidence submitted at the administrative level.

Respondent likewise submits that it is incumbent upon petitioner to prove that it is entitled to the refund because a claim for refund is not *ipso facto* granted upon filing. According to respondent, a claim for refund is subject to investigation as it involves the removal of accrued revenue from the coffers of the Government. Based on the report of the VAT Credit Audit Division (VCAD) and the Tax Audit Review Division (TARD),

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[34] G.R. No. 207112, December 8, 2015.

respondent maintains petitioner failed to substantiate its administrative claim.

In closing, respondent asserts that tax refunds are strictly construed against the taxpayer and in favor of the government. The taxpayer is charged with the heavy burden of proving that he has complied with and satisfied all statutory and administrative requirements to be entitled to a refund.

THE COURT'S RULING

Pertinent to the resolution of the instant case are paragraphs (A) and (C) of Section 112 of the National Internal Revenue Code (NIRC) of 1997, as last amended by Republic Act (RA) No. 10963,[35] which read as follows:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* —
>
> (A) *Zero-Rated or Effectively Zero-Rated Sales.* — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
>
> xxx xxx xxx

[35] 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.

> (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."

Based on the foregoing provision, and as clarified in *Commissioner of Internal Revenue v. Toledo Power Company,*[36] a taxpayer-claimant must comply with the following requisites to successfully obtain a refund or tax credit of unutilized or excess input VAT attributable to zero-rated sales:

> <u>As to the timeliness of the filing of the administrative and judicial claims:</u>
>
> 1. The refund claim is filed with the BIR within two (2) years after the close of the taxable quarter when the sales were made;[37]
>
> 2. 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 ninety (90) 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 said ninety (90)-day period;[38]
>
> <u>With reference to the taxpayer's registration with the BIR</u>:
>
> 3. The taxpayer is a VAT-registered person;[39]

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[36] G.R. Nos. 195175 and 199645, August 10, 2015.

[37] *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009; and *AT&T Communications Services Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010.

[38] Refer to *Energy Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 203367, March 17, 2021; *Commissioner of Internal Revenue v. CE Casecnan Water and Energy Company, Inc.*, G.R. No. 212727, February 1, 2023; and *Commissioner of Internal Revenue v. Vestas Services Philippines, Inc.*, G.R. No. 255085, March 29, 2023.

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

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

4. The taxpayer is engaged in zero-rated or effectively zero-rated sales;[40]

5. For zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2),[41] the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the *Bangko Sentral ng Pilipinas* (BSP) rules and regulations;[42]

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

6. The input taxes are not transitional;[43]

7. The input taxes are due or paid;[44]

8. The input taxes have not been applied against output taxes during and in the succeeding quarters;[45] 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.[46]

In addition to the above, the taxpayer-applicant must comply with the substantiation and invoicing requirements prescribed under the NIRC and its implementing rules and regulations.[47] Such compliance is indispensable to a "valid claim for input taxes attributable to zero-rated sales,"[48] as it provides the necessary basis to "determine the veracity of the taxpayer's claims."[49]

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[40] *Id.*

[41] Under RA No. 10963, Section 106(A)(2)(a)**(2)** was renumbered to Section 106(A)(2)(a)**(3)** while Section 106(A)(2)**(b)** was deleted. However, there was no corresponding amendment to the subsections cited in Section 112(A) of the NIRC of 1997, as amended.

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

[43] *Id.*

[44] *Id.*

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

[46] *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation v. Commissioner of Internal Revenue*, supra.

[47] *Team Energy Corporation (Formerly: Mirant Pagbilao Corporation and Southern Energy Quezon, Inc.) v. Commissioner of Internal Revenue*, G.R. Nos. 197663 & 197770, March 14, 2018 [Per J. Leonen, Third Division].

[48] *J.R.A. Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013 [Per J. Perlas-Bernabe, Second Division].

[49] *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018 [Per J. Martires, Third Division].

Strict adherence to these requirements is necessary considering VAT's nature and VAT system's tax credit method, where tax payments are based on output and input taxes and where the seller's output VAT becomes the buyer's input VAT that is available as a tax credit or refund in the same transaction. It ensures the proper collection of taxes at all stages of distribution, facilitates the computation of tax credits, and provides an accurate audit trail or evidence for BIR monitoring purposes.[50]

Furthermore, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove <u>every minute aspect</u> of their case.[51] Thus, petitioner must demonstrate compliance with each of the foregoing requisites and invoicing requirements.

<u>First and second requisites:</u> Petitioner's administrative and judicial claims were timely filed.

The *first* and *second* requisites pertain to the timeliness of the administrative and judicial claims, which are both mandatory and jurisdictional. A taxpayer-claimant must not only prove its entitlement to a refund but also demonstrate compliance with the reglementary periods within which to file the claims.

The administrative claim pertains to input VAT incurred during the 2nd quarter of CY 2020. Counting two (2) years from the close of the said quarter, the last day to file an administrative claim for refund of excess or unutilized input VAT is June 30, 2022. Petitioner filed its *Application for Tax Credits/Refunds*[52] of input tax on June 30, 2022, thereby complying with the *first* requisite.

As to the judicial claim, Section 112(C) of the NIRC, as amended, requires that it be filed within thirty (30) days from receipt of the Commissioner's decision. Petitioner filed its

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[50] *Supra* note 47.
[51] *Edison (Bataan) Cogeneration Corporation v. Commissioner of Internal Revenue, et seq.*, G.R. Nos. 201665 and 201668, August 30, 2017; *Commissioner of Internal Revenue v. Philippine National Bank*, G.R. No. 180290, September 29, 2014; *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014; *Dizon v. Court of Tax Appeals, et al.*, G.R. No. 140944, April 30, 2008; *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007; and *Commissioner of Internal Revenue v. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.
[52] Exhibit "P-50", Docket – Vol. II, p. 749.

administrative claim on June 30, 2022; thus, respondent had ninety (90) days or until September 28, 2022, to act on the said claim. The letter dated September 5, 2022,[53] partially granting the refund, was issued within the 90-day period. Petitioner received the letter on October 26, 2022,[54] and filed the *Petition for Review* on November 25, 2022, exactly 30 days later.

Such being the case, the Court finds that petitioner has complied with the *first* and *second* requisites concerning the timeliness of both its administrative and judicial claims.

<u>Third requisite:</u> Petitioner is a VAT-registered entity.

It is undisputed that petitioner has satisfied the *third* requisite, as it is duly registered with the BIR as a VAT taxpayer with TIN 006-960-314-00000.[55] Thus, there is no question that petitioner has complied with this requisite.

<u>Fourth and fifth requisites:</u> Petitioner had zero-rated or effectively zero-rated sales for the 2nd quarter of CY 2020.

The *fourth* and *fifth* requisites respectively require that the taxpayer is engaged in zero-rated or effectively zero-rated sales, and for zero-rated sales under Sections 106(A)(2)(a)(1), (2) and (b),[56] and 108(B)(1) and (2) of the NIRC of 1997, as amended, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the BSP rules and regulations.

Petitioner claims that it provides business process outsourcing solutions and allied contact or call center services in the Philippines to its affiliate entities, which are non-resident foreign corporations or entities engaged in business conducted outside the Philippines; and that the services are

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[53] Exhibit "P-53" Docket – Vol. I, p. 49.
[54] Exhibit "P-53-A", Docket – Vol. I, p. 49.
[55] Exhibits "P-4", "P-4-A", "P-5" and "P-5-A", Docket – Vol. II, pp. 623 to 624.
[56] Under RA No. 10963, Section 106(A)(2)(a)**(2)** was renumbered to Section 106(A)(2)(a)**(3)** while Section 106(A)(2)**(b)** was deleted. However, there was no corresponding amendment to the subsections cited in Section 112(A) of the NIRC of 1997, as amended.

paid in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP. Thus, according to petitioner, its sale of services to these affiliates is subject to zero percent (0%) VAT,[57] pursuant to Section 108(B)(2) of the NIRC of 1997, as amended,[58] which reads as follows:

> "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:
>
> (1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
>
> (2) **Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP)**;" *(Emphases added)*

Based on the foregoing provision, the following essential elements must be complied with for a sale or supply of services to qualify for zero-rating (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 said 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 are performed;[59]

[57] Q&A Nos. 6, 13 and 30, Exhibit "P-55", Docket – Vol. I, pp. 55, 56 and 62 to 63, respectively.

[58] Par. 13, VI. Legal Bases, *Petition for Review*, Docket – Vol. I, p. 9.

[59] *Sitel Philippines Corporation (Formerly Clientlogic Phils. Inc.) v. Commissioner of Internal Revenue*, G.R. No. 201326, February 8, 2017; *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 153205, January 22, 2007; and *Accenture, Inc. v. Commissioner of Internal Revenue*, G.R. No. 190102, July 11, 2012.

2. The services fall under any of the categories under Section 108(B)(2),[60] or simply, the services rendered should be other than "processing, manufacturing or repacking goods";[61]

3. The service must be performed in the Philippines[62] by a VAT-registered person; and

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

Anent the *first* essential element, in order to be considered as a non-resident foreign corporation (NRFC) doing business outside the Philippines, each entity must be supported, at the very least, by **both** a *Certification of Non-Registration of Corporation/Partnership* issued by the Philippine Securities and Exchange Commission (SEC), **and** proof of incorporation/registration in a foreign country (*e.g., Articles/Certificate of Incorporation/Registration* and/or *Tax Residence Certificate*). The former establishes that the recipient of the service has no registered business in the Philippines, and that it is not engaged in trade or business within the Philippines; while the latter proves that the said recipient of the service is indeed foreign. The said documents have been consistently required by this Court for purposes of the said *first* essential element. In fact, in *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*,[64] the Supreme Court affirmed the necessity of presenting the said documents in this wise:

> **"For purposes of zero-rating under Section 108(B)(2) of the Tax Code, the claimant must establish the two components of a client's NRFC[65] status, *viz.*: (1) that their client was established under the laws of a country not the Philippines or, simply, is not a domestic corporation; and (2) that it is not engaged in trade or business in the Philippines. To be sure, there must be sufficient proof of both of these components: showing not only that the clients are foreign corporations, but also are not doing business in the Philippines.**

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

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

[62] *Ibid.*

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

[64] G.R. No. 234445, July 15, 2020.

[65] That is, "Nonresident foreign corporation".

> Such proof must be especially required from ROHQs such as DKS. That the law expressly authorizes ROHQs to render services to local and foreign affiliates alike only stresses the ROHQ's burden to distinguish among their clients' nationalities and actual places of business operations and establish that they are seeking refund or credit of input VAT only to the extent of their sales of services to foreign clients doing business outside the Philippines.
>
> To recall, the CTA found that the SEC Certification of Non-Registration of Company and Authenticated Articles of Association and/or Certificates of Registration/Good Standing/Incorporation sufficiently established the NRFC status of 11 of DKS's affiliates clients.
>
> The Court upholds these findings.
>
> The Court accords the CTA's factual findings with utmost respect, if not finality, because the Court recognizes that it has necessarily developed an expertise on tax matters. Significantly, both the CTA Division and CTA *En Banc* gave credence to the aforementioned documents as sufficient proof of NRFC status. The Court shall not disturb its findings without any showing of grave abuse of discretion considering that the members of the tax court are in the best position to analyze the documents presented by the parties.
>
> In any case, after a judicious review of the records, the Court still do not find any reason to deviate from the court *a quo*'s findings. **To the Court's mind, the SEC Certifications of Non-Registration show that their affiliates are foreign corporations. On the other hand, the articles of association/certificates of incorporation stating that these affiliates are registered to operate in their respective home countries, outside the Philippines are *prima facie* evidence that their clients are not engaged in trade or business in the Philippines.**" *(Emphases added)*

In the present case, petitioner satisfied the *first* essential element as it proved that its clients for the subject period of claim are NRFCs doing business outside the Philippines. It submitted certifications of non-registration issued by the SEC and proof of foreign incorporation for the following:

Company Name	Certification of Non-Registration of Company issued by the SEC *(Exhibit reference)*	Proof of incorporation/ registration in a foreign country *(Exhibit reference)*
1. Stefanini, Inc.	"P-27"[66]	"P-32" to "P-32-A";[67] "P-33" to "P-33-B"[68]
2. Stefanini SARL	"P-28"[69]	"P-34" to "P-34-A";[70] "P-35" to "P-35-A"[71]
3. Stefanini NV SA	"P-29"[72]	"P-36" to "P-36-A"[73]
4. Stefanini UK Ltd.	"P-30"[74]	"P-37" to "P-37-A"[75]
5. Stefanini Canada Ltd.	"P-31"[76]	"P-38" to "P-40"[77]

With regard to the *second* essential element, petitioner submitted the following agreements, which describe the services rendered as "outsourced processing services to support [its clients'] internal operations and external customer contracts," to wit:

1. *Agreement for Services* between Stefanini, Inc. and petitioner made on May 1, 2018;[78]

2. *Addendum to Agreement for Services* entered into between petitioner and Stefanini, Inc. made on January 3, 2019;[79]

3. *Agreement for Services* between Stefanini, Inc. and petitioner made on May 1, 2020;[80]

4. *Agreement for Services* between Stefanini Sàrl, à Lausanne and petitioner made on May 1, 2018;[81]

5. *Addendum to Agreement for Services* entered into between Stefanini Sàrl, and petitioner made on January 3, 2019;[82]

[66] Docket – Vol. II, p. 698.
[67] Docket – Vol. II, pp. 703–704.
[68] Docket – Vol. II, pp. 705–708.
[69] Docket – Vol. II, p. 699.
[70] Docket – Vol. II, pp. 709–710.
[71] Docket – Vol. II, pp. 711–713.
[72] Docket – Vol. II, p. 700.
[73] Docket – Vol. II, pp. 714–717.
[74] Docket – Vol. II, p. 701.
[75] Docket – Vol. II, pp. 718–719.
[76] Docket – Vol. II, p. 702.
[77] Docket – Vol. II, pp. 720–732.
[78] Exhibit "P-6", Docket – Vol. II, pp. 625–630.
[79] Exhibit "P-6-1", Docket – Vol. II, pp. 631–633.
[80] Exhibit "P-6-2", Docket – Vol. II, pp. 634-639.
[81] Exhibit "P-7", Docket – Vol. II, pp. 640–645.
[82] Exhibit "P-7-1", Docket – Vol. II, pp. 646–648.

6. *Agreement for Services* between Stefanini Sàrl, à Lausanne and petitioner made on May 1, 2020;[83]

7. *Agreement for Services* between Stefanini NV/SA and petitioner made on May 1, 2018;[84]

8. *Addendum to Agreement for Services* entered into between Stefanini NV/SA and petitioner made on January 3, 2019;[85]

9. *Agreement for Services* between Stefanini NV/SA and petitioner made on May 1, 2020;[86]

10. *Agreement for Services* between Stefanini UK Ltd. and petitioner made on September 1, 2019;[87] and

11. *Agreement for Services* between Stefanini Canada Ltd. and petitioner made on January 1, 2020.[88]

The services provided by petitioner clearly fall within the scope of *"services other than processing, manufacturing or repacking goods."* Hence, petitioner has satisfactorily complied with the *second* essential element.

Anent the *third* essential element, *i.e.,* the services must be performed in the Philippines by a VAT-registered person, the articles/clauses of the *Agreements for Services* between petitioner and its clients, Stefanini Inc., Stefanini Sàrl, and Stefanini NV/SA, [89] as amended, specifically Article 1 paragraphs 1.1 to 1.5 (Right, Obligations and Services to be provided) reveal that they do not categorically state that the contracted services shall be performed in the Philippines. However, the *Addenda to Agreements for Services,* all dated January 3, 2019,[90] and the *Agreements for Services,* all dated May 1, 2020, [91] between petitioner and the said clients, indicate that the services shall be performed, provided, and rendered by petitioner in the Philippines. Moreover, the *Agreements for Services* dated September 1, 2019, [92] and January 1, 2020,[93] between petitioner and Stefanini UK Ltd.

[83] Exhibit "P-7-2", Docket – Vol. II, pp. 649–654.
[84] Exhibit "P-8", Docket – Vol. II, pp. 655–660.
[85] Exhibit "P-8-1", Docket – Vol. II, pp. 661–663.
[86] Exhibit "P-8-2", Docket – Vol. II, pp. 664–669.
[87] Exhibit "P-9", Docket – Vol. II. pp. 670–675.
[88] Exhibit "P-10", Docket – Vol. II, pp. 676–681.
[89] Exhibits "P-6", "P-7" and "P-8", Docket – Vol. II, pp. 625–630, pp. 640–645, and pp. 655–660, respectively.
[90] Exhibits "P-6-1", "P-7-1" and "P-8-1", Docket – Vol. II, pp. 631–633, pp. 646–648, and pp. 661–663, respectively.
[91] Exhibits "P-6-2", "P-7-2" and "P-8-2", Docket – Vol. II, pp. 634–639, pp. 649–654, and pp. 664–669.
[92] Exhibit "P-9", Docket – Vol. II. pp. 670–675.
[93] Exhibit "P-10", Docket – Vol. II, pp. 676–681.

and Stefanini Canada Ltd., respectively, indicate that the services shall be performed in the Philippines. There being no indication to the contrary, the Court finds that petitioner has complied with the *third* essential element.

In its amended *Quarterly Value-Added Tax Return* for the 2nd quarter of CY 2020,[94] petitioner declared total sales/receipts in the amount of ₱205,926,702.26, which included zero-rated sales/receipts in the amount of ₱202,345,290.47, broken down as follows:

Vatable Sales/Receipts	₱ 3,581,411.79
Zero-Rated Sales/Receipts	202,345,290.47
Total Sales/Receipts	**₱ 205,926,702.26**

With respect to the *fourth* essential element, and in relation to the *fifth* requisite, petitioner presented the *Certificate of Inward Remittance*[95] issued by Bank of America, which shows the remittances made by petitioner's NRFC clients for the 2nd quarter of CY 2020, and confirms that the payments were made in acceptable foreign currency accounted for in accordance with the BSP's rules and regulations.

Moreover, the foreign currency remittances referred to under Section 108(B)(2) must not only be properly accounted for in accordance with the rules and regulations of the BSP, but must also comply with the pertinent invoicing requirements, containing all the required information under Section 113(A) and (B) of the NIRC of 1997, as amended, to wit:

> "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 VAT official receipt for every lease of goods or properties, and for every sale, barter or exchange of services.
>
> (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:

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[94] Exhibit "P-43", Docket – Vol. II, pp. 737–738.
[95] Exhibit "P-41", Docket – Vol. II, pp. 733–734.

(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:

(a) The amount of the tax shall be shown as a separate item in the invoice or receipt;

(b) If the sale is exempt from value-added tax, the term '**VAT-exempt sale**' shall be written or printed prominently on the invoice or receipt;

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

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: *Provided*, That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

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

(4) In the case of sales in the amount of One thousand pesos (P1,000) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and Taxpayer Identification Number (TIN) of the purchaser, customer or client."

These provisions of the NIRC of 1997, as amended, are further implemented by Section 4.113-1(A) and (B) of Revenue Regulations (RR) No. 16-2005,[96] as amended, to wit:

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

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

[96] SUBJECT: Consolidated Value-Added Tax Regulations of 2005.

(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 invoices/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

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

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

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

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

(a) The amount of tax shall be shown as a separate item in the invoice or receipt;

(b) If the sale is exempt from VAT, the term 'VAT-exempt sale' shall be written or printed prominently on the invoice or receipt;

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

(d) If the sale involves goods, properties or services some of which are subject to and some of which are VAT zero-rated or VAT-exempt, the invoice or receipt shall clearly indicate the break-down of the sale price between its taxable, exempt and zero-rated components, and the calculation of the VAT on each inwardly portion of the sale shall be shown on the invoice or receipt. The seller has the option to issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale.

> (3) In the case of sales in the amount of one thousand peso (P1,000.00) or more where the sale or transfer is made to a VAT-registered person, the name, business style, if any, address and TIN of the purchaser, customer or client, shall be indicated in addition to the information required in (1) and (2) of this Section."

In addition to the above requirements, the sales invoices (SIs) and official receipts (ORs) must be duly registered with the BIR, as prescribed under Section 237(A), 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.* —
>
> (A) *Issuance.* — All persons subject to an internal revenue tax shall, at the point of each sale and transfer of merchandise or for services rendered valued at One hundred pesos (P100) or more, issue duly registered receipts or sale or commercial invoices, 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."

Since petitioner's claimed zero-rated sales are in the nature of sales of services under Section 108(B)(2) of the NIRC of 1997, as amended, it is required to issue BIR-registered VAT ORs for the foreign currency proceeds of each sales transaction. The information contained in these receipts must comply with the applicable provisions of the NIRC and its implementing regulations.

To support its zero-rated sales for the 2nd quarter of CY 2020, petitioner submitted its *Schedule of Zero-Rated Sales of Services and Inward Remittances,*[97] *Validation of Schedule of Zero-Rated Sales of Services and Inward Remittances, General Ledger (GL) Account Classification of Revenues, ORs and Billing Statements (BSs),*[98] *Validation of Inward Remittances per Schedule of Zero-Rated Sales of Services and Inward Remittances,*[99] and the corresponding VAT zero-rated ORs[100] and *Billing Statements.*[101]

A scrutiny of the aforementioned documents reveals that the reported zero-rated sales of ₱202,345,290.47 were duly supported by VAT zero-rated ORs that comply with the invoicing requirements under the law and regulations, and that these sales were fully traceable to inward remittances, as evidenced by the bank certificate, thereby satisfying the *fourth* essential element.

Thus, petitioner was able to establish that its sales of services to NRFCs not engaged in business in the Philippines for the 2nd quarter of CY 2020, in the amount of ₱202,345,290.47, qualify as zero-rated sales pursuant to Section 108(B)(2) of the NIRC of 1997, as amended. Thus, petitioner has complied with both the *fourth* and *fifth* requisites.

<u>Sixth requisite</u>: The claimed input VAT does not appear to be transitional input taxes.

In its amended *Quarterly Value-Added Tax Return* for the 2nd quarter of CY 2020,[102] petitioner reported an excess input VAT amounting to ₱1,127,925.16. This amount arose from the amortized portion of input VAT on capital goods purchases exceeding ₱1Million, and input VAT on current domestic purchases of goods and services, out of which the amount of ₱747,759.70 is the subject of the present claim for refund, as shown below:

[97] Exhibit "P-58", Annexed to ICPA Report (Exhibit "P-71"), Docket – Vol. I, p. 425.
[98] Exhibit "P-60", Annexed to ICPA Report (Exhibit "P-71"), Docket – Vol. I, pp. 493–494.
[99] Exhibit "P-61", Annexed to ICPA Report (Exhibit "P-71"), Docket – Vol. I, p. 495.
[100] Exhibits "P-11" to "P-24", Docket - Vol. II, pp. 682–695.
[101] Exhibits "P-60-1" to "P-60-13", USB (Exhibit "P-72").
[102] Exhibit "P-43", Docket – Vol. II, pp. 737–738.

Input tax deferred on capital goods exceeding ₱1Million from previous quarter	₱ 2,177,399.64
Purchases of capital goods exceeding ₱1Million this quarter	-
Total	2,177,399.64
Less: Input tax on purchases of capital goods exceeding ₱1Million deferred for the succeeding period	1,835,897.03
Amortized portion of input tax on capital goods exceeding ₱1Million	₱ 341,502.61
Add: Input tax on current transactions	
Purchase of capital goods not exceeding ₱1Million	113,148.60
Domestic purchases of goods other than capital goods	183,237.53
Domestic purchases of services	919,805.83
Total input taxes during the period	₱ 1,557,694.57
Less: Output tax due	429,769.41
Excess input tax	₱ 1,127,925.16
Less: Amount approved for refund by the BIR[103]	380,165.46
Excess input tax claimed for refund per *Petition for Review*	**₱ 747,759.70**

The above amounts do not appear to be transitional input taxes, as defined 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.[104] Since there is no showing that the claimed input VAT pertains to transitional input taxes, the Court finds that petitioner has complied with the *sixth* requisite for the grant of an input VAT refund.

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[103] Exhibit "R-3", BIR Records (Exhibit "R-4"), pp. 221 to 222; Exhibit "P-53", Docket – Vol. I, pp. 49–50.
[104] *Fort Bonifacio Development Corporation v. Commissioner of Internal Revenue, et al., et seq.*, G.R. Nos. 158885 & 170680, April 2, 2009.

<u>Seventh requisite</u>: Petitioner's claimed input VAT must be duly substantiated as due or paid.

Not all of petitioner's input VAT being claimed for refund were duly substantiated.

Under the *seventh* requisite, petitioner must prove that the input VAT claimed for refund was actually due or paid during the relevant period, pursuant to Section 110(A) of the NIRC of 1997, as amended, which provides:

> "SEC. 110. *Tax Credits.* —
>
> (A) *Creditable input Tax.* —
>
> (1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax:
>
> (a) Purchase or importation of goods:
>
> (i) For sale; or
>
> (ii) For conversion into or intended to form part of a finished product for sale including packaging materials; or
>
> (iii) For use as supplies in the course of business; or
>
> (iv) For use as materials supplied in the sale of service; or
>
> (v) For use in trade or business for which deduction for depreciation or amortization is allowed under this Code.
>
> (b) Purchase of services on which a value-added tax has actually been paid.
>
> (2) The input tax on domestic purchase or importation of goods or properties by a VAT-registered person shall be creditable:
>
> (a) To the purchaser upon consummation of sale and on importation of goods or properties; and

(b) To the importer upon payment of the value-added tax prior to the release of the goods from the custody of the Bureau of Customs.

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

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

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

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

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

(a) Purchase or importation of goods:

(1) For sale; or

(2) For conversion into or intended to form part of a finished product for sale including packaging materials; or

(3) For use as supplies in the course of business; or

(4) For use as raw materials supplied in the sale of services; or

(5) For use in trade or business for which deduction for depreciation or amortization is allowed under the Tax Code,

(b) Purchase of real properties for which a VAT has actually been paid;

(c) Purchase of services in which a VAT has actually been paid;

(d) Transactions 'deemed sale' under Sec. 106 (B) of the Tax Code;

(e) Transitional input tax allowed under Sec. 4.111 (a) of these Regulations;

(f) Presumptive input tax allowed under Sec. 4.111 (b) of these Regulations;

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

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

(a) To the importer upon payment of VAT prior to the release of goods from customs custody;

(b) To the purchaser of the domestic goods or properties upon consummation of the sale; or

(c) To the purchaser of services or the lessee or licensee upon payment of the compensation, rental, royalty or fee.

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

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

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

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

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

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

xxx xxx xxx

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

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

"SEC. 4.110-8. *Substantiation of Input Tax Credits.* –

N/

> (a) Input taxes for the importation of goods or the domestic purchase of goods, properties or services is made in the course of trade or business, whether such input taxes shall be credited against zero-rated sale, non-zero-rated sales, or subjected to the 5% Final Withholding VAT, must be substantiated and supported by the following documents, and must be reported in the information returns required to be submitted to the Bureau:
>
> (1) **For the importation of goods** - import entry or other equivalent document showing actual payment of VAT on the imported goods.
>
> (2) **For the domestic purchase of goods and properties** – invoice showing the information required under Secs. 113 and 237 of the Tax Code.
>
> (3) For the purchase of real property – public instrument i.e., deed of absolute sale, deed of conditional sale, contract/agreement to sell, etc., together with VAT invoice issued by the seller.
>
> (4) **For the purchase of services** – official receipt showing the information required under Secs. 113 and 237 of the Tax Code.
>
> A cash register machine tape issued to a registered buyer shall constitute valid proof of substantiation of tax credit only if it shows the information required under Secs. 113 and 237 of the Tax Code."

To establish entitlement to a refund of input VAT, petitioner must not only present the supporting documents prescribed under Section 4.110-8 of RR No. 16-2005, but also ensure that these documents comply with the invoicing requirements under Sections 113(A) and (B), 237 and 238 of the NIRC of 1997, as amended, as implemented by Section 4.113-1(A) and (B) of RR No. 16-2005, as amended.

According to the *VAT Refund Notice* issued by the BIR, petitioner's claim in the amount of ₱747,759.70 pertains to the *disapproved portion* of its total administrative claim, broken down as follows:[105]

[105] Exhibit "R-3", BIR Records (Exhibit "R-4"), pp. 221–222; Exhibit "P-53", Docket – Vol. I, pp. 49–50.

Reason for disallowance	Input VAT Claim
Violation of invoicing requirements, over-claimed, out of period and no original/scanned document submitted	₱ 263,627.10
Disallowance on big-ticket purchases	197,692.89
Disallowed amortized deferred input tax (DIT) from prior period claims	286,439.71
Total	**₱ 747,759.70**

In support of the amount of ₱747,759.70, petitioner submitted various suppliers' SIs and ORs, [106] which were examined by the ICPA and further reviewed by the Court.

A. *Disallowed input tax due to violation of invoicing requirements, over-claimed, out-of-period and no original/scanned documents submitted (₱263,627.10)* [107]

Out of the ₱263,627.09 disallowed input VAT, the Court agrees with respondent's findings but only to the extent of ₱254,591.52 for non-compliance with invoicing and substantiation requirements under the law and regulations, detailed as follows:

Exhibit No.	Vendor's Name	SI/OR No.	SI/OR Date	Amount of Purchases	Input VAT
I. Properly Substantiated					
a) Purchase of services supported by OR with corrections countersigned by authorized signatory					
"P-66-1-1", "P-66-2-2"	Shakey's Pizza Asia Ventures Inc.	0046996	Jun. 25, 2020	₱ 75,296.43	₱ 9,035.57
			Sub-total	**₱ 75,296.43**	**₱ 9,035.57**
II. Not properly substantiated					
a) Purchases of services supported by ORs but dated outside the period of claim					
"P-66-1-5"	Buan & Temprosa	10825	Oct. 4, 2019	₱ 10,000.00	₱ 1,200.00
"P-66-1-6"	Federal Land, Inc.	1400898381	Jan. 2, 2019	925,115.18	111,013.82
"P-66-1-2"	SyCip, Gorres, Velayo & Co.	MK00180086	Jun. 10, 2022	259,000.00	31,080.00
"P-66-1-4"	Aventus Medical Care Inc.	24791	Oct. 28, 2020	144,707.11	17,364.85
"P-66-1-3"	Aventus Medical Care Inc.	24786	Oct. 27, 2020	139,851.99	16,782.24
"P-66-1-7"	Jobs 180.com Incorporated	2182	Apr. 16, 2019	3,500.00	420.00
"P-66-1-10"	Mendoza Antero Calneo Mangundayao and Associates	832	Dec. 10, 2020	109,935.83	13,192.30
"P-66-2-1"	Wellbridge Health, Inc.	35159 A	Jan. 13, 2020	1,081.43	129.77
b) Purchases of services supported by ORs but the nature of service was not indicated and the invoices referred to in the ORs were not attached					
"P-66-1-8"	Lane Archive Technologies Corporation	72205	Apr. 29, 2020	12,110.00	1,453.20
"P-66-1-9"	Lane Archive Technologies Corporation	84028	Jun. 4, 2020	6,650.00	798.00

[106] Exhibits "P-66-1-1" to "P-66-1-10", "P-66-2-1", "P-68-1" to "P-68-13", and "P-70-1" to "P-70-45", USB (Exhibit "P-72").

[107] Total should be ₱263,627.09 instead of the total amount of ₱263,627.10 indicated per Exhibit "P-64", Annexed to ICPA Report (Exhibit "P-71"), Docket – Vol. I, pp. 500–501.

c) Unsupported input VAT claim					
	Buan & Temprosa			11,000.00	1,320.00
	Gem Stationary, Inc.			26,121.00	3,134.52
	Globe Telecom, Inc.			462,709.34	55,525.12
	Jobs 180.com Incorporated			3,500.00	420.00
	Mendoza Antero Calneo Mangundayao and Associates			6,314.17	757.70
			Sub-total	**₱2,121,596.05**	**₱254,591.52**
			Total	**₱2,196,892.48**	**₱263,627.09**

From the foregoing, the remaining ₱9,035.57 represents petitioner's valid input VAT.

B. Disallowance on big-ticket purchases (₱197,692.89)

Respondent identified and examined the invoices and/or ORs supporting petitioner's big-ticket purchases. Under Revenue Memorandum Order No. 16-2007, "big-ticket" purchases refer to transactions made with suppliers whose individual gross annual cumulative sales to the particular taxpayer-purchaser accounts to more than five percent (5%) of the taxpayer-purchaser's total annual gross purchases during the period under audit.

Upon finding that certain big-ticket purchases made by petitioner during the 2nd quarter of CY 2020 were not properly substantiated, respondent disallowed the corresponding input VAT totaling ₱197,692.89, broken down as follows:[108]

	Input VAT Claim
No supporting document	₱ 148,374.39
No proof of payment	24,916.50 [109]
Out of period	912.00
Alteration without ID	23,490.00
Total	**₱ 197,692.89** [110]

A scrutiny of petitioner's supporting documents reveals that out of the said claim of ₱197,692.91, the amount of ₱36,764.40 represents petitioner's valid input VAT. The remaining amount of ₱160,928.49 was properly disallowed by respondent for petitioner's failure to meet the invoicing and substantiation requirements under the law and regulations, detailed as follows:

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[108] Exhibit "P-67", Annexed to ICPA Report (Exhibit "P-71"), Docket – Vol. 1, pp. 522–524.
[109] The correct total amount is ₱24,916.52.
[110] The correct total amount is ₱197,692.91.

Exhibit No.	Vendor's Name	SI/OR No.	SI/OR Date	Amount of Purchases	Input VAT Claim
I. Properly substantiated					
a.) Purchases of goods properly supported by SIs					
"P-68-1"	Unison Computer Systems, Inc.	152037	Jun. 8, 2020	₱ 1,575.00	₱ 189.00
"P-68-2"	Unison Computer Systems, Inc.	152038	Jun. 8, 2020	26,720.00	3,206.40
"P-68-3"	Unison Computer Systems, Inc.	152039	Jun. 8, 2020	4,880.00	585.60
"P-68-4"	Unison Computer Systems, Inc.	152040	Jun. 8, 2020	4,880.00	585.60
"P-68-5"	Unison Computer Systems, Inc.	152041	Jun. 8, 2020	9,760.00	1,171.20
"P-68-6"	Unison Computer Systems, Inc.	152042	Jun. 8, 2020	2,380.00	285.60
"P-68-7"	Unison Computer Systems, Inc.	152043	Jun. 8, 2020	107,200.00	12,864.00
"P-68-8"	Unison Computer Systems, Inc.	152045	Jun. 8, 2020	14,640.00	1,756.80
"P-68-9"	Unison Computer Systems, Inc.	152046	Jun. 8, 2020	4,880.00	585.60
"P-68-10"	Unison Computer Systems, Inc.	152036	Jun. 8, 2020	129,455.00	15,534.60
Sub-total				**₱ 306,370.00**	**₱ 36,764.40**
II. Not properly substantiated					
a) Purchases of goods supported by SIs dated outside the period of claim					
"P-68-11"	Unison Computer Systems, Inc.	0141232	Nov. 29, 2018	₱ 7,600.00	₱ 912.00
"P-68-12"	Unison Computer Systems, Inc.	0141241	Nov. 29, 2018	813,450.00	97,614.00
b) Purchase of services supported by OR but the nature of service was not indicated and the billing statements referred to in the OR were not attached					
"P-68-13"	Unison Computer Systems, Inc.	0052198	June 1, 2020	195,750.00	23,490.00
c) Purchases of services without supporting Ors					
	Asalus Corporation (Intellicare)	-	-	545.49	65.46
	Philippine Long Distance Telephone Company	ORPQGOR 13965237 6	Mar. 2, 2020	3,963.61	475.63
	Philippine Long Distance Telephone Company	ORPELOR 00371339 0	Mar. 9, 2020	1,473.21	176.79
	Philippine Long Distance Telephone Company	ORPQGOR 13965238 3	Mar. 2, 2020	1,473.21	176.79
	Philippine Long Distance Telephone Company	ORPQGOR 13965238 4	Mar. 2, 2020	26.79	3.21
	Philippine Long Distance Telephone Company	ORPELOR 00371339 1	Mar. 29, 2020	1,473.21	176.79
	Philippine Long Distance Telephone Company	ORPQGOR 13965238 1	Mar. 2, 2020	1,473.21	176.79
	Philippine Long Distance Telephone Company	ORPQGOR 13965238 2	Mar. 2, 2020	26.79	3.21
	Philippine Long Distance Telephone Company	ORPELOR 00371339 2	Mar. 29, 2020	1,473.21	176.79
	Philippine Long Distance Telephone Company	ORPQGOR 13965237 9	Mar. 2, 2020	1,473.21	176.79

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	Philippine Long Distance Telephone Company	ORPQGOR 13965238 0	Mar. 2, 2020	26.79	3.21
	Philippine Long Distance Telephone Company	ORPELOR 00371339 4	Mar. 29, 2020	5,892.86	707.14
	Philippine Long Distance Telephone Company	ORPQGOR 13965239 3	Mar. 2, 2020	5,892.86	707.14
	Philippine Long Distance Telephone Company	ORPQGOR 13965239 4	Mar. 2, 2020	107.14	12.86
	Philippine Long Distance Telephone Company	ORPELOR 00371338 7	Mar. 29, 2020	1,473.21	176.79
	Philippine Long Distance Telephone Company	ORPQGOR 13965238 9	Mar. 2, 2020	1,473.21	176.79
	Philippine Long Distance Telephone Company	ORPQGOR 13965239 0	Mar. 2, 2020	26.79	3.21
	Philippine Long Distance Telephone Company	ORPELOR OC371338 5	Mar. 29, 2020	1,473.21	176.79
	Philippine Long Distance Telephone Company	ORPQGOR 13965237 7	Mar. 2, 2020	1,473.21	176.79
	Philippine Long Distance Telephone Company	ORPQGOR 13965237 8	Mar. 2, 2020	26.79	3.21
	Philippine Long Distance Telephone Company	-	-	293,002.75	35,160.33
			Sub-total	**₱1,341,070.76**	**₱160,928.51**
			Total	**₱1,647,440.76**	**₱197,692.91**

C. Disallowed amortized deferred input tax (DIT) from prior period claims (₱286,439.71)

Respondent disallowed ₱286,439.71 representing amortized deferred input tax on capital goods exceeding ₱1 million from prior periods, citing its previous denial of petitioner's claim for the same in 2019.[111]

However, petitioner was able to substantiate that ₱275,388.90 of the said amount is properly supported and may be considered valid for purposes of the present claim. The Court, therefore, upholds respondent's disallowance only with respect to the remaining ₱11,050.81, as detailed below:

Exhibit No.	Vendor's Name	Invoice/ OR No.	Invoice/ OR Date	Amount	Total Input VAT	Input VAT Amortized for the Period
I. Properly substantiated						
a) Purchases of goods properly supported by SIs						
"P-70-1"	Hi-end Office	310	May 23, 2018	₱ 97,500.00	₱ 11,700.00	₱ 975.00

[111] BIR Records (Exhibit "R-4"), pp. 176–178.

	Design Corporation					
"P-70-2"	Unison Computer Systems, Inc.	136512	Jun. 13, 2018	2,135,720.00	256,286.40	21,357.20
"P-70-3"	Unison Computer Systems, Inc.	136459	Jun. 8, 2018	260,850.00	31,302.00	2,608.50
"P-70-4"	Unison Computer Systems, Inc.	136830	Jun. 25, 2018	880,000.00	105,600.00	8,800.00
"P-70-5"	Unison Computer Systems, Inc.	136831	Jun. 25, 2018	1,175,550.00	141,066.00	11,755.50
"P-70-6"	Unison Computer Systems Inc.	130017	Nov. 1, 2017	882,008.92	105,841.07	5,292.05
"P-70-7"	Unison Computer Systems Inc.	123204	Feb. 23, 2017	704,000.00	84,480.00	4,224.00
"P-70-8"	Hi-End Office Design Corporation	0185	Feb. 20, 2017	1,404,203.00	168,504.36	8,425.22
"P-70-9"	Hi-End Office Design Corporation	0187	Feb. 20, 2017	1,696,975.00	203,637.00	10,181.85
"P-70-10"	Unison Computer Systems Inc.	123889	Mar. 16, 2017	3,703,490.00	444,418.80	22,220.94
"P-70-11"	Unison Computer Systems Inc.	123890	Mar. 16, 2017	405,000.00	48,600.00	2,430.00
"P-70-14"	Hi-End Office Design Corporation	0190	Mar. 31, 2017	427,500.00	51,300.00	2,565.00
"P-70-13"	Hi-End Office Design Corporation	0191	Mar. 18, 2017	1,404,203.00	168,504.36	8,425.22
"P-70-15"	Unison Computer Systems Inc.	124594	Apr. 27, 2017	435,000.00	52,200.00	2,610.00
"P-70-16"	Unison Computer Systems Inc.	124855	Apr. 19, 2017	347,441.75	41,693.01	2,084.65
"P-70-17"	Unison Computer Systems Inc.	125026	Apr. 26, 2017	623,727.92	74,847.35	3,742.37
"P-70-18"	Unison Computer Systems Inc.	124330	Apr. 1, 2017	1,160,000.00	139,200.00	6,960.00
"P-70-19"	Unison Computer Systems Inc.	124216	Apr. 20, 2017	1,627,669.75	195,320.37	9,766.02
"P-70-20"	Unison Computer Systems, Inc.	141245	Dec. 1, 2018	220,600.00	26,472.00	2,206.00
"P-70-21"	Unison Computer Systems, Inc.	141249	Dec. 1, 2018	312,750.00	37,530.00	3,127.50
"P-70-22"	Unison Computer Systems, Inc.	141250	Dec. 1, 2018	685,360.00	82,243.20	6,853.60
"P-70-23"	Unison Computer Systems, Inc.	141251	Dec. 1, 2018	1,716,480.00	205,977.60	17,164.80
"P-70-25"	Unison Computer Systems, Inc.	142576	Feb. 6, 2019	571,000.00	68,520.00	5,710.00
"P-70-26"	Unison Computer Systems, Inc.	142951	Feb. 21, 2019	231,000.00	27,720.00	2,310.00
"P-70-27"	Unison Computer Systems, Inc.	149929	Dec. 16, 2019	1,644,825.00	197,379.00	16,448.25
"P-70-28"	Unison Computer Systems, Inc.	149618	Dec. 02, 2019	436,240.00	52,348.80	4,362.40
"P-70-29"	Unison Computer Systems Inc.	131568	Dec. 15, 2017	96,932.76	11,631.93	930.55
"P-70-30"	Unison Computer Systems Inc.	131456	Dec. 11, 2017	135,565.20	16,267.82	1,301.43
"P-70-31"	Unison Computer Systems Inc.	131455	Dec. 11, 2017	351,060.80	42,127.30	3,370.18
"P-70-32"	Unison Computer Systems Inc.	131454	Dec. 11, 2017	264,900.60	31,788.07	2,543.05
"P-70-33"	Unison Computer Systems Inc.	131451	Dec. 11, 2017	4,563,790.40	547,654.85	43,812.39
"P-70-34"	Unison Computer Systems Inc.	131450	Dec. 11, 2017	175,530.40	21,063.65	1,685.09
"P-70-35"	Unison Computer Systems Inc.	131449	Dec. 11, 2017	187,615.20	22,513.82	1,801.11

"P-70-36"	Unison Computer Systems Inc.	131448	Dec. 11, 2017	87,765.20	10,531.82	842.55
"P-70-37"	Unison Computer Systems Inc.	131434	Dec. 11, 2017	468,450.00	56,214.00	4,497.12
"P-70-38"	Unison Computer Systems Inc.	131105	Nov. 28, 2017	794,502.08	95,340.25	7,627.22
"P-70-39"	Unison Computer Systems Inc.	131104	Nov. 28, 2017	241,845.60	29,021.47	2,321.72
"P-70-40"	Unison Computer Systems Inc.	131103	Nov. 28, 2017	80,615.20	9,673.82	773.91
"P-70-41"	Unison Computer Systems Inc.	131102	Nov. 28, 2017	725,536.80	87,064.42	6,965.15
"P-70-42"	Unison Computer Systems Inc.	130675	Nov. 09, 2017	89,820.20	10,778.42	862.27
"P-70-43"	Unison Computer Systems Inc.	129609	Sep. 29, 2017	89,820.20	10,778.42	862.27
"P-70-44"	Unison Computer Systems Inc.	129610	Sep. 29, 2017	179,640.40	21,556.85	1,724.55
"P-70-45"	Unison Computer Systems Inc.	129818	Oct. 07, 2017	89,820.20	10,778.42	862.27
			Sub-total	**₱33,812,305.58**	**₱4,057,476.65**	**₱275,388.90**
II. Not properly substantiated						
a) Purchase of goods supported by SI but with incorrect TIN of petitioner						
"P-70-24"	Integrated Computer Systems, Inc.	744809	Feb. 01, 2019	₱ 238,830.33	₱ 28,659.64	₱ 2,388.30
b) Purchase of services supported by OR but the nature of service cannot be ascertained						
"P-70-12"	Westcon Solutions Philippines, Inc.	0262	Mar. 24, 2017	107,943.00	12,953.16	647.66
c) Unsupported						8,014.85
			Sub-total	**₱ 346,773.33**	**₱ 41,612.80**	**₱ 11,050.81**
			Total	**₱34,159,078.91**	**₱4,099,089.45**	**₱286,439.71**

Accordingly, the Court finds that the amortized input VAT from previous periods amounting to ₱275,388.90 is valid and properly supported, while the disallowed portion of ₱11,050.81 is sustained.

In view of the foregoing, and for purposes of determining compliance with the *seventh* requisite, the Court concludes that out of the total input VAT claim of ₱747,759.70, only the amount of ₱321,188.87 represents petitioner's valid input VAT that was actually due or paid for the 2nd quarter of CY 2020, as determined below:

		Per Court's Findings		
	Per BIR's Findings	**Disallowances Upheld by the Court**	**Valid Input VAT**	**Total**
A. Disallowed input tax due to violation of invoicing requirements, over-claimed, out-of-period and no original/scanned documents submitted	₱ 263,627.10	₱254,591.52	₱ 9,035.57	₱ 263,627.09
B. Disallowance on big-ticket purchases	197,692.89	160,928.51	36,764.40	197,692.91

C. Disallowed amortized deferred input tax (DIT) from prior period claims	286,439.71	11,050.81	275,388.90	286,439.71
D. Discrepancy due to footing error made by respondent		(.01)		(.01)
Total	**₱747,759.70**	**₱426,570.83**	**₱321,188.87**	**₱747,759.70**

<u>Eight requisite:</u> The subject input taxes have not been applied against output taxes in the same or succeeding quarters.

In *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue (Chevron),*[112] the Supreme Court, ruled that:

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

Clearly, with respect to the input tax attributable to zero-rated sales, a VAT-registered taxpayer may either:

1. Charge it against output tax from regular 12% VAT-able sales, with any unutilized or excess input tax claimed for refund or issuance of a tax credit certificate; or

[112] G.R. No. 215159, July 5, 2022.

2. Claim it for refund or tax credit in its entirety.

The Supreme Court emphasized in *Chevron* that these remedies are alternative and cumulative, and the choice rests solely with the taxpayer. Neither the Court of Tax Appeals nor the Supreme Court may unilaterally offset input tax against output tax or condition the refund on the existence of excess creditable input tax. Such procedures have no basis in law or jurisprudence.

In the present case, petitioner opted to avail of the first option. For the 2nd quarter of CY 2020, petitioner reported a total input VAT of ₱1,557,694.57 arising from its amortized portion of input VAT on capital goods purchases exceeding ₱1Million and input VAT on current domestic purchases of goods and services, broken down as follows:

Input tax deferred on capital goods exceeding ₱1Million from previous quarter	₱ 2,177,399.64
Purchases of capital goods exceeding ₱1Million this quarter	-
Total	2,177,399.64
Less: Input tax on purchases of capital goods exceeding ₱1Million deferred for the succeeding period	1,835,897.03
Amortized portion of input tax on capital goods exceeding ₱1Million	₱ 341,502.61
Add: Input tax on current transactions	
Purchase of capital goods not exceeding ₱1Million	113,148.60
Domestic purchases of goods other than capital goods	183,237.53
Domestic purchases of services	919,805.83
Total input taxes during the period	**₱1,557,694.57**

For the same taxable quarter, petitioner reported output VAT amounting to ₱429,769.41,[113] in relation to its sales subject to 12% VAT. Against this, it applied input VAT of ₱27,090.93 attributable to its VAT-able sales, resulting in a remaining output VAT payable of ₱402,678.48. Petitioner's remaining output VAT liability was then offset against petitioner's input VAT of ₱1,530,603.64 attributable to zero-rated sales, resulting in an excess or unutilized input VAT of ₱1,127,925.16. This amount became the subject of petitioner's administrative claim for refund, as shown below:

[113] Line 15B, Exhibit "P-43", Docket – Vol. II, p. 737.

x---x

	Amount *[a]*		**Allocation Factor** *[c = a ÷ b]*	**Allocated Declared Input VAT** *[e= c x d]*		**Input VAT Offset Against Output VAT**	**Excess Input VAT Attributable to Zero-Rated Sales**
VATable Sales	₱ 3,581,411.79		1.739168%	₱ 27,090.93		₱ 27,090.93	₱ -
Zero-rated Sales	202,345,290.47		98.260832%	1,530,603.64		402,678.48	1,127,925.16
Total Sales	**₱205,926,702.26**	*[b]*	**100.000000%**	**₱1,557,694.57**	*[d]*	**₱429,769.41**	**₱1,127,925.16**
Less: Amount refunded by the BIR							380,165.46
Excess input VAT attributable to zero-rated sales, subject of the *Petition for Review*							**₱ 747,759.70**

Clearly, petitioner's VAT refund claim for the 2nd quarter of CY 2020 is already net of its reported output VAT liability for the same period.

Moreover, although petitioner carried over the claimed input VAT amount of ₱1,127,925.16 to succeeding quarters/period, [114] it remained unutilized until it was eventually deducted as *"VAT Refund/TCC claimed",*[115] in its *Quarterly Value-Added Tax Return* for the 1st quarter of CY 2022, effectively preventing the carry-over or application of the said input taxes to subsequent taxable quarter/s.[116]

Hence, petitioner is deemed to have fulfilled the *eighth* requisite for the refund or issuance of tax credit certificate under Section 112(A) of the NIRC of 1997, as amended.

***Ninth requisite:* The excess input taxes for the 2nd quarter of CY 2020 are attributable to petitioner's zero-rated sales.**

To reiterate, the *ninth* requisite requires that the input VAT claimed for refund must be attributable to zero-rated or effectively zero-rated sales. In cases where a taxpayer has both zero-rated and taxable or exempt sales, and the input taxes cannot be directly and entirely attributed to any of these sales, the input VAT must be proportionately allocated based on sales volume.

[114] Exhibits "P-57-3" to "P-57-9", USB (Exhibit "P-72").
[115] Line 23D, Exhibit "P-57-9", USB (Exhibit "P-72").
[116] Line 20A, Exhibit "P-57-10", USB (Exhibit "P-72").

As previously discussed, petitioner had both sales subject to 12% VAT and zero-rated sales during the second quarter of CY 2020. Petitioner's total input VAT claim of ₱1,127,925.16 (including the amount of ₱747,759.70, subject of the present *Petition for Review*) represents the declared excess input VAT allocable to its declared zero-rated sales for the 2nd quarter of CY 2020.

Correspondingly, out of the present claim for refund of ₱747,759.70, the Court finds the excess input VAT of ₱321,188.87 valid, properly substantiated and attributable to petitioner's declared zero-rated sales. Accordingly, petitioner has complied with the *ninth* requisite for the refund or issuance of a tax credit certificate under Section 112(A) of the NIRC of 1997, as amended.

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**.

Accordingly, respondent is **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **₱321,188.87**, representing its excess and unutilized input VAT attributable to its zero-rated sales for the 2nd quarter of CY 2020, which is in addition to the ₱380,165.46 previously granted by respondent in petitioner's administrative claim for refund, as stated in the *VAT Refund Notice* dated September 5, 2022.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Associate Justice

On Leave
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice