REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- *versus* -

PHILIPPINE MINING SERVICE CORPORATION,
Respondent.

CTA EB No. 3242
(CTA Case No. 10880)

Present:

RINGPIS-LIBAN, *P.J.*
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES,
ANGELES, *JJ.*

Promulgated:

MAY 2 1 2026 4:01 p.m.

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DECISION

RINGPIS-LIBAN, *J.*:

Before the Court *En Banc* is a Petition for Review[1] filed by petitioner Commissioner of Internal Revenue (CIR), within an extended period[2] granted by this Court,[3] seeking the reversal of the Decision promulgated on 21 May 2025[4] and the Resolution promulgated on 01 October 2025[5] of the Court's Third Division in CTA Case No. 10880, entitled *Philippine Mining Service Corporation v. Commissioner of Internal Revenue.*

The dispositive portion of the Division Decision reads:

> "**ACCORDINGLY**, the present Petition for Review is **PARTIALLY GRANTED**. Respondent is **ORDERED** to refund petitioner the additional amount of **₱7,361,177.44**, representing petitioner's unutilized and/or unapplied and excess

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[1] *Rollo*, pp. 9-36.
[2] *Id.*, pp. 1-7.
[3] *Id.*, p. 8.
[4] *Id.*, pp. 38-65, Decision, CTA Case No. 10880, Third Division (Manahan, J.), promulgated 21 May 2025.
[5] *Id.*, pp. 67-73, Resolution, CTA Case No. 10880, Third Division (Manahan, J.), promulgated 01 October 2025.

input VAT attributable to zero-rated sales for the period covering the 1st and 2nd quarters of taxable year 2020, or from January 1, 2020 to June 30, 2020.

SO ORDERED."[6]

Aggrieved, the CIR moved for partial reconsideration. The Third Division denied the motion through its Resolution dated 1 October 2025, the dispositive portion of which reads:

"**WHEREFORE**, premises considered, the respondent's Motion for Partial Reconsideration (Re: Decision promulgated on 21 May 2025) is **DENIED** for lack of merit.

SO ORDERED."[7]

The Court notes that the Petition for Review carries over the caption used before the Division, which placed Philippine Mining Service Corporation (PMSC) as petitioner and the CIR as respondent. Before the Court *En Banc*, however, it is the CIR that seeks affirmative relief and who stands as the appealing party. Accordingly, the Court *motu proprio* corrects the caption to reflect the proper party designations: the CIR is the Petitioner and PMSC is the Respondent. The corrected caption shall govern throughout this Decision.

THE PARTIES

Petitioner CIR is the duly appointed head of the Bureau of Internal Revenue (BIR) with authority, among others, to decide, approve and grant tax credits and/or refunds of unutilized or excess input value-added tax (VAT), and is holding office at 5/F BIR National Office Bldg., Diliman, Quezon City.[8]

Respondent Philippine Mining Service Corporation (PMSC) is a corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at 5/F Mercedes-Benz Tower, Mindanao Avenue, Cebu Business Park, Cebu City.[9] It is registered with the BIR under Tax Identification No. (TIN) No. 000-136-814-000.[10]

[6] *Id.*, p. 64.
[7] *Id.*, pp. 72-73.
[8] *Id.*, pp. 10-11.
[9] *Docket*-Vol. 1, p. 197, Admitted Facts, Joint Stipulation of Facts and Issues (JSFI), par. 4.
[10] *Id.*, par. 5.

THE FACTS

As found by the Third Division and as culled from the records.

On February 28, 2022, PMSC filed with the VAT Credit Audit Division of the BIR an *Application for Tax Credits/Refunds* (BIR Form No. 1914) in the amount of ₱31,676,798.32, for the period January 1, 2020 to June 30, 2020.[11]

On May 10, 2022, PMSC received the *VAT Refund Notice* dated April 20, 2022 from the BIR, **partially granting** its request for refund of excess and unutilized input VAT for the covered period in the amount of ₱17,772,357.63. Out of total deductions of ₱13,904,440.69, only the amount of ₱12,894,197.86 — representing input tax attributable to sales allegedly not valid for VAT zero-rating — was assailed by PMSC before the Third Division.[12]

PROCEEDINGS BEFORE THE COURT

On June 9, 2022, PMSC filed a Petition for Review before the Third Division, assailing only the BIR's disallowance of ₱12,894,197.86. Within the extended period granted by the Court,[13] the CIR filed his Answer on September 12, 2022.[14] On November 10, 2022, the BIR Records were transmitted to the Court.[15] The Pre-Trial Conference was held on November 24, 2022.[16] The parties filed their Joint Stipulation of Facts and Issues (JSFI) on January 10, 2023, which the Court approved on January 24, 2023.[17] After trial, all parties' evidence having been admitted and memoranda filed, the case was submitted for decision on May 24, 2024.[18]

On May 21, 2025, the Third Division promulgated its Decision[19], partially granting PMSC's Petition and ordering the CIR to refund the additional amount of ₱7,361,177.44. The CIR moved for partial reconsideration on June 2, 2025, to which PMSC filed its Comment/Opposition on June 18, 2025. The Third Division denied the CIR's motion through a Resolution dated 1 October 2025.[20]

On October 17, 2025, the CIR filed a Motion for Extension of Time to File Petition for Review. The Court En Banc granted the motion on October 20,

[11] Docket-Vol. 2, p. 611, Exhibit 'P-3'.
[12] *Id.*, pp. 617–632, Exhibit 'P-4'.
[13] *Id.* at Note 9, pp. 100–102.
[14] *Id.*, pp. 106–117.
[15] *Id.*, pp. 149–151, Compliance dated November 9, 2022.
[16] *Id.*, pp. 120–122; 175–178, Notice of Pre-Trial Conference dated September 15, 2022; Minutes and Order dated November 24, 2022.
[17] *Id.*, pp. 196–198.
[18] *Id.* at Note 11, pp. 726–763, Memorandum of petitioner; *id.*, pp. 765–767, Manifestation of respondent.
[19] *Id.* at Note 4.
[20] *Id.* at Note 5.

2025, giving the CIR until November 2, 2025 to file its petition. The CIR timely filed the present Petition for Review on October 29, 2025. On January 14, 2026, the Court ordered PMSC to file its Comment. PMSC filed its Comment/Opposition on January 26, 2026.[21] The case was submitted for decision on February 18, 2026.[22]

ASSIGNMENT OF ERRORS

Petitioner Commissioner of Internal Revenue claims that the Third Division erred in ruling that it could give weight to evidence not presented during the investigation done at the administrative level.[23]

Petitioner Commissioner of Internal Revenue further claims that the Third Division erred in ruling that respondent Philippine Mining Service Corporation is partially entitled to the refund sought.[24]

THE ARGUMENTS OF THE PARTIES

Petitioner's Arguments

The CIR argues that the Third Division committed reversible error when it admitted and gave weight to documentary evidence not presented before the BIR during the administrative investigation. The CIR invokes *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*[25] for the proposition that because the BIR rendered a decision on PMSC's administrative claim, the CTA's jurisdiction is appellate in nature and it cannot consider new evidence. The CIR further argues that a taxpayer cannot cure its failure to submit required documents at the administrative level by presenting those same documents before the CTA.

On the merits, the CIR reiterates that PMSC failed to comply with Section 112 of the National Internal Revenue Code (NIRC) of 1997, as amended, in relation to Revenue Memorandum Circular (RMC) No. 47-2019, and with the invoicing and substantiation requirements under Sections 113 and 114 of the NIRC and Revenue Regulations (RR) No. 16-2005. The CIR emphasizes that tax refunds are construed strictly against the taxpayer and in favor of the government, and that the burden of proof to establish entitlement to refund lies with the claimant.

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[21] *Id.* at Note 1, pp. 78-88.
[22] *Id.*, p. 89.
[23] *Id.*, pp. 14-17.
[24] *Id.*, pp. 18-22.
[25] G.R. No. 207112, 8 December 2016.

Respondent's Arguments

PMSC counters that the Petition merely rehashes arguments previously raised by the CIR in his Answer and Motion for Partial Reconsideration before the Third Division, all of which have been thoroughly passed upon and resolved on the merits.[26]

PMSC argues that *Pilipinas Total Gas* has no application here because the CIR has neither alleged nor proven that PMSC failed to submit documents specifically requested by the BIR during the administrative proceedings. On the contrary, PMSC's administrative claim was **partially granted**; it was not dismissed for failure to substantiate its claim. PMSC relies on *Philippine Airlines, Inc. v. Commissioner of Internal Revenue*[27] for the settled rule that the CTA is not limited by the evidence presented at the administrative level and may consider new and additional evidence presented by the taxpayer in the judicial proceeding.

On the merits, PMSC maintains that it fully substantiated its claim for refund of input VAT attributable to zero-rated sales in Q1-Q2 of TY 2020, and that the Third Division correctly evaluated the evidence and properly reduced the total disallowed zero-rated sales from ₱176,353,594.67 to ₱75,667,087.29, resulting in an adjusted refundable amount of ₱25,133,535.07, of which ₱7,361,177.44 remains outstanding after crediting the ₱17,772,357.63 already paid by the BIR.

THE RULING OF THE COURT

The Petition for Review must be **DENIED**.

The Court *En Banc* is not precluded from considering evidence not presented at the administrative level; the CIR's invocation of Pilipinas Total Gas is misplaced.

The CIR's arguments before this Court *En Banc* are a mere rehash of the same grounds already thoroughly considered and correctly rejected by the Court in Division. Nonetheless, the Court reiterates the applicable legal framework.

Section 8 of Republic Act (R.A.) No. 1125, as amended, expressly declares the Court of Tax Appeals a *court of record*. Being such, the CTA is required to conduct a formal trial *de novo* where parties must present and formally offer their evidence. The Supreme Court has been categorical on this point in *Philippine Airlines, Inc. v. Commissioner of Internal Revenue*[28]: the CTA **is not limited** by the

[26] *Id.* at Note 1, pp. 80-85.
[27] G.R. Nos. 206079-80 & 206309, January 17, 2018.
[28] *Supra*.

evidence presented during the administrative claim, and the claimant may present new and additional evidence before the CTA to support its case for tax refund. The CTA, as a court of record conducting trial *de novo*, is not governed strictly by technical rules of evidence and is not precluded from considering evidence not presented at the administrative level, the paramount consideration being the ascertainment of truth.

The CIR invokes *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*[29] to support the opposite proposition. This reliance is misplaced. As this Court *En Banc* held in *Commissioner of Internal Revenue v. Philippine Geothermal Production Company, Inc.*[30], the rule in *Pilipinas Total Gas* applies only under three concurring conditions: (a) the BIR specifically requested certain documents from the taxpayer during the administrative proceedings; (b) the taxpayer failed to submit those documents despite the request; and (c) the claim was dismissed precisely because of that failure. All three must be present before a judicial claim may be deemed dismissible.

None of these conditions obtain in the present case. The CIR has neither alleged nor established that the BIR issued a specific request for documents that PMSC failed to comply with. More importantly, PMSC's administrative claim was not dismissed — it was **partially granted**. The BIR approved ₱17,772,357.63 of the ₱31,676,798.32 claimed; it was the BIR's **disallowance** of certain zero-rated sales — not PMSC's failure to submit required documents — that drove the controversy before the Third Division. The factual predicate for applying *Pilipinas Total Gas* is therefore entirely absent. The Third Division correctly admitted and weighed all evidence formally offered by PMSC during the judicial proceedings, consistent with the CTA's plenary jurisdiction as a court of record.

PMSC fully substantiated its entitlement to the additional refund of ₱7,361,177.44.

On the merits, the Court adopts the findings of the Third Division. Under Section 112(A) of the NIRC of 1997, as amended by R.A. No. 10963 (TRAIN Law), a VAT-registered person whose sales are zero-rated or effectively zero-rated may, within two 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 attributable to such sales, to the extent that such input tax has not been applied against output tax. The requisites for the grant of a VAT refund are well-settled under *Intel Technology Philippines, Inc. v. Commissioner of Internal Revenue*[31] and *San Roque Power Corporation v. Commissioner of Internal Revenue*.[32]

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[29] *Supra,* Note 25.
[30] CTA EB No. 2720, 20 February 2024.
[31] G.R. No. 166732, 27 April 2007.
[32] G.R. No. 180345, 25 November 2009.

The Third Division methodically evaluated each of the BIR's disallowances and arrived at the following conclusions, which the Court *En Banc* affirms: (1) PMSC timely filed both its administrative and judicial claims;[33] (2) PMSC is a VAT-registered entity;[34] (3) PMSC had zero-rated or effectively zero-rated sales during Q1-Q2 of TY 2020, consisting of indirect export sales to PEZA-registered entities under Section 106(A)(2)(a)(5) of the NIRC, as amended, and direct export sales under Section 106(A)(2)(a)(1) of the same Code.[35]

With respect to the CIR's specific disallowances, the Third Division correctly: (a) reversed the disallowance of PMSC's zero-rated sales to Philippine Sinter Corporation (PSC) amounting to ₱80,596,039.33, which were duly supported by approved PEZA Form No. 8105 permits showing actual delivery into the economic zone, and reduced the remaining PSC disallowance to only ₱40,473,576.44 pertaining to transactions not covered by either PEZA permits or credit memoranda; (b) reversed the disallowance of PMSC's sales to Pioneer Float Glass Manufacturing, Inc. in the amount of ₱6,497,631.73, which were covered by credit memoranda explaining volume adjustments in transit — consistent with PMSC's established practice of issuing loading-point invoices and final invoices upon arrival — while sustaining the disallowance of ₱5,881,812.65 for failure to submit Mate's Receipts or bills of lading; (c) sustained the disallowances of zero-rated sales to Unichamp Mineral Philippines, Inc. (₱10,122,637.50), Visayas Slaked Lime Corporation (₱10,947,834.56), and Taganito HPAL Nickel Corporation (₱7,512,328.25) for failure to submit bills of lading; (d) reversed the disallowance of PMSC's sales to JFE Shoji Trade Corporation (₱4,442,646.50), the difference representing commissions explicitly provided for under a service agreement duly in evidence; and (e) sustained the disallowance of ₱728,897.89 in sales to Vale Nouvelle Caledonie SAS for absence of proof of inward remittances.[36]

On the basis of the foregoing, the total disallowed zero-rated sales were properly reduced from ₱176,353,594.67 to ₱75,667,087.29. Applying the proportionate allocation formula under Section 112(A) of the NIRC to the net available input VAT of ₱50,132,962.15, the input tax allocated to the adjusted disallowed zero-rated sales amounts to only ₱5,533,020.43, compared to the ₱12,894,197.87 found by the CIR. The recomputed net refundable amount is ₱25,133,535.07 — of which ₱17,772,357.63 has already been paid, leaving a balance of ₱7,361,177.44 to be additionally refunded.[37]

The CIR's invocation of the strict construction principle against the taxpayer is well-taken as a general rule under *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*[38] and *Commissioner of*

[33] *Id.* at Note 1, pp. 46-47.
[34] *Id.* at Note 11, p. 608, Exhibit 'P-2'.
[35] *Id.* at Note 4, pp. 48-49.
[36] *Id.*, pp. 51-64.
[37] *Id.*, p. 64.
[38] G.R. No. 159490, February 18, 2008

Internal Revenue v. Manila Mining Corporation.[39] However, strict construction is not a license to deny a claim that has been fully substantiated. PMSC has demonstrated, through competent documentary evidence, that it satisfied all the requisites for refund under Section 112 of the NIRC. The principle does not countenance the perpetuation of an erroneous disallowance that has been affirmatively shown to be without basis.

In fine, the Court *En Banc* finds no reversible error in the Decision dated 21 May 2025 of the Court's Third Division. The Petition for Review must be **DENIED.**

WHEREFORE, premises considered, the Petition for Review filed by petitioner Commissioner of Internal Revenue is hereby **DENIED** for lack of merit. The Decision dated 21 May 2025 of the Court's Third Division in CTA Case No. 10880 is hereby **AFFIRMED** in toto.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

WE CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(Inhibited)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

[39] G.R. No. 153204, August 31, 2005.

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice