Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION
* * * * * * * *

EMERSON ELECTRIC (ASIA) LIMITED-ROHQ, Petitioner,	**CTA CASE No. 8470**
	Members:
-versus-	CASTAÑEDA, JR., *Chairperson*, CASANOVA, and COTANGCO-MANALASTAS, JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: OCT 01 2014 3:25 p.m.

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DECISION

CASTAÑEDA, JR., *J.*:

This is a Petition for Review filed by Emerson Electric (Asia) Limited-ROHQ to seek the refund or the issuance of tax credit certificate in the amount of Ten Million Three Hundred Nineteen Thousand Six Hundred Twenty-Two Pesos and 69/100 (₱10,319,622.69) for alleged unutilized input value-added tax (VAT) arising from domestic purchases of goods and services and purchases/importations of capital goods attributable to zero-rated transactions covering the period July to December 2007.

THE FACTS

Petitioner Emerson Electric (Asia) Limited-ROHQ is a corporation duly organized and existing under the laws of Hong Kong. It is duly registered with the Securities and Exchange Commission and is licensed as a regional operating headquarters (ROHQ) in the Philippines to provide qualifying services of general administration and planning, business planning and coordination, sourcing/procurement of raw materials and components, corporate finance and advisory services, marketing control and sales promotion, training and personnel management, logistics services and product development, technical support and maintenance, data processing and communication, and business development to its affiliates in the Philippines and abroad. Petitioner is also registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer with TIN/VAT Registration No. 252-158-539-000 as of May 30, 2007, as shown in BIR Certificate of Registration No. OCN3RC0000537738; which was issued by BIR Revenue District Office (RDO) No. 41 after petitioner's transfer from RDO No. 43A (Pasig) due to change of address. Its office address is at 7/F Robinson Cybergate Plaza Bldg., EDSA, Mandaluyong City.[1]

Respondent is the duly appointed Commissioner of the BIR empowered to perform the duties of her office, including, among others, the duty to act upon and approve claims for refund or tax credit as provided by law. She holds office at the 5th Floor, BIR National Office Building, Agham Road, Diliman Quezon City.

Petitioner filed with the BIR its Quarterly VAT Returns for the fourth quarter (July to September 2007) of fiscal year (FY) 2007 on October 22, 2007[2] and for the first quarter (October to December 2007) of FY 2008 on January 25, 2008[3].

On September 23, 2009, petitioner filed its claim for refund or issuance of tax credit certificate with the One-Stop-Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance ("DOF-OSS" for brevity) for its purported unutilized input VAT arising from domestic purchases of goods and services, as well as purchases/importations of capital goods, attributable to zero-rated transactions for the period covering July to December 2007 in the aggregate amount of ₱10,319,622.69.[4]

However, on March 15, 2012, petitioner received a letter from the DOF-OSS dated February 23, 2012 denying the claim for refund.[5] This prompted petitioner to elevate its claim before this Court on April 13, 2012.

In her Answer[6] filed on June 8, 2012, respondent interposed the following special and affirmative defenses: ℊℯ

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[1] Par. 2, Stipulation of Facts, Joint Stipulation of Facts and Issues, docket, pp. 74-75; Exhibit "A".
[2] Exhibit "E".
[3] Exhibit "F".
[4] Exhibits "Y" and "Z".
[5] Exhibit "AA".
[6] Docket, pp. 49-52.

3. She reiterates and re-pleads the preceding paragraphs of this Answer as part of her Special and Affirmative Defenses;

4. Petitioner's claim for the issuance of tax refund/tax credit certificate is subject to administrative investigation/examination by respondent's Bureau;

5. Taxes paid and collected by the BIR are presumed to have been paid in accordance with law, rules and regulations and the burden to prove otherwise is incumbent upon the petitioner;

6. Moreover, in order to validly claim for tax credit/refund, it is imperative for petitioner to prove its compliance with the following, viz:

a. The registration requirements of a value-added taxpayer under the pertinent provision of the 1997 NIRC, as amended, and its implementing revenue regulations;

b. The invoicing and accounting requirements for VAT-registered persons, as well as the filing and payment of VAT pursuant to the provisions of Sections 113 and 114 of the 1997 NIRC, as amended. Failure to comply with the invoicing requirements on the documents supporting the sale of goods and services will result in the disallowance of the claim for input tax of the taxpayer claimant (Revenue Memorandum Circular No. 42-2003);

c. The submission of complete documents in support of the administrative claim for tax refund pursuant to Section 112 (C) of the 1997 NIRC, as amended, otherwise, there would be no sufficient compliance with regard to the filing of administrative claim for tax credit/refund which is a condition *sine qua non* prior to the filing of such claim;

d. That the input taxes of Php10,319,622.69 allegedly representing unutilized input VAT from its purchases of goods and services from VAT registered suppliers were:

i. paid by the petitioner;

ii. attributable to its zero-rated or effectively zero-rated sales; and
iii. such input taxes paid should not have been applied against any output tax.

e. That petitioner's claim for tax credit/refund allegedly representing unutilized input VAT in the amount Php10,319,622.69 was filed within two (2) years after the close of the taxable quarter when the sales were made in accordance with Section 112 (A) of the 1997 NIRC, as amended.

7. In an action for tax credit/refund, the burden of proof rests upon the taxpayer to establish by sufficient and competent evidence its entitlement to a claim for refund;

8. A tax credit or refund, like tax exemption is strictly construed against the taxpayer. The taxpayer claiming the tax credit or refund has the burden of proving that he is entitled to the refund or credit, in this case VAT input tax, by submitting evidence that he has complied with the requirements laid down in the tax code and the BIR's revenue regulations under which such privilege of credit or refund is accorded *(Microsoft Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 180173, April 6, 2011).*

Petitioner filed its Pre-Trial Brief[7] on July 6, 2012; while respondent filed her Pre-Trial Brief[8] on July 9, 2012.

The parties submitted their Joint Stipulation of Facts and Issues[9] on July 27, 2012. Thereafter, the Court issued a Pre-Trial Order[10] on August 23, 2012.

On January 14, 2013, the Court commissioned Mr. Emmanuel Y. Mendoza as the Independent Certified Public Accountant (CPA) for this case.[11]

During trial, petitioner presented Atty. Lorybeth Baldrias-Serrano, Ms. Anna Mae Santos, Atty. Raquel Dujunco, Emmanuel Y. Mendoza, and Ms. Pamela B. Ariaga, its Tax Accountant, as its witnesses. Petitioner likewise filed a Formal Offer of Evidence[12].

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[7] Docket, pp. 54-66.
[8] Docket, pp. 67-69.
[9] Docket, pp. 74-81.
[10] Docket, pp. 87-91.
[11] Docket, p. 348.
[12] Docket, pp. 827-876.

In a Resolution dated June 26, 2013, the Court admitted Exhibits "A", "A-1", "A-2", "B", "B-1", "E", "F", "G", "H", "I", "J", "K", "L", "M", "O", "P", "Q", "V", "W", "X", "Y", "Z", "Z-1", "AA", "CC", "EE", "FF", "II", "II-1", "KK", "LL", "MM", "MM-1", "MM-2", "NN", "NN-1", "NN-2", "NN-3", "NN-4", "NN-5", "NN-6", "NN-7", "NN-8", "NN-9", "NN-10", "NN-11", "NN-13", "NN-14", "NN-15", "NN-17", "OO-1", "OO-2", "OO-4", "OO-5", "OO-11", "OO-14", "OO-15", "OO-17", "PP-1", "RR", "RR-1", "SS", "TT", "TT-1", "UU", "UU-1", "UU-2", "UU-3", "UU-4", "UU-5", "UU-6", "UU-9", "UU-10", "VV", "WW", and "WW-1".[13]

With respect to the denied exhibits, petitioner filed a Motion for Reconsideration (of Resolution dated June 26, 2013) With Motion to Admit Supplemental Offer of Evidence[14], praying that the June 26, 2013 Resolution be reconsidered and that Exhibits "OO", "OO-6", "OO-7", "OO-8", "OO-9", and "OO-10" be admitted as secondary evidence. Petitioner also requested that the attached Supplemental Formal Offer of Evidence be admitted.

In the Resolution dated September 19, 2013, the Court admitted Exhibits "III", "III-1", "BBB", "CCC-1" to "CCC-541-a", "DDD", "EEE-1" to "EEE-95", "FFF-2" to "FFF-4", "FFF-6" to "FFF-8", "FFF-10", "FFF-12" to "FFF-20", "FFF-22" to "FFF-24", "FFF-26", "FFF-28" to "FFF-37", "FFF-39", "FFF-41" to "FFF-67", "FFF-69" to "FFF-76", "FFF-79" to "FFF-86", "FFF-88" to "FFF-110", "FFF-112" to "FFF-114", "FFF-116" to "FFF-123", "FFF-125" to "FFF-136", "GGG", "HHH", "HHH-2", "OO", "OO-6" to "OO-10", "OO-13", "UU-8", "UU-7", "UU-10-a", "FFF-1", "FFF-5", "FFF-9", "FFF-11", "FFF-21", "FFF-27", "FFF-38", "FFF-40", "FFF-77" to "FFF-78", "FFF-111", "FFF-124", "FFF-25", "FFF-68", "FFF-87", and "FFF-115". Petitioner's Motion to Admit Secondary Evidence was likewise granted. In the meantime, the Court ordered respondent to file her Comment on petitioner's Supplemental Formal Offer of Evidence.[15]

On November 12, 2013, for failure of respondent to file her Comment on petitioner's Supplemental Formal Offer of Evidence despite due notice, the Court resolved to admit Exhibits "UU-a", "UU-1-a", "UU-2-a", "UU-7-a", and "UU-8-a". Moreover, both parties were ordered to file their Memoranda within thirty (30) days from receipt of the Resolution.[16]

For her part, respondent presented Ms. Cynthia A. Takamuni as her only witness.[17] She also made an oral offer of her evidence, particularly, Exhibits "1", "2",

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[13] Docket, pp. 883-886.
[14] Docket, pp. 889-909.
[15] Docket, pp. 1025-1028.
[16] Docket, pp. 1031-1032.
[17] Docket, pp. 992-998.

and "3".[18] In a Resolution[19] dated July 24, 2013, the Court admitted all the exhibits offered by respondent.

The case was submitted for decision on January 6, 2014, considering petitioner's and respondent's Memorandum filed on December 19, 2013 and December 16, 2013, respectively.[20]

THE ISSUE

The parties submitted the following issue[21]for this Court's consideration:

> "Whether or not petitioner is entitled to a refund or tax credit of its unutilized input VAT arising from purchases of goods and services, as well as purchases and importations of capital goods, attributable to zero-rated sales for the 4th quarter of its fiscal year 2007 and 1st quarter of its fiscal year 2008, or the period from July to December 2007, in the amount of ₱10,319,622.69."

THE COURT'S RULING

Petitioner anchors its claim on Section 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended, quoted hereunder for ready reference:

> 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

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[18] Minutes of the Hearing dated July 24, 2013, docket, p. 1007.
[19] Docket, p. 1009.
[20] Docket, p. 1074.
[21] Docket, p. 75.

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.

The foregoing provision provides that to be entitled to a refund or tax credit of input tax due or paid attributable to zero-rated or effectively zero-rated sales, the following requisites must be complied with:

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

Before dwelling on each of the above requisites, the Court deems it necessary to determine first the timeliness of the filing of the instant claim, particularly, the fifth requisite requiring that claims for refund must be filed within the two-year prescriptive period. Counting from the close of the subject taxable quarters, petitioner had until the following dates to file its administrative claim:

Taxable Quarter Fiscal Year	Periods Covered	End of Taxable Quarter	End of the Two-Year Period
4th Quarter (2007)	July to September 2007	September 30, 2007	September 30, 2009
1st Quarter (2008)	October to December 2007	December 31, 2007	December 31, 2009

The Supreme Court in *Commissioner of Internal Revenue v. Mirant Pagbilao Corporation (formerly Southern Energy Quezon, Inc.)*[22] held that the reckoning of the two-year prescriptive period for filing a claim for input VAT refund under Section 112(A) of the NIRC of 1997, as amended, should start from the close of the taxable quarter when the relevant sales were made pertaining to the input VAT regardless of whether the said tax was paid or not.

In the instant case, petitioner filed its administrative claim for the period July to December 2007 with the DOF-OSS.[23] Counting two years from September 30 and December 31, 2007, representing the fourth quarter of FY 2007 and the first quarter of FY 2008, respectively, the instant claim was filed well within the two-year

[22] G.R. No. 172129, September 12, 2008.
[23] Exhibits "Y", "Z" to "Z-1", and "CC".

prescriptive period since petitioner filed its administrative claim on September 23, 2009.

As to the question of whether petitioner timely filed its judicial claim, Section 112(C) of the NIRC of 1997, as amended, applies:

> SEC. 112. *Refunds or Tax Credits of Input Tax.* –
>
> xxx xxx xxx
>
> (C) *Period within which Refund or Tax Credit of Input Taxes shall be made.* – In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.
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> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.

In the case of *Mindanao II Geothermal Partnership v. Commissioner of Internal Revenue,*[24] the Supreme Court summarized the rules for the correct determination of the prescriptive periods provided under Section 112 of the NIRC of 1997, as amended, to wit:

> We summarize the rules on the determination of **the prescriptive period for filing a tax refund or credit of unutilized input VAT as provided in Section 112 of the 1997 Tax Code,** as follows:
>
> > (1) An administrative claim must be filed with the CIR within two years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

[24] G.R. Nos. 193301 and 194637, March 11, 2013.

(2) The CIR has 120 days from the date of submission of complete documents in support of the administrative claim within which to decide whether to grant a refund or issue a tax credit certificate. The 120-day period may extend beyond the two-year period from the filing of the administrative claim if the claim is filed in the later part of the two-year period. If the 120-day period expires without any decision from the CIR, then the administrative claim may be considered to be denied by inaction.

(3) A judicial claim must be filed with the CTA within 30 days from the receipt of the CIR's decision denying the administrative claim or from the expiration of the 120-day period without any action from the CIR.

(4) All taxpayers, however, can rely on BIR Ruling No. DA-489-03 from the time of its issuance on 10 December 2003 up to its reversal by this Court in *Aichi* on 6 October 2010, as an exception to the mandatory and jurisdictional 120+30 day periods.

Petitioner had 30 days from the receipt of the decision denying the claim to appeal before this Court. On March 15, 2012, petitioner received a letter from DOF-OSS denying the claim for refund.[25] Reckoned from the said date, petitioner had until April 14, 2012 to file its judicial claim. In this case, petitioner lodged its judicial claim on April 13, 2012. Clearly, petitioner complied with the 30-day rule for elevating its claim to this Court.

Having satisfied all the mandatory periods under Section 112 of the NIRC of 1997, as amended, the Court shall now proceed to determine compliance with the remaining requisites for a valid claim for refund. As to the first requirement, petitioner asserts that the services it rendered to its non-resident affiliates qualify for VAT zero-rating pursuant to Section 108(B)(2) of the NIRC of 1997, as amended by Republic Act No. 9337, which provides:

SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* –

xxx xxx xxx *Je*

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[25] Exhibit "AA".

(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:

xxx xxx xxx

(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);

For the period July to December 2007, petitioner generated alleged zero-rated sales in the total amount of ₱334,179,300.80, detailed as follows:

Exhibit	Period	Zero-rated Sales
E	4th Quarter 2007	₱ 170,433,178.95
F	1st Quarter 2008	163,746,121.85
TOTAL		**₱334,179,300.80**

In the case of *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*,[26] the Supreme Court held that in order for the supply of services to be VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the following requisites must be satisfied:

1. the services must be other than processing, manufacturing or repacking of goods;
2. the payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations; and
3. the recipient of such services is doing business outside the Philippines.

Based on the parties' stipulation of facts in the Joint Stipulation of Facts and Issues, petitioner's services do not fall under the category of "processing, manufacturing or repacking of goods."[27]

Anent the second requisite, petitioner avers that for the services rendered for the period covering July to December 2007, it received foreign currency payments

[26] G.R. No. 153205, January 22, 2007.
[27] Par. 2, Stipulation of Facts, Joint Stipulation of Facts and Issues, docket, pp. 74-75.

which were accounted for in accordance with the BSP rules and regulations as evidenced by the Certification of Inward Remittances and credit advices issued by Standard Chartered Bank.

Corollary to the requirement that the payments must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations, Section 113(A)(2) of the NIRC of 1997, as amended, states:

> SEC. 113. *Invoicing and Accounting Requirements for VAT-Registered Persons.* –
>
> xxx xxx xxx
>
> (A) *Invoicing Requirements.* – A VAT-registered person shall issue:
>
> xxx xxx xxx
>
> (2) A VAT **official receipt** for every lease of goods or properties, and **for every sale, barter or exchange of services**." *(Emphasis supplied)*

The above-mentioned provision states in no uncertain terms that the foreign currency remittances must likewise be supported by VAT zero-rated official receipts.

In support of its claim, petitioner presented a Schedule of Zero-rated Sales[28] and related sales invoices[29], various service agreements with non-resident foreign clients[30], incorporation documents in their respective foreign countries[31], Certifications of Non-Registration of petitioner's clients issued by the Securities and Exchange Commission[32], Certification of Inward Remittances, and credit advices issued by Standard Chartered Bank[33].

While the said remittances may correspond to the invoices issued by petitioner to its alleged non-resident clients,[34] it bears stressing that the law previously quoted clearly requires a VAT-registered seller of services to issue an

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[28] Exhibit "DDD".
[29] Exhibits "EEE-1" to "EEE-95".
[30] Exhibits "OO" to "OO-2", "OO-4" to "OO-11", "OO-13" to "OO-15", and "OO-17".
[31] Exhibits "UU" to "UU-10".
[32] Exhibits "NN" to "NN-11", "NN-13" to "NN-15", and "NN-17".
[33] Exhibits "X" and "FFF-1" to "FFF-136".
[34] Exhibit "HHH", Annex B-1.

official receipt for every sale of service, which petitioner failed to prove before this Court.

As correctly pointed out by respondent in her Memorandum[35], the BIR Authority to Print (ATP) in petitioner's invoices was issued on July 22, 2008, to wit:[36]

> [U]pon examination of its books of accounts and other accounting records however, the investigating revenue officer found out that petitioner filed its application to use loose leaf on September 5, 2007. Subsequently, the Permit to Use Loose Leaf was granted on May 7, 2008 while the Authority to Print Official Receipt and Sales Invoice was issued on July 22, 2008.

In *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue,*[37] the Supreme Court ruled that:

> Under Section 112 (A) of the NIRC, a claimant must be engaged in sales which are zero-rated or effectively zero-rated. To prove this, duly registered invoices or receipts evidencing zero-rated sales must be presented. However, since the ATP is not indicated in the invoices or receipts, the only way to verify whether the invoices or receipts are duly registered is by requiring the claimant to present its ATP from the BIR. Without this proof, the invoices or receipts would have no probative value for the purpose of refund. In the case of *Intel,* we emphasized that:
>
>> It bears reiterating that while the pertinent provisions of the Tax Code and the rules and regulations implementing them require entities engaged in business to secure a BIR authority to print invoices or receipts and to issue duly registered invoices or receipts, it is not specifically required that the BIR authority to print be reflected or indicated therein. **Indeed, what is important with respect to the BIR authority to print is that it has been secured or obtained by the taxpayer, and that invoices or receipts are duly registered.**" *(Emphasis supplied)*

The following pieces of evidence submitted by petitioner confirm respondent's allegation:

[35] Docket, pp. 1035-1036.
[36] Exhibits "V" and "EEE-1" to "EEE-95".
[37] G.R. No. 172378, January 17, 2011.

EXHIBIT	DESCRIPTION
B	Authority to Print No. 3AU0000622750 dated July 22, 2008
B-1	Permit No. LL-076-2008 dated May 7, 2008

Respondent correctly argued that the absence of an ATP is fatal to petitioner's claim for refund/tax credit of input tax attributable to zero-rated sales. Petitioner may have secured an ATP from respondent but the same was issued **after** the period when the alleged zero-rated transactions occurred. It is clear that the law requires VAT-registered taxpayers to issue a VAT invoice or official receipt in accordance with Section 113 of the NIRC of 1997, as amended, and that the invoices and the official receipts issued should be duly registered. In other words, securing the required ATP after the subject transactions took place is fatal to petitioner's refund claim.

It is axiomatic that a claim for tax refund is in the nature of tax exemption. Laws granting tax exemption are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority. Taxation is the rule and exemption is the exception. The law does not look with favor on tax exemptions and he who would seek to be thus privileged must justify it by words too plain to be mistaken and too categorical to be misinterpreted.[38] Petitioner has the burden of proof to establish the factual basis of its claim for tax refund, which it failed to satisfy.

For failure to substantiate the alleged zero-rated sales, petitioner cannot claim the input taxes attributable thereto. The Court therefore will no longer belabor on the remaining requisites of Section 112 of the NIRC of 1997, as amended.

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

[38] *Sea-Land Service, Inc. v. Court of Appeals and Commissioner of Internal Revenue*, G.R. No. 122605, April 30, 2001.

ATTESTATION

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

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice