REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

OCEANAGOLD (PHILIPPINES), INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10109

Members:
DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, and
REYES-FAJARDO *JJ.*

Promulgated:
APR 25 2023 ; 10:35 AM

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DECISION

REYES-FAJARDO, *J*.:

The Petition for Review filed on July 11, 2019 by Oceanagold (Philippines), Inc. prays for the refund of excess and unutilized input value-added tax (VAT) arising from its importation of goods (other than capital goods) and purchases of capital goods, attributable to zero-rated sales for the 1st to 4th quarters of taxable year (TY) 2017, in the total amount of Ninety-Eight Million Seventy-Five Thousand Eight Hundred Sixty-One and 64/100 Pesos (₱98,075,861.64).[1]

FACTS

Petitioner Oceanagold (Philippines), Inc. is a corporation organized and existing under the laws of the Philippines, with office address at 2nd Floor Carlos J. Valdes Building, 108 Aguirre Street, Legaspi Village, 1229 Makati City, Philippines.[2] It is registered with

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1 Statement of the Case, Amended Pre-Trial Order dated July 30, 2020, Docket - Vol. II, p. 1142.

2 Par. 1, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket -Vol. II, p. 778; Exhibits "P-1" to "P-3," Docket - Vol. III, pp. 1212 to 1247.

the Bureau of Internal Revenue (BIR) as a VAT taxpayer.[3] It is also registered with the Board of Investments (BOI) as a New Export Producer of Doré Bars and Copper Concentrates.[4]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR) who holds office at BIR National Office Building located at Agham Road, Diliman, Quezon City.[5]

On March 29, 2019, petitioner filed with the BIR VAT Credit Audit Division (VCAD) an Application for Tax Credits/Refunds (BIR Form No. 1914),[6] and a letter,[7] requesting for a refund of the unutilized input VAT attributable to zero-rated sales for the 1st to 4th quarters of TY 2017, in the amount of ₱98,075,861.64.

On June 13, 2019, petitioner received the letter dated June 13, 2019 from the BIR VCAD,[8] denying its administrative claim on the basis that the total deductions exceeded the claim for VAT refund, and that the Schedule of Zero-rated Sales, Provisional and Sales Invoices and Proof of Inward Remittances in support of its export sales cannot be traced/identified to the attached bill of lading/airway to prove the actual export of goods.[9]

On July 11, 2019, petitioner filed the Petition for Review, docketed as CTA Case No. 10109,[10] to which respondent filed an Answer.[11]

On December 5, 2019, the Pre-Trial Conference was held,[12] whereby the Court: gave the parties fifteen (15) days to file their Joint Stipulation of Facts and Issues (JSFI); gave the parties' counsels Commissioner's Hearings as to documentary exhibits to be marked; gave the parties' counsels hearing dates as to the testimonial

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3 Par. 3, Stipulation of Facts, JSFI, Docket - Vol. II, p. 779; Exhibit "P-4," Docket - Vol. III, pp. 1248.
4 Exhibits "P-5" to "P-5.4," Docket - Vol. III, pp. 1249 to 1267.
5 Par. 2, Stipulation of Facts, JSFI, Docket - Vol. II, p. 778.
6 Exhibits "P-37" and "P37.1," Docket - Vol. III, p. 1687; Exhibit "R-4," BIR Records, p. 394.
7 Exhibits "P-36" and "P-36.1," Docket - Vol. III, pp. 1678 to 1686.
8 Exhibit "P-38," Docket - Vol. III, p. 1688.
9 Par. 4, Stipulation of Facts, *Joint Stipulation of Facts and Issue* (JSFI), Docket- Vol. II, p. 779.
10 Docket - Vol. I, pp. 10 to 29.
11 Docket - Vol. I, pp. 193 to 200.
12 Notice of Pre-Trial Conference dated October 23, 2019, Docket - Vol. I, pp. 206 to 207; Minutes of the hearing held on, and Order dated December 5, 2019, Docket - Vol. II, pp. 773 to 775.

evidence; and granted petitioner fifteen (15) days to file its Motion to Commission an Independent Certified Public Accountant (ICPA) and the judicial affidavits of its witnesses.

On December 13, 2019, the parties submitted their JSFI,[13] which was approved by the Court through Resolution dated December 20, 2019.[14]

On February 5, 2020, the Court issued the Pre-Trial Order.[15]

On February 18, 2020, petitioner filed an Omnibus Motion: I. To Admit Attached Supplemental Stipulation of Facts and Issue; and II. To Revise the Pre-Trial Order Promulgated on February 5, 2020,[16] attaching therewith its Supplemental Stipulation of Facts and Issue.[17] On March 9, 2020, respondent filed a Comment on said Omnibus Motion.[18]

In the Resolution dated June 26, 2020, the Court admitted the Supplemental Stipulation of Facts and Issue and directed the Clerk of Court to revise the Pre-Trial Order dated February 5, 2020, to include the documents enumerated in the Supplemental Stipulation of Facts and Issue.[19]

On July 30, 2020, the Court issued the Amended Pre-Trial Order.[20] Trial proceeded.

In support of its cause, petitioner presented: (1) Mrs. Dorelyn Casono-Rosbero,[21] a Customs Broker and Customer Service Manager at Antrak Philippines Transport Solutions Corporation; (2) Ms. Hesther T. Bahiwag, [22] petitioner's Financial Accounting

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13 Docket - Vol. II, pp. 778 to 791.
14 Docket - Vol. II, p. 794.
15 Docket - Vol. II, pp. 851 to 868.
16 Docket - Vol. II, pp. 890 to 894.
17 Docket - Vol. II, pp. 895 to 897.
18 Docket - Vol. II, pp. 1100 to 1101.
19 Resolution dated June 26, 2020, Docket - Vol. II, pp. 1137 to 1138.
20 Docket - Vol. II, pp. 1142 to 1160.
21 Exhibit "P-48," Docket - Vol. I, pp. 276 to 284; Minutes of the hearing held on, and Order dated, October 20, 2020, Docket - Vol. II, pp. 1161 to 1163.
22 Exhibit "P-47," Docket - Vol. I, pp. 295 to 318; Minutes of the hearing held on, and Order dated March 10, 2020, Docket - Vol. II, pp. 1103 to 1106.

Superintendent; (3) Atty. Joan D. Adaci-Cattiling,[23] petitioner's Senior Legal Counsel and Corporate Secretary; and (4) Ms. Annalyn B. Artuz,[24] the Court-commissioned ICPA (ICPA Artuz),[25] as its witnesses.

On November 26, 2020, petitioner filed its Formal Offer of Evidence with Motion for Marking of Exhibit.[26]

In the Resolution dated December 9, 2020, the Court granted petitioner's Motion for Marking of Exhibit. Accordingly, Exhibit "P-40" was allowed to be marked in the duly scheduled commissioner's hearing.[27]

Through Resolution dated May 20, 2021, the Court admitted petitioner's offered Exhibits, *except* for Exhibits "P-34.1572-1" and "P-34.1641-1 (2 of 3)," for not being found in the records.[28] Petitioner rested its case.

In the hearing held on October 14, 2021, petitioner moved, and the Court granted its prayer to waive the presentation of respondent's witness Revenue Officer Denise R. Dayanan.[29]

On October 21, 2021, respondent filed his Formal Offer of Evidence.[30]

In the Resolution dated February 22, 2022, the Court admitted Exhibits "R-4" and "R-7," but denied Exhibits "R-1," "R-2," "R-3," "R-5," "R-6," and "R-8," for failure of said documents to be identified by a competent witness.[31]

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23 Exhibit "P-49," Docket - Vol. I, pp. 230 to 235; Order dated November 17, 2020, Docket - Vol. II, pp. 1165 to 1166.

24 Exhibit "P-50," Docket - Vol. II, pp. 1120 to 1125; Order dated November 17, 2020, Docket - Vol. II, pp. 1165 to 1166.

25 *Oath of Commission* dated February 6, 2020, Docket - Vol. II, p. 872; Minutes of the hearing held on, and Order dated, February 6, 2020, Docket - Vol. II, pp. 869 to 871, and 873 to 874, respectively.

26 Docket - Vol. III, pp. 1169 to 1211.

27 Docket - Vol. III, p. 1705.

28 Docket - Vol. III, pp. 1729 to 1732.

29 Order dated October 14, 2021, Docket - Vol. IV, pp. 1748 to 1749.

30 Docket - Vol. IV, pp. 1754 to 1758.

31 Docket - Vol. IV, pp. 1791 to 1792.

In the Resolution dated April 27, 2022,[32] this case was submitted for decision, taking into account the Memorandum for Petitioner, filed on April 7, 2022,[33] and respondent's non-filing thereof, as per Records Verification dated April 19, 2022.[34]

ISSUE

Is petitioner entitled to a refund of its unutilized input vat arising from importation of goods (other than capital goods), and purchases of capital goods attributable to zero-rated sales for the 1st to 4th quarters of TY 2017 in the amount of ₱98,075,861.64?[35]

ARGUMENTS

Petitioner argues that it had duly established: 1) the timeliness of both its administrative and judicial claims for refund; 2) its status as a VAT-registered entity; 3) it is engaged in zero-rated export sales, which were paid for in acceptable foreign currency and were duly accounted for in accordance with the Bangko Sentral ng Pilipinas (BSP) rules and regulations; 4) its input taxes are not transitional input taxes; 5) it incurred or paid the input taxes attributable or allocable to zero-rated sales; and, 6) the input taxes claimed have not been applied against output taxes during and in the succeeding quarters. Therefore, petitioner declares that it is entitled to the refund in the amount of ₱98,075,861.64, representing unutilized input VAT attributable to zero-rated sales for the 1st to 4th quarters of TY 2017.

Petitioner also contends that respondent's denial of its administrative claim was improper. Specifically, respondent denied its refund claim by deducting or offsetting the amount of the final withholding VAT due on services rendered in the Philippines by nonresident foreign entities, without any prior assessment, effectively disregarding its right to due process.

Respondent counters that petitioner's judicial claim for refund should be denied for its failure to substantiate its claim at the

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32 Resolution dated April 27, 2022, Docket - Vol. IV, p. 1830.
33 Docket - Vol. IV, pp. 1793 to 1826.
34 Docket - Vol. IV, p. 1828.
35 Stipulation of Issue, JSFI, Docket - Vol. II, p. 779.

administrative level; and that the claims for refund are construed strictly against the taxpayer and in favor of the government.

RULING

The Court finds the *Petition for Review* partly meritorious.

Petitioner partially complied with the requisites under the law for the refund or issuance of tax credit certificate of input VAT.

Section 112 (A) and (C) of the 1997 National Internal Revenue Code, as amended by Republic Act (RA) No. 10963 (NIRC, as amended),[36] provides:

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

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36 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 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.

Jurisprudence has laid down requisites which the taxpayer-applicant must comply with to successfully obtain a credit/refund of input VAT, as follows:

As to the timeliness of the filing of the administrative and judicial claims:

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 rendered within a period of ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application, the judicial claim shall be filed with this Court within thirty (30) days from receipt of the decision;

With reference to the taxpayer's registration with the BIR:

3. the taxpayer is a VAT-registered person;[38]

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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 *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;[39]
5. for zero-rated sales under Section 106(A)(2)(a)(1) and (2); 106(B); and Section 108(B)(1) and (2), of the NIRC, as amended, the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the BSP rules and regulations;[40]

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

6. the input taxes are not transitional input taxes;[41]
7. the input taxes are due or paid;[42]
8. 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;[43] and,
9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[44]

Petitioner's administrative and judicial claims were timely filed.

Section 112(A) of the NIRC, as amended, commands the taxpayer to file an administrative claim for input VAT refund, within two (2) years, following the close of the taxable quarter when the sales were made.

Section 112(C) of the same Code grants the BIR a period of ninety (90) days from date of submission of the official receipts or

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39 *Ibid.*

40 *Ibid.*

41 *Ibid.*

42 *Ibid.*

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

44 *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.*

invoices and other supporting documents, to decide on the taxpayer's administrative claim for input VAT refund. At present, said invoices, official receipts, and other supporting documents are submitted upon the filing the taxpayer's administrative claim for input VAT refund.[45] In turn, the taxpayer, may appeal to the Court, within thirty (30) days: a) from receipt of adverse decision within said 90-day period; or b) after the lapse of said 90-day period, whichever is earlier. *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*[46] is on point:

> **The judicial claim shall be filed within a period of 30 days after the receipt of respondent's decision or ruling or after the expiration of the 120-day [now 90-day] period, whichever is sooner.**
>
> Aside from a specific exception to the mandatory and jurisdictional nature of the periods provided by the law, any claim filed in a period less than or beyond the 120+30 [now 90+30] days provided by the NIRC is outside the jurisdiction of the CTA.[47]

Petitioner's input VAT refund claim covers the 1st to 4th quarters of TY 2017, which closed on March 31, 2017, June 30, 2017, September 30, 2017, and December 31, 2017, respectively. Counting two (2) years from said dates, the following table shows that the filing of petitioner's *Application for Tax Credits/Refunds* of its excess and unutilized input VAT for said quarters on March 29, 2019,[48] was timely made within the two (2)-year prescriptive period:

Period Covered (TY 2017)	**Last Day to File Administrative Claim**	**Actual Date of Filing of Administrative Claim**
January 1, 2017 to March 31, 2017 (1st Quarter)	March 31, 2019	March 29, 2019

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

46 G.R. No. 182737, March 2, 2016. This case involved a taxpayer's claim for input VAT refund under the *then* Section 112 of the NIRC. The jurisdiction of the CTA in Section 7 of RA No. 1125, as amended by RA No. 9282 *stands untouched* notwithstanding the amendments introduced by RA No. 10963 in Section 112(C) of the NIRC. Thus, this case may find application in input VAT refund claims covered by RA No. 10963.

47 Boldfacing supplied.

48 Exhibits "P-37" and "P37.1," Docket - Vol. III, p. 1687; Exhibit "R-4," BIR Records, p. 394.

April 1, 2017 to June 30, 2017 (2nd Quarter)	June 30, 2019	
July 1, 2017 to September 30, 2017 (3rd Quarter)	September 30, 2019	
October 1, 2017 to December 31, 2017 (4th Quarter)	December 31, 2019	

The BIR had ninety (90) days from March 29, 2019, or until June 27, 2019 to decide on said administrative claim. On June 13, 2019, petitioner received the letter dated June 3, 2019, issued by the BIR, denying its administrative claim.[49] Counting thirty (30) days from June 13, 2019, petitioner had until July 13, 2019, within which to file its judicial claim for refund. Precisely, the timely filing of petitioner's Petition for Review on July 11, 2019,[50] clothed the Court with jurisdiction over CTA Case No. 10109.

Petitioner is a VAT-registered taxpayer.

Petitioner is registered with the BIR as a VAT taxpayer, as per Certificate of Registration (BIR Form No. 2303) with OCN 8RC0000048136, dated January 1, 1997, and with Tax Identification Number 004-870-171-000.[51]

Petitioner engaged in zero-rated sales for the 1st to 4th quarters of TY 2017, in the amount of ₱15,549,809,110.72.

Petitioner is a BOI-registered entity as evidenced by Certificate of Registration[52] No. 2011-270 as a "New Export Producer of Dore Bars and Copper Concentrate."[53] The BOI confirmed petitioner's export of 100% of its total sales for TY 2017 as shown by BOI-IS Certificate No. 2018-041.[54]

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49 Exhibit "P-38," Docket - Vol. III, p. 1688.
50 Docket - Vol. I, pp. 6 to 15.
51 *Supra* note 3.
52 Exhibit "P-5," Docket - Vol. III, pp. 1249 to 1255.
53 Par. 7, Statement of Facts, *Petition for Review,* Docket - Vol. I. p. 12.
54 Exhibit "P-5.4," Docket - Vol. III, pp. 1265 to 1267.

In its original/final amended Quarterly VAT Returns for the 1st to 4th quarters of TY 2017, petitioner declared Vatable Sales and Zero-rated Sales amounting to ₱5,178,464.61 and ₱15,915,816,782.74, respectively, or an aggregate sales amounting to ₱15,920,995,247.35, as shown below:

TY 2017	Exhibit	Vatable sales subject to 12% *(Line 15A)*	Zero-rated sales *(Line 17)*	Total
1st Quarter	"P-16"[55]	-	₱ 4,067,773,470.16	₱ 4,067,773,470.16
2nd Quarter	"P-17.4"[56]	-	5,258,958,376.60	₱5,258,958,376.60
3rd Quarter	"P-18.4" [57]	₱ 3,660,714.42	1,417,143,023.87	₱1,420,803,738.29
4th Quarter	"P-19.3" [58]	1,517,750.19	5,171,941,912.11	₱ 5,173,459,662.30
Total		**₱5,178,464.61**	**15,915,816,782.74**	**₱15,920,995,247.35**

Petitioner claims that said declared zero-rated sales emanated from shipments of doré bars and copper concentrates to its foreign clients, Trafigura Pte. Ltd. and Western Australian Mint, pursuant to their respective Offtake Agreement[59] and Refining Agreement.[60] According to petitioner, said sales falls under Section 106(A)(2)(a)(1) of the NIRC, as amended, which states:

> SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* –
>
> (A) Rate and Base of Tax.— ...
>
> (2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (a) *Export Sales.* – The term "**export sales**" means:
>
> (1) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);

To accord 0% VAT on sales falling under Section 106(A)(2)(a)(1) of the NIRC, as amended, the following essential elements must concur: *first,* the sale was made by a VAT registered person; *second,*

55 Docket - Vol. III, p. 1348.
56 Docket - Vol. III, p. 1358.
57 Docket - Vol. III, p. 1368.
58 Docket - Vol. III, p. 1376.
59 Exhibit "P-25," Docket – Vol. III, pp. 1480 to 1511.
60 Exhibit "P-26," Docket – Vol. III, pp. 1512 to 1572.

there was sale and actual shipment of goods from the Philippines to a foreign country; and *third,* said sale was paid for in acceptable foreign currency accounted for in accordance with the rules and regulations of the BSP.

In relation to the *second* element, any VAT-registered person claiming VAT zero-rated direct export sales must present, among others: *one,* sales invoice (SI) as proof of sale of goods;[61] and *two,* bill of lading or airway bill as proof of actual shipment of goods from the Philippines to a foreign country.[62]

Said SIs must also comply with the pertinent invoicing and substantiation requirements, containing all the required information under Sections 113(A) and (B), and 237 of the NIRC, as amended, in relation to Section 4.113-1(A) and (B) of Revenue Regulations (RR) No. 16-2005.[63] These provisions respectively state:

> 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);

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61 Section 113(A)(1) of the NIRC, as amended, requires a VAT-registered person to issue a VAT invoice for every sale of goods, among others. See *Takenaka Corporation-Philippine Branch v. Commissioner of Internal Revenue,* G.R. No. 193321, October 19, 2016.

62 *Commissioner of Internal Revenue v. Colt Commercial, Inc.* and *Colt Commercial, Inc. v. Commissioner of Internal Revenue,* CTA EB Nos. 2006 and 2012, June 29, 2020, citing *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue,* G.R. No. 166732, April 27, 2007.

63 See *Commissioner of Internal Revenue v. Filminera Resources Corporation,* G.R. No. 236325, September 16, 2020.

(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.

...

SEC. 237. *Issuance of Receipts or Sales or Commercial Invoices.* — All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (₱25.00) or more, **issue duly registered receipts or sales or commercial invoices**, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: ....

...

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

(A) **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.

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 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 (₱1,000.00) 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.[64]

These elements were partially met. Consider:

First. There is no denying that petitioner is a VAT-registered entity.[65]

Second. Petitioner submitted its Summary List of Sales/Schedule of Zero-rated Sale of Goods for the TY ending December 31, 2017,[66] Reconciliation of Export Sales and Foreign Currency Remittances on Zero-rated Sale of Goods for the TY ending December 31, 2017 (Schedule of Export Sales for the 1st to 4th quarters of TY 2017),[67] Summary of Sales Invoices printed with the word "zero rated"[68] and Summary of Inward Remittances,[69] together with the corresponding provisional[70] and sales invoices,[71] certificates of inward remittances,[72] and export documents, such as bills of lading[73]/air waybills,[74] permits to export,[75] and export declarations,[76] to support its claim of zero-rated sales.

The Court examined the provisional invoices[77] issued by petitioner in support of its export sales. However, the word *"zero-rated"* was not written or printed prominently thereon, violative of Section 113(B)(2)(c) of the NIRC, as amended, as implemented by Section 4.113-1(B)(2)(c) of RR No. 16-2005, as amended. Being so, these provisional invoices must be rejected outright.

Further, a scrutiny of the supporting documents and the ICPA Report[78] reveal that out of petitioner's total reported zero-rated sales of ₱15,915,816,782.74, only the direct export sales of goods in the

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64 Emphasis supplied.
65 *Supra* note 51.
66 Exhibit "P-23."
67 Exhibit "P-24."
68 Annex 1, Exhibit "P-61," Docket - Vol. II, p. 956.
69 Annex 1.1, Exhibit "P-61," Docket - Vol. II, pp. 957 to 958.
70 Exhibits "P-27" to "P-27.12."
71 Exhibits "P-28" to "P-28.19."
72 Exhibits "P-32" to "P-32.47."
73 Exhibits "P-29" to "P-29.9."
74 Exhibits "P-29.10" to "P-29.19."
75 Exhibits "P-30" to "P-30.19."
76 Exhibits "P-62" to "P-62.18."
77 Exhibits "P-27" to "P-27.12."
78 Exhibit "P-61," Exhibit "P-61", Docket - Vol. II, pp. 921 to 1098.

amount of ₱15,599,665,484.18 (equivalent to US$313,619,431.60) were properly supported by SIs[79] and were actually shipped from the Philippines to foreign countries, as exhibited below:

CUSTOMER (SHIPMENT NUMBER)	BILL OF LADING/ AIR WAYBILL		SALES INVOICE				Exhibit "P-23"
	EXHIBIT	BILL OF LADING/ AIR WAYBILL NUMBER	EXHIBIT	DATE mm/dd/yy	INVOICE NUMBER	AMOUNT in USD	AMOUNT in PhP[80]
TRAFIGURA PTE. LTD (Shipment 49)	"P-29.4"	AM-612-49	"P-28"	01/12/17	SI 00098	$24,509,657.07	₱1,159,546,790.95
TRAFIGURA PTE. LTD (Shipment 50)	"P-29.5"	MT-105-50	"P-28.4"	02/17/17	SI 00099	20,897,744.66	1,008,416,942.78
TRAFIGURA PTE. LTD (Shipment 51)	"P-29.6"	SL-1614-51	"P-28.5"	04/04/17	SI 00100	26,880,547.81	1,339,049,761.42
TRAFIGURA PTE. LTD (Shipment 52)	"P-29"	JS-QY1702-52	"P-28.1"	06/14/17	SI 00151	28,136,423.57	1,399,109,160.24
TRAFIGURA PTE. LTD (Shipment 53)	"P-29.7"	AC-624-53	"P-28.6"	06/28/17	SI 00152	33,043,956.79	1,661,474,192.60
TRAFIGURA PTE. LTD (Shipment 54)	"P-29.1"	CL-1706-54	"P-28.2"	08/18/2017	SI 00153	35,021,056.99	1,747,031,217.79
TRAFIGURA PTE. LTD (Shipment 55)	"P-29.8"	GI-89-55	"P-28.7"	09/22/17	SI 00154	33,965,166.56	1,688,391,680.67
TRAFIGURA PTE. LTD (Shipment 56)	"P-29.9"	SS-YP1708-56	"P-28.8"	09/22/17	SI 00155	17,034,888.40	849,259,615.89
TRAFIGURA PTE. LTD (Shipment 57)	"P-29.2"	PH-1710-57	"P-28.18"	11/08/17	SI 00156	25,698,763.67	1,301,752,860.09
PERTH MINT AUSTRALIA (Dore 29)	"P-29.10"	160-3577 2715	"P-28.9"	12/21/17	SI 00166	6,251,592.37	311,431,838.23
PERTH MINT AUSTRALIA (Dore 30)	"P-29.11"	160-3577 3813	"P-28.10"	12/21/17	SI 00157	6,482,540.93	323,909,616.09
PERTH MINT AUSTRALIA (Dore 31)	"P-29.12"	160-3577 4874	"P-28.3"	12/21/17	SI 00158	8,664,448.64	435,618,228.00
PERTH MINT AUSTRALIA (Dore 32)	"P-29.13"	160-3577 5202	"P-28.11"	12/21/17	SI 00159	4,643,403.98	233,455,372.63
PERTH MINT AUSTRALIA (Dore 33)	"P-29.14"	160-3577 6263	"P-28.12"	12/21/17	SI 00160	8,074,984.38	402,855,805.34
PERTH MINT AUSTRALIA (Dore 34)	"P-29.15"	160-3577 7254	"P-28.13"	12/21/17	SI 00161	6,376,934.77	318,047,492.77
PERTH MINT AUSTRALIA (Dore 35)	"P-29.16"	160-8791 6043	"P-28.14"	12/21/17	SI 00162	5,703,513.30	284,357,106.02
PERTH MINT AUSTRALIA (Dore 36)	"P-29.17"	160-8791 5553	"P-28.15"	12/21/17	SI 00163	6,866,006.08	349,301,347.46
PERTH MINT AUSTRALIA (Dore 37)	"P-29.18"	160-5328 3985	"P-28.16"	12/21/17	SI 00164	7,625,022.55	391,483,714.81
PERTH MINT AUSTRALIA (Dore 38)	"P-29.19"	160-5328 4195	"P-28.17"	12/21/17	SI 00165	7,742,779.08	395,172,740.40
TOTAL						$313,619,431.60	₱15,599,665,484.18

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79 Exhibits "P-28" to "P-28.19."

80 Table 14, Exhibit "P-61," Docket - Vol. II, p. 933.

On the other hand, sales amounting to ₱316,151,298.56 (₱15,915,816,782.74 less ₱15,599,665,484.18) were not supported by the VAT zero-rated sales invoice and bill of lading/air waybill; hence, such sales may not be conferred 0% VAT.

In other words, petitioner's zero-rated sales duly supported by sales invoices and air waybills/bills of lading only amounts to ₱15,599,665,484.18.

Third. Petitioner submitted the Certificates of Inward Remittances [81] issued by Hongkong and Shanghai Banking Corporation Limited (HSBC) on March 25, 2019, March 26, 2019, and September 17, 2019.

Upon comparison of petitioner's declared zero-rated sales which are duly supported by sales invoices and air waybills/bills of lading, as against the inward remittance per bank certifications, the zero-rated sales in the amount of $997,380.48[82] has no corresponding inward remittance, detailed below:

SCHEDULE OF EXPORT SALES (EXHIBIT "P-24") SALES INVOICE					PER CERTIFICATE OF INWARD REMITTANCES IN USD		DIFFERENCE
CUSTOMER (SHIPMENT NUMBER)	EXH	GROSS AMOUNT IN USD	SALES COST	NET AMOUNT IN USD			
TRAFIGURA PTE. LTD. (Shipment 49)	P-28	$ 24,509,657.07	$ 1,702,217.76	$ 22,807,439.31	P-32	$ 1,133,272.63	
					P-32.4	10,675,079.28	
					P-32.5	10,869,759.23	
					P-32.6	129,328.17	
				22,807,439.31		22,807,439.31	-
TRAFIGURA	P-28.4	20,897,744.66	1,619,697.46	19,278,047.20	P-32.7	7,211,185.03	

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81 Exhibits "P-32" to "P-32.47."

82

Reference	Sales Invoice Exhibit	Sales without inward remittances
Shipment 51	"P-28.5"	$ 27.00
Dorè 29	"P-28.9"	8,677.17
Dorè 30	"P-28.10"	75,688.13
Dorè 31	"P-28.3"	94,893.14
Dorè 32	"P-28.11"	61,161.98
Dorè 33	"P-28.12"	439,112.38
Dorè 34	"P-28.13"	287,654.77
Dorè 36	"P-28.15"	9,701.78
Dorè 37	P-28.16	10,653.05
Dorè 38	P-28.17	9,811.08
		$997,380.48

PTE. LTD. (Shipment 50)					*Less amount applied to another Invoice (SI 00152 on Line 22)*	(6,350,089.74)	
					Net amount applied for this Invoice (SI 00099)	861,095.29	
					P-32.8	9,818,895.07	
					P-32.9	8,598,056.84	
				19,278,047.20		**19,278,047.20**	-
TRAFIGURA PTE. LTD. (Shipment 51)	P-28.5	26,880,547.81	1,750,374.12	25,130,173.69	P-32.10	2,092,370.90	
					P-32.11	13,298,337.72	
					P-32.12	4,891,418.66	
					P-32.13	4,848,019.41	
				25,130,173.69		**25,130,146.69**	**27.00**
TRAFIGURA PTE. LTD. (Shipment 52)	P-28.1	28,136,423.57	1,667,475.97	26,468,947.60	P-32.14	337,348.97	
					P-32.15	5,818,936.77	
					P-32.16	20,312,661.86	
				26,468,947.60		**26,468,947.60**	-
TRAFIGURA PTE. LTD. (Shipment 53)	P-28.6	33,043,956.79	1,682,792.67	31,361,164.12	P-32.7	7,211,185.03	
					Less amount applied to another Invoice (SI 00099 on Line 8)	(861,095.29)	
					Net amount applied for this Invoice (SI 00152)	6,350,089.74	
					P-32.17	6,387,324.79	
					P-32.18	8,802,557.20	
					P-32.20	6,232,687.03	
					P-32.21	847,404.16	
					P-32.22	2,741,101.20	
				31,361,164.12		**31,361,164.12**	-
TRAFIGURA PTE. LTD. (Shipment 54)	P-28.2	35,021,056.99	1,644,513.09	33,376,543.90	P-32.23	5,895,017.97	
					P-32.24	12,934,915.82	
					P-32.25	9,728,741.97	
					P-32.26	727,713.05	
					P-32.27	4,090,155.09	
				33,376,543.90		**33,376,543.90**	-
TRAFIGURA PTE. LTD. (Shipment 55)	P-28.7	33,965,166.56	1,665,681.80	32,299,484.76	P-32.29	875,355.54	
					Less amount applied to another Invoice (SI 00099 on Line 8)	(1,642,977.06)	
					Net amount applied for this Invoice (SI 00152)	(767,621.52)	
					P-32.28	16,253,700.92	
					P-32.1	16,813,405.36	
				32,299,484.76		**32,299,484.76**	-
TRAFIGURA PTE. LTD. (Shipment 56)	P-28.8	17,034,888.40	894,945.09	16,139,943.31	P-32.29	875,355.54	
					Add amount deducted from another Invoice (SI 00154 on Line 36)	767,621.52	

					Net amount applied for this Invoice (SI 00155)	1,642,977.06	
					P-32.47	8,666,865.20	
					P-32.30	5,830,101.05	
				16,139,943.31		**16,139,943.31**	-
TRAFIGURA PTE. LTD. (Shipment 57)	P-28.18	25,698,763.67	1,520,940.90	24,177,822.77	P-32.32	11,133,946.04	
					P-32.33	9,696,854.26	
					P-32.34	3,347,022.47	
				24,177,822.77		**24,177,822.77**	-
PERTH MINT AUSTRALIA (Dore 29)	P-28.9	6,251,592.37	-	6,251,592.37	P-32.35	674,554.80	
					P-32.36	5,568,360.40	
				6,251,592.37		**6,242,915.20**	**8,677.17**
PERTH MINT AUSTRALIA (Dore 30)	P-28.10	6,482,540.93	-	6,482,540.93	P-32.37	6,406,852.80	
				6,482,540.93		**6,406,852.80**	**75,688.13**
PERTH MINT AUSTRALIA (Dore 31)	P-28.3	8,664,448.64	-	8,664,448.64	P-32.38	8,569,555.50	
				8,664,448.64		**8,569,555.50**	**94,893.14**
PERTH MINT AUSTRALIA (Dore 32)	P-28.11	4,643,403.98	-	4,643,403.98	P-32.39	4,582,242.00	
				4,643,403.98		**4,582,242.00**	**61,161.98**
PERTH MINT AUSTRALIA (Dore 33)	P-28.12	8,074,984.38	-	8,074,984.38	P-32.40	7,635,872.00	
				8,074,984.38		**7,635,872.00**	**439,112.38**
PERTH MINT AUSTRALIA (Dore 34)	P-28.13	6,376,934.77	-	6,376,934.77	P-32.41	6,089,280.00	
				6,376,934.77		**6,089,280.00**	**287,654.77**
PERTH MINT AUSTRALIA (Dore 35)	P-28.14	5,703,513.30	-	5,703,513.30	P-32.42	5,636,679.55	
					P-32.43	986,720.50	
				5,703,513.30		**6,623,400.05**	**(919,886.75)**
PERTH MINT AUSTRALIA (Dore 36)	P-28.15	6,866,006.08	-	6,866,006.08	P-32.2	6,500,136.30	
					P-32.44	356,168.00	
				6,866,006.08		**6,856,304.30**	**9,701.78**
PERTH MINT AUSTRALIA (Dore 37)	P-28.16	7,625,022.55	-	7,625,022.55	P-32.45	7,066,579.40	
					P-32.46	547,790.10	
				7,625,022.55		**7,614,369.50**	**10,653.05**
PERTH MINT AUSTRALIA	P-28.17	7,742,779.08	-	7,742,779.08	P-32.19	7,374,876.20	
					P-32.31	358,091.80	

(Dore 38)							
				7,742,779.08		7,732,968.00	9,811.08
TOTAL		$313,619,431.60	$14,148,638.86	$299,470,792.74		$299,393,299.01	$77,493.73

ICPA Artuz observed that the amount remitted, *i.e.*, $14,148,638.86, represents the invoice amount, net of advance or provisional payment and retained amount, if any, and net of sales costs which include treatment, refining, insurance, and freight charge.[83]

Petitioner further explained that the net excess of amount in the SIs, over the amount in the Certificate of Inward Remittance corresponds to the silver contents billed in the SIs but were paid through a separate inward remittance.[84] Yet, said explanation was neither reflected on the SIs, nor was such separate certificates of inward remittance submitted as evidence.

By these observations, the Court disallows zero-rated sales, *sans* corresponding inward remittance in the amount of $997,380.48.[85] To determine the Philippine Peso equivalent thereof, the Court applied the average foreign exchange rate used by petitioner in recording its sales transactions. Thus, the peso equivalent of $997,380.48 is ₱49,856,373.46, computed as follows:

Reference	Amount in PhP	Amount in USD	Sales without inward remittance in USD	Peso Equivalent
	(A)	*(B)*		*[(A)/(B)x(C)]*

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83 Note A to Table 16, Exhibit "P-61," Docket - Vol. II, p. 936.

84 Note A to Table 17, Exhibit "P-61," Docket - Vol. II, p. 936.

85

Reference	Sales Invoice Exhibit	Sales without inward remittances
Shipment 51	"P-28.5"	$ 27.00
Dorè 29	"P-28.9"	8,677.17
Dorè 30	"P-28.10"	75,688.13
Dorè 31	"P-28.3"	94,893.14
Dorè 32	"P-28.11"	61,161.98
Dorè 33	"P-28.12"	439,112.38
Dorè 34	"P-28.13"	287,654.77
Dorè 36	"P-28.15"	9,701.78
Dorè 37	"P-28.16"	10,653.05
Dorè 38	"P-28.17"	9,811.08
		$997,380.48

Shipment 51	₱1,339,049,761.42	$26,880,547.81	$ 27.00	₱ 1,345.00
Dore 29	311,431,838.23	6,251,592.37	8,677.17	432,265.39
Dore 30	323,909,616.09	6,482,540.93	75,688.13	3,781,867.85
Dore 31	435,618,228.00	8,664,448.64	94,893.14	4,770,895.79
Dore 32	233,455,372.63	4,643,403.98	61,161.98	3,075,027.05
Dore 33	402,855,805.34	8,074,984.38	439,112.38	21,907,035.75
Dore 34	318,047,492.77	6,376,934.77	287,654.77	14,346,685.62
Dore 36	349,301,347.46	6,866,006.08	9,701.78	493,568.57
Dore 37	391,483,714.81	7,625,022.55	10,653.05	546,948.62
Dore 38	395,172,740.40	7,742,779.08	9,811.08	500,733.82
Total			**$997,380.48**	**₱49,856,373.46**

In fine, petitioner's *valid* zero-rated sales for the 1st to 4th Quarters of TY 2017 amounted to ₱15,549,809,110.72, computed as follows:

Zero-rated sales duly supported by sales invoices and bills of lading/air waybills	₱ 15,599,665,484.18
Less: Sales without proof of inward remittance	49,856,373.46
Valid Zero-rated Sales for the TY 2017	**₱15,549,809,110.72**

The input VAT being claimed are not transitional input taxes.

An examination of petitioner's VAT Returns covering the 1st to 4th Quarters of TY 2017 shows that the input taxes being claimed are not transitional input taxes.[86] Section 111(A)[87] of the NIRC, as amended, states that transitional input taxes are realized when: *one,* a person not previously liable for VAT, becomes liable for said tax; and *two,* on newly VAT-Registered persons. Transitional input tax credit operates to benefit newly VAT-registered persons, whether or not they previously paid taxes in the acquisition of their beginning inventory of goods, materials and supplies. During that 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.[88] None of these circumstances apply to petitioner.

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86 See table in pp.26-27 of this Decision.

87 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.

88 See *Fort Bonifacio Development Corporation v. Commissioner of Internal Revenue,* G.R. No. 173425, September 4, 2012.

Not all of petitioner's input VAT being claimed for refund are due or paid.

Section 110(A)(1) of the NIRC, as amended, reads:

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 been actually 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.

This is implemented by Sections 4.110-1 to 4.110-3 of RR No. 16-2005, as amended by RR No. 13-2018[89], which provides:

SECTION. 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.

...

SECTION. 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:

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89 Regulations Implementing the Value-Added Tax Provisions under the Republic Act (RA) No. 10963, or the "Tax Reform for Acceleration and Inclusion (TRAIN)," Further Amending Revenue Regulations (RR) No. 16-2005 (Consolidated Value-Added Tax Regulations of 2005), as Amended.

(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.

...

SECTION 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 (₱1,000,000.00), 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 a 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 a capital good. The claim for input tax credit shall commence in the 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 (₱1,000,000.00), 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 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 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 ₱1,000,000.00, excluding the

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VAT, will be subject to the amortization of input tax despite the fact that the monthly payments/installments may not exceed ₱1,000,000.00.

...

If the depreciable capital good is sold/transferred within a period of five (5) years or prior to the exhaustion of the amortizable input tax thereon, the entire unamortized input tax on the capital goods sold/transferred can be claimed as input tax credit during the month/quarter when the sale or transfer was made but subject to the limitation prescribed under Sec. 4.110-7 of these Regulations."

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

SECTION 4.110-8. *Substantiation of Input Tax Credits.* -

(a) Input taxes for the importation of goods or the domestic purchase of goods, properties or services 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.[90]

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90 Boldfacing supplied.

Indeed, to demonstrate that its credits for input taxes were due or paid, petitioner must present the supporting documents prescribed under Section 4.110-8 of RR No. 16-2005. In addition, these documents must comply with the invoicing requirements under Sections 113(A) and (B), 237, and 238 of the NIRC as amended and implemented by Section 4.113-1(A) and (B) of RR No. 16-2005.

In its Quarterly VAT Returns for the 1st to 4th quarters of TY 2017, petitioner reported ₱120,941,193.04 as its excess input VAT arising from importation of goods other than capital goods and amortization of input tax on purchases of capital goods exceeding ₱1 million, detailed below:

TY 2017	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	
Exhibit	**"P-16"[91]**	**"P-17.4"[92]**	**"P-18.4"[93]**	**"P-19.3"[94]**	**Total**
Importation of goods other than capital goods *(Line 21H)*	₱39,166,769.00	₱8,897,353.00	₱10,384,074.00	₱11,823,682.00	₱70,271,878.00
Input tax deferred on capital goods exceeding ₱1Million from previous quarter (Line 20B)	*₱3,205,465.16*	*₱181,524,654.42*	*₱216,112,409.31*	*₱261,610,735.78*	*₱662,453,264.67*
Add: Current transactions purchase of capital goods exceeding ₱1Million (Line 21D)	*0.00*	*47,792,145.00*	*62,207,063.00*	*37,459,233.00*	*147,458,441.00*
Less: Input tax on purchases of capital goods exceeding ₱1Million deferred for the succeeding period (Line 23A)	*0.00*	*(216,112,409.31)*	*(261,610,735.78)*	*(280,897,829.79)*	*(758,620,974.88)*
Amortization of input tax on purchases of capital goods exceeding ₱1Million	₱3,205,465.16	₱13,204,390.11	₱16,708,736.53	₱18,172,138.99	₱51,290,730.79
Total allowable input VAT	**₱42,372,234.16**	**₱22,101,743.11**	**₱27,092,810.53**	**₱29,995,820.99**	**₱121,562,608.79**

91 Docket - Vol. III, p. 1348.
92 Docket - Vol. III, p. 1358.
93 Docket - Vol. III, p. 1368.
94 Docket - Vol. III, p. 1376.

Less: output tax on vatable sales - 12% VAT *(Lines 15B/19B)*	0.00	0.00	(439,285.73)	(182,130.02)	(621,415.75)
Excess input VAT	**₱42,372,234.16**	**₱22,101,743.11**	**₱26,653,524.80**	**₱29,813,690.97**	**₱120,941,193.04**

Meanwhile, the input VAT claimed by petitioner in its Petition for Review, covering the four (4) quarters of TY 2017 is ₱98,075,861.64, broken down as follows:

TY 2017	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Importation of goods other than capital goods	₱8,542,360.00	₱8,897,353.00	₱10,384,074.00	₱11,823,682.00	₱39,647,469.00
Input tax deferred on capital goods exceeding ₱ 1Million from previous quarter	*₱161,864,788.18*	*₱181,524,654.42*	*₱216,112,409.31*	*₱261,610,735.78*	*₱821,112,587.69*
Add: Current purchase of capital goods exceeding ₱ 1Million	*30,624,409.00*	*47,792,145.00*	*62,207,063.00*	*37,459,233.00*	*178,082,850.00*
Less: Input tax on purchases of capital goods exceeding ₱1Million deferred for the succeeding period	*(181,524,654.42)*	*(216,112,409.31)*	*(261,610,735.78)*	*(280,897,829.79)*	*(940,145,629.30)*
Amortization of input tax on purchases of capital goods exceeding ₱1Million	₱10,964,542.76	₱13,204,390.11	₱16,708,736.53	₱18,172,138.99	₱59,049,808.39
Total allowable input VAT credits	**₱19,506,902.76**	**₱22,101,743.11**	**₱27,092,810.53**	**₱29,995,820.99**	**₱98,697,277.39**
Less: output tax on vatable sales - 12% VAT	0.00	0.00	(439,285.73)	(182,130.02)	(621,415.75)
Amount per claim	**₱19,506,902.76**	**₱22,101,743.11**	**₱26,653,524.80**	**₱29,813,690.97**	**₱98,075,861.64**

The Court compared petitioner's input VAT claim per filed Quarterly VAT Returns, as against its input VAT claim per Petition for Review, and with a variance amounting to ₱22,865,331.40,[95] found in the 1st Quarter of TY 2017:

TY 2017	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Per Petition for Review[96]	₱ 19,506,902.76	₱22,101,743.11	₱27,092,810.53	₱29,995,820.99	₱ 98,697,277.39
Per VAT Returns	42,372,234.16	22,101,743.11	27,092,810.53	29,995,820.99	121,562,608.79
Difference	**₱22,865,331.40**	-	-	-	**₱22,865,331.40**

Petitioner explains that the variance amounting to ₱22,865,331.40, corresponds to the amendments in the declarations in

95 Table 5, Exhibit "P-61", Docket - Vol. II, p. 925.
Par. 12, Docket - Vol. I, pp. 14 to 15; Table 1, Exhibit "P-61", Docket - Vol. II, p. 923.

the VAT Return for the 1st quarter of TY 2017, which was no longer filed since it already received the BIR's Letter of Authority to examine its books for the TY 2017.[97]

ICPA Artuz then compared petitioner's: *one*, unfiled VAT Return; and *two*, filed VAT Return, both pertaining to the 1st Quarter of TY 2017, yielding such variance explained by petitioner totaling ₱22,865,331.40, as detailed below:

	1st Quarter of TY 2017		
	Unfiled VAT Return	**Filed** VAT Return	**Difference**
Exhibit	*"P-20"*[98]	*"P-16"*[99]	*"P-16"*
Importation of goods other than capital goods *(Line 21H)*	₱8,542,360.00	₱39,166,769.00	(₱30,624,409.00)
Input tax deferred on capital goods exceeding ₱1Million from previous quarter *(Line 20B)*	161,864,788.18	3,205,465.16	158,659,323.02
Current transactions: Purchase of capital goods exceeding ₱1Million *(Line 21D)*	30,624,409.00	-	30,624,409.00
Input tax on purchases of capital goods exceeding ₱1Million deferred for the succeeding period *(Line 23A)*	(181,524,654.42)	-	(181,524,654.42)
Total	**₱19,506,902.76**	**₱42,372,234.16**	**(₱22,865,331.40)**

ICPA Artuz observed that the difference between the input tax on importation of goods other than capital goods amounting to ₱30,624,409.00, and input tax on current purchases of capital goods exceeding ₱1Million of even amount, cancelled each other out. Petitioner attributed the same to the erroneous posting of the same amount under importation of goods other than capital goods, instead of under purchase of capital goods exceeding ₱1Million.[100]

Further, petitioner's filed VAT Return for the 1st quarter of TY 2017 shows declaration of ₱3,205,465.16[101] as Input Tax Deferred on Capital Goods Exceeding ₱1Million from Previous Quarter (*i.e.*, 4th Quarter of TY 2016), compared to the amount shown in the unfiled VAT Return[102] of ₱161,864,788.18, thereby generating a difference of ₱158,659,323.02.[103]

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97 *Ibid.*

98 Docket - Vol. III, p. 1378.

99 Docket - Vol. III, p. 1348.

100 Note B to Table 5.1, Exhibit "P-61", Docket - Vol. II, p. 927.

101 Line 20B, Exhibit "P-16", Docket - Vol. III, p. 1348.

102 Line 20B, Exhibit "P-20", Docket - Vol. III, p. 1378.

103 ₱161,864,788.18 less ₱3,205,465.16.

The Court examined the VAT return covering the 4th quarter of TY 2016, showing that the amount of input tax deferred on capital goods exceeding ₱1Million from previous quarter is ₱161,864,788.18,[104] the amount referred to in petitioner's unfiled VAT Return of 1st quarter of TY 2017,[105] and *not* ₱3,205,465.16,[106] as shown in its filed VAT Return for said period.

In addition, the input tax of ₱181,524,654.42 on Purchases of Capital Goods exceeding ₱1Million deferred for succeeding period (*i.e.*, 2nd quarter of CY 2017), as shown in petitioner's unfiled[107] VAT return was not declared in its filed[108] VAT Return for the 1st quarter of TY 2017. The VAT Return of 2nd quarter of TY 2017 also confirmed that the amount of input tax deferred on capital goods exceeding ₱1Million for the succeeding period is indeed ₱181,524,654.42.[109]

Simply put, the input VAT claimed for refund by petitioner per Petition for Review in the total amount of ₱98,697,277.39, covering the four (4) quarters of TY 2017, formed part of its reported excess input VAT arising from importation of goods other than capital goods and amortization of input tax on purchases of capital goods exceeding ₱1 million, in its VAT Returns for the 1st to 4th Quarters of TY 2017, in the total amount of ₱120,941,193.04.

To substantiate the input VAT claimed in the amount of ₱98,697,277.39, petitioner submitted its Schedule of Importations for TY 2017,[110] Schedule of Amortization of Input Tax on Imported Capital Goods Exceeding ₱1 Million from Previous Quarter/Year for TY 2017,[111] Schedule of Amortization of Input Tax on Locally Purchased Capital Goods Exceeding ₱1 Million from Previous Quarter/Year for TY 2017,[112] various Single Administrative Document (SAD),[113] Statement of Settlement of Duties and Taxes

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104 Line 23A, Input Tax on Purchases of Capital Goods exceeding ₱1Million deferred for the **succeeding period**, Exhibit "P-67".

105 Line 20B, Exhibit "P-20", Docket - Vol. III, p. 1378.

106 Line 20B, Exhibit "P-16", Docket - Vol. III, p. 1348.

107 Line 23A, Exhibit "P-20", Docket - Vol. III, p. 1378.

108 Line 23A, Exhibit "P-16", Docket - Vol. III, p. 1348.

109 Line 20B, Input Tax Deferred on Capital Goods Exceeding ₱1Million **from Previous Quarter**, Exhibit "P-17.4", Docket - Vol. III, p. 1358.

110 Exhibit "P-71"

111 Exhibit "P-71.1"

112 Exhibit "P-71.2"

113 Exhibits "P-34-1" to "P-34.2021-1" [except Exhibits "P-34.1572-1" and "P-34.1641-1 (2 of 3) which are *denied* admission by the Court for not being found in the records].

(SSDT),[114] bank payment details,[115] bank statements,[116] commercial invoices,[117] and bank certifications.[118] These were examined by ICPA Artuz.

ICPA Artuz examined petitioner's compliance with the substantiation requirements of input VAT, as condensed below:[119]

		Annex Reference	Amount
Properly Supported by Importation Documents such as SAD, SSDT and Bank Documents and Domestic Purchases Properly Supported by Suppliers' Sales Invoices			
1.	Importation of goods other than capital goods supported by original print-outs of SAD and SSDT and further supported by original Bank Payment Details or original print-outs of Bank Statements	Annex 2-Q1.1 Annex 2-Q2.1 Annex 2-Q3.1 Annex 2-Q4.1	₱38,213,837.00
2.	Amortization of 2017 importation of capital goods supported by original print-outs of SAD and SSDT and further supported by original Bank Payment Details	Annex 1-Q1.2 Annex 2-Q2.2 Annex 2-Q3.2 Annex 2-Q4.2	18,930,344.80
3.	Amortization of 2016 importation of capital goods supported by original print-outs of SAD and SSDT and further supported by original Bank Payment Details or original Bank Certification	Annex 2-Q1.3 Annex 2-Q2.3 Annex 2-Q3.3 Annex 2-Q4.3	24,112,774.40
4.	Amortization of 2015 importation of capital goods supported by original print-outs of SAD and SSDT and further supported by original Bank Payment Details or original Bank Certification	Annex 2-Q1.4 Annex 2-Q2.4 Annex 2-Q3.4 Annex 2-Q4.4	12,555,916.00
5.	Amortization of 2014 domestic purchase of capital goods supported by original VAT Invoices	Annex 2-Q1.5 Annex 2-Q2.5 Annex 2-Q3.5 Annex 2-Q4.5	36,857.19
6.	Amortization of 2013 domestic purchase of capital goods supported by original VAT Invoices	Annex 2-Q1.6 Annex 2-Q2.6 Annex 2-Q3.6 Annex 2-Q4.6	257,227.07
7.	Amortization of 2012 domestic purchase of capital goods supported by original VAT Invoices	Annex 2-Q1.7 Annex 2-Q2.7 Annex 2-Q3.7 Annex 2-Q4.7	164,533.01
Properly Supported - Subtotal *(Items 1 to 7)*			**94,271,489.47**
Other Findings			
8.	Importation of goods other than capital goods	Annex 2-Q1.8	₱31,797.00

[114] Exhibits "P-34-2" to "P-34.1941-2."
[115] Exhibits "P-34-3" to "P-34.1988-3."
[116] Exhibits "P-34-4" to "P-34.12-4."
[117] Exhibits "P-34.5" to "P-34.22-5."
[118] Exhibits "P-34-6" to "P-34.2-6."
[119] Table 20, Exhibit "P-61," Docket - Vol. II, pp. 939 to 940.

		Annex Reference		Amount
	supported by photocopies of SAD and original print-outs of SSDT and further supported by original Bank Payment Details	Annex 2-Q2.8		
9.	Importation of goods other than capital goods supported by original print-outs of SAD and further supported by original Bank Payment Details or original print-outs of Bank Statements but not supported by SSDT	Annex 2-Q1.9 Annex 2-Q3.9 Annex 2-Q4.9		962,283.00
10.	Importation of goods other than capital goods supported by photocopies of SAD and further supported by original Bank Payment Details but not supported by SSDT	Annex 2-Q1.10 Annex 2-Q2.10		408,285.00
11.	Amortization of 2016 importation of capital goods supported by original print-outs of SAD and SSDT but not supported by original Bank Payment Details	Annex 2-Q1.11 Annex 2-Q2.11 Annex 2-Q3.11 Annex 2-Q4.11		109,172.40
12.	Amortization of 2012 domestic purchase of capital goods supported by scanned copies of VAT Invoices	Annex 2-Q1.12 Annex 2-Q2.12		14,128.57
13.	Amortization of 2016 importation of capital goods not supported	Annex 2.Q2.13 Annex 2-Q2.13 Annex 2-Q3.13 Annex 2-Q4.13		371,456.40
14.	Amortization of 2015 importation of capital goods not supported	Annex 2.Q2.14 Annex 2-Q2.14 Annex 2-Q3.14 Annex 2-Q4.14		1,023,193.00
15.	Amortization of 2013 domestic purchase of capital goods not supported	Annex 2-Q2.15 Annex 2-Q3.15 Annex 2-Q4.15		1,613,016.73
16.	Amortization of 2012 domestic purchase of capital goods not supported	Annex 2-Q2.16 Annex 2-Q3.16 Annex 2-Q4.16		42,346.43
17.	Difference in input VAT amount on importation of goods other than capital goods per schedules and supporting documents	Annex 2-Q1.17 Annex 2-Q2.17		31,267.00
18.	Difference in amount of amortization of input VAT on importation of capital goods per quarterly VAT Returns and Schedules of Amortization of Input Tax on Locally Purchased Capital Goods Exceeding ₱1.0 Million from Previous Quarter/Years	Annex 2-Q2.18 Annex 2-Q2.18 Annex 2-Q3.18 Annex 2-Q4.18		(181,157.61)
Other Findings – Subtotal *(Items 8 to 18)*				**4,425,787.92**
GRAND TOTAL				**₱98,697,277.39**

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As gleaned in item nos. 9-18 of the above table, the total amount of ₱4,393,990.92,[120] should be disallowed for failure to meet the substantiation requirements as prescribed under Sections 110(A) and 113(A) and (B) of the NIRC, as amended, in relation to Sections 4.110-2, 4.110-8 and 4.113-1 of RR No. 16-2005, as amended.

Additionally, the input VAT on the amortization of 2013 domestic purchase of capital goods supported by original VAT invoice in the amount of ₱46,820.16 shows that petitioner's TIN is not indicated in the sales invoice, violative of Section 113(B)(4) of the NIRC, as amended, and Section 4.113-1(B)(3) of RR No. 16-2005, as amended. Hence, shall likewise be disallowed:

			VAT INVOICE			
ANNEX REFERENCE	EXHIBIT REFERENCE	REGISTERED NAME OF SUPPLIER	DATE	SALES INVOICE NUMBER	INPUT VAT	AMORTIZATION
Annex 2-Q1.6	"P-34.2-5"	PHIL. BELT MANUFACTURING CORP	06/04/2013	753445	234,100.00	₱ 11,705.04
Annex 2-Q2.6						11,705.04
Annex 2-Q3.6						11,705.04
Annex 2-Q4.6						11,705.04
Total						₱ 46,820.16

Thus, petitioner's input VAT claim for the 1st to 4th Quarters of TY 2017, in the total sum of ₱98,697,277.39, must be diminished by the total disallowances thereon totaling ₱4,440,811.08, leaving the amount of ₱94,256,466.31 as petitioner's valid input VAT, computed as follows:

Total reported Input VAT		₱ 98,697,277.39
Less: Disallowances		
Per ICPA Report	₱4,393,990.92	
Per Court's further verification	46,820.16	4,440,811.08
Valid Input VAT		**₱94,256,466.31**

Since there are both zero-rated sales and taxable sales subject to 12% VAT, the valid input VAT of ₱94,256,466.31 shall be proportionately allocated on the basis of petitioner's total sales volume.

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120 Highlighted in the immediately preceding table.

Section 112(A) of the NIRC, as amended, requires that the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, the same provision recognizes that where there are zero-rated or effectively zero-rated sale and taxable sales 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 based on the total sales volume.

In its VAT Returns covering the 1st to 4th Quarters of TY 2017, petitioner declared taxable sales subject to 12% VAT and zero-rated sales, in the amount of ₱15,920,995,247.35 for TY 2017, as follows:

TY 2017	Exhibit	Vatable sales subject to 12% *(Line 15A)*	Zero-rated sales *(Line 17)*	Total
1st Quarter	"P-16"[121]	₱ -	₱ 4,067,773,470.16	₱ 4,067,773,470.16
2nd Quarter	"P-17.4"[122]	-	5,258,958,376.60	5,258,958,376.60
3rd Quarter	"P-18.4"[123]	3,660,714.42	1,417,143,023.87	1,420,803,738.29
4th Quarter	"P-19.3"[124]	1,517,750.19	5,171,941,912.11	5,173,459,662.30
Total		**₱5,178,464.61**	**₱15,915,816,782.74**	**₱15,920,995,247.35**

As previously discussed, for said periods, petitioner's *valid* zero-rated sales is ₱15,549,809,110.72, whereas only ₱94,256,466.31 is its *valid* input VAT.

Since petitioner's *valid* input VAT of ₱94,256,466.31 cannot be directly or entirely attributed to any of the said transactions, said amount shall be allocated proportionately based on the volume of petitioner's total reported sales of ₱15,920,995,247.35:

Total VATable Sales per VAT Returns	₱ 5,178,464.61
Divided by the sum of Reported Sales per VAT Returns	15,920,995,247.35
Multiplied by Total Valid Input VAT	94,256,466.31
Valid input VAT allocated to sales subject to 12% VAT	**₱ 30,657.87**

Total Zero-rated Sales per VAT Returns	₱15,915,816,782.74
Divided by the sum of Reported Sales per VAT Returns	15,920,995,247.35
Multiplied by Total Valid Input VAT	94,256,466.31
Valid input VAT allocated to zero-rated sales	**₱ 94,225,808.44**

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121 Docket - Vol. III, p. 1348.
122 Docket - Vol. III, p. 1358.
123 Docket - Vol. III, p. 1368.
124 Docket - Vol. III, p. 1376.

In *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue (Chevron),*[125] the Supreme Court laid down the guidelines in computing the refundable input tax attributable to zero-rated sales when the taxpayer-claimant is engaged in mixed transactions.[126]

Consistent with *Chevron*, respondent's refundable input VAT for the 1st to 4th quarters of TY 2017 should be ₱92,058,947.06, computed as follows:

Valid zero-rated sales	₱15,549,809,110.72
Divided by total reported sales	15,920,995,247.35
Multiplied by valid input tax not directly attributable to any activity	94,256,466.31
Refundable input tax attributable to zero-rated sales	92,058,947.06

The subject input taxes have not been applied against output taxes in the succeeding quarters.

Though petitioner's reported input VAT claim of ₱98,075,861.64, including the *valid* input VAT of ₱94,256,466.31, was carried-over in its succeeding Quarterly VAT Returns for the 1st to 4th Quarters of TY 2018,[127] the same remained unutilized until it was deducted as VAT Refund/TCC Claimed[128] in petitioner's Amended Quarterly VAT Return for the 4th Quarter of TY 2018.[129]

Finally, the Court is cognizant of respondent's argument that the petition for review must fail for petitioner's failure to substantiate its claim at the administrative level. Additionally, petitioner may not adduce evidence at judicial level, *sans* proof that it was presented at administrative level. Petitioner heavily relies on *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenu*e (*Pilipinas Total Gas*),[130] in support of its position.

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125 G.R. No. 215159, July 5, 2022.
126 Id. at 28.
127 Exhibits "P-81," "P-82," "P-83" and "P-33."
128 Exhibit "P-33.1," Docket - Vol. III, p. 1626.
129 Exhibit "P-33," Docket - Vol. III, pp. 1625 to 1626.
130 G.R. No. 207112, December 8, 2015.

Petitioner's argument is specious. In relation to an administrative claim for input VAT refund, *Pilipinas Total Gas* envisioned two (2) scenarios, namely: (1) dismissal thereof by the BIR due to the taxpayer's failure to submit complete documents, despite the former's notice or request; or (2) inaction tantamount to a denial, or denial *other than* due to taxpayer's failure to submit complete documents despite notice or request. In the *first* scenario, the refund claimant must show the Court its entitlement to a VAT refund under substantive law, and submission of complete supporting documents at administrative level requested by petitioner. In the *second* scenario, a taxpayer-claimant may present all evidence to prove its entitlement to a VAT refund, and the Court will consider all evidence offered even those not presented before respondent at the administrative level[131] Petitioner's denial of respondent's administrative claim for input VAT refund falls under the *second* scenario.

To be precise, petitioner's input VAT refund claim was denied by respondent because: *first,* the total deductions exceeded the claims for VAT refund,[132] and *second,* the schedule of zero-rated sales, provisional and sales invoices and proof of inward remittances in support of export sales cannot be traced/ identified to the attached bill of lading/ airway bills to prove the actual export of goods. Following *Pilipinas Total Gas,* the Court may give credence to all evidence presented by respondent to support its prayer for refund, irrespective of whether such evidence was presented at administrative level, as the case is being essentially decided in the first instance.

Further, *Philippine Airlines, Inc. v. Commissioner of Internal Revenue (PAL)*[133] ruled that in the exercise of the Court's appellate jurisdiction, it is *not* precluded from considering evidence that was not presented in the administrative claim before the BIR:

> Section 8. Court of record; seal; proceedings. - The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the forms of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be

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131 See *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue* G.R. No. 207112, December 8, 2015 citing *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007.

132 Exhibit "P-38," Docket - Vol. III, p. 1688; Exhibit "R-7," BIR Records, p. 485.

133 G.R. Nos. 206079-80, January 17, 2018.

> needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence.
>
> As such, parties are expected to litigate and prove every aspect of their case anew and formally offer all their evidence. No value is given to documentary evidence submitted in the Bureau of Internal Revenue unless it is formally offered in the Court of Tax Appeals. Thus, the review of the Court of Tax Appeals is not limited to whether or not the Commissioner committed gross abuse of discretion, fraud, or error of law, as contended by the Commissioner. As evidence is considered and evaluated again, the scope of the Court of Tax Appeals' review covers factual findings.

All things considered, petitioner is entitled to refund in the amount of ₱92,058,947.06, corresponding to its unutilized input VAT, attributable to its zero-rated sales for the 1st to 4th Quarters of TY 2017.

WHEREFORE, the Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **DIRECTED TO REFUND** in favor of petitioner in the amount of Ninety-Two Million Fifty-Eight Thousand Nine Hundred Forty-Seven and 6/100 (₱92,058,947.06) representing its unutilized input VAT attributable to its zero-rated sales for the 1st to 4th quarters of TY 2017.

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Catherine T. Manahan
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