REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

STEFANINI PHILIPPINES, INC., *Petitioner,*	**CTA Case No. 10226** Members:
- versus -	**DEL ROSARIO,** *P.J., Chairperson,* **MANAHAN,** and **REYES-FAJARDO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	**Promulgated:** AUG 23 2023; 2:00PM

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DECISION

REYES-FAJARDO, J.:

Before the Court is a Petition for Review[1] filed by Stefanini Philippines, Inc. (petitioner or Stefanini Philippines) on December 16, 2019 against respondent Commissioner of Internal Revenue (CIR), seeking the refund of or issuance of a tax credit certificate (TCC) amounting to ₱9,632,173.66 representing alleged excess and/or unutilized input value-added tax (VAT) on purchases of goods and services attributable to zero-rated sales relative to the third and fourth quarters of calendar year (CY) 2017.

FACTS

Stefanini Philippines is a corporation organized under Philippine law, with registered office address at 3, 5 & 6/F iMET BPO Metrobank Ave., Metropolitan Park, Roxas Blvd., Pasay City 1300. It is engaged in the business of providing business process outsource solutions and allied contact or call center services[2] to clients that

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1 Docket – Vol. I, pp. 6-13.

2 Par. 1.1, Stipulation of Facts, Compliance dated October 1, 2020, Docket – Vol. I, p. 298.

include non-resident foreign entities such as Stefanini, Inc., Stefanini UK Ltd., Stefanini Sàrl, and Stefanini NV/SA.

Respondent is the head of the Bureau of Internal Revenue (BIR) empowered to perform the duties of the office, including acting upon and approving claims for refund or tax credit. Its office address is at the 5th Floor, BIR National Office Building, BIR Road, Diliman, Quezon City.[3]

Tax Returns

1) Output VAT

For the third and fourth quarters of CY 2017, Stefanini Philippines filed[4] Quarterly Value-Added Tax Returns (BIR Form No. 2550-Q) and reported total sales of ₱359,176,890.35, which included zero-rated sales of ₱358,807,912.34 as follows:

Period	VATable Sales	Zero-rated Sales	Total Sales
Third Quarter – 2017[5]	₱ 221,514.41	₱ 122,765,262.34	₱ 122,986,776.75
Fourth Quarter- 2017[6]	147,463.60	236,042,650.00	236,190,113.60
Total	**₱ 368,978.01**	**₱358,807,912.34**	**₱359,176,890.35**

Correspondingly, Stefanini Philippines reported output VAT from its sales subject to VAT in the third and fourth quarters amounting to ₱26,581.73[7] and ₱17,695.63,[8] respectively.

2) Input VAT

On the other hand, it also declared a total input VAT of ₱9,676,450.52 from its current domestic purchases of goods and services and input VAT on purchases of capital goods from previous quarters, detailed as follows:

3 Par. 2, Stipulation of Facts, Compliance dated October 1, 2020, Docket – Vol. I, pp. 298 to 299.
4 Petitioner amended its VAT return for the fourth quarter on April 14, 2018.
5 Exhibit "P-80", Lines 115 to 19, Docket – Vol. II, p. 1128. (Note: Zero-rated sales were reported as Exempt sales.)
6 Exhibit "P-100", Lines 15 to 19, Docket – Vol. I, p. 471.
7 Exhibit "P-80", Line 15B, Docket – Vol. II, p. 1128.
8 Exhibit "P-81", Line 15B, Docket – Vol. II, p. 1130.

	3rd Qtr 2017 "P-80"	4th Qtr 2017 (Amended) "P-100"	Total
Input Tax Due on Capital Goods exceeding ₱1M			
Deferred from previous quarter	₱1,582,446.18	₱1,498,163.00	₱3,080,609.18
Purchase of Capital Goods Exceeding P1M	-	1,195,413.26	1,195,413.26
Total	₱1,582,446.18	₱2,693,576.26	₱4,276,022.44
Less: Deferred for the succeeding period	1,498,163.36	2,602,771.62	4,100,934.98
Amortized input tax on capital goods exceeding ₱1M	*₱84,282.82*	*₱90,804.64*	*₱175,087.46*
Input Tax Due on Current Purchases of Goods other than Capital Goods			
Input tax on purchase of capital goods not exceeding ₱1M	₱141,177.60	₱100,028.89	₱241,206.49
Input tax on domestic purchases of goods other than capital goods	101,759.75	312,164.12	413,923.87
Sub-total	*₱242,937.35*	*₱412,193.01*	*₱655,130.36*
Input Tax Paid on:			
Input tax on domestic purchases of services	₱3,027,767.46	₱5,818,465.24	₱8,846,232.70
Sub-total	*₱3,027,767.46*	*₱5,818,465.24*	*₱8,846,232.70*
Total input tax during the period	**₱3,354,987.63**	**₱6,321,462.89**	**₱9,676,450.52**

3) VAT Payable

On account of the excess of input over output VAT, Stefanini Philippines reported net VAT *overpayment* for the third and fourth quarters amounting to ₱54,951,712.80[9] and ₱61,255,480.42,[10] respectively.

Proceedings before the BIR

On **September 26, 2019**, Stefanini Philippines filed before the BIR an Application for Tax Credits/Refunds (BIR Form No. 1914),[11]

9 Exhibit "P-80", Line 29 – Vol. II, p. 1129.
10 Exhibit "P-81", Line 29 – Vol. II, p. 1131.
11 Exhibit "P-89", Docket – Vol. II, p. 1156.

accompanied by a letter[12] of even date (**administrative claim**). In the main, it averred as follows: *First*, it incurred excess and/or unutilized input VAT attributable to its zero-rated sales. *Second*, it is entitled to the refund or credit of excess input VAT arising from the third and fourth quarters of CY 2017 in the aggregate amount of ₱9,632,173.66.[13]

The CIR[14] denied Stefanini Philippines's administrative claim. The latter received a copy of this denial on **November 18, 2019**. Hence, it filed the present Petition for Review on **December 16, 2019 (judicial claim)**.[15]

Proceedings before the Court

The CIR filed an Answer[16] and submitted[17] the BIR Records of the case on March 2, 2020 and July 28, 2020, respectively.

After the parties' submission of their respective pre-trial briefs[18] and the conduct of a pre-trial conference,[19] the Court resolved[20] to approve the parties' Joint Stipulation of Facts and Issues[21] and issued a Pre-Trial Order dated February 3, 2021.[22]

During trial, the following persons testified for Stefanini Philippines: (1) Ms. Jeanina B. Pepito,[23] petitioner's Finance Manager,

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12 Exhibit "P-88", Docket - Vol. II, pp. 1153 to 1155.

13 With ₱0.50 discrepancy against the total per VAT Returns.

14 Through a letter dated October 29, 2019 issued by the BIR, through Ms. Maria Luisa I. Belen, OIC-Assistant Commissioner (ACIR) - Assessment Service. Exhibit "P-118" to "P-118-A-1", Docket - Vol. II, pp. 658 to 668.

15 Docket - Vol. I, pp. 6 to 16.

16 Docket - Vol. I, pp. 62 to 71.

17 Compliance dated July 27, 2020, Docket - Vol. I, pp. 79 to 80.

18 For the CIR, see Docket - Vol. I, pp. 88 to 92; For Stefanini Philippines, see Docket - Vol. I, pp. 103 to 117.

19 Notice of Resetting dated June 30, 2020, Docket - Vol. I, p. 77; Minutes of the hearing held on, and Order dated, September 24, 2020, Docket - Vol. I, pp. 287 to 290, and 292 to 293, respectively.

20 In a Resolution dated October 19, 2020. Docket - Vol. I, p. 332.

21 Docket - Vol. I, pp. 298 to 309.

22 Docket - Vol. II, pp. 952 to 973.

23 Exhibit "P-90", Docket - Vol. I, pp. 118 to 138; Exhibit "P-119", Docket - Vol. II, pp. 646 to 651; Minutes of the hearing held on January 21, 2021, Docket - Vol. II [last four (4) pages thereof]; Order dated January 21, 2021, Docket - Vol. II, pp. 944 to 945.

and (2) Mr. Joseph Cedric V. Calica,[24] the Court-commissioned Independent Certified Public Accountant (ICPA).[25]

The Report of the ICPA was submitted on December 4, 2020.[26]

Stefanini Philippines filed its Formal Offer of Evidence[27] on February 10, 2021. While the CIR filed a Comment[28] thereto, the Court expunged[29] the same for being filed out of time. Consequently, the Court resolved[30] to admit all exhibits offered by Stefanini Philippines.

For its part, the CIR presented the testimony of Revenue Officer Dexter C. Bustillos.[31] Subsequently, the Court also admitted[32] all exhibits offered[33] by the CIR.

After the parties filed their respective Memoranda,[34] the case was submitted for decision on August 23, 2022.[35]

ISSUE

The Court is tasked to ascertain Stefanini Philippines's entitlement to a refund or credit of alleged unutilized input VAT attributable to zero-rated sales relative to the third and fourth quarters of CY 2017.

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[24] Exhibit "P-120", Docket - Vol. II, pp. 671 to 704; Minutes of the hearing held on January 21, 2021, Docket - Vol. II [last four (4) pages thereof]; Order dated January 21, 2021, Docket - Vol. II, pp. 944 to 945.

[25] Oath of Commission dated October 22, 2020, Docket - Vol. I, p. 337; Minutes of the hearing held on, and Order dated, October 22, 2020, Docket - Vol. I, pp. 334 to 336 and 338 to 339, respectively.

[26] Exhibits "P-114" and "P-114-A", Docket - Vol. I, pp. 377 to 395.

[27] Docket - Vol. II, pp. 978-1011.

[28] Docket - Vol. III, pp. 1480-1483.

[29] In a Resolution dated May 23, 2021, Docket - Vol. III, p. 1485.

[30] In a Resolution dated June 21, 2021, Docket - Vol. III, pp. 1488 to 1491.

[31] Exhibit "R-4", Docket - Vol. I, pp. 97 to 102; Minutes of the hearing held on, and Order dated, November 4, 2021, Docket - Vol. III, pp. 1505 to 1508-a.

[32] In a Resolution dated March 21, 2022, Docket - Vol. III, pp. 1539 to 1540.

[33] Docket - Vol. III, pp. 1515 to 1518.

[34] For the CIR, see Docket - Vol. III, pp. 1566 to 1578. For Stefanini Philippines, see Docket - Vol. III, pp. 1580 to 1622.

[35] In a Minute Resolution dated August 23, 2022, Docket - Vol. III, p. 1623.

Petitioner's Arguments

Stefanini Philippines anchors its claim for refund or credit on Sections 108(B)(2) and 112(A), in relation to Section 110(B), of the National Internal Revenue Code (Tax Code).[36] It avers as follows: *First,* it is a VAT-registered taxpayer.[37] *Second,* the input VAT subject of the present claim was derived from purchases of goods and services attributable to zero-rated sales of services.[38] *Third,* said input VAT has remained unutilized and/or unapplied against its output VAT liability.[39] *Fourth,* it filed administrative and judicial claims within reglementary period prescribed by the Tax Code.[40]

Respondent's Arguments

On the other hand, the CIR insists that Stefanini Philippines failed to substantiate its claim for refund at the administrative level.[41] In particular, the CIR denied Stefanini Philippines's administrative claim because it did not comply with the mandatory invoicing requirements pursuant to Section 113 in relation to Section 110 of the Tax Code.[42]

OUR RULING

Stefanini Philippines's Petition for Review is partly meritorious.

The Court may consider evidence not presented at the administrative level.

The basic rule in tax refund cases requires the claimant to establish its entitlement to the refund or credit sought by showing that it has strictly complied with the conditions for its grant.[43] The

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36 Docket - Vol. I, p. 9.
37 Docket - Vol. I, p. 10.
38 Docket - Vol. I, p. 10.
39 Docket - Vol. I, p. 10.
40 Docket - Vol. I, p. 11.
41 Docket - Vol. I, p. 63.
42 Docket - Vol. I, p. 65.
43 *Silicon Phils. Inc. v. Commissioner of Internal Revenue,* G.R. Nos. 184360, 184361 & 184384, February 19, 2014, 727 Phil. 487-506; *Silicon Phils., Inc. v. Commissioner of Internal Revenue,* G.R. No. 173241, March 25, 2015.

claimant's burden consists of proving not only that it is entitled to a refund, but also that it observed the reglementary periods within which the administrative and judicial claims for refund must be filed.[44]

Verily, the law authorizes the CIR to issue a TCC relative to or refund creditable input VAT due or paid attributable to zero-rated sales.[45] Thus, the CIR is given sufficient discretion to grant or deny the claim for refund or credit, after evaluating the claimant's submissions in support of its request.

The CIR's denial is appealable to this Court.[46] On appeal, the claimant must convince the Court that the CIR's denial was not justified. It may re-submit the documents already presented to the CIR, as well as additional documents which may further bolster its entitlement to a refund or credit. Put in another way, "part of the evidence to be submitted to the CTA must necessarily include whatever is required for the successful prosecution of an administrative claim."[47]

Significantly, cases filed before this Court are litigated *de novo*. Thus, Our review shall not be "limited to whether or not the Commissioner committed gross abuse of discretion, fraud, or error of law, as contended by the Commissioner" and shall cover even the CIR's factual findings.[48]

Accordingly, We are not foreclosed from considering the totality of the evidence offered by the claimant, whether or not submitted previously at the administrative level.

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44 *Commissioner of Internal Revenue v. United Cadiz Sugar Farmers Association Multi-Purpose Cooperative*, G.R. No. 209776, December 7, 2016, 802 Phil. 636-659.

45 Section 112(C), Tax Code.

46 Section 112(C), Tax Code.

47 See *Atlas Consolidated Mining and Development Corp. v. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007, 547 Phil. 332-340.

48 *Philippine Airlines, Inc. v. Commissioner of Internal Revenue*, G.R. Nos. 206079-80 & 206309, January 17, 2018.

Stefanini Philippines is entitled to a partial refund or credit.

After a careful evaluation of the evidence offered in support of the instant judicial claim, We find in favor of granting Stefanini Philippines a refund or credit to the extent of ₱5,588,956.13.

The recent case of *Chevron Holdings, Inc. v. Commissioner of Internal Revenue*[49] set out the requisites for a grant of refund or credit of unutilized input VAT attributable to zero-rated sales, *viz.*:

> Under Section 112 (A) of the Tax Code, the taxpayer may claim for refund or issuance of tax credit certificate of unutilized input VAT attributable to zero-rated sales subject to the following conditions: (1) the taxpayer is VAT-registered; (2) the taxpayer is engaged in zero-rated or effectively zero-rated sales; (3) the claim must be filed within two (2) years after the close of the taxable quarter when such sales were made; and (4) the creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax.

The concurrence of the above-enumerated conditions in the present case is discussed below.

1) VAT Registration

Stefanini Philippines's VAT registration is established by its Certificate of Registration[50] with TIN 006-960-314-00000.

2) VAT Zero-rating

Stefanini Philippines avers that the input VAT it seeks to refund is attributable to sales of services to its non-resident foreign clients, which they regard as subject to zero percent (0%) VAT, pursuant to Section 108(B)(2) of the Tax Code, *viz.*:

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49 G.R. No. 215159, July 5, 2022.
50 Exhibits "P-4" and "P-4-A, Docket - Vol. II, p. 1023.

> 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 supplied)

The preliminary consideration for VAT zero-rating of a sale or supply of service is that it must have been **performed in the Philippines.**

In this regard, it is already stipulated that Stefanini Philippines is engaged in the enterprise of providing business process outsource solutions and allied contact or call center services.[51] That these services were performed **in the Philippines** is supported by its Amended Articles of Incorporation,[52] BIR Certificates of Registration dated December 17, 2013[53] and January 18, 2018,[54] and Agreements for Services[55] with its respective clients, among others. In particular, these documents show that its registered address and principal place of business is in the Philippines. In Our view, that a corporation was incorporated in the Philippines and is registered herein are *prima facie* proofs that, necessarily, it conducts its business in the Philippines,

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[51] Par. 1.1, Stipulation of Facts, Compliance dated October 1, 2020, Docket - Vol. I, p. 298.
[52] Exhibit "P-3", Docket - Vol. I, pp. 142-146.
[53] Exhibit "P-4", Docket - Vol. I, p. 150.
[54] Exhibit "P-4", Docket - Vol. I, p. 151.
[55] Exhibits "P-6", "P-7", "P-8", and "P-9", Docket - Vol. I., pp. 1025-1030, 1031-1036, 1037-1042, and 1043-1048, respectively.

where it resides and is registered.[56] Significantly, Stefanini Philippines's domestic registered address is no longer disputed, as this fact has been settled and accepted between the parties.[57]

Sales or supplies of services performed in the Philippines may fall into two categories for purposes of zero-rating: **export services** under sub-paragraph (B)(1) (*e.g.*, processing, manufacturing or repacking of goods intended for consumption outside the Philippines) and **other services** under sub-paragraph (B)(2) (*e.g.*, sale or supply of services other than those referred to in sub-paragraph (B)(1)).

In line with this, Stefanini Philippines submitted the following agreements indicating therein that the services to be provided, *i.e.*, "outsourced processing services to support [its clients'] internal operations and external customer contracts," *viz.*:

1. Agreement for Services between Stefanini, Inc. and petitioner made on January 1, 2015 and shall remain in force until April 30, 2018;[58]
2. Agreement for Services between Stefanini UK Ltd. and petitioner made on September 1, 2017 and shall remain in force until August 31, 2019;[59]
3. Agreement for Services between Stefanini Sàrl and petitioner made on January 1, 2016 and shall remain in force until April 30, 2018;[60] and
4. Agreement for Services between Stefanini NV/SA and petitioner made on January 1, 2016 and shall remain in force until April 30, 2018.[61]

These establish that Stefanini Philippines's services (*i.e.*, outsourced business process services) are zero-rated sales or supplies of **other services.** Consequently, its services must meet the criteria set out in Section 108 sub-paragraph (B)(2).

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56 *Stefanini Philippines, Inc. v. Commissioner of Internal Revenue*, C.T.A. Case No. 10188, November 23, 2022.
57 Par. 1, Stipulation of Facts, Compliance dated October 1, 2020, Docket - Vol. I, p. 298.
58 Exhibit "P-6", Docket - Vol. II, pp. 1025 to 1030.
59 Exhibit "P-7", Docket - Vol. II, pp. 1031 to 1036.
60 Exhibit "P-8", Docket - Vol. II, pp. 1037 to 1042.
61 Exhibit "P-9", Docket - Vol. II, pp. 1043 to 1048.

In *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*,[62] the Supreme Court enumerated the conditions under Section 108(B)(1), *viz.*:

> Sales of "other services," such as those qualifying services rendered by DKS to its foreign affiliates-clients, shall be zero-rated pursuant to Section 108 (B) (2) of the Tax Code if the following conditions are met: First, the seller is **VAT-registered**. Second, the services are 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." Third, the services are "paid for in acceptable foreign currency and accounted for in accordance with [BSP] rules and regulations."
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> ...
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> Proof of NRFC Status
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> For purposes of zero-rating under Section 108 (B) (2) of the Tax Code, the claimant must establish the two components of a client's NRFC status, viz.: (1) that their client was established under the laws of a country not the Philippines or, simply, is not a domestic corporation; and (2) that it is not engaged in trade or business in the Philippines. To be sure, there must be sufficient proof of both of these components: showing not only that the clients are foreign corporations, but also are not doing business in the Philippines.

We find that Stefanini Philippines established its compliance with the aforementioned requisites.

First, as discussed above, its VAT-registration is shown by its **BIR Certificate of Registration**.

Second, to prove that the remittances it received as payments for the services rendered were in acceptable foreign currency and accounted for as required by applicable BSP rules, petitioner presented **Certificates of Inward Remittance** issued by the Bank of America, N.A.[63] and Metropolitan Bank & Trust Company.[64]

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

[63] Exhibits "P-75" and "P-76", Docket - Vol. II, pp. 1121 to 1124.

[64] Exhibit "P-77", Docket - Vol. II, p. 1125.

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In the issuance of invoices and receipts evidencing the subject sales and collections of remittances, Stefanini Philippines must also comply with the mandatory invoicing requirements laid out in Section 113(A) and (B) of the Tax Code,[65] as further implemented by Section 4.113-1(A) and (B) of Revenue Regulations (RR) No. 16-05.

In this regard, Stefanini Philippines submitted the following official receipts to support its reported zero-rated sales for the third and fourth quarters of CY 2017, to wit:

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[65] 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:

(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 (₱1,000) 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.

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				Amount	
Exh.[66]	OR No.	Date	Client	Foreign Currency	PhP
3rd Quarter					
"P-10"	117	07/12/2017	Stefanini, Inc.	$200,000.00	₱10,092,000.00
"P-11"	118	07/18/2017	Stefanini, Inc.	$125,000.00	6,341,250.00
"P-12"	119	07/24/2017	Stefanini, Inc.	$200,000.00	10,127,000.00
"P-13"	121	07/31/2017	Stefanini, Inc.	$281,107.85	14,174,863.34
"P-14"	122	08/08/2017	Stefanini, Inc.	$500,000.00	25,282,500.00
"P-15"	123	08/25/2017	Stefanini, Inc.	$300,000.00	15,340,500.00
"P-16"	124	09/05/2017	Stefanini, Inc.	$200,000.00	10,212,000.00
"P-17"	125	09/21/2017	Stefanini, Inc.	$260,000.00	13,234,000.00
"P-18"	126	09/15/2017	Stefanini, Inc.	$30,000.00	1,530,000.00
"P-19"	127	09/19/2017	Stefanini, Inc.	$300,000.00	15,239,539.50
"P-20"	128	09/20/2017	Stefanini, Inc.	$10,000.00	505,134.50
"P-21"	129	09/28/2017	Stefanini, Inc.	$13,500.00	686,475.00
			Subtotal		***₱122,765,262.34***
4th Quarter					
"P-22"	130	10/03/2017	Stefanini, Inc.	$500,000.00	₱25,450,000.00
"P-23"	131	10/10/2017	Stefanini, Inc.	$30,000.00	1,539,000.00
"P-24"	132	10/19/2017	Stefanini, Inc.	$320,000.00	16,483,200.00
"P-25"	133	11/08/2017	Stefanini, Inc.	$400,000.00	20,542,000.00
"P-26"	134	11/17/2017	Stefanini, Inc.	$365,000.00	18,512,800.00
"P-27"	135	11/17/2017	Stefanini UK Ltd.	£50,987.39	3,414,115.63
"P-28"	136	11/20/2017	Stefanini NV/SA	€260,000.00	15,475,200.00
"P-29"	138	12/04/2017	Stefanini, Inc.	$160,000.00	8,064,800.00
"P-30"	139	12/06/2017	Stefanini, Inc.	$500,000.00	25,315,000.00
"P-31"	140	12/07/2017	Stefanini Sarl	Fr61,000.00	3,113,440.00
"P-32"	141	12/28/2017	Stefanini, Inc.	$250,000.00	12,457,500.00
"P-33"	142	12/20/2017	Stefanini, Inc.	$200,000.00	10,046,000.00
			Subtotal		***₱160,413,055.63***
			TOTAL		**₱283,178,317.97**

Upon examination, We observe that each inward remittance is duly supported by **VAT official receipts,** all of which bear the information in accordance with the applicable invoicing requirements. To be sure, the amount collected was written and declared as "zero rated sales" in the breakdown portion (left side) on the face of each official receipt. All collections are reflected clearly as zero-rated sales on the official receipts, in compliance with the applicable invoicing requirements and pursuant to applicable jurisprudence directing that the term "zero-rated sale" be written or printed prominently on the face thereof.

66 Docket - Vol. II, pp. 1049 to 1072.

We do note two (2) third quarter transactions where the amount of remittance received differed from the amount billed. Significantly, Stefanini Philippines submitted a reconciliation[67] where it was able to explain the nature of these discrepancies.[68]

Third, that Stefanini Philippines's clients for whom it rendered the subject services are (a) non-resident foreign corporations (NRFC) (b) not engaged in trade or business in the Philippines are established by the **SEC Certifications of Non-Registration** and **Proofs of Foreign Incorporation/Registration** relative to each of its foreign clients, *viz:*

Company Name	**SEC Certification of Non-Registration of Company** *(Exhibit Ref)*	**Proof of foreign incorporation/ registration** *(Exhibit Ref)*
Stefanini, Inc.	"P-57"[69]	"P-61" to "P-61-A";[70] "P-62" to "P-62-B";[71] "P-66";[72] "P-67"[73]
Stefanini UK Ltd.	"P-58"[74]	"P-63" to "P-63-A",[75] "P-116";[76] "P-68"[77]; "P-69"[78]
Stefanini Sàrl	"P-59"[79]	"P-65" to "P-65-A",[80] "P-65-1";[81] "P-65-A-1";[82] "P-72";[83] "P-73";[84] "P-74"[85]
Stefanini NV/SA	"P-60"[86]	"P-64" to "P-64-A";[87] "P-117"[88]

67 Exhibits "P-78" and "P-79", Docket - Vol. II, pp. 1126 to 1127.
68 Exhibit "P-78", Docket - Vol. II, p. 1126.
69 Docket - Vol. II, p. 1096.
70 Docket - Vol. II, pp. 1100 to 1101.
71 Docket - Vol. II, pp. 1102 to 1105.
72 Docket - Vol. II, p. 1114.
73 Docket - Vol. II, p. 1115.
74 Docket - Vol. II, p. 1097.
75 BIR Records, p. 78.
76 Docket - Vol. II, pp. 652 to 653.
77 Docket - Vol. II, p. 1116.
78 Docket - Vol. II, p. 1117.
79 Docket - Vol. II, p. 1098.
80 BIR Records, pp. 82 to 83.
81 Docket - Vol. II, p. 1111.
82 Docket - Vol. II, pp. 1112 to 1113.
83 Docket -Vol. - II, p. 1118.
84 Docket -Vol. - II, p. 1119.
85 Docket -Vol. - II, p. 1120.
86 Docket - Vol. II, p. 1099.
87 BIR Records, pp. 80 to 81.
88 BIR Records, pp. 80 to 81.

3) Timeliness of Administrative and Judicial Claims

The present claim covers the third and fourth quarters of CY 2017. Counting two (2) years from the close of each of these quarters, respectively, the following table indicates the last day for filing of the administrative claim, viz.:

VAT Return	Close of the Quarter	Last Day to File Administrative Claim
3rd quarter	September 30, 2017	September 30, 2019
4th quarter	December 13, 2017	December 31, 2019

It is clear from the foregoing that Stefanini Philippines's **September 26, 2019** filing of its **administrative claim** was within the two (2)-year prescriptive period set out in Section 112(A) of the Tax Code. Subsequently, however, the CIR denied the administrative claim.

It is stipulated that Stefanini Philippines received a copy of the CIR's denial on November 18, 2019.[89] It then proceeded to this Court and filed the present **judicial claim** on **December 16, 2019.**[90] Likewise, the judicial claim was timely as it was filed within the thirty (30)-day reglementary period counted from receipt of the CIR's decision.

4) Validity of unutilized input VAT

Certainly, the input VAT subject of the claim must also be valid; that is, eligible for refund or credit in accordance with relevant Tax Code provisions and regulations. To be valid, the input VAT: (a) must not be transitional input taxes,[91] (b) must be due or paid[92] and substantiated by supporting documents that, in turn, meet the applicable VAT invoicing requirements,[93] (c) must be attributable to

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89 Exhibit "P-118" to "P-118-A-1", Docket - Vol. II, pp. 658 to 668.

90 *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.*, G.R. No. 182364, August 3, 2010.

91 Ibid.

92 Ibid.

93 *Team Energy Corporation v. Commissioner of Internal Revenue, et seq.*, G.R. Nos. 197663 and 197770, March 14, 2018.

zero-rated or effectively zero-rated sales or supplies of service,[94] and (d) must not have been applied against output taxes during and in the succeeding quarters.[95]

In the subject VAT returns, Stefanini Philippines declared input taxes in the aggregate amount of ₱9,676,450.52. Subject of the present claim is a total of ₱9,632,173.66[96] of the aforementioned amount.

Stefanini Philippines's compliance with the above-enumerated requisites is discussed in detail below.

- *Not* transitional input VAT

There is no showing that input VAT credits subject of the instant claim are **transitional input VAT** within the meaning of Section 111(A) of the Tax Code. To be sure, the input VAT's non-transitional nature has not been put in issue nor questioned by the CIR.

- Actually due and paid; supported by VAT invoices and official receipts

Only 57.84%[97] of the total input VAT reported in the returns was established to have been **actually due or paid.**

Whether input VAT was due or paid is conditioned upon the presentation of documents that (a) substantiate the amount of input tax credits, as prescribed under Section 4.110-8 of RR No. 16-2005, and (b) comply with the invoicing requirements under Sections 113(A) and (B), 237 and 238 of the Tax Code, and implemented by Section 4.113-1(A) and (B) of RR No. 16-2005.

Here, Stefanini Philippines submitted VAT invoices and official receipts to support its input taxes from domestic purchases of goods and services for the third and fourth quarters of CY 2017. A careful

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94 *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.

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

96 With ₱0.50 discrepancy against the total per VAT Returns.

97 Valid input VAT ÷ Total claim = ₱5,596,590.06 ÷ ₱9,676,450.52 = 0.5783722 ≈ 57.84%

examination of these documents reveals that input taxes amounting to ₱4,079,860.46 are not supported properly and, thus, should be disallowed, *viz.*:

Third Quarter

Supplier^	Exh. No.	Date	Invoice/OR Amount	Input Tax
Purchase of goods other than capital goods				
Address, business style and/or TIN of petitioner not indicated in invoice				
Brother's Venture	P-91-A-23	07/26/2017	₱ 56,760.00	₱ 6,081.43
Brother's Venture	P-91-A-25	07/28/2017	22,500.00	2,410.71
Brother's Venture	P-91-A-27	08/23/2017	75,000.00	8,035.71
Pacsports[a]	P-91-A-247	08/18/2017	11,970.00	1,282.50
Subtotal			*₱ 166,230.00*	*₱ 17,810.35*
Invoice dated outside period of claim				
Synergenius Inc.	P-91-A-341	06/08/2017	₱41,810.72	₱4,479.72
Unison[b]	P-91-A-347	05/17/2017	3,311.41	354.79
Unison	P-91-A-349	05/19/2017	29,926.40	3,206.40
Unison	P-91-A-351	05/19/2017	7,481.60	801.6
Unison	P-91-A-353	06/19/2017	5,465.60	585.6
Unison	P-91-A-355	05/19/2017	2,744.00	294
Unison	P-91-A-357	06/01/2017	29,926.40	4,382.40
Unison	P-91-A-362	06/01/2017	7,481.60	801.6
Unison	P-91-A-364	06/01/2017	10,931.20	1,171.20
Unison	P-91-A-366	06/06/2017	2,240.00	240
Unison	P-91-A-368	06/13/2017	5,376.00	576
Unison	P-91-A-370	06/13/2017	4,760.00	510
Unison	P-91-A-372	06/23/2017	5,465.60	585.6
Unison	P-91-A-374	06/29/2017	5,488.00	588
Unison	P-91-A-376	06/29/2017	2,744.00	294
Subtotal			*₱ 165,152.53*	*₱ 18,870.91*
Disallowed input taxes from purchase of goods other than capital goods				₱ 36,681.26
Purchase of capital goods not exceeding P1Million				
Undated invoice				
Hi-End Office Design[c]	P-91-B-2		₱ 574,560.00	₱ 61,560.00
Disallowed input taxes from purchase of capital goods not exceeding P1Million				**₱ 61,560.00**
Purchase of services				
OR dated outside period of claim				
Pacita R. Salceda	P-91-A-21	03/09/2017	₱ 6,000.00	₱ 642.86
Subtotal				*₱ 642.86*
VAT not separately indicated in the supporting OR				
Corpnet Global[d]	P-91-A-106	08/30/2017	₱ 31,350.00	₱ 3,420.00
Corpnet Global	P-91-A-108	09/18/2017	49,500.00	5,400.00
Extra Ordinaire[e]	P-91-A-131	07/24/2017	112,450.46	11,482.17
Extra Ordinaire	P-91-A-133	07/24/2017	85,517.99	8,544.08
Extra Ordinaire	P-91-A-135	09/11/2017	84,417.72	8,424.05
Extra Ordinaire	P-91-A-137	09/11/2017	105,835.84	10,760.57

Kalibrr Technology[f]	P-91-A-236	07/12/2017	28,325.00	3,090.00
Kalibrr Technology	P-91-A-240	09/22/2017	28,325.00	3,090.00
Phil. Vending Corp.[g]	P-91-A-298	08/04/2017	18,177.50	1,983.00
Phil. Vending Corp.	P-91-A-300	08/04/2017	61,769.91	6,738.54
Phil. Vending Corp.	P-91-A-302	09/08/2017	8,672.32	946.07
Ricoh (Phil.) Inc.	P-91-A-314	08/17/2017	11,894.20	1,333.93
Ricoh (Phil.) Inc.	P-91-A-316	08/17/2017	11,894.20	1,333.93
Ricoh (Phil.) Inc.	P-91-A-318	08/17/2017	11,894.20	1,333.93
Ricoh (Phil.) Inc.	P-91-A-320	08/17/2017	11,894.20	1,333.93
Ricoh (Phil.) Inc.	P-91-A-322	08/17/2017	11,894.20	1,333.93
Ricoh (Phil.) Inc.	P-91-A-324	08/17/2017	8,894.33	970.29
Ricoh (Phil.) Inc.	P-91-A-326	08/17/2017	11,989.72	1,344.64
Ricoh (Phil.) Inc.	P-91-A-328	08/17/2017	47,926.82	5,228.38
Ricoh (Phil.) Inc.	P-91-A-330	08/17/2017	40,014.63	4,365.23
Ricoh (Phil.) Inc.	P-91-A-332	08/17/2017	35,143.17	3,833.80
Ricoh (Phil.) Inc.	P-91-A-334	08/17/2017	44,021.80	4,802.38
Subtotal			*₱ 861,803.21*	*₱ 91,092.85*
Input VAT on purchases of services not supported by OR				
B&T Law Offices	P-91-A-76	09/05/2017	₱ 19,734.50	₱ 1,800.00
Hi-End Office Design	P-91-A-205	07/24/2017	933,336.25	101,818.50
Hi-End Office Design	P-91-A-207	08/11/2017	933,336.25	101,818.50
PLDT[h]	P-91-A-249	08/16/2017	175,558.20	19,151.80
PLDT	P-91-A-252	08/16/2017	216,805.89	23,651.55
PLDT	P-91-A-254	08/16/2017	99,933.04	10,901.79
PLDT	P-91-A-257	09/04/2017	143,000.00	15,600.00
PLDT	P-91-A-259	09/04/2017	99,933.04	10,901.79
PLDT	P-91-A-261	09/04/2017	4,483.77	489.03
PLDT	P-91-A-263	09/04/2017	4,483.77	489.03
PLDT	P-91-A-265	10/12/2017	165,548.06	18,059.79
Wellthy Solutions Inc.	P-91-A-405	07/21/2017	9,630.00	1,080.00
Wellthy Solutions Inc.	P-91-A-407	09/25/2017	9,630.00	1,080.00
Wellthy Solutions Inc.	P-91-A-409	08/22/2017	9,630.00	1,080.00
Subtotal			*₱ 2,825,042.77*	*₱ 307,921.78*
No supporting documents				
Intellicare			₱48,563.50	₱5,827.62
Ricoh (Phil.) Inc.			11,205.33	1,344.64
Ricoh (Phil.) Inc.			7,664.33	919.72
Ricoh (Phil.) Inc.			45,477.00	5,457.24
Subtotal			*₱ 112,910.16*	*₱ 13,549.22*
With discrepancy in amount of input tax claim against OR amount				
		Claim	*Should be*	*Difference*
Federal Land[i]	P-91-A-143	₱ 83,783.70	₱ 82,287.56	₱ 1,496.14
Federal Land	P-91-A-145	361,067.71	344,948.62	16,119.09
Subtotal		*₱444,851.41*	*₱ 427,236.18*	*₱ 17,615.23*
Disallowed input taxes from purchase of services				**₱ 430,821.94**

Purchase of capital goods with amortized input tax				
Invoice has no BIR Authority to Print		*Input Tax*	*Recognized Life (in months)*	*Amortized Input Tax for the Qtr.*
Westcon Solutions[j]	P-91-C-10	₱ 12,953.16	60	₱ 647.66
Disallowed input taxes from purchase of capital goods with amortized input tax				**₱ 647.66**
Total disallowed input taxes for the Third Quarter				**₱ 529,710.86**

Fourth Quarter

Supplier	Exh. No.	Invoice/OR Date	Invoice/OR Amount	Input Tax
Purchase of goods other than capital goods				
Address, business style and/or TIN of petitioner not indicated in invoice				
Beyond The Ground[k]	P-91-A-443	11/23/2017	₱ 330,568.00	₱ 35,418.00
Brother Venture[l]	P-91-A-445	11/06/2017	29,248.00	3,133.71
Brother Venture	P-91-A-447	11/10/2017	35,700.00	3,825.00
Brother Venture	P-91-A-449	11/23/2017	50,220.00	5,380.71
Brother Venture	P-91-A-451	11/23/2017	58,720.00	6,291.43
Brother Venture	P-91-A-453	09/18/2017	92,000.00	9,857.14
Brother Venture	P-91-A-455	10/04/2017	37,800.00	4,050.00
Brother Venture	P-91-A-457	10/25/2017	43,660.03	4,677.86
GNS Inc.[m]	P-91-A-547	10/12/2017	1,680.00	180
Gem Stationary Inc	P-91-A-557	09/07/2017	27,089.06	2,902.40
Gem Stationary Inc	P-91-A-559	09/08/2017	34,655.00	3,713.04
Gem Stationary Inc	P-91-A-561	09/18/2017	8,000.00	857.14
Gem Stationary Inc	P-91-A-563	09/25/2017	36,230.00	3,881.79
Gem Stationary Inc	P-91-A-565	09/30/2017	4,981.00	533.68
Gem Stationary Inc	P-91-A-569	10/04/2017	40,550.00	4,344.64
Gem Stationary Inc	P-91-A-571	10/05/2017	2,500.00	267.86
Gem Stationary Inc	P-91-A-573	11/04/2017	25,455.00	2,727.32
Gem Stationary Inc	P-91-A-575	11/27/2017	39,629.99	4,246.07
Gem Stationary Inc	P-91-A-577	12/27/2017	30,647.00	3,283.61
Gem Stationary Inc	P-91-A-579	11/27/2017	29,237.00	3,186.11
Promocentral, Inc.	P-91-A-697	12/15/2017	509,091.52	54,545.52
Subtotal			***₱ 1,467,661.60***	***₱ 157,303.03***
No supporting documents				
Star Appliance Ctr.				₱ 10,114.29
Subtotal				***₱ 10,114.29***
With discrepancy in amount of input tax claim and invoice amount		*Claim*	*Should be*	*Difference*
Mercury Drug Corp.	P-91-A-669	₱ 7,897.18	₱ 5,691.64	₱ 2,205.54
Subtotal				***₱ 2,205.54***
Disallowed input taxes from purchase of goods other than capital goods				**₱ 169,622.86**
Purchase of services				
OR dated outside period of claim				
AGL Phils., Inc.[n]	P-91-A-411	03/09/2018	₱ 79,284.16	₱ 300.00
AGL Phils., Inc.	P-91-A-412	03/09/2018	11,000.00	1,200.00
AGL Phils., Inc.	P-91-A-413	01/23/2018	220,442.44	1,200.00
AGL Phils., Inc.	P-91-A-414	01/23/2018	30,543.23	300

ANSI Services, Inc.[o]	P-91-A-429	01/09/2018	480,716.24	9,456.73
ANSI Services, Inc	P-91-A-431	01/09/2018	483,438.52	9,510.27
ADI, Inc.[p]	P-91-A-433	01/08/2018	127,742.41	13,935.54
B&T Law Offices[q]	P-91-A-458	01/16/2018	1,344.00	144
B&T Law Offices	P-91-A-459	01/10/2018	1,344.00	144
B&T Law Offices	P-91-A-460	01/16/2018	1,680.00	180
B&T Law Offices	P-91-A-461	01/10/2018	1,344.00	144
B&T Law Offices	P-91-A-462	01/10/2018	4,256.00	456
B&T Law Offices	P-91-A-484	01/10/2018	11,200.00	1,200.00
B&T Law Offices	P-91-A-486	01/30/2018	231,168.00	24,768.00
Corpnet Global[r]	P-91-A-493	01/09/2018	30,250.00	3,300.00
Corpnet Global	P-91-A-495	02/07/2018	44,000.00	4,800.00
Extra Ordinaire	P-91-A-505	01/10/2018	107,449.72	10,936.63
Extra Ordinaire	P-91-A-506	01/10/2018	273,647.76	27,176.97
Fedex Pacific, LLC[s]	P-91-A-508	01/08/2018	2,732.42	298.1
Fedex Pacific, LLC	P-91-A-510	01/08/2018	3,264.79	356.15
Federal Land	P-91-A-534	01/09/2018	810,759.85	88,446.53
Federal Land	P-91-A-536	01/09/2018	10,747,022.22	1,205,273.52
FP Philippines, Inc.	P-91-A-538	01/12/2018	74,637.56	8,142.28
Globe Telecom	P-91-A-580	02/14/2018	19,699.04	2,198.05
Glocal Manpower[t]	P-91-A-609	01/17/2018	52,635.76	5,808.47
Glocal Manpower	P-91-A-611	01/09/2018	55,325.63	5,837.99
Glocal Manpower	P-91-A-613	02/01/2018	105,971.92	11,573.85
HTECH Corp.	P-91-A-623	01/10/2018	165,000.00	18,000.00
Intellicare	P-91-A-629	02/01/2018	17,936.60	1,956.72
Intellicare	P-91-A-630	02/01/2018	19,566.40	2,134.52
Intellicare	P-91-A-633	01/16/2018	15,597.06	1,701.50
Intellicare	P-91-A-634	01/16/2018	18,667.72	2,036.47
Intellicare	P-91-A-635	01/16/2018	82,685.33	9,020.22
Jai N Jio Canteen	P-91-A-642	01/19/2018	93,303.57	10,178.57
Jones Lang LaSalle[u]	P-91-A-647	01/12/2018	10,890.00	1,188.00
Jones Lang LaSalle	P-91-A-649	01/12/2018	183,788.00	20,049.60
Jones Lang LaSalle	P-91-A-651	01/12/2018	127,530.98	13,912.47
Jones Lang LaSalle	P-91-A-653	01/12/2018	10,890.00	1,188.00
Lane Archive Tech.	P-91-A-664	01/23/2018	1,144.00	124.8
PLDT	P-91-A-670	01/30/2018	443,288.03	48,358.69
RCW Construction[v]	P-91-A-700	05/02/2017	33,994.40	3,708.48
RCW Construction	P-91-A-712	02/14/2018	37,818.00	4,125.60
RCW Construction	P-91-A-714	02/14/2018	84,921.10	9,264.12
Ricoh (Phils.) Inc.	P-91-A-724	01/15/2018	4,673.07	509.79
Ricoh (Phils.) Inc.	P-91-A-726	01/15/2018	63,765.31	7,151.25
SGV & CO	P-91-A-729	01/30/2018	304,858.01	298.1
Wellthy Solutions	P-91-A-857	01/19/2018	9,630.00	1,080.00
Wellthy Solutions	P-91-A-863	01/19/2018	9,630.00	1,080.00
Subtotal			**₱15,752,477.25**	**₱1,594,153.98**
VAT not separately indicated in the supporting OR				
BDD Inc.[w]	P-91-A-487	12/11/2017	₱275,000.00	₱21,428.57
BDD Inc.	P-91-A-488	10/20/2017	196,428.57	30,000.00
Corpnet Global	P-91-A-491	11/22/2017	40,490.65	4,417.16
Jai N Jio Canteen	P-91-A-636	10/26/2017	11,000.00	1,200.00
Jai N Jio Canteen	P-91-A-638	10/26/2017	116,875.00	12,750.00

Jai N Jio Canteen	P-91-A-640	11/23/2017	38,696.43	4,221.43
Kristina Po	P-91-A-657	11/23/2017	18,190.00	2,040.00
RCW Construction	P-91-A-716	12/28/2018	9,292,572.78	1,013,735.21
Subtotal			***₱ 9,989,253.43***	***₱1,089,792.37***
Input VAT on purchases of services not supported by OR				
PLDT	P-91-A-690	11/29/2017	₱ 454,291.65	₱ 49,559.09
PLDT	P-91-A-693	11/29/2017	537,880.00	58,677.82
Wellthy Solutions	P-91-A-861	01/10/2017	9,630.00	1,080.00
Subtotal			***₱ 1,001,801.65***	***₱ 109,316.91***
No supporting documents				
Adventure Int'l.[x]			₱ 3,000.00	₱ 360.00
B&T Law Offices			2,400.00	288.00
Diversfy			154,305.50	18,516.66
Federal Land			2,739,258.00	328,710.96
Federal Land			775,136.00	93,016.32
Globe Telecom			119,769.25	14,372.31
Ricoh (Phils.) Inc.			26,464.42	3,175.73
Ricoh (Phils.) Inc.			11,084.92	1,330.19
Subtotal			***₱ 3,831,418.09***	***₱ 459,770.17***
With discrepancy in amount of input tax claim and OR amount				
		Claim	*Should be*	*Difference*
Extra Ordinaire	P-91-A-499	₱ 25,501.63	₱ 4,658.26	₱ 20,843.37
Extra Ordinaire	P-91-A-501	25,753.75	4,730.29	21,023.46
Extra Ordinaire	P-91-A-503	26,331.11	4,808.49	21,522.62
Federal Land	P-91-A-516	123,808.80	123,797.73	11.07
Federal Land	P-91-A-518	1,680.00	1,679.06	0.94
Federal Land	P-91-A-520	3,600.00	3,598.09	1.91
Federal Land	P-91-A-524	85,719.00	85,650.53	68.47
Seafood Ventures	P-91-A-728	20,271.43	5,000.00	15,271.43
W&I Ins. Brokers, Inc.[y]	P-91-A-865	57,722.85	9,620.47	48,102.38
Subtotal		***₱370,388.57***	***₱ 243,542.92***	***₱ 126,845.65***
Disallowed input taxes from purchase of services				**₱3,379,879.08**

Purchase of capital goods with amortized input tax				
Invoice has no BIR Authority to Print		*Input Tax*	*Recognized Life*	*Amortized Input Tax for the Qtr.*
Westcon Solutions[z]	P-91-C-10	₱12,953.16	60 months	₱647.66
Disallowed input taxes from purchase of capital goods with amortized input tax				**₱647.66**
Total disallowed input taxes for the Fourth Quarter				**₱3,550,149.60**
TOTAL DISALLOWED INPUT TAXES				**₱4,079,860.46**

^ Supplier names that have been abbreviated in the table above are shown in full below.

a PACSPORTS PHILS., INC.
b Unison Computer Systems Inc.
c Hi-End Office Design Corporation
d Corpnet Global Corporation
e Extra Ordinaire & Manpower Services Inc.
f Kalibrr Technology Ventures, Inc.
g Philippine Vending Corporation
h Philippine Long Distance Telephone Company
i Federal Land Inc (formerly Philippine Securities Corporation)

[j] Westcon Solutions Philippines, Inc.
[k] Beyond The Ground Commodities Inc
[l] Brother Venture Trading Corp
[m] Gateway Network Solutions (GNS) Inc.
[n] Able Global Logistics Philippines, Inc.
[o] All Nation Security & Investigation Services, Inc.
[p] Analytics and Data Integrity, Inc.
[q] Buan & Temprosa Law Offices
[r] Corpnet Global Corporation
[s] Federal Express Pacific, LLC
[t] Glocal Manpower Supply & Services
[u] Jones Lang LaSalle (Philippines), Inc.
[v] RCW Construction Development Corporation
[w] Buffet Dining Destination Inc.
[x] Adventure International Tours, Inc.
[y] Winebrenner & Inigo Insurance Brokers, Inc.
[z] Westcon Solutions Philippines, Inc.

Resultantly, only input VAT amounting to ₱5,596,590.06 out of the ₱9,676,450.52 declared in the return shall be considered valid, *viz.*:

	Third Qtr.	Fourth Qtr.	Total
Input taxes			
Per VAT Returns	₱ 3,354,987.63	₱ 6,321,462.89	₱ 9,676,450.52
Less: Disallowed	529,710.86	3,550,149.60	4,079,860.46
Valid input taxes	**₱ 2,825,276.77**	**₱ 2,771,313.29**	**₱ 5,596,590.06**

- Attributable to zero-rated sales

Only 99.86%[98] of the valid input VAT computed above is **attributable to zero-rated sales** and, thus, eligible for refund.

When the claimant was engaged in both VAT-able or zero-rated sales and input taxes due or paid cannot be attributed directly and entirely to either type of activity, it shall be allocated proportionately based on sales volume.[99]

In the subject taxable quarters, Stefanini Philippines was engaged in both VAT-able and zero-rated sales. Furthermore, its input taxes were not shown to be attributable exclusively to either activity. Thus, the amount of ₱5,596,590.06 of valid input VAT computed above shall be apportioned between the two activities per quarter, *viz.*:

---

[98] Input VAT attributable to zero rated sales ÷ Valid input taxes = ₱5,589,771.14 ÷ ₱5,596,590.06 ≈ 99.86%

[99] Section 112(A), Tax Code.

[signature]

	Third Quarter	Fourth Quarter	Total
VAT-able Sales	₱221,514.41	₱147,463.62	
add Zero-rated Sales	122,765,262.34	236,042,650.00	
Total Sales	122,986,776.75	236,190,113.62	
Zero-rated Sales	₱122,765,262.34	₱236,042,650.00	₱283,178,317.97
Divided by Total Sales	122,986,776.75	236,190,113.62	
Percentage	99.82%	99.94%	
Valid Input VAT	₱2,825,276.77	₱2,771,313.29	₱5,596,590.06
Attributable to:			
Zero-rated sales*	₱2,820,188.10	₱2,769,583.03	**₱5,589,771.14**
VAT-able sales			₱ 6,818.92

* Eligible for refund

Based on the foregoing, Stefanini Philippines' total valid input taxes **attributable to zero-rated sales** amounts to **₱5,589,771.14.**

Not applied against output tax during the third and fourth quarters of CY 2017

To recall, in the present case, Stefanini Philippines' claim for refund amounted to ₱9,632,173.16 resulted from offsetting the output tax on VAT-able sales against available input taxes for the third and fourth quarters of CY 2017, respectively, computed[100] as follows:

	Third Quarter	**Fourth Quarter**	**Total**
Input tax on:			
Capital Goods exceeding ₱1M (amortized portion)[101]	₱84,282.82	₱90,804.64	
Current Purchases of Goods other than Capital Goods[102]	242,937.35	412,193.01	
Domestic purchases of services[103]	3,027,767.46	5,818,465.24	
Input tax attributable to zero-rated sales, per VAT returns	₱3,354,987.63	₱6,321,462.89	₱9,676,450.52
Less Output tax still due[104]	*26,581.73*	*17,695.63*	*44,277.36*
Input tax sought to be refunded	₱3,328,405.90	₱6,303,767.26	**₱9,632,173.16**

100 Based on Stefanini's Quarterly VAT Returns. See Exhibits "P-80" and "P-81," Docket - Vol. II, p. 1128-1131.
101 Excess of amount in Line 20B over amount in Line 23A in the Quarterly VAT Return.
102 Sum of Lines 21B and 21F in the Quarterly VAT Return.
103 Line 21J in the Quarterly VAT Return.
104 Line 15B in the Quarterly VAT Return.

Significantly, the amount claimed consists only of (a) the amortized portion of input tax on capital goods exceeding ₱1 million, (b) input tax on current purchases of goods other than capital goods, and (c) input tax on domestic purchases of services. Stefanini Philippines does not seek to refund the amount of input taxes carried over from previous periods.[105]

It is clear from the foregoing that the amount herein claimed is already *net* of the output tax reported *during* the subject quarters.

Not applied against output tax in any subsequent period

Further, based on the observations detailed below, We also find that the subject claim was not applied against any output taxes in *succeeding periods*.

First, the balance of input taxes carried over from previous periods as of **January 1, 2018**[106] amounted to ₱61,255,480.06, computed as follows:

Input taxes carried over from previous periods, beginning		
Balance, June 30, 2017		₱51,623,306.90
Third Quarter 2017	₱3,328,405.90	
Fourth Quarter 2017	6,303,767.26	9,632,173.16
Balance, December 31, 2017		**₱61,255,480.06**

Second, **from the first quarter of CY 2018 (*i.e.*, beginning January 1, 2018) to the second quarter of CY 2019 (*i.e.*, ending June 30, 2019)**, Stefanini Philippines accumulated input taxes from domestic purchases amounting to ₱21,311,658.19, computed as follows:

105 Line 20A in the Quarterly VAT Return.
106 Corresponds to the balance as of December 31, 2017.

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Input taxes from domestic purchases

	Goods A	Services B	Gross C	Unamortized D	Amortized E=C-D	Total A+B+E
2018						
Q1[107]	₱113,977.00	₱2,954,944.44	₱2,602,771.56	₱2,425,659.57	₱177,111.99	₱3,246,033.43
Q2[108]	560,283.43	1,991,569.64	2,425,659.93	2,248,548.29	177,111.64	2,728,964.71
Q3[109]	900,932.54	3,305,323.69	2,248,548.29	2,590,651.08	(342,102.79)	3,864,153.44
Q4[110]	888,026.67	2,473,431.57	2,590,651.07	2,364,782.21	225,868.86	3,587,327.10
2019						
Q1[111]	1,530,940.32	4,008,699.57	2,364,782.21	3,244,443.72	(879,661.51)	4,659,978.38
Q2[112]	358,397.05	2,532,918.72	3,244,443.73	2,910,558.37	333,885.36	3,225,201.13
						₱21,311,658.19

Third, having regard to the *first* and *second* observations detailed above, the balance of input taxes carried over from previous periods as of **June 30, 2019** amounted to ₱82,567,138.25, computed as follows:

Input taxes carried over from previous periods, ending	
Balance, January 1, 2018	₱61,255,480.06
add Input taxes from current transactions	21,311,658.19
Balance, June 30, 2019	**₱82,567,138.25**

Fourth, **from the first quarter of CY 2018 (*i.e.*, beginning January 1, 2018) to the second quarter of CY 2019 (*i.e.*, ending June 30, 2019)**, Stefanini Philippines incurred output taxes amounting to ₱1,567,724.08, computed as follows:

Output taxes[113]	
2018	
First quarter	₱88,627.92
Second quarter	22,646.06
Third quarter	79,547.60
Fourth quarter	107,124.89
2019	
First quarter	340,528.32
Second quarter	929,249.29
Total	**₱1,567,724.08**

107 Exhibit "P-101", Docket – Vol. I, pp 473-474.
108 Exhibit "P-102", Docket – Vol. I, pp. 475-477.
109 Exhibit "P-103", Docket – Vol. I, pp. 478-480.
110 Exhibit "P-105", Docket – Vol. I, pp. 484-485.
111 Exhibit "P-106", Docket – Vol. I, pp. 486-487.
112 Exhibit "P-113", Docket – Vol. I, pp. 526-527.
113 Line 15B in the Quarterly VAT Return. See notes 107 to 112.

Fifth, in the quarterly VAT returns **from the first quarter of CY 2018 (*i.e.*, beginning January 1, 2018) to the second quarter of CY 2019 (*i.e.*, ending June 30, 2019)**, Stefanini Philippines applied the aforementioned output taxes against the outstanding balance of input taxes carried over from previous periods. Thus, after application, the net balance of input taxes amounted to ₱80,999,414.17, computed as follows:

Input taxes carried over from previous periods, *net of output*	
Balance, June 30, 2019	₱82,567,138.25
less Output taxes incurred	1,567,724.08
Balance, net of output taxes	**₱80,999,414.17**

Sixth, in its fourth quarterly VAT return for CY 2018 and second quarterly VAT return for CY 2019, Stefanini Philippines carved out from the balance of its input taxes the amounts of ₱11,857,373.50[114] and ₱15,210,089.68,[115] respectively.

According to the testimony[116] of Jeanina B. Pepito, Finance Manager, Stefanini Philippines, the amount of ₱15,210,089.68 pertained to the aggregate amount of input taxes relative to the second, third, and fourth quarters of CY 2017,[117] for which Stefanini Philippines has sought a refund, *viz*:

Claim for refund, input taxes pertaining to CY 2017	
Second quarter - CTA Case No. 10188[118]	₱5,577,917.98
Third quarter - Present claim	3,328,405.90
Fourth quarter - Present claim	6,303,767.26
Per verification	₱15,210,091.14
Per VAT return, Q2 CY 2019	15,210,089.68
Variance	₱1.46

Seventh, after removing the amounts that Stefanini Philippines claimed as refunds, the balance of allowable input taxes as of June 30, 2019 amounted to ₱53,931,950.99, computed as follows:

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114 Exhibit "P-105," Line 23D, Docket - Vol. I, p. 484.
115 Exhibit "P-113," Line 23D, Docket - Vol. I, p. 526.
116 Exhibit "P-90," Docket - Vol. I, pp. 118-138.
117 Exhibit "P-90," Docket - Vol. I, pp. 133-134.
118 *Stefanini Philippines, Inc. v. Commissioner of Internal Revenue*, C.T.A. Case No. 10188, November 23, 2022.

Allowable input taxes, as of June 30, 2019		
Balance, net of output taxes		₱80,999,414.17
less Amounts carved out		
Per Q4 CY 2018 VAT return	₱11,857,373.50	
Per Q2 CY 2019 VAT return	15,210,089.68	27,067,463.18
Allowable input taxes		**₱53,931,950.99**

Based on the foregoing, Stefanini Philippines's balance of input taxes available for utilization was **more than sufficient to cover all of the output taxes** it incurred from January 1, 2018 to June 30, 2019 (*i.e., third* and *fifth* observations). Further, as of June 30, 2019, it already **carved out/removed** from the balance of input taxes available for utilization the amount claimed as refund in the instant case (i.e., *sixth* and *seventh* observations). These observations are consistent with the ICPA's findings.[119] Thus, We are convinced that the input taxes sought to be refunded in the present case were **not utilized or applied against output taxes in any given taxable period**.

Computation of refundable unutilized or excess input taxes

We proceed to the determination of the refundable amount of unutilized or excess input taxes attributable to petitioner's zero-rated sales.

To recall, petitioner declared total zero-rated sales in its Quarterly VAT Returns in the aggregate amount of ₱358,807,912.34. However, only the zero-rated sales in the amount of ₱283,178,317.97 is properly supported by official receipts and proof of inward remittances. In short, only a portion of petitioner's declared zero-rated sales qualifies as valid zero-rated sales:

	3rd Quarter	4th Quarter	Total
Valid zero-rated sales	₱122,765,262.34	₱160,413,055.63	₱283,178,317.97
Divided by Declared zero-rated sales	₱122,765,262.34	₱236,042,650.00	₱358,807,912.34
Percentage	**100.0000%**	**67.9594%**	

Consequently, out of the valid input taxes of ₱5,552,312.70, only the remaining valid input VAT of ₱4,670,035.76 is attributable to

[119] Exhibit "P-114", pp. 15-16, Docket - Vol. I, pp. 391-392.

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petitioner's valid zero-rated sales for the 3rd and 4th quarters of CY 2017, as computed below, and thus, must be refunded in favor of petitioner:

	3rd Quarter	4th Quarter	Total
Excess/unutilized input tax attributable to declared zero-rated sales	₱ 2,798,695.04	₱ 2,753,617.66	₱ 5,552,312.70
Multiplied by Percentage of valid zero-rated sales	100.0000%	67.9594%	
Refundable input taxes attributable to valid zero-rated sales	**₱2,798,695.04**	**₱1,871,340.72**	**₱4,670,035.76**

In sum, while Stefanini Philippines ably demonstrated that the amount claimed had not been utilized previously, We grant the claim only to the extent that it represents input taxes eligible for refund (*i.e.*, demonstrated to be actually due and paid, properly substantiated, and attributable to zero-rated sales). Thus, We determine that Stefanini Philippines shall be entitled to a refund of **₱4,670,035.76**.

WHEREFORE, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **DIRECTED TO REFUND OR ISSUE TAX CREDIT CERTIFICATE** in favor of petitioner in the amount ₱4,670,035.76. representing its unutilized input VAT attributable to its zero-rated sales for the third and fourth quarters of CY 2017.

SO ORDERED.

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

WE CONCUR:

(with due respect,
please see Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

STEFANINI PHILIPPINES, INC., Petitioner,	**CTA CASE NO. 10226**
	Members: **DEL ROSARIO**, *P.J., Chairperson*, **MANAHAN**, and **REYES-FAJARDO**, *JJ.*
- versus -	
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: AUG 2 3 2023 ; 2:00PM

x - x

DISSENTING OPINION

DEL ROSARIO, P.J.:

With utmost respect, I am constrained to withhold my assent on the *ponencia* which partially grants the Petition for Review and orders the refund or issuance of tax credit certificate in petitioner's favor in the amount of ₱4,670,035.76.

I submit that petitioner's refund claim should be denied for its failure to comply with the invoicing requirements under the law.

Section 113(B)(2)(c) and (d) of the National Internal Revenue Code (NIRC) of 1997, as amended, reads:

> "SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* -
>
> x x x
>
> (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:
>
> x x x

(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:

x x x

(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 involved 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 known 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. x x x" (*Boldfacing supplied*)

The above provision is implemented by Section 4.113-1 of Revenue Regulations (RR) No. 16-2005, as amended, which reads:

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

x x x

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

x x x

(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:

x x x

(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 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." (*Boldfacing supplied*)

Verily, it is a requirement that for any VAT invoice or official receipt evidencing a zero-rated transaction, the term "zero-rated sale" should be written or printed prominently thereon. Failure to comply with the invoicing requirements is sufficient ground to deny the claim for refund or tax credit.[1]

The Supreme Court has settled, in a number of cases,[2] that the writing or imprinting of the term "zero-rated sale" on the VAT invoice or official receipt is indispensable for a valid claim of refund of unutilized input tax. Such requirement was traced by the Supreme Court from Section 4.108-1 of RR No. 7-95, which has been incorporated in Section 113(B)(2)(c) of the NIRC of 1997, as amended, by virtue of the amendments introduced by Republic Act No. 9337, which confirms the validity of the imprinting requirement on VAT invoices or official receipts.[3]

Revenue Memorandum Circular No. 42-2003 provides that if the refund claim is based on the existence of zero-rated sales but the taxpayer fails to comply with the invoicing requirements, such claim should be denied, *viz.*:

> "Q-13: Should penalty be imposed on TCC application for failure of claimant to comply with certain invoicing requirements, (e.g., sales invoices must bear the TIN of the seller)?
>
> A-13: Failure by the supplier to comply with the invoicing requirements on the documents supporting the sale of goods and services will result to the disallowance of the claim for input tax by the purchaser-claimant.
>
> **If the claim for refund/TCC is based on the existence of zero-rated sales by the taxpayer but it fails to comply with the invoicing requirements in the issuance of sales invoices (e.g. failure to indicate the TIN), its <u>claim for tax credit/refund of VAT on its purchases shall be denied considering that the invoice it is issuing to its customers does not depict its being a VAT-registered taxpayer whose sales are classified as zero-rated sales</u>.** Nonetheless, this treatment is without prejudice to the right of

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[1] *Commissioner of Internal Revenue vs. Philex Mining Corporation*, G.R. No. 230016, November 23, 2020.

[2] *Panasonic Communications Imaging Corporation of the Philippines vs. Commissioner of Internal Revenue*, G.R. No. 178090, February 8, 2010; *J.R.A. Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 177127, October 11, 2010; *Hitachi Global Storage Technologies Philippines Corp. vs. Commissioner of Internal Revenue*, G.R. No. 174212, October 20, 2010; *Kepco Philippines Corporation vs. Commissioner of Internal Revenue*, G.R. No. 181858, November 24, 2010; *Silicon Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 172378, January 17, 2011; *Western Mindanao Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 181136, June 13, 2012; *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.

[3] *Mirant [Navotas II] Corporation [Formerly Southern Energy Navotas II Power, Inc.] vs. Commissioner of Internal Revenue*, G.R. No. 180526, September 23, 2015.

> the taxpayer to charge the input taxes to the appropriate expense account or asset account subject to depreciation, whichever is applicable. Moreover, the case shall be referred by the processing office to the concerned BIR office for verification of other tax liabilities of the taxpayer." (*Boldfacing and underscoring supplied*)

There is no reason to depart from the consistent ruling of the Supreme Court that a refund claimant's alleged zero-rated sales must also comply with the invoicing requirements under Section 113 of the NIRC of 1997, as amended.

In this case, all of petitioner's alleged zero-rated sales, evidenced by VAT official receipts,[4] do not bear the term "zero-rated sale" written or printed prominently on such receipts.

The *ponencia* reasons that the amount collected by petitioner from its alleged VAT zero-rated sales was written and declared as "zero-rated sales" in the **breakdown** portion on the left side of each face of the VAT official receipts, as shown in the following sample exhibits:

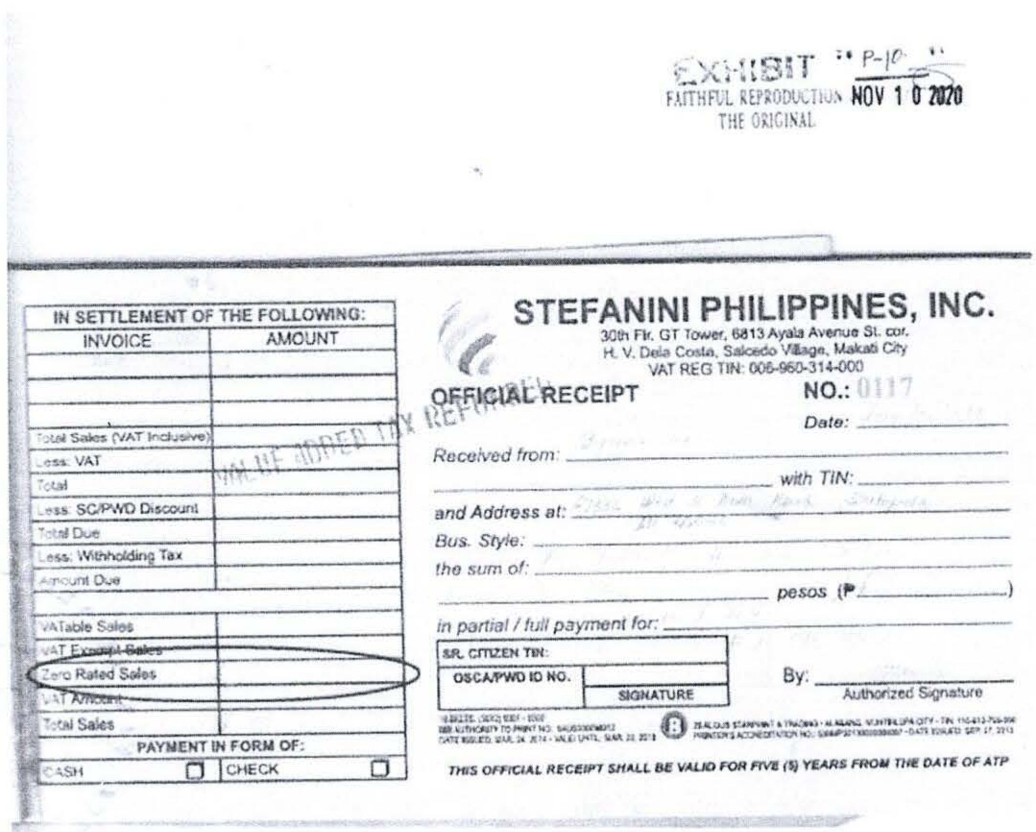
EXHIBIT "P-10"
FAITHFUL REPRODUCTION NOV 10 2020
THE ORIGINAL

IN SETTLEMENT OF THE FOLLOWING:	
INVOICE	AMOUNT
Total Sales (VAT Inclusive)	
Less: VAT	
Total	
Less: SC/PWD Discount	
Total Due	
Less: Withholding Tax	
Amount Due	
VATable Sales	
VAT Exempt Sales	
Zero Rated Sales	
VAT Amount	
Total Sales	
PAYMENT IN FORM OF:	
CASH	CHECK

STEFANINI PHILIPPINES, INC.
30th Flr. GT Tower, 6813 Ayala Avenue St. cor. H. V. Dela Costa, Salcedo Village, Makati City
VAT REG TIN: 006-960-314-000

OFFICIAL RECEIPT NO.: 0117

Date: ____
Received from: ____ with TIN: ____
and Address at: ____
Bus. Style: ____
the sum of: ____ pesos (₱____)
in partial / full payment for: ____

SR. CITIZEN TIN:	
OSCA/PWD ID NO.	SIGNATURE

By: ____
Authorized Signature

THIS OFFICIAL RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF ATP

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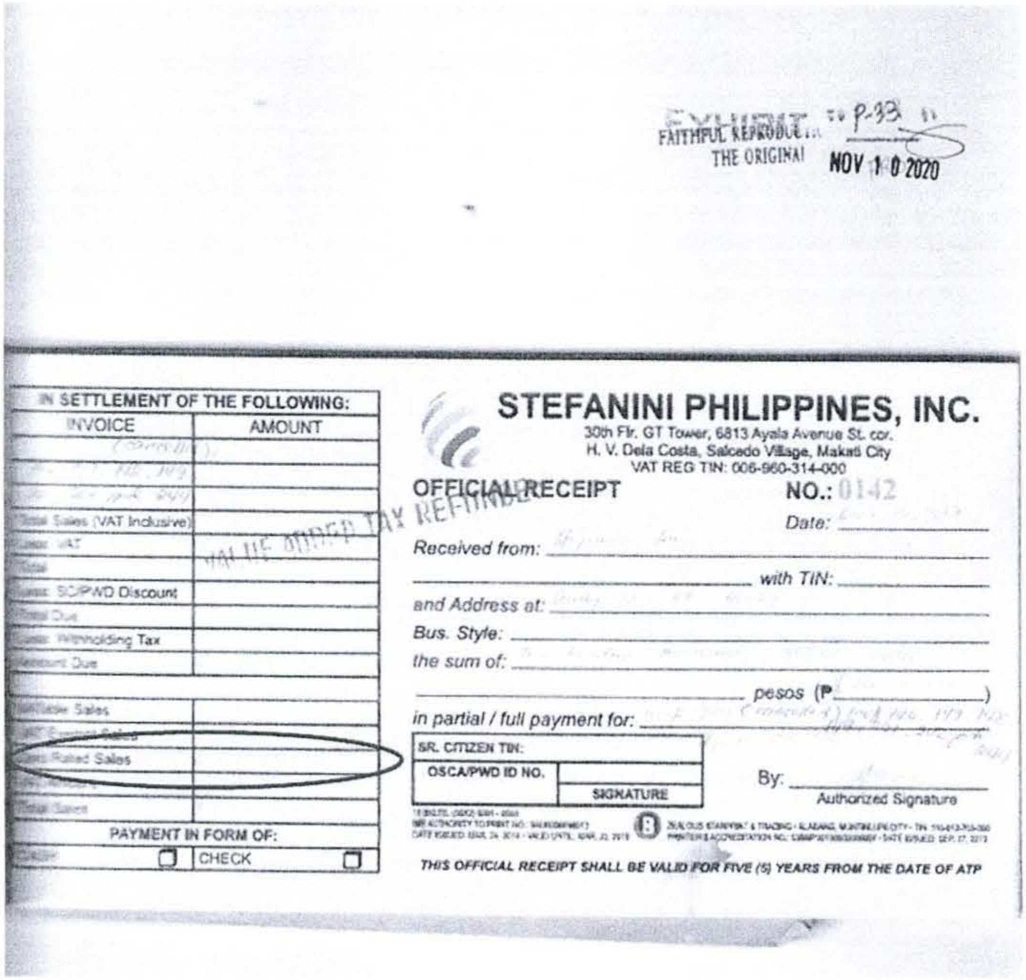
[4] Exhibits "P-10" to "P-33", Docket, Vol. II, pp. 1049-1072.


FAITHFUL REPRODUCTION OF THE ORIGINAL NOV 1 0 2020

IN SETTLEMENT OF THE FOLLOWING:	
INVOICE	AMOUNT
Total Sales (VAT Inclusive)	
Less: SC/PWD Discount	
Less: Withholding Tax	
Amount Due	
VATable Sales	
Zero Rated Sales	
PAYMENT IN FORM OF:	
CASH	CHECK

STEFANINI PHILIPPINES, INC.
30th Flr. GT Tower, 6813 Ayala Avenue St. cor. H. V. Dela Costa, Salcedo Village, Makati City
VAT REG TIN: 006-960-314-000

OFFICIAL RECEIPT NO.: 0142
Date:
Received from:
with TIN:
and Address at:
Bus. Style:
the sum of:
pesos (P)
in partial / full payment for:
SR. CITIZEN TIN:
OSCA/PWD ID NO.
SIGNATURE
By:
Authorized Signature

THIS OFFICIAL RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF ATP

The *ponencia*'s proposition is flawed. The information necessary to be indicated in the "breakdown" **<u>and</u>** the writing or imprinting of "zero rated sales" on the VAT official receipts are requirements governed by separate provisions of the NIRC of 1997, as amended -- that is, Section 113(B)(2)(c), which provides for the imprinting requirement, and Section 113(B)(2)(d), which requires the breakdown of sales as VATable, VAT-exempt or VAT zero-rated in case of mixed transactions. In other words, notwithstanding that petitioner indicated in the breakdown of the VAT official receipts the amount pertaining to "zero-rated sales", such however is not tantamount to compliance with the imprinting requirement. The samples above show that petitioner failed to comply with the mandatory requirement of imprinting the term "zero-rated sales".

Tax refunds are in the nature of a claim for exemption and the law is construed in *strictissimi juris* against the taxpayer. The pieces of evidence presented entitling a taxpayer to exemption are also *strictissimi* scrutinized and must be duly proven.[5] Thus, for failure of

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[5] *Kepco Philippines Corporation vs. Commissioner of Internal Revenue*, G.R. No. 179961, January 31, 2011.

petitioner to comply with the invoicing requirements for its alleged zero-rated sale of services, the refund claim should be denied.

ALL TOLD, I *VOTE* to DENY the Petition for Review for lack of merit.

ROMAN G. DEL ROSARIO
Presiding Justice