REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

MINDANAO CONTAINER CORPORATION, *Petitioner,*	**CTA Case No. 10513**
	Members:
-versus-	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: FEB 19 2025 3:25 p.m.

x- x

DECISION

MANAHAN, *J.*:

This is a *Petition for Review*[1] filed by petitioner Mindanao Container Corporation (MCC) against respondent Commissioner of Internal Revenue (CIR) on May 18, 2021, praying that respondent's decision in his Notice of Denial, which denied petitioner's administrative claim for refund, be reversed and set aside, and that a new judgment be rendered ordering respondent to refund or issue a tax credit certificate (TCC) in the amount of Php3,517,238.83, representing its excess and unutilized input value-added tax (VAT) attributable to its zero-rated sales for the third (3rd) quarter of taxable year (TY) 2018.[2]

THE PARTIES

Petitioner MCC is a corporation duly organized and existing under the laws of the Philippines with Securities and Exchange Commission (SEC) Registration No. 165831, and with principal office address at Brgy. Katipunan, Villanueva, Misamis Oriental. It has a liaison office located at 6F Twin Cities

---

[1] Docket, CTA Case No. 10513, Vol. I, pp. 9-40.
[2] *Id.*, Vol. I, Prayer, Petition for Review, p. 37.

Condominium, 110 Legazpi Street, Legaspi Village, Makati City.[3]

Petitioner MCC is principally engaged in the business of manufacturing, selling, buying, importing, exporting and dealings in drums, cans, pails, tanks, and other containers, receptacles, and goods of similar nature made of iron, steel, tin or other metals or material and in any and all equipment, materials and supplies used in or related to the manufacture and sale of said products.[4] It is a duly registered VAT enterprise under the jurisdiction of Revenue District Office (RDO) No. 98 with Taxpayer's Identification Number (TIN) 000-132-794-0000.[5]

Respondent CIR is the head of the Bureau of Internal Revenue (BIR), the government agency officially responsible for the assessment and collection of all national and internal revenue taxes. Respondent is vested with the power and authority to carry out all the function, duties and responsibilities of the BIR, including the power to act upon and approve claims for refund, issuance of tax credit certificates, and other matters involving the enforcement of the Tax Code.[6]

THE FACTS

On September 25, 2020, petitioner filed an Application for Tax Credits/Refunds (BIR Form No. 1914) with its supporting documents for its alleged excess input VAT.[7]

On March 3, 2021, petitioner received a letter dated February 24, 2021 from BIR RDO No. 098, Cagayan De Oro denying its application for VAT Refund amounting to Php3,517,238.83.[8]

Thus, on May 18, 2021, petitioner filed the instant Petition for Review.[9] Respondent was directed to file and serve his Answer to the Court and to petitioner, respectively.[10]

---

[3] Docket, Vol. II, Joint Stipulation of Facts and Issues (JSFI), p. 1260.
[4] *Id.*
[5] *Id.*
[6] *Id.*, Vol. II, JSFI, p. 1261.
[7] *Id.*, Vol. III, Exhibit "P-17", pp. 1641-1643.
[8] *Id.*, Vol. I, Exhibit "P-1", p. 46.
[9] *Supra*, Note 1.
[10] *Id.*, Vol II, Summons dated July 14, 2021, p. 1169.

On October 27, 2021, respondent filed a *Motion for Additional Time to File Answer*[11] which the Court subsequently granted.[12]

On November 25, 2021, respondent filed his *Answer*[13] with the following special and affirmative defenses, to wit:

1. The instant Judicial Claim should be denied for petitioner's failure to prove and substantiate the claim for refund at the administrative level as it is an established fact that a decision by the CIR has already been rendered and in such case, the Supreme Court has held that the duty of the court is now limited to determining whether the decision is proper; and

2. The claim for refund should be denied for failure to comply with the mandatory requirements pursuant to Revenue Memorandum Circular (RMC) No. 47-2019.

On December 27, 2021, the Pre-Trial Conference was set by the Court and the parties were directed to file their respective Pre-Trial Brief at least three (3) calendar days before the scheduled date.[14]

On February 18, 2022, the *Respondent's Pre-Trial Brief*[15] was filed while petitioner filed its *Pre-Trial Brief*[16] on February 21, 2022. On March 15, 2022, the parties submitted their *Joint Stipulation of Facts and Issues.*[17]

On March 22, 2022, petitioner filed a *Motion to Commission Independent Certified Public Accountant*[18] (ICPA) which was granted on April 26, 2022.[19]

On April 8, 2022, the Court issued the *Pre-Trial Order.*[20]

---

[11] Docket, Vol. II, pp. 1172-1174.
[12] *Id.*, Vol II, Resolution dated December 16, 2021, p. 1187.
[13] *Id.*, Vol II, pp. 1176-1184.
[14] *Id.*, Vol II, Notice of Pre-Trial Conference, pp. 1188-1188-B.
[15] *Id.*, Vol II, pp. 1201-1204.
[16] *Id.*, Vol II, pp. 1206-1230.
[17] *Id.*, Vol II, pp. 1260-1276.
[18] *Id.*, Vol III, pp. 1292-1296.
[19] *Id.*, Vol. III, Order dated April 26, 2022, pp. 1372-1374.
[20] *Id.*, Vol III, pp. 1316-1335.

Trial ensued. Petitioner presented first its witnesses and evidence. On May 26, 2022, the *ICPA Report*[21] was submitted.

On October 6, 2022, petitioner filed its *Formal Offer of Evidence* (FOE).[22] Respondent submitted his *Comment (Re: Formal Offer of Evidence dated 28 September 2022)* on October 14, 2022.[23] On November 2, 2022, petitioner filed a *Reply (To: Comment (Re: Formal Offer of Evidence dated 28 September 2022) dated 14 October 2022).*[24]

In a *Resolution* dated March 29, 2023,[25] the Court admitted petitioner's Exhibits "P-1", "P-27", "P-27-1", "P-28", "P-28-1", "P-30", "P-30-1", "P-31", "P-32", "P-33", "P-34", "P-35", "P-35-1", "P-35-2", "P-41", "P-42 to P-44", "P-45 to P-53", "P-54 to P-57", "P-58 to P-62", "P-63 to P-129", "P-130 to P-199", "P-200 to P-445", "P-446 to P-448", "P-450 P-451", "P-452 to P-843", "P-844 - P-845", "P-846 to P-849", "P-850 to P-857", "P-858 to P-865", "P-869", "P-873 to P-885", "P-886 to P-893", "P-894", and "P-894-1".

Other exhibits offered were denied either by failure of the petitioner to submit duly marked exhibits, failure to identify marked exhibit in court, failure to present the originals for comparison, the submitted USB is inaccessible or corrupted and cannot be opened, or for not being found in the records of the case.[26]

Petitioner moved for partial reconsideration[27] of the denied exhibits on April 18, 2023 which was granted[28] by the Court and admitted Exhibits "P-2", "P-3", "P-4", "P-5", "P-6", "P-7", "P-8", "P-9", "P-10", "P-11", "P-12", "P-12-1", "P-13", "P-13-1", "P-13-2", "P-14", "P-14-2", " "P-15", "P-16", "P-17", "P-18", "P-19", "P-20", "P-21 "P-22", "P-23", "P-24", "P-24-1", "P-24-2", "P-24-3", "P-24-4", "P-24-5", "P-24-6", "P-24-7", "P-24-8", "P-25", "P-26", and "P-40".

---

[21] Docket, Vol. III, 1377-1432.
[22] *Id.*, Vol. III, pp. 1465-1505.
[23] *Id.*, Vol. III, pp. 1508-1510.
[24] *Id.*, Vol. III, pp. 1515-1518.
[25] *Id.*, Vol. III, pp. 1573-1575.
[26] *Id.*
[27] *Id.*, Vol. III, Motion for Partial Reconsideration (Re: Resolution dated 29 March 2023), pp. 1577-1580.
[28] *Id.*, Vol. III, Resolution dated June 14, 2023, pp. 1691-1693.

However, the request for renumbering of Mindanao International Container Terminal Services, Inc.'s Official Receipt (OR) No. 0453776 as Exhibit "P-638-1" was denied.[29]

On September 12, 2023, respondent presented its witness and was given a period of fifteen (15) days from September 27, 2023 to personally file his Formal Offer of Evidence (FOE).[30]

On September 18, 2022, respondent filed his *FOE*[31] while a *Comment (On the Respondent's Formal Offer of Evidence)*[32] was filed by petitioner on October 4, 2023.

In the Court's Resolution dated December 6, 2023,[33] all of respondent's exhibits were admitted. The Court also directed the parties to file their respective memoranda.[34]

In respondent's *Manifestation*[35] filed on January 15, 2024, he manifested that, in lieu of the required Memorandum, he is adopting the arguments he raised in his Answer. On the other hand, petitioner filed its *Memorandum*[36] on February 12, 2024.

Thus, the case was submitted for decision on February 19, 2024.[37]

ISSUE

The sole issue to be resolved by the Court is:

> Whether petitioner is entitled to a tax refund or the issuance of a TCC in the amount of Three Million Five Hundred Seventeen Thousand Two Hundred Thirty-Eight and 83/100 Pesos (Php3,517,238.83) representing its excess and unutilized input VAT credits attributable to its zero-rated sales for the third quarter of TY 2018.[38]

---

[29] Docket, Vol. III, Resolution dated June 14, 2023, pp. 1691-1693.
[30] *Id.*, Vol. III, Minutes of the hearing held on September 12, 2023, p. 1694.
[31] *Id.*, Vol. III, pp. 1697-1700.
[32] *Id.*, Vol. III, pp. 1703-1709.
[33] *Id.*, Vol. III, pp. 1714-1715.
[34] *Id.*
[35] *Id.*, Vol. III, pp. 1716-1718.
[36] *Id.*, Vol. III, pp. 1721-1754.
[37] *Id.*, Vol. III, Minute Resolution dated February 19, 2024, p. 1756.
[38] *Id.*, Vol. II, Order dated February 24, 2022, pp. 1243-1245.

Petitioner's Arguments[39]

Petitioner claims that:

(1) it is entitled to a tax refund or the issuance of a TCC in the amount of Three Million Five Hundred Seventeen Thousand Two Hundred Thirty-Eight and 83/100 Pesos (Php3,517,238.83), representing its excess and unutilized input VAT credits attributable to its zero-rated VAT sales for the third quarter of TY 2018;

(2) it is a VAT-registered entity, engaged in zero-rated VAT sales, with the input taxes paid, without transitional input taxes nor excess input VATs which have not been applied against output VAT during the third quarter of TY 2018 and in the succeeding quarters, and its input taxes claimed are attributable to zero-rated sales, and are proportionately allocated on the basis of sales volume;

(3) its claim was filed within the two (2)-year prescriptive period after the close of the taxable quarter when such sales were made, and the additional requirement of RMC No. 47-2019 is void because it is not provided by law; and

(4) it has no outstanding tax liabilities because it complied with the Tax Amnesty Act and respondent did not find that petitioner failed to satisfy the requirements in claiming the VAT refund.

Respondent's Arguments[40]

Respondent argues that the instant claim should be denied for petitioner's failure to prove and substantiate the claim for refund at the administrative level and for failure to comply with the mandatory requirements pursuant to RMC No. 47-2019.

---

[39] *Supra*, Note 36.
[40] *Supra*, Note 13.

RULING OF THE COURT

Requisites for the grant of the refund or issuance of Tax Credit Certificate under the law.

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

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* —
>
> (A) *Zero-Rated or Effectively Zero-Rated Sales.* — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
>
> xxx xxx xxx
>
> (C) *Period within which Refund of Input Taxes shall be Made.* — In proper cases, the Commissioner shall grant a refund for creditable input taxes within ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof: *Provided,* That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.
>
> In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals: *Provided, however,* That failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code."

Based on the aforequoted provision of Section 112 of the 1997 NIRC, as amended, jurisprudence has laid down certain requisites which the taxpayer-applicant must comply with to successfully obtain a credit/refund of input VAT. Said requisites may be classified into the following categories:

<u>As to the timeliness of the filing of the administrative and judicial claims</u>:

1. the refund claim is filed with the Bureau of Internal Revenue (BIR) within two (2) years after the close of the taxable quarter when the sales were made;[41]

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;[42]

<u>With reference to the taxpayer's registration with the BIR</u>:

3. the taxpayer is a VAT-registered person;[43]

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

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[44]

5. for zero-rated sales under Section 106(A)(2)(1) and (2); 106(B); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds

---

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

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

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

[44] *Ibid.*

have been duly accounted for in accordance with the *Bangko Sentral ng Pilipinas* (BSP) rules and regulations;[45]

As regards the taxpayer's input VAT being refunded:

6. the input taxes are not transitional input taxes;[46]

7. the input taxes are due or paid;[47]

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;[48] and

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[49]

It must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove every minute aspect of their case.[50]

Thus, it behooves petitioner to show compliance with each of the foregoing requisites. As a corollary, the absence of *any* of

---

[45] *Ibid.*
[46] *Ibid.*
[47] *Ibid.*
[48] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation vs. Commissioner of Internal Revenue, supra.*
[49] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue, supra*; *San Roque Power Corporation vs. Commissioner of Internal Revenue, supra*; and *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue, supra.*
[50] *Edison (Bataan) Cogeneration Corporation vs. Commissioner of Internal Revenue, etseq.*, G.R. Nos. 201665 and 201668, August 30, 2017; *Commissioner of Internal Revenue vs. Philippine National Bank*, G.R. No. 180290, September 29, 2014; *Commissioner of Internal Revenue vs. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014; *Dizon vs. Court of Tax Appeals, et al.*, G.R. No. 140944, April 30, 2008; *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007; and *Commissioner of Internal Revenue vs. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.

the said requisites is already a valid ground to deny the refund claim.

Petitioner's administrative claim for refund was timely filed.

The *first* requisite pertains to the filing of a claim for tax refund or tax credit of input VAT before the BIR, within two (2) years from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

The present claim covers the 3rd quarter of TY 2018. Counting from the close of the said quarter, the following table indicates the pertinent last day for the filing of an administrative claim for the concerned quarter/ period, to wit:

Period FY 2018	**Close of the taxable quarter**	**Last day to file Administrative Claim**
3rd	September 30, 2018	September 30, 2020

Petitioner filed its administrative claims for refund on September 25, 2020. Thus, there is no dispute that petitioner timely filed such claim for refund for the said quarter.

The judicial claim was also filed on time.

As regards the *second* requisite, the same necessitates that the judicial claim must have been filed within thirty (30) days from receipt of respondent's decision or after the expiration of the ninety (90)-day period under Section 112(C) of the 1997 NIRC, as amended.

"In *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*,[51] the Supreme Court summarized the rules regarding the prescriptive periods of the administrative and judicial claims for refund or tax credit of input VAT. The pertinent rules for the judicial claim are quoted below:

---

[51] G.R. No. 173241, March 25, 2015, citing *Commissioner of Internal Revenue vs. Mindanao II Geothermal Partnership*, G.R. No. 191496, January 15, 2014.

"B. 120(now 90) + 30-Day Period

1. The taxpayer can file an appeal in one of two ways: (1) file the judicial claim within thirty days after the Commissioner denies the claim within 120-day (now 90-day) period, or (2) file the judicial claim within thirty days from the expiration of the 120-day (now 90-day) period if the Commissioner does not act within the 120-day (now 90-day) period.

2. The 30-day period always applies, whether there is a denial or inaction on the part of the CIR.

3. As a general rule, the 30-day period to appeal is both mandatory and jurisdictional. *(Aichi and San Roque).*

4. As an exemption to the general rule, premature filing is allowed only if filed between 10 December 2003 and 5 October 2010, when BIR Ruling No. DA-489-03 was still in force. *(San Roque).*

5. Late filing is absolutely prohibited, even during the time when BIR Ruling No. DA-489-03 was in force. *(San Roque).*"

In *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue,*[52] the Supreme Court stated:

> "A final note, the taxpayers are reminded that when the 120-day (now 90-day) period lapses and there is inaction on the part of the CIR, they must no longer wait for it to come up with a decision thereafter. The CIR's inaction is the decision itself. It is already a denial of the refund claim. Thus, the taxpayer must file an appeal within 30 days from the lapse of the 120-day (now 90-day) waiting period."

The Supreme Court has also stated that 'any claim filed in a period less than or beyond the (one hundred twenty+thirty) 120+30 (now [ninety+thirty] 90+30) days provided by the 1997 NIRC, as amended, is outside the jurisdiction of the CTA.[53]

Thus, from the filing of petitioner's administrative claim on September 25, 2020, respondent had ninety (90) days or until December 24, 2020, to act on the said claim. In case of inaction within the said 90-day period, petitioner has thirty (30) days

---

[52] G.R. No. 168950, January 14, 2015, see also *Lapanday Foods Corporation vs. Commissioner of Internal Revenue*, G.R. No. 252821, September 2, 2020.
[53] *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 182737, March 2, 2016.

from such expiration to file its judicial claim, or until January 25, 2021.[54]

However, under Revenue Regulations No. 27-2020 dated October 6, 2020, the processing of VAT refunds for calendar year ending December 31, 2018 was extended until February 15, 2021.

Pursuant to Section 4 of the same regulation, the ninety (90)-day processing shall be suspended until December 19, 2020. Hence, the 90-day processing period should commence on December 20, 2020 until March 20, 2021.

Further, the Supreme Court issued Administrative Circular (AC) Nos. 14-2021, 15-2021, 21-2021, 22-2021, 29-2021, and 33-2021 which suspended the operation of the courts starting March 29, 2021.

It was only in AC No. 33-2021 which directed the courts to resume its operation starting May 17, 2021. In AC No. 29-2021, the filing and service of pleadings and motions shall resume after seven (7) calendar days from the physical reopening of the courts. Thus, the filing and service of pleadings and motions shall resume on May 24, 2021.

In the present case, the instant petition was filed on May 18, 2021. Hence, the filing of the instant petition as petitioner's judicial claim for refund on May 18, 2021 was on time.

Petitioner is a VAT-registered taxpayer

As discussed above, petitioner is a duly registered VAT enterprise under RDO No. 98 with TIN No. 000-132-794-0000.

Compliance with the fourth and fifth requisites.

The *fourth* and *fifth* requisites, respectively, require that the taxpayer is engaged in zero-rated or effectively zero-rated sales; and that for zero-rated sales under Sections 106(A)(2)(a)(1), (2) and (b), and 108(B)(1) and (2) of the 1997 NIRC, as amended, the acceptable foreign currency exchange

---

[54] January 23, 2021 fell on Saturday.

proceeds have been duly accounted for in accordance with BSP rules and regulations.

Petitioner is registered with the Board of Investments ("BOI") as an indirect or constructive exporter of steel drums under Certificate of Registration No. EP 89-588.[55]

Petitioner generated the following sales subject to 12% VAT and Zero Percent (0%) VAT to customers that are registered with BOI and Philippine Economic Zone Authority ("PEZA") for the third quarter of TY 2018, to wit:

Sales	Amount
Sales Subject to VAT	₱13,524,091.77[56]
Zero-Rated Sales	51,406,320.00[57]
Total Sales	₱64,930,411.77[58]

Considering the zero-rated sales amounting to Php51,406,320.00, the ICPA noted by taking into account the customers reflected in the Summary List of Sales (SLS)[59] as well as the VAT-registered Sales Invoices[60] issued by petitioner to substantiate the amount due to petitioner for goods sold during the covered period would show that the transactions were considered as sales subject to VAT at 0% because these pertain to goods sold to entities registered with either the BOI or PEZA. The breakdown of zero-rated sales per customer is presented in the table below:

	Customer Name	Amount of Zero-Rated Sales
BOI	Celebes Coconut Corporation	₱7,231,200.00
BOI	Celebes Oil Mill, Inc.	1,360,000.00
BOI	SC Global Coco Products, Inc.	1,537,250.00
BOI	SC Global Food Products, Inc.	857,970.00
	Total (BOI)	**₱10,986,420.00**
PEZA	Del Monte Philippines, Inc.	24,593,500.00
PEZA	Phil. Associated Smelting & Refining	255,360.00
PEZA	Pilipinas Kao, Inc.	14,171,600.00
PEZA	Primex Coco Products, Inc.	1,095,600.00

---

[55] Exhibit "P-3", USB.
[56] Exhibit "P-13-2", Line 15A, USB.
[57] Exhibit "P-13-2", Line 17, USB.
[58] Exhibit "P-13-2", Line 19A, USB.
[59] ICPA Report, Annex 3, USB.
[60] Exhibits "P-130" to "P-199", USB.

PEZA	Sakamoto Orient Chemicals Corp.	303,840.00
	Total (PEZA)	**40,419,900.00**
	Grand Total	**₱51,406,320.00**

To support the fact that these entities are registered with either BOI or PEZA and pursuant to their registration, are entitled to in the VAT 0% incentives on their purchases from the petitioner, the following documents were provided.

Agency	Entity Name Per Certificate of Registration	Issuance Date of Certificate of Registration	Certificate of Registration Number	Exhibit
BOI	Celebes Coconut Corporation	Jan. 30, 2002	XIII 2002-017	"P-45"
BOI	Celebes Oil Mill Incorporated	Mar. 30, 2011	2011-067	"P-46"
BOI	SC Global Coco Products, Inc.	Jan. 24, 2007	2007-011	"P-47"
BOI	SC Global Food Products, Inc.	Oct. 5, 2012	2012-210	"P-48"
PEZA	Del Monte Philippines, Inc.	Oct. 12, 2015	07-68	"P-49"
PEZA	Philippine Associated Smelting and Refining Corporation	Sep. 23, 1982	82-40	"P-50"
PEZA	Pilipinas Kao, Inc.	April 26, 2001	01-030	"P-51"
PEZA	Primex Coco Products, Inc.	April 24, 2014	14-062	"P-52"
PEZA	Sakamoto Orient Chemicals Corporation	March 11, 1996	99-012	"P-53"

A. Sales to BOI-registered entity (₱10,986,420.00).

Petitioner claims that it partly engaged in automatically zero-rated sales, as **100%** of its sales to BOI-registered entities in CY 2018 were exported, as shown by the Certification issued by the BOI.[61]

Section 106(A)(2)(a)(1) of the 1997 NIRC, as amended, states:

"SEC. 106. *Value-Added Tax on Sale of Goods or Properties.* –

(A) *Rate and Base of Tax.* – xxx

[61] Exhibits "P-54" to "P-57", USB.

> (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);"

Based on the foregoing provision, in order to qualify an export sale as zero-rated, the following essential elements must be present, to wit:

1.) the sale was made by a VAT registered person;

2.) there was sale and actual shipment of goods from the Philippines to a foreign country; and

3.) the sale was paid for in acceptable foreign currency or its equivalent in goods or services and was accounted for in accordance with the rules and regulations of the BSP.

As for the *first* essential element, petitioner is registered with the BIR as a VAT taxpayer as evidenced by its BIR Certificate of Registration with TIN No. 000-132-794-000.[62]

Relative to the *second* essential element, it is incumbent upon the VAT-registered person to have, at the minimum, the following supporting documents:

1. The sales invoice as proof of sale of goods; and

2. The bill of lading (BL) or airway bill (AWB) as proof of actual shipment of goods from the Philippines to a foreign country.

---

[62] Docket, Vol. I, Annex D of the *Petition for Review*, p. 58.

Thus, only export sales supported by the above-stated documents shall qualify for VAT zero-rating under Section 106(A)(2)(a)(1) of the 1997 NIRC, as amended.

It is equally important to consider that the VAT zero-rated sales, must be duly supported by VAT zero-rated sales invoices in accordance with the pertinent invoicing requirements, containing all the required information under Section 113(A) and (B) of the 1997 NIRC, as amended, and as implemented by Section 4.113-1(A) and (B) of Revenue Regulations (RR) No. 16-2005,[63] as amended. Further, the sales invoices must be duly registered with the BIR as prescribed under Section 237, in relation to Section 238 of the 1997 NIRC, as amended.

Perusal of the sales invoices[64] reveals that it complied with the requirement as to proof of sale of goods. However, petitioner failed to provide bills of lading, airway bills or delivery memos to prove actual shipment of goods from the Philippines to a foreign country. This is also noted by the ICPA in her findings[65] that all the petitioner's zero-rated sales to BOI registered entities amounting to Php10,986,420.00 were properly supported by Sales Invoices BUT WITHOUT delivery memos.

Consequently, petitioner failed to present sufficient and convincing evidence to prove the actual shipment of goods from the Philippines to a foreign country, thus, petitioner's sales to BOI-registered entities is not considered as zero-rated.

B. Sales to PEZA-registered entity (Php40,419,900.00).

To prove that its clients are duly registered with the PEZA, petitioner submitted various Certifications[66] issued by the said agency.

It is undisputed that petitioner declared a total zero-rated sales in its Third Quarterly VAT Return for the TY 2018 amounting to Php51,406,320.00. Out of this amount, the ICPA noted that Php40,419,900.00[67] represents sales to PEZA registered entities.

---

[63] SUBJECT: Consolidated Value-Added Tax Regulations of 2005.
[64] Exhibits "P-130" to "P-199", USB.
[65] Docket, Vol. III, ICPA Report, Table 17, p. 1388.
[66] Exhibits "P-58" to "P-62", USB.
[67] Docket, Vol. III, ICPA Report, Table 7, p. 1384.

To prove compliance with the VAT invoicing requirements, petitioner submitted various SIs[68] in support of its zero-rated sales to PEZA-registered entities, which were duly examined by the ICPA, extracted and summarized from petitioner's Schedule of Sales[69], as follows:

Zero-Rated Sales Supported by Compliant VAT SIs and Delivery Memo	Annex 4	₱38,335,900.00
Zero-Rated Sales Supported by Compliant VAT SIs and Delivery Memo	Annex 7	450,000.00
Sub-Total		**₱38,785,900.00**
Zero-Rated Sales Supported by VAT-registered SIs but with Incorrect TIN of the customer	Annex 5	1,584,000.00
Zero-Rated Sales Supported by VAT-registered SIs but without proof of delivery for ₱50,000.00 worth of goods	Annex 7	50,000.00
Sub-Total		1,634,000.00
Grand Total		₱40,419,900.00

The Court agrees with the findings of the ICPA that out of the sales to PEZA registered entities amounting to Php40,419,900.00, only the amount of Php38,785,900.00 complied with the invoicing requirements.

In sum, only the amount of Php38,785,900.00 represents petitioner's valid zero-rated sales for the 3rd quarter of CY 2018. Thus, petitioner complied with the *fourth* and *fifth* requisites.

The Court shall then proceed to determine whether petitioner complied with the remaining requisites pertaining to the input VAT being claimed for refund.

Sixth requisite: The input VAT credits being claimed do not appear to be transitional input taxes.

The *sixth* requisite provides that the claimed input taxes do *not* appear to be transitional input taxes, pursuant to Section 111(A) of the 1997 NIRC, as amended, to wit:

---

[68] Exhibits "P-130" to "P-199", USB.
[69] ICPA Report, Annexes 4, 5, and 7, USB.

> "SEC. 111. *Transitional/Presumptive Input Tax Credits.* –
>
> (A) *Transitional Input Tax Credits.* – A person who becomes liable to value-added tax or any person who elects to be a VAT-registered person shall, subject to the filing of an inventory according to the rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner, be allowed input tax on his beginning inventory of goods, materials and supplies equivalent to two percent (2%) of the value of such inventory or the actual value-added tax paid on such goods, materials and supplies, whichever is higher, which shall be creditable against the output tax."

Transitional input tax credit operates to benefit newly VAT-registered persons, whether or not they previously paid taxes in the acquisition of their beginning inventory of goods, materials and supplies. During the period of transition from non-VAT to VAT status, the transitional input tax credit serves to alleviate the impact of the VAT on the taxpayer.[70]

In this case, the claimed input taxes do *not* appear to be transitional input taxes, as understood under Section 111(A) of the 1997 NIRC, as amended, and thus, petitioner has complied with the *sixth* requisite for the grant of an input VAT refund.

Seventh requisite: Not all of petitioner's input taxes being claimed for refund were duly substantiated.

Anent the *seventh* requisite in claiming VAT refund, it is of vital importance for petitioner to provide supporting documents to prove that the input taxes claimed were actually due or paid in accordance with Section 110(A) of the 1997 NIRC, as amended, as implemented by Sections 4.110-1 to 4.110-3 and 4.110-8 of RR No. 16-2005, as amended.

Thus, in order to prove entitlement to credits for input taxes due or paid, petitioner must not only present the supporting documents prescribed under Section 4.110-8 of RR No. 16-2005, but more importantly, these documents must also comply with the invoicing requirements under Sections 113(A) and (B), 237 and 238 of the 1997 NIRC, as amended, as

---

[70] *Fort Bonifacio Development Corporation vs. Commissioner of Internal Revenue, et al., et seq.*, G.R. Nos. 158885 and 170680, April 2, 2009.

implemented by Section 4.113-1(A) and (B) of RR No. 16-2005, as amended.

In its 3rd Quarterly VAT Return for the TY 2018[71], petitioner reported a total input VAT of Php5,140,129.85 from its amortized input VAT on purchases of capital goods exceeding Php1Million, importations of goods other than capital goods, domestic purchases of services, domestic purchases of goods other than capital goods, and purchases of capital goods not exceeding 1 Million, out of which, the amount of Php3,517,238.83 is the subject of the present claim for refund or issuance of TCC, detailed as follows:

Input Tax Deferred on Cap. Goods Exceeding		
1Million from Previous Quarter	₱558,199.33	
Add: Current Input Tax on Cap. Goods		
Exceeding 1Million	152,847.62	
Total	711,046.95	
Less: Input Tax Deferred on Cap. Goods Exceeding		
1Million for Succeeding Period	668,559.81	
Amortization		₱42,487.14
Input Tax on Cap. Goods Not Exceeding 1Million		8,302.50
Input Tax on Goods Other Than Cap. Goods		347,903.92
Importation of Goods		3,947,796.00
Input Tax on Services		793,640.29
Total		5,140,129.85
Less: Output Tax		1,622,891.02
Amount Applied for Refund		₱3,517,238.83

In support thereof, petitioner's Summary Lists of Purchases,[72] ICPA Report including Annexes,[73] Purchase Documents covering Domestic Purchases of Goods Other than Capital Goods and Services,[74] Purchase Documents covering Purchase of Capital Goods not Exceeding 1M,[75] Purchase Documents covering Purchase of Capital Goods Exceeding 1M from prior period,[76] Purchase Documents covering Purchase of Capital Goods Exceeding 1M from current period,[77] and Documents Supporting Input VAT on Importations, were submitted.[78]

---

[71] Exhibit "P-13-2", USB.
[72] Exhibits "P-446" to "P-448", USB.
[73] Exhibit "P-35", Docket – Vol. III, pp. 1378 to 1432.
[74] Exhibits "P-452" to "P-843", USB.
[75] Exhibits "P-844" to "P-845", USB.
[76] Exhibits "P-846" to P-849", USB.
[77] Exhibits "P-850" to P-857", USB.
[78] Exhibits "P-858 to 872", USB.

As ascertained by the ICPA in her report[79], the Court agrees that only the input VAT of Php3,947,796.00 were properly substantiated, the amount of Php1,192,333.84 shall be disallowed for failure to meet the invoicing requirements under Sections 110(A), 113(A) and (B), and 237 of the 1997 NIRC, as amended, in relation to Sections 4.110-1, 4.110-2, 4.110-8 and 4.113-1 of RR No. 16-2005, as amended, summarized as follows:

Particulars	EXHIBIT NO.	Input VAT	
		Compliant	Non-compliant
A. Domestic Purchase of Goods Other than Capital Goods and Services (Annex 12)			
1. Input VAT supported by document that are not valid for claiming of input VAT	**P-452 to P-453**		964.28
2. Input VAT supported by VAT-registered S.I. or O.R. with incomplete address of Petitioner	**P-454 to P-727**		509,616.71
3. Input VAT supported by VAT-registered S.I. or O.R. with (a) incomplete address of Petitioner; and (b) incorrect VAT amount	**P-728 to P-746**		35,156.66
4. Input VAT supported by VAT-registered S.I. with (a) incomplete name of Petitioner; and (b) incomplete address of Petitioner	**P-747**		107.14
5. Input VAT supported by VAT-registered S.I. with incorrect address of Petitioner	**P-748 to P-753**		34,275.75
6. Input VAT supported with VAT-registered O.R. with (a) incorrect address of Petitioner; and (b) incorrect TIN of Petitioner	**P-754 to P-755**		300.81
7. Input VAT supported by VAT-registered S.I. or O.R. with incorrect TIN of Petitioner	**P-756 to P-774**		14,437.36
8. Input VAT supported by VAT-registered O.R. with (a) incomplete address of Petitioner; and (b) incorrect TIN of Petitioner	**P-775**		59,521.36
9. Input VAT supported by VAT-registered S.I. with (a) incomplete address of Petitioner; and (b) incomplete TIN of Petitioner	**P-776**		61.07
10. Input VAT supported by VAT-registered O.R, with (a) no nature of payment for the services performed by vendor; and (2) illegible TIN	**P-777**		433.93
11. Input VAT supported by VAT-registered O.R. with (a) no nature of payment for the services performed by vendor; and (2) incomplete address of Petitioner	**P-778 to P-790**		285,126.90
12. Input VAT supported by VAT-registered O.R. with (a) no nature of payment for the services performed by vendor; and (2) incomplete TIN of Petitioner	**P-791**		235.71
13. Input VAT from purchases of services not supported by VAT-registered O.R.	**P-792 to P-793**		61,761.07
14. Input VAT supported by VAT-registered S.I. or O.R. reflecting the address of Petitioner's Liaison/Branch Office but the TIN reflected is that of the Head Office	**P-794 to P-810**		24,199.99
15. Input VAT supported by VAT-registered S.I. reflecting the address of Petitioner's Liaison/Branch Office but with incomplete TIN of the said Liaison/Branch Office	**P-811**		592.29
16. Input VAT supported by VAT-registered S.I. reflecting the address of Petitioner's Liaison/Branch Office but TIN of the said Liaison/Branch Office not indicated	**P-812**		166.82
17. Input VAT supported by VAT-registered S.I. with (a) incomplete address of Petitioner; and (b) the VATable amount not indicated	**P-813**		470.79

[79] Exhibit "P-35", ICPA Report, Table 28, Docket – Vol. III, pp. 1390 to 1392.

18. Input VAT supported by VAT-registered O.R. with (a) incomplete address of Petitioner; (b) the VATable amount not indicated; and (c) incorrect VAT amount	**P-814**		394.29
19. Input VAT supported by VAT-registered S.I. with (a) incomplete address of Petitioner; and (b) unit, cost and quantity not indicated	**P-815 to P-818**		266.75
20. Input VAT supported by VAT-registered O.R. with no address of Petitioner indicated	**P-819 to P-827**		6,918.71
21. Input VAT supported by VAT-registered S.I. or O.R. with no TIN of Petitioner indicated	**P-828 to P-837**		9,135.13
22. Input VAT supported by VAT-registered O.R. with (a) incomplete address of Petitioner; and (b) no TIN of Petitioner indicated	**P-838 to P-842**		94,824.62
23. Input VAT supported by VAT-registered O.R. with no address and TIN of Petitioner and VAT amount indicated	**P-843**		2,576.07
SUBTOTAL (A)		-	**1,141,544.21**
B. Purchase of Capital Goods not exceeding P1M (Annex 12)			
1. Input VAT supported by VAT-registered S.I. with address of Petitioner's Liaison/Branch Office but TIN of the Head Office	**P-844**		6,503.57
1. Input VAT supported by VAT-registered S.I. with incomplete address of Petitioner	**P-845**		1,798.93
SUBTOTAL (B)		-	**8,302.50**
C. Purchase of Capital Goods exceeding P1M (Annex 13)			
a. Prior period purchases			
1. Input VAT supported by VAT-registered S.I. with address of Petitioner's Liaison/Branch Office but with incomplete TIN	**P-846**		11,747.30
2. Input VAT supported by VAT-registered S.I. with address of Petitioner's Liaison/Branch Office but with TIN of the Head Office	**P-847**		7,816.07
3. Input VAT supported by document that are not valid for claiming of input VAT	**P-848**		7,923.50
4. Input VAT supported by VAT-registered S.I. with incomplete address of the Petitioner	**P-849**		9,905.36
SUBTOTAL (C)(a)		-	**37,392.23**
b. Current period purchases			
1. Input VAT supported by VAT-registered S.I. with address of Petitioner's Liaison/Branch Office but with TIN of the Head Office	**P-850**		123.22
2. Input VAT supported by VAT-registered S.I. with incomplete address of the Petitioner	**P-851 to P-853**		4,078.21
3. Input VAT supported by VAT-registered S.I. with (a) incomplete address of the Petitioner; and (b) no date indicated	**P-854**		639.26
4. Input VAT supported by VAT-registered S.I. with incorrect address of the Petitioner	**P-855 to P-857**		161.36
5. Unsupported Input VAT			92.86
SUBTOTAL (C)(b)			**5,094.90**
D. Importation of goods other than capital goods (Annex 14)			
1. Input VAT supported by compliant import documents, commercial invoices and input VAT payment confirmed through BOC Certification No. 2019-148 dated 10 May 2019 **(Exhibit P-12 as marked by counsel of Petitioner)**	**P-858 to P-872**	3,947,796.00	
SUBTOTAL (D)		**3,947,796.00**	-
TOTAL		**3,947,796.00**	**1,192,333.84**
GRAND TOTAL			**5,140,129.84**[80]

80 Rounding Off Difference of 0.01.

In fine, for compliance with the *seventh* requisite, out of the total reported input VAT of Php5,140,129.85, only the amount of Php3,947,796.01 represents petitioner's valid input VAT for the 3rd quarter of TY 2018, as computed below:

Input VAT Declared per VAT Return	₱5,140,129.85
Less: Disallowances	1,192,333.84
Valid Input VAT	₱3,947,796.01

Eighth requisite: A portion of the input VAT being claimed is attributable to zero-rated sales.

The *eighth* requisite is to the effect that 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.

Since petitioner's declared input VAT for the 3rd quarter of TY 2018 in the total amount of Php5,140,129.85 cannot be directly or entirely attributed to specific sales, the same shall be allocated proportionately on the basis of the volume of petitioner's sales, thus:

Sales	Amount
Sales Subject to VAT	₱13,524,091.77[81]
Zero-Rated Sales	51,406,320.00[82]
Total Sales	₱64,930,411.77[83]
Zero- Rated Sales	₱51,406,320.00
Divided By Total Reported Sales per VAT Return	64,930,411.77
Multiplied by Declared Input VAT	5,140,129.85
Declared Input VAT Allocated to Zero-Rated Sales	₱4,069,513.08
Sales Subject to VAT	₱13,524,091.77
Divided By Total Reported Sales per VAT Return	64,930,411.77
Multiplied by Declared Input VAT	5,140,129.85
Declared Input VAT Allocated to VATable Sales	₱1,070,616.77

---

81 Exhibit "P-13-2", Line 15A, USB.
82 Exhibit "P-13-2", Line 17, USB.
83 Exhibit "P-13-2", Line 19A, USB.

Hence, as regards the *eighth* requisite, only Php4,069,513.08 of the input VAT represents petitioner's input VAT attributable to its total declared zero-rated sales for the 3rd quarter of TY 2018.

Ninth requisite: The subject input taxes have not been applied against output taxes during the period of claim and in the succeeding quarters.

Having determined that petitioner had input VAT attributable to its zero-rated sales, we now determine whether the same was not applied against its output VAT liability during and in the succeeding quarters, relative to the *ninth* requisite for the successful processing of an input VAT refund claim.

In *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) vs. Commissioner of Internal Revenue*,[84] the Supreme Court held that:

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

Thus, with respect to its input taxes attributable to zero-rated sales, it is the taxpayer (and not the Court) who is given the option to either:

---

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

1. Charge a portion of its input taxes attributable to zero-rated sales to the output taxes, and refund the balance, if any; or

2. Refund all of the input taxes attributable to zero-rated sales.

Applying the foregoing, records show that petitioner chose the *first* option, *i.e.*, it computed its claim for refund in the amount of Php3,517,238.83 by offsetting its aggregate output VAT from regular 12% VATable sales amounting to Php1,622,891.02 against its total available input VAT for the 3rd Quarter of TY 2018 in the amount of Php5,140,129.85, as follows:

Input Tax Deferred on Cap. Goods Exceeding 1Million from Previous Quarter	₱558,199.33	
Add: Current Input Tax on Cap. Goods Exceeding 1Million	152,847.62	
Total	711,046.95	
Less: Input Tax Deferred on Cap. Goods Exceeding 1Million for Succeeding Period	668,559.81	
Amortization		₱42,487.14
Input Tax on Cap. Goods Not Exceeding 1Million		8,302.50
Input Tax on Goods Other Than Cap. Goods		347,903.92
Importation of Goods		3,947,796.00
Input Tax on Services		793,640.29
Total		5,140,129.85
Less: Output Tax		1,622,891.02
Amount Applied for Refund		₱3,517,238.83

It is clear therefore that petitioner opted to claim a refund/issuance of TCC of its unutilized or excess input tax, which is the amount after charging the input tax allocated to zero-rated sales against its output tax liability.

Since petitioner's declared input VAT allocated to 12% VATable sales for the 3rd quarter of TY 2018 in the amount of Php1,070,616.77, as determined earlier, is not enough to cover the output VAT liability for the 3rd quarter of TY 2018 in the amount of Php1,622,891.02, the declared input VAT attributable to declared zero-rated sales in the amount of Php4,069,513.08 shall then be utilized against the output VAT still due of Php552,274.25, resulting to an excess input VAT attributable to declared zero-rated sales in the amount of Php3,517,238.83, computed as follows:

Output VAT	₱1,622,891.02
Less: Declared Input VAT Allocated to 12% VATable Sales	1,070,616.77
Output VAT Still Due	₱552,274.25
Declared Input VAT Attributable to Declared Zero-Rated Sales	4,069,513.08
Less: Output VAT Still Due	552,274.25
Excess Input VAT Attributable to Declared Zero-Rated Sales	₱3,517,238.83

However, as discussed earlier, not all of petitioner's input VAT is valid. Thus, the Court has to determine whether the valid input VAT of petitioner is sufficient to cover its excess input VAT attributable to declared zero-rated sales, *viz.:*

Excess Input VAT attributable to Declared Zero-Rated Sales (A)	₱3,517,238.83
Valid Input Taxes (B)	₱3,947,796.01
Valid Available Input VAT attributable to Declared Zero-Rated Sales (A or B, whichever is lower)	₱3,517,238.83

Meanwhile, in relation to its zero-rated sales for the 3rd quarter of TY 2018, considering that petitioner was able to properly substantiate only the amount of Php38,785,900.00 out of its total declared zero-rated sales of Php51,406,320.00[85] for the 3rd quarter of TY 2018, only the valid input VAT of Php2,653,745.17 is attributable to the said valid zero-rated sales of Php38,785,900.00, as computed below:

Valid Zero-Rated Sales	₱38,785,900.00
Divided by Declared Zero-Rated Sales	51,406,320.00
Multiplied by Valid Available Input VAT attributable to Declared Zero-Rated Sales	3,517,238.83
Total Refundable Amount	**₱2,653,745.17**

Having determined that petitioner had valid input VAT attributable to its valid zero-rated receipts, the Court shall now determine whether the same was not applied against its output VAT liability during and in the succeeding quarters, relative to the *ninth* requisite for the successful prosecution of an input VAT refund claim.

Although the claimed input VAT amount of Php3,517,238.83 was carried over by petitioner in the

[85] Exhibit "P-13-2", Line 17, USB.

succeeding quarter/period, the same remained unutilized until it was deducted as "*VAT Refund/TCC Claimed*"[86] in its Amended Quarterly VAT Return for the 4th quarter of TY 2018. Accordingly, the subject claim no longer forms part of the excess input VAT as of the end of the 4th quarter of TY 2018[87] and the balance of the "*Input Tax Carried Over from Previous Period*" as of the 1st Quarter of TY 2019[88] amounting to Php6,857,634.52. Such being the case, the claimed input VAT could not have been carried over or utilized in the succeeding 4th quarter of TY 2018 and thereafter. Verily, petitioner complied with the *ninth* requisite for the grant of the input VAT claimed for refund or issuance of TCC.

WHEREFORE, premises considered, the instant *Petition for Review* is **PARTIALLY GRANTED**. Respondent is **DIRECTED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in the amount of Php2,653,745.17, representing petitioner's excess and unutilized input VAT attributable to its zero-rated sales for the 3rd quarter of TY 2018.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice

---

[86] Exhibit "P-873", Line 23D, USB.
[87] Exhibit "P-873", Line 29, USB.
[88] Exhibit "P-874", Line 20A, USB.

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.

CATHERINE T. MANAHAN
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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice